

MANITOBA OMBUDSMAN PRACTICE NOTE

Practice Notes are prepared by Manitoba Ombudsman to assist persons using the legislation. They are intended as advice only and are not a substitute for the legislation.

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RESPONDING TO A COMPLAINT ABOUT A REFUSAL TO GRANT A FEE WAIVER UNDER *THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT (FIPPA)*

Under FIPPA (subsection 59(1)), an applicant has a right to make an access complaint to the Ombudsman about any decision, act or failure to act by a public body that relates to the request. This includes a complaint about a refusal to grant a fee waiver. This Practice Note has been prepared to assist public bodies in responding to this type of complaint.

When Manitoba Ombudsman investigates a complaint concerning a refusal to grant a fee waiver, information would be requested from the public body about the complaint. There is certain information that would be relevant to any complaint about a refusal to grant a fee waiver, which is outlined below. There could be other information relevant to a particular complaint that may also be requested from a public body.

For a complaint about a refusal to grant a fee waiver, a public body would be asked by our office to:

1. provide a copy of the application for access
2. indicate the date the application was received
3. provide a copy of public body's correspondence with the applicant about the fees (such as an Estimate of Costs and letter concerning the fee estimate)
4. provide a copy of the applicant's request for a fee waiver, if this was in writing, or describe the request
5. provide a copy of the public body's written decision under subsection 9(2) of the Access and Privacy Regulation
6. explain why the public body refused to waive all or part of the fees
7. if the public body was not satisfied that any of the provisions in subsection 9(1) was applicable, explain why
8. if the public body was satisfied that one of the provisions in subsection 9(1) was applicable, explain why the public body chose to exercise its discretion to not waive the fees