

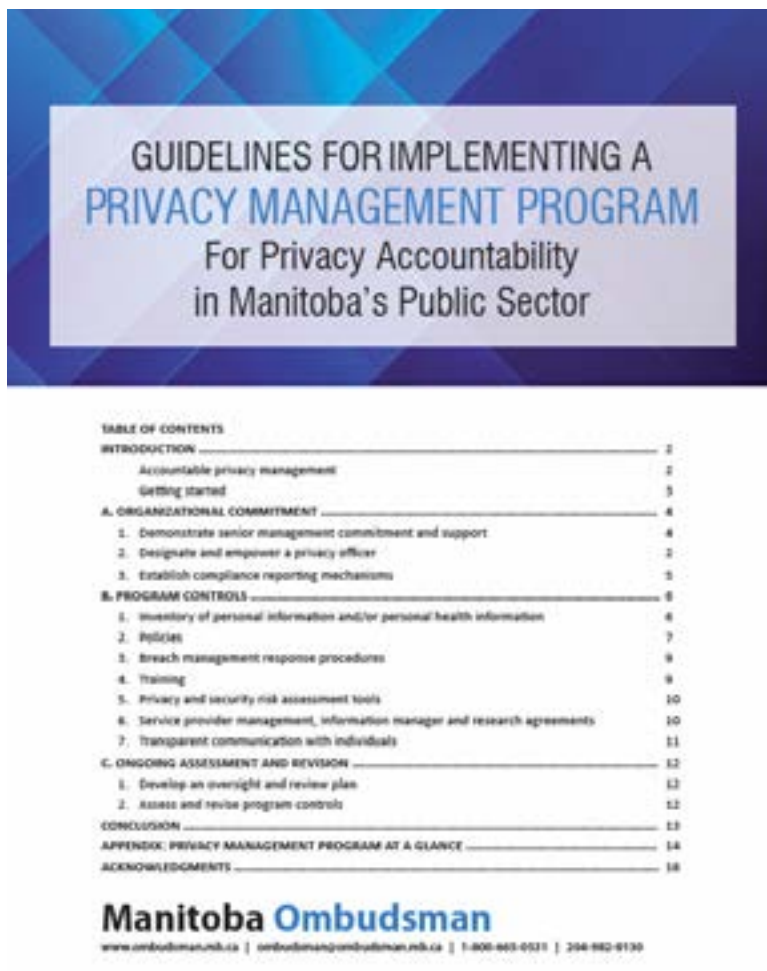
# Manitoba Ombuds News

## 2017-2 Ombudsman, Whistleblower, Access and Privacy Newsletter

### New! Privacy Management Program Guidelines

We've introduced a number of new privacy-related tools and resources, including *Ten Tips for Addressing Employee Snooping*, a *Privacy Impact Assessment Tool* and our revised practice note *Key Steps in Responding to Privacy Breaches under FIPPA and PHIA*. All are tools to help employees in public bodies understand and comply with privacy obligations under access and privacy legislation. All of these documents are available on the Privacy Breach Resources page on our website.

We're pleased to introduce our latest publication – [Guidelines for Implementing a Privacy Management Program for Privacy Accountability in Manitoba's Public Sector](#).



Manitobans entrust public organizations with their information, including highly sensitive information, in order to receive services, programs and benefits.

An effective and accountable privacy management program is critical to ensuring that personal information and/or personal health information is protected and managed in accordance with FIPPA and PHIA. "Accountable" in this context means accepting and demonstrating responsibility for this information. This includes having policies, procedures and practices in place that support compliance with the acts.

Accountability for privacy management also includes transparency in communications with individuals concerning their personal and/or personal health information. These communications may include giving notice about the collection of the information, seeking consent from individuals, responding to requests by individuals for access to their own information and requests for correction of personal and personal health information.

The guidelines are available online at:

<https://www.ombudsman.mb.ca/uploads/document/files/privacy-management-program-guidelines-en.pdf>

## Ombudsman's Comments and Recommendations

In the 13 years since FIPPA and PHIA were last reviewed, many changes have occurred to the way in which information is collected, stored, used, disclosed and managed by Manitoba public bodies and trustees. It's necessary to assess the impact of these changes on the operation of the acts to make sure the law reflects current practice.

In the course of our day-to-day work investigating complaints, we see the access and privacy issues that arise between Manitobans and public bodies and trustees. We also undertake activities such as providing consultation, advice and comments on the access and privacy implications of programs or practices. Knowledge and experience gained from our investigative and consultative work have shaped our perspective on some of the changes that we believe should be made.

We made 68 comments and recommendations in response to the Manitoba government's legislative review of both FIPPA and PHIA. You'll find them on our FIPPA and PHIA reviews page at:

<https://www.ombudsman.mb.ca/info/fippa-and-phia-review.html>

Our recommendations to address key areas, such as:

- Balancing the need to ensure that exceptions to the right of access are specific and clear in their intent, and do not infringe on the right of access any further than necessary.
- Balancing the discretion to refuse access under FIPPA with the public's right to know with a "public interest override," which would enable consideration of whether the disclosure of information that could be withheld would serve a broader public interest.
- The need for security safeguards to ensure that electronic personal and personal health information is protected, to reflect the increasing use of new and innovative technologies to manage and share citizens' information.

"My office's submissions reflects our day-to-day experiences with the acts and our knowledge of the issues that arise between citizens and public bodies and trustees. Our submissions also reflect changes that have been made or proposed to relevant legislation in other parts of the country."

[Charlene Paquin, Manitoba Ombudsman](#)

## New Investigation Reports on Website

### FIPPA reports

**CASE 2015-0200:** An individual requested access to his entire Employment and Income Assistance file. The department provided access to 898 pages of records. The individual maintained that the records did not fully address his request and believed more records should exist. We found that although some information was severed from a small number of records, the department provided the individual with a copy of every record in his EIA file. The complaint was not supported.

**CASE 2016-0168:** An individual requested access to financial information from the Rural Municipality of De Salaberry related to Manitoba Hydro Bipole III funding. The RM provided access to the records it had on file but refused access in part, indicating that it did not possess the records for the two most recent years requested. We found that the RM was not in possession of these records as it had not submitted any filings to Manitoba Hydro for the two most recent years, and thus these records did not exist. The complaint was not supported.

## New Investigation Reports on Website, continued

### FIPPA reports

**CASE 2016-0180:** An individual requested access to information about the compensation received by municipal employees and members of council at the Rural Municipality of Riding Mountain West. The RM granted partial access by releasing the total amount of compensation received by all individuals during each payroll cycle, and refused access to information about the specific amounts received by each individual. During our investigation we identified additional information that the RM was not authorized to withhold, and the RM subsequently provided access to this information. We determined that the RM was required to refuse access to the remaining details of the specific payment amount made to each individual. The complaint was partly supported.

**CASE 2016-0316:** An individual requested access to copies of any disciplinary records and video surveillance related to an incident between a City of Brandon police officer and a third party. The city refused access to the requested records, in part. We found that the mandatory exceptions to disclosure applied in this case. The complaint was not supported.

### Ombudsman Act reports

**CASE 2014-0510:** An individual believed that the Manitoba Housing and Renewal Corporation (MHRC) had retained architectural services for a project without a competitive bidding process. MHRC explained to us that rather than using a competitive process, it expanded the scope of existing contracts it had awarded after a public tendering process. We found that while MHRC's decision deviated from existing procedure, MHRC's rationale for its approach in this case was reasonable. We also found that the agreement to expand the scope of the work was initially done without putting the details in writing. We recommended that when tendering contracts that may be extended, MHRC should look at opportunities to clearly communicate this intent to potential bidders at the outset of the process and that MHRC formally document its commitments of public funds in exchange for goods and services. MHRC accepted our recommendations.

**CASE 2015-0094:** A property owner complained to us about the Rural Municipality of Hanover's decision to enforce an emergency clean-up of her property and bill her for the cost. Debris had been piled on the municipal road by a landscaping company hired by the property owner. The RM considered the debris a hazard that needed to be immediately removed, and as such, we found that it was authorized to charge the property owner for removal of the debris. However, under the RM's litter by-law an individual was only liable to a fine upon a summary conviction. In this case, the time frame to take such legal action had expired. We recommended that the RM rescind the offence notice fine, which it agreed to do.

Where to find these reports:

FIPPA: [https://www.ombudsman.mb.ca/documents\\_and\\_files/investigation-reports.html](https://www.ombudsman.mb.ca/documents_and_files/investigation-reports.html)

Ombudsman Act (municipal): [https://www.ombudsman.mb.ca/documents\\_and\\_files/municipal-investigation-reports.html](https://www.ombudsman.mb.ca/documents_and_files/municipal-investigation-reports.html)

Ombudsman Act (provincial): [https://www.ombudsman.mb.ca/documents\\_and\\_files/provincial-investigation-reports.html](https://www.ombudsman.mb.ca/documents_and_files/provincial-investigation-reports.html)

### FIPPA report with recommendation and response

**Case 2015-0338:** An application was made for information about mobile photo radar enforcement locations to the City of Winnipeg – Winnipeg Police Service (WPS). A complaint was initially made to us after WPS denied access on the basis that the requested records were not in its custody or control. During our investigation, the WPS revised its access decision and provided access to the requested information in part with some information severed, relying on an exception in FIPPA that allows a public body to deny access if disclosure could reasonably be expected to endanger the life or safety of a law enforcement officer. As a result of further investigation, the ombudsman found that the WPS did not establish a clear and direct connection between knowledge of all potential photo enforcement locations and the risk of the harm to photo enforcement operators, and therefore the cited exception did not apply to most of the information in the record at issue, particularly information about photo radar enforcement at public locations. Based on investigation findings, the ombudsman recommended release of the remaining information at issue, while continuing to sever information relating to photo radar enforcement on private property. The WPS accepted the ombudsman's recommendation and complied with it by giving access as recommended by the ombudsman.

## 2016 Annual Report

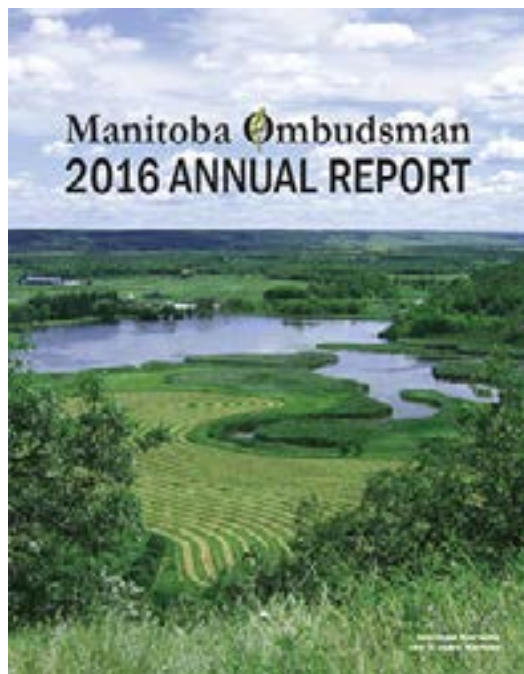
Want to know more about the office and all the different things we do? Ever wonder about how many investigations we undertake? Or how many people contact the office annually?

Our 2016 annual report highlights the work and accomplishments of the office under the Freedom of Information and Protection of Privacy Act, the Personal Health Information Act, the Ombudsman Act and the Public Interest Disclosure (Whistleblower Protection) Act.

You can read or download the report on our website at <https://www.ombudsman.mb.ca/uploads/document/files/2016-annual-report-en.pdf>

The online report is also available in French.

If you would like a print copy, or if you would like to be added to a mailing list for future annual reports, please contact our office.



## Upcoming Events

August 1-4, 2017

We're joining our colleagues from the Office of the Privacy Commissioner of Canada for the Canada Summer Games! Visit our exhibitor booth at the Duckworth Centre (University of Winnipeg) at the following times:

Aug 1 and 2 – 10:30 a.m. to 9:45 p.m.

Aug 3 – 12:30 p.m. to 9:15 p.m.

Aug 4 – 12:30 p.m. to 9:30 p.m.

September 28, 2017

International Right to Know Day

September 25-30, 2017

National Right to Know Week

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