



MANITOBA
OMBUDSMAN

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT INVESTIGATION REPORT

Manitoba
Education and
Early Childhood
Learning

Disregarding a
Request for
Information

CASE# MO-07942
Final Report

Issue Date:
March 27, 2025

Provisions considered:
FIPPA - 13(1)(d)



SUMMARY

This report concerns an investigation under The Freedom of Information and Protection of Privacy Act (FIPPA) relating to an access request made to Manitoba Education and Early Childhood Learning. The complaint was about the public body's decision to disregard the request for information.

Based on our review, we determined that the decision to disregard the request was authorized under clause 13(1)(d) of FIPPA and as such, the complaint is not supported.

BACKGROUND

Manitoba Education and Early Childhood Learning (the public body) received an access request under FIPPA on March 12, 2024 for the following records:

Please provide records regarding provincial government inspections of licensed child-care facilities in Manitoba. These records should include, but not be limited to: the date the inspection took place; the facility that was inspected; and any findings/violations/orders resulting from the inspection. If original reports are available, please provide the original report. Please provide the records in an electronic word-searchable format.

January 1, 2021 – January 1, 2023

We received a complaint on June 4, 2024, about the public body's decision to disregard this access request under clause 13(1)(d) of FIPPA. In its decision, the public body explained that it would take in excess of 8,000 hours to process the request. The complainant questioned why it would take so long as they believed that inspections were put on pause for a large part of the pandemic and they were informed by the public body that the 2023 inspection reports are in digital format.

INVESTIGATION AND ANALYSIS

Under clause 13(1)(d) of FIPPA, public bodies may disregard an access request if processing the request would unreasonably interfere with the operations of the public body.

Public body may disregard certain requests

13(1) *The head of a public body may disregard a request for access if the head is of the opinion that*

(d) *responding to the request would unreasonably interfere with the operations of the public body.*

On receiving the complaint, we contacted the public body for their explanation for the basis of their decision. The public body explained to us that they communicated with the complainant about the amount of work associated with the access request on March 8, 2024 and April 11, 2024, respectively. They explained to the complainant that if they process this request, there would be a fee estimate because the search would involve records about over 1,100 licensed childcare facilities.

The public body also advised our office that on April 11, 2024 they asked if the complainant would be willing to narrow the request to assist with its search. They explained to the complainant that the inspections for 2021 and 2022 were maintained in hard-copy format. Therefore, each facility's file would need to be reviewed to identify if there were inspections during those timeframes. The public body also explained to the complainant that the 2023 inspections were in PDF format. The complainant responded to the public body that they would not narrow down the search parameters, and at the same time, they decided to expand the request to include inspections for all months of 2023.

Following the public body's discussion with the complainant, it proceeded to try to determine the amount of search and preparation time that would be involved in the expanded request. The public body explained to our office that they searched for a sample of records to determine the time involved in looking for those records, in order to extrapolate how much time would be required to search for all the requested records, and arrived at a figure in excess of 8,000 hours. We asked the public body to provide us with additional information on how it determined that over 8,000 hours of search time would

be required to process this request, and how this would unreasonably interfere with the public body's operations.

The public body provided the following information:

- The access request covers over 1,100 licensed childcare facilities in Manitoba, including childcare centres, home daycares and nursery schools, over the span of three years.
- The public body may conduct multiple inspections annually in each facility for various purposes, including new facilities inspections, follow up inspections, inspections related to complaints, and annual inspections.
- The public body reviewed records from two test files from each category in terms of (i) childcare centres, (ii) home daycares, and (iii) nursery schools for the years 2021, 2022, and 2023, respectively. In other words, six test files were searched for each year, totaling 18 files for the purpose of estimating the amount of search time that would be required to complete the entire request.
- The inspections conducted in 2021 and 2022 are in paper format, which would require manual searches in each childcare facility's file to locate the inspection records, in addition to processing time.
- For the search of paper files in 2021 and 2022, the public body counted the time used for (i) locating the inspection checklist, key standards comments and comments sheet, (ii) scanning the documents, and (iii) naming each document by its respective organization.
- For the search of electronic files in 2023, the public body counted the time used for (i) locating the inspection checklist, key standards comments and comments sheet, (ii) organizing each document and storing them into their respective folders for each facility, and (iii) naming each document by its respective organization.
- The time used for searching the records of 2021 - 2023 inspections were as follows, respectively: 795 minutes, 1,135 minutes, and 645 minutes. Based on this result, the public body provided the average time needed to search the responsive records

for each facility between 2021 and 2023, respectively: 133 minutes, 189 minutes, and 108 minutes.

- The public body further advised that there were 1,161 facilities in 2021 and 2022, and 1,157 facilities in 2023. Therefore, the time needed to search review the files to identify responsive records would be 497,833 minutes, or 8,297 hours in total.

Under subsections 4(1) and (2) of the Access and Privacy Regulation, if the public body issued a fee estimate for processing this request, the calculation of costs would be 8,295 hours minus 2 free hours, times \$15 per half hour, equals to the total of \$248,850. This would be before any time needed to prepare the records was factored in.

- The public body then considered its operational impact of fulfilling the request. The public body explained that even if it assigned six full-time staff members to work 7.25 hours per day on this request, it would take 190 days just to complete the search for records.
- The public body determined that processing this request would unreasonably interfere with its operations, because it would not be able to divert and/or increase this extent of staff resources solely to processing this request. Therefore, rather than issuing a fee estimate, the public body decided to disregard the request under clause 13(1)(d) of FIPPA.

FINDINGS

In light of the information provided by the public body, it is evident that a significant amount of work would need to be undertaken just to locate and collate the records responsive to the request. The steps described by the public body account for over 8,000 hours of work to identify records responsive to the request without even accounting for time that would be required to prepare the records for release by applying redactions to information that should not be released from the records. We are satisfied that processing the request would constitute an unreasonable interference with the public body's operations. As such, our office finds that the public body's decision to disregard the

request is reasonable and authorized under FIPPA. Our office finds that the complaint is not supported.

In accordance with section 67 of FIPPA, the complainant has the right to appeal the refusal of access by the public body to the Court of King's Bench within 30 days of receipt of this report.

March 27, 2025

Manitoba Ombudsman

This report is available in alternate formats upon request.

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