

Manitoba Ombuds News

2017-4 Ombudsman, Whistleblower, Access and Privacy Newsletter

Privacy Breach Report Released

We released a report under the Personal Health Information Act (PHIA) related to incidents of a former employee's unauthorized access to personal health information in the databases of the Provincial Drug Program branch within Manitoba Health, Seniors and Active Living.

The ombudsman initiated an investigation into this privacy breach in 2014 and in April 2016, charged the former employee of the department with an offence. We held the finalization and release of our investigation report in abeyance pending the conclusion of the prosecution. In 2017, the former employee was found guilty and fined \$7,500.

Our investigation reviewed the incidents of unauthorized access and the department's response to these incidents, which included examining the measures in place to prevent, detect and respond to the breach. We found instances where the department did not respond in a timely way to address and mitigate the risks of the privacy breach and we identified a need to improve policies and procedures. At the conclusion of



the investigation, we made 11 recommendations to the department to assist in ensuring that it complies with PHIA.

Intentional unauthorized access to personal health information by an employee is a very serious matter. We released this investigation report in light of the public interest in the prosecution and so that other trustees of personal health information may benefit from the findings and conclusions of our investigation.

Read or download our investigation report at:
www.ombudsman.mb.ca/uploads/document/files/case-2014-0500-en.pdf

PHIA Turns 20!

December 2017 marks the 20th anniversary of the Personal Health Information Act. PHIA was proclaimed on December 11, 1997, and at the time, it was the first legislation of its kind in Canada designed specifically to provide access to information rights and protection of privacy rights for personal health information. Back in 1997, the government's news release stated that PHIA was "designed to ensure that personal, sensitive health information about Manitobans is secure, while allowing the health system to utilize the benefits information technology has to offer. The intent is to ensure that personal information is properly protected by those to whom it is entrusted." PHIA applies not only to public bodies, but also to health-care professionals such as doctors and dentists, and to health-care facilities such as personal care homes, psychiatric facilities and medical clinics.

For more information on PHIA, see the government's PHIA pages at www.gov.mb.ca/health/phia/index.html
For more information on the ombudsman's role under PHIA, see www.ombudsman.mb.ca/info/phia.html

New Investigation Reports Posted Online

FIPPA Reports

Case 2016-0250: An individual requested access to City of Winnipeg reports authored by a specific employee. The city refused access to two documents – one on the basis that it was publicly available and the other on the basis that it could reveal a draft of a resolution, by-law or other legal instrument by which the local public body acts. The city provided the individual with information about how to locate the first document online. With respect to the second document, we found that the exception cited by the city did not apply to the record. The city issued a revised access decision, providing full access to the record.

Case 2017-0280: An individual complained about unauthorized disclosure of personal information by Manitoba Public Insurance (MPI). We found that MPI did not limit the disclosure of the individual's personal information to the minimum amount necessary and we supported the complaint. MPI took reasonable and appropriate steps to address the unauthorized disclosure and prevent a reoccurrence.

Case 2016-0214: An individual requested information about mobile photo traffic enforcement from the City of Winnipeg – Winnipeg Police Service (WPS). WPS refused access on the basis that it did not have custody or control of the requested records. Based on our review, we determined that the public body did have both custody and control of the requested information and we supported the complaint. Subsequently, WPS provided access to information that satisfied the individual's access request.

Ombudsman Act Reports

2016-0412: The City of Flin Flon billed a property owner over \$10,000 for waterline repairs and later adjusted the amount owing to approximately \$2,700. The property owner made a complaint to our office about the city's authority to assess costs and the amount billed to him. While the City of Flin Flon has the authority to bill property owners for repairs to waterlines, we found that the city did not communicate changes to its waterline repair billing policy to citizens. It also did not provide the property owner with sufficient information about how the invoice amount was determined or about the extent and location of waterline repairs. We made a number of recommendations to improve administrative practices and to ensure citizens are treated fairly. The City of Flin Flon advised our office that it will implement our recommendations.

2017-0078: A resident of the Municipality of Swan Valley West complained to our office that the municipality was violating sections of the Municipal Council Conflict of Interest Act (MCCIA) with respect to the tendering and purchasing of goods, the declaration of conflicts, the annual statements councillors are required to provide with respect to assets, and the management and production of records. We found that the municipality did not breach the act with respect to the production of records or its tendering and purchasing policy. Issues with respect to the filing of the annual statements of assets were related to amalgamation challenges in 2015. We concluded that the municipality did breach the MCCIA with respect to the declaration of conflicts; however, the breach resulted from an oversight on the part of the municipality and has now been corrected.

2017-0224: Seven in-custody patients from unit PX3, a 15-bed adult forensic mental health unit located at Health Sciences Centre (HSC), alleged that they were confined to their locked ward 24 hours per day without any outside fresh-air time, which violates basic human rights and impedes recovery from illness. Shortly after we began our investigation, access to the forensic courtyard for non-acute security risk patients on PX3 was reinstated. While we concluded that the decision to suspend access to the courtyard pending a review of security concerns was consistent with applicable laws and policies, the amount of time taken to resolve this matter and resume courtyard access was unreasonable. We recommended that Manitoba Health, Seniors and Active Living and Manitoba Justice collaborate to develop a protocol that will assist in the timely identification and resolution of security issues on PX3 in order to help prevent similar delays in the future. The departments accepted the recommendation.

Where to find these reports:

FIPPA: www.ombudsman.mb.ca/documents_and_files/investigation-reports.html

Ombudsman Act (municipal): www.ombudsman.mb.ca/documents_and_files/municipal-investigation-reports.html

Ombudsman Act (provincial): www.ombudsman.mb.ca/documents_and_files/provincial-investigation-reports.html

2018 Privacy Calendars



For several years now, the Office of the Privacy Commissioner of Canada has created calendars showcasing a fresh and funny collection of privacy cartoons every year. As the OPC says, they take privacy seriously, but sometimes a little humour can be a very effective way to drive the point home.

The 2018 calendars will be available soon. Request a free calendar by contacting us at

- ombudsman@ombudsman.mb.ca
- 1-800-665-0531 (toll-free in Manitoba)

We'll add your name to our mailing list and send out your calendars as soon as we receive our supply.



Here's a sneak peek at the cartoon for June 2018

Speaking of 2018, Data Privacy Day is coming up on January 28. Data Privacy Day is an international effort to empower individuals and organizations to respect privacy, safeguard data and enable trust.

Privacy matters all year round, but Data Privacy Day gives us the chance to think and talk about why privacy matters, what we can do to better manage the privacy of our personal information and how we can foster a culture of privacy awareness at work.

Want more information about how to be a privacy champion? Consult some of these websites for ideas.

The official Data Privacy Day website:
staysafeonline.org/data-privacy-day/

Office of the Privacy Commissioner of Canada: For Individuals:
www.priv.gc.ca/en/for-individuals/

Office of the Privacy Commissioner of Canada: For Businesses:
www.priv.gc.ca/en/for-businesses/

Manitoba Ombudsman: Access and Privacy Division:
www.ombudsman.mb.ca/info/access-and-privacy-division.html

Happy Holidays



Happy holidays from all of us at Manitoba Ombudsman!

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