



MANITOBA  
OMBUDSMAN

# THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT INVESTIGATION REPORT

Executive Council  
Office

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Access to  
Information

Issue Date:  
February 2025



FILE # MO-09729

Provisions considered: FIPPA – 11(1), (2)

Available in alternate formats upon request.

MANITOBA OMBUDSMAN

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## SUMMARY

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This report concerns an investigation under The Freedom of Information and Protection of Privacy Act (FIPPA) relating to an access request made to the Executive Council Office. The complainant reached out to our office complaining that the public body did not respond to the request within the time limit of 45 days.

Based on our review, we determined the complaint is supported because the Executive Council Office failed to respond to the complainant's request within 45 days as set out under FIPPA. Therefore, the ombudsman recommends that the Executive Council Office respond to the request without further delay, and by no later than February 21, 2025.

## BACKGROUND

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The Executive Council Office (the public body) received an access request under FIPPA on September 3, 2024 for the following records:

*Please provide a copy of the Premier's Out of Province Travel Expenses from April 1, 2023 to present. Please also provide all receipts of airfare, hotels, lodging, meals, drinks, and transportation, as well as travel itineraries from Oct. 6 to present.*

We received a complaint on November 13, 2024, stating that the public body did not provide a response and had not notified the complainant of an extension of the time limit for responding.

## INVESTIGATION AND ANALYSIS

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Under subsection 11(1) of FIPPA, public bodies in Manitoba are required to respond to access requests made under FIPPA within 45 days.

### *Time limit for responding*

*11(1) The head of a public body shall make every reasonable effort to respond to a request in writing within 45 days after receiving it unless*

*(a) the time limit for responding is extended under section 15; or*

*(b) the request has been transferred under section 16 to another public body.*

The failure to respond within 45 days constitutes a decision to refuse access.

### *Failure to respond*

*11(2) The failure of the head of a public body to respond to a request within the 45-day period or any extended period is to be treated as a decision to refuse access to the record.*

On receiving the complaint, we contacted the government's Access and Privacy Branch, which administers FIPPA access requests for the public body. We notified the public body of our investigation and highlighted its failure to respond to the request was deemed a refusal of access. The public body advised our office that the response package was being considered on a priority basis. Between mid-December 2024 and January 2025, our office was in regular contact with the public body to bring a resolution to the complaint by encouraging it to provide an access decision without further delay. We also asked what factors that were contributing to the delay. The public body stated that the package of requested records consisted of almost 600 pages and the records required interdepartmental collaboration with Manitoba Intergovernmental Affairs and International Relations, which had custody of some of the records.

We note that subsection 16(1) of FIPPA permits public bodies to transfer a request for access to another public body if the record is in the custody or under the control of the other public body. We also noted that if the Executive Council Office had transferred the portion of the request that related to records in the custody of Manitoba Intergovernmental Affairs and International Relations to that public body within 10 days of receipt of the request, Manitoba Intergovernmental Affairs and International Relations would have to

respond within 45 days, or a maximum of 55 days from the date of the initial access request. Similarly, if the public body referred the complainant to make a separate access request to Manitoba Intergovernmental Affairs and International Relations, it would still have only had 45 days to respond, unless a basis existed for an extension of the time limit under section 15 of FIPPA.

The public body explained that rather than referring the complainant to make another request to the other office for some records, it was determined that the two public bodies would work together to gather the records and provide a joint response.

The public body provided a commitment to our office that the response would be finalized no later than the end of the week of February 3 to 7, 2025. On February 7, the public body advised our office that a response would not be issued that day.

## FINDINGS

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Our office considered the time limit to respond to an access request set out under FIPPA, and whether the public body made every reasonable effort to respond to the request in writing within 45 days.

Our investigation found that the public body did not provide a response within the 45-day time limit and did not make every reasonable effort to respond without delay once our office provided notification of the complaint. While our office appreciates the public body's desire to not refer the complainant to make an additional access request to another department, and that time and resources would be required to search for and prepare almost 600 pages of records that involve multiple public bodies, the legislative requirement to respond was still 45 days.

In addition, we found there was no communication with the complainant after December 11, 2024. The complainant advised they were unaware of the public bodies' intention to issue a joint response. Under FIPPA, public bodies have a duty to assist applicants throughout the FIPPA process. Public bodies must make every reasonable effort to clarify requests, search for records and respond without delay to each applicant in an open, accurate and complete manner.

It is now more than five months since the complainant submitted an access to information request and the public body's response remains outstanding. Our office was not able to successfully resolve this matter during the course of the investigation.

## RECOMMENDATION

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Based on our finding, the ombudsman recommends the public body respond to the complainant's access request without further delay and no later than February 21, 2025, and that the public body provide a copy of the response to our office when it is issued to the complainant.

## HEAD'S RESPONSE TO THE RECOMMENDATION

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Under subsection 66(4), the public body must respond to the ombudsman's report in writing within 15 days of receiving this report. As this report is being sent by email to the head of the public body on this date, the head would be required to respond by February 26, 2025. The response must contain the following information:

### Head's response to the report

**66(4)** *If the report contains recommendations, the head of the public body shall, within 15 days after receiving the report, send the Ombudsman a written response indicating*

- (a) that the head accepts the recommendations and describing any action the head has taken or proposes to take to implement them; or*
- (b) the reasons why the head refuses to take action to implement the recommendations.*

## OMBUDSMAN TO NOTIFY THE COMPLAINANT OF HEAD'S RESPONSE

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When the ombudsman has received the public body's response to her recommendation, she will notify the complainant about the responses as required under subsection 66(5).

## HEAD'S COMPLIANCE WITH RECOMMENDATIONS

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If the public body accepts the recommendation, subsection 66(6) requires the head of the public body to comply with the recommendation within 15 days of acceptance of the recommendation or within an additional period if the ombudsman considers it to be reasonable. Accordingly, the head of the public body should provide written notice to the ombudsman and information to demonstrate that the public body has complied with the recommendation and did so within the specified time period.

February 11, 2025

Jill Perron  
Manitoba Ombudsman



MANITOBA  
OMBUDSMAN

# REPORT ON COMPLIANCE WITH THE RECOMMENDATION UNDER THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

Executive Council  
Office

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Access to  
Information

Issue Date:  
May 2025

Case MO-09729  
2425-EXC-0991



## COMPLIANCE WITH THE RECOMMENDATION

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On February 11, 2025, the Ombudsman's Office issued a report with recommendation following the investigation of a complaint against the Executive Council Office (the public body) as the public body did not respond to an access request within the time limit of 45 days under The Freedom of Information and Protection of Privacy Act (FIPPA). The Ombudsman's Office made the following recommendation:

The Ombudsman recommends that the public body respond to the complainant's access request without further delay and no later than February 21, 2025, and provide a copy of the response to our office when it is issued to the complainant.

Subsection 66(4) of FIPPA required the public body to respond in writing to the recommendations by February 26, 2025, and indicate whether the recommendations were accepted.

Subsection 66(6) requires public bodies to comply with recommendations they accept within 15 days or within a period that the Ombudsman's Office considers reasonable.

### ***Compliance with recommendations***

**66(6)** *When the head of a public body accepts the recommendations in a report, the head shall comply with the recommendations*

*(a) within 15 days of acceptance, if the complaint is about access under subsection 59(1), (2), (3.1) or (4); and*

*(b) within 45 days in any other case;*

*or within such additional period as the Ombudsman considers reasonable.*

On February 21, 2025, the public body advised our office that they issued the access decision to the complainant and provided them with the records. The complainant advised our office that they received the decision and the requested information. On February 25, 2025, the public body provided a response in writing to our office, confirming it accepted and complied with the recommendation.



## CONCLUSION

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The public body complied with the time limit to respond in writing to our report and recommendation, in addition to issuing an access decision together with the records to the complainant within the time limit set out in our recommendation. Our office reviewed the decision and determined that the public body had complied with the recommendation.

May 2025

Manitoba Ombudsman