MANITOBA OMBUDSMAN

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT INVESTIGATION RECOMMENDATION REPORT

Manitoba Human Rights Commission

Refusal of Access Complaint

CASE# MO-15624
Final Report

Issued to Public Body:
August 25, 2026

Provisions considered:
FIPPA – 12(1)(c)(i)



BACKGROUND

On December 19, 2025, the complainant made an application for access to the Manitoba Human Rights Commission (MHRC or the public body) under The Freedom of Information and Protection of Privacy Act (FIPPA or the Act) requesting access to the following records:

> *The 2023, and 2024, and 2025 annual reports from the Manitoba Human Rights Commission as they are currently not available online for public access, as required under applicable legislation.*

On January 30, 2026, the public body responded, advising it was taking a 30-day extension to respond as per section 15(1)(c) of FIPPA. The MHRC said the extension was necessary because it needed to consult with another public body before making its decision.

> **Extending the time limit for responding**
>
> **15(1)** The head of a public body may extend the time for responding to a request for up to an additional 30 days, or for a longer period if the Ombudsman agrees, if
>
> (c) time is needed to consult with a third party or another public body, or to obtain legal advice, before deciding whether or not to grant access to a record;

On March 2, 2026, the MHRC sent its access decision letter, stating "your request was refused because records do not exist."

We received a complaint about this decision on March 3, 2026.

INVESTIGATION, ANALYSIS AND FINDINGS

Our office notified the public body of the complaint on March 23, 2026.

In our review of the public body's decision letter, we note that the public body did not cite a specific provision to refuse access. However, in examining the stated reasons for decision, we note the decision falls under 12(1)(c)(i) of FIPPA

> **Contents of response**
>
> **12(1)** In a response under section 11, the head of the public body shall inform the applicant
>
> (c) if access to the record or part of the record is refused,

(i) in the case of a record that does not exist or cannot be located, that the record does not exist or cannot be located,

Clause 12(1)(c)(i) requires the head of a public body to inform a complainant in its response letter that access to the records is being refused as the records do not exist and/or cannot be located. It is simply not sufficient to recite the provision itself, but rather, a brief explanation should be provided of how and where a search for these records was conducted and/or why the records do not exist.

As part of the investigation, our office reviewed documents the complainant provided of their communications with MHRC related to the processing of the access request. In an email from MHRC to the complainant, on December 15, 2025, the MHRC said,

> *"The 2023 and 2024 reports have been prepared and submitted, but they must first be tabled by the Minister of Justice before we can publish them. Once they are tabled, we make them available on our website."*

We contacted the public body and explained that applying 12(1)(c)(i) to the 2023 and 2024 annual reports was not in keeping with FIPPA, considering:

- On January 30, 2026, the public body took a 30 day extension for purpose of consulting with another public body before deciding whether or not to grant access to a record, and
- in a December 15, 2025 email, it told the complainant the 2023 and 2024 reports were prepared and submitted, demonstrating they existed.

In response, the MHRC released a revised access decision on April 2, 2026, indicating its decision to refuse access to the 2025 annual report as it does not exist at this time.

Our office noted the request for access was made on December 19, 2025, which is within the 2025 calendar year. Given the annual reporting year had not concluded, we are satisfied MHRC's explanation that the report has not been written is reasonable, and we determined MHRC does not possess records responsive to the complainant's access request for the 2025 annual report.

The revised decision also cited 23(1)(a)(e) of FIPPA as a reason to refuse access to the 2023 and 2024 annual reports.

Advice to a public body

23(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal

(a) advice, opinions, proposals, recommendations, analyses or policy options developed by or for the public body or a minister;

(e) the content of draft legislation, regulations, and orders of ministers or the Lieutenant Governor in Council; or

The public body explained the reports have not been tabled by the Minister's Office as required by subsection 6(3) of The Human Rights Code.

Our office sought to understand the requirements and process for tabling a report under section 6(3) of the Human Rights Code.

Tabling report in Assembly

6(3) The minister must table a copy of the report in the Assembly on any of the first 15 days on which the Assembly is sitting after the minister receives it.

On April 30, 2026, our office met with the public body to discuss the annual report process. It confirmed that it drafted the annual reports and submitted them along with a transmittal letter to the minister with a copy of the report. It also shared that nothing changes in the reports from the time the MHRC transmits it to the Minister's office and the Minister tables the reports in the Assembly

Our office reviewed the Legislative Assembly of Manitoba's website[1], including Rules of the Legislative Assembly, reports required by legislation and votes and proceedings.

The rules outline the process for tabling a report in the Assembly as follows;

- that Ministers may table a report on each sitting day of the Assembly or deposit the report with the Clerk of the Assembly, when the house is adjourned,
- all reports deposited with the Clerk are entered into the votes and proceedings.

We note the document entitled Reports by Legislation, specifies "the Manitoba Human Rights Commission must submit an annual report to the minister on the activities of the Commission and the adjudication panel and the minister must table a copy of the report in the Assembly on any of the first 15 days on which the Assembly is sitting after the minister receives it."

[1] https://www.gov.mb.ca/legislature/business/reports_required_by_legislation.pdf

On May 15, 2026, we requested copies of the transmittal letter MHRC sent to the Minister of Justice for the 2023 and 2024 annual reports. The public body agreed to provide the requested documentation and committed to do so by June 8, 2026.

On May 27, 2026, our office contacted the Office of the Clerk of the Assembly, Journals Branch to determine whether there is a procedure for releasing reports not yet tabled in the assembly. We were told that an organization cannot publicly release a report on its website or otherwise until after the report has been tabled in the Assembly during session, or after the report is distributed to all recipients, including Members of the Legislative Assembly during an intersessional period.

On June 1, 2026, the Minister of Justice tabled the 2024 MHRC annual report. On June 3, 2026, the public body sent email notification to the complainant with the public link to the posted 2023 and 2024 annual reports.

As the 2023 and 2024 annual reports are now publicly posted, we did not assess the public body's application of section 23.

CONCLUSION

The rules of the Legislative Assembly provide for a process for tabling annual reports required under legislation, which once tabled, becomes available to the public, typically via a website. However, in this case MHRC's 2023 and 2024 annual reports were not tabled. FIPPA was used to obtain access to a category of records that is normally available to the public.

Our investigation determined that the public body's initial decision was inconsistent with section 12 of FIPPA, as case file documentation revealed that records for two of the three years of MHRC annual report existed but had not yet been tabled in the assembly at the time of the access request.

We find the MHRC's initial and revised access decision regarding the 2025 annual report is consistent with section 12 of FIPPA.

As such, this complaint is partly supported. This concludes our investigation and this matter is now closed.

This report is available in alternate formats upon request.

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