



A Review of

The Freedom of Information and Protection of Privacy Act

TELL US WHAT YOU THINK

Table of Contents

Minister's Message.....	1
Consultation Process.....	3
About FIPPA.....	5
Access Experience.....	7
Exceptions to Access.....	12
Protecting Personal Information.....	14
Complaints under FIPPA.....	17
What do You Think?.....	18

Minister's Message

Our government is committed to open and accountable operations that serve all Manitobans. *The Freedom of Information and Protection of Privacy Act* (FIPPA) and *The Personal Health Information Act* (PHIA) are two pieces of legislation that help contribute to that openness and accountability. Both of these acts are now being reviewed and your views are needed to ensure the legislation is effective and serves the needs of Manitobans.

As part of our government's review, I am pleased to provide this discussion paper to encourage discussion about the important principles of access and privacy in today's changing world. My colleague, the Minister of Health, has also issued a discussion paper as part of the PHIA review process.

I hope that you will find this paper helpful as you think about how FIPPA has worked over the past five years. I welcome your ideas and suggestions on how to ensure that the legislation can be used and applied for the benefit of Manitobans. There are specific questions we hope you can help us with and I welcome any other ideas or suggestions you may have about this legislation.

Thank you for your interest and your input.

A handwritten signature in black ink, appearing to read 'E. Robinson', with a long horizontal line extending to the right.

Eric Robinson
Minister of Culture, Heritage and Tourism

Consultation Process

If you have views on *The Freedom of Information and Protection of Privacy Act* (FIPPA) or on any other aspect of information access and privacy in the Manitoba public sector, we would like to hear from you.

Send us a written submission:

Written submissions may be sent by email, fax or regular mail to:

FIPPA Review, Archives of Manitoba
3rd floor - 200 Vaughan Street
Winnipeg MB R3C 1T5

E-mail: govrecs@gov.mb.ca
Fax: 1-204-948-2008

Submissions may be made on-line from the website at
www.gov.mb.ca/fippa

Submissions should be received by April 2, 2004.

Make a presentation in person:

Public hearings will be held in Manitoba this year, along with hearings about *The Personal Health Information Act*.

For information about the public hearings or any other matter, please contact:

FIPPA Review
Telephone: (204) 945-2523
Toll Free: 1-800-617-3588 (MB)

Website: www.gov.mb.ca/fippa
E-mail: govrecs@gov.mb.ca



Your Privacy

The Minister of Culture, Heritage and Tourism is consulting with the public as part of the legislative review required by *The Freedom of Information and Protection of Privacy Act* (FIPPA). Any personal information that you provide as part of this consultation is subject to FIPPA. This information may be used to evaluate how FIPPA works now and to develop legislative amendments. It's important that your views and ideas are heard and understood, so you may be contacted to clarify your submission or comments, or to provide you with feedback. Your name will not be placed on any lists, including any mailing lists, which are not related to the review. If you have any questions about the collection, use or disclosure of your personal information, please contact the FIPPA Review Office at the numbers and addresses noted above.

About FIPPA

Manitoba's *Freedom of Information and Protection of Privacy Act* (FIPPA) came into effect for the provincial government and the City of Winnipeg in 1998, and for other local public bodies in 2000. It deals with 3 broad areas: access to information, privacy of personal information, and compliance review. All provinces, territories and the federal government now have access and privacy legislation. FIPPA requires a public review of the act five years after proclamation.

The access to information provisions in FIPPA are similar to those in the former *Freedom of Information Act*, which had been in effect since 1988. However, the provisions for handling and protecting personal information held by public bodies were new for Manitoba. By the mid-1990s, Manitobans, like other Canadians, wanted greater protection for the large amount of personal information held by governments and other public sector bodies. Personal information collected by public bodies under FIPPA cannot be used or disclosed without the consent of the individual it is about, except in certain circumstances outlined in the act.

FIPPA applies to more public bodies than the previous *Freedom of Information Act*. In addition to provincial government departments and agencies, it covers more than 350 local public bodies, including municipalities, school boards, community colleges, major universities and regional health authorities.

Manitoba has another act which protects personal health information, *The Personal Health Information Act* (PHIA). Like FIPPA, it applies to public bodies, such as government departments, government agencies and local public bodies, but it also extends to health service providers (such as doctors and nurses), health care facilities and health care organizations.

Purposes of FIPPA

- provides individuals with a right of access to records held by public bodies, including to their own personal information, subject to exceptions in the act;
- provides individuals with the right to request corrections to their personal information;
- regulates collection, use, disclosure and protection of personal information by public bodies;
- provides for independent review of decisions made under FIPPA.

The way personal information is handled by some private sector organizations is regulated by the federal government's *Personal Information Protection and Electronic Documents Act* (PIPEDA). As of January 2004, PIPEDA will apply to the collection, use and disclosure of personal information by private sector organizations in the course of commercial activities.

The Government of Manitoba and other public bodies are committed to meeting the access and privacy requirements of FIPPA. Officials are given training and resource materials to help them interpret the legislation and develop best practices.

People who are interested in accessing certain records fill out an application that goes to a FIPPA coordinator in the department, agency or local public body that holds the information. Whenever possible, the coordinators assist applicants informally by directing them to publications, answering questions, or referring them to other staff who can answer questions. If the application has been sent to the wrong area, the coordinators try to determine where the requested information is held and then transfer the application.

Section 9 of FIPPA provides that a public body shall make every reasonable effort to assist an applicant.

This discussion paper reviews Manitoba's recent experience with access and privacy legislation and pinpoints some current issues.

For additional information, including the full text of the statute and FIPPA annual reports, you may wish to consult your local library, the FIPPA website at

www.gov.mb.ca/fippa

or the Manitoba Ombudsman's website at

www.ombudsman.mb.ca/access

Please note that this discussion paper summarizes some sections of FIPPA but does not fully present the legislative provisions. For the exact and complete wording of the act, you should consult the statute which is available on both websites cited above and from your local library. Paper copies may be purchased from the Statutory Publications Office at (204) 945-3101.

Access Experience

Access legislation should be an avenue of last resort for people who cannot access information they want through routine channels. Manitobans expect to access government information and services quickly and easily. The government's service philosophy, *At Your Service Manitoba*, is an integrated strategy for providing innovative and convenient service delivery to people. Combining the latest technology, including an easy-to-use website, with a renewed focus on providing fast and helpful client service, the government is making more information available to Manitobans and others interested in visiting, doing business, or living in Manitoba.

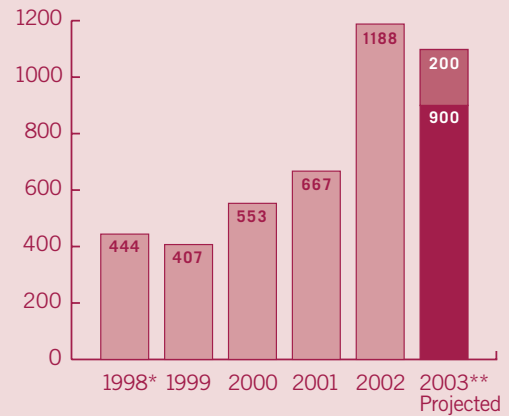
Each year the Manitoba government reports on FIPPA activity within the provincial government and local public bodies. These annual reports, which include a snapshot of some of the types of records requested, are available on the government website.

How many access requests are received?

The number of requests for access to information has more than doubled in the five years since FIPPA was proclaimed. In 2002, the latest year for which statistics are available, there were 1,188 requests to the Manitoba government and its agencies. Table 1 shows the increase in the number of requests received during this five-year period.

Municipalities and other local public bodies received a total of 491 applications in 2002, compared to 542 in 2001 which was the first full year that they were subject to FIPPA.

Table 1. FIPPA Requests to Government Departments and Agencies



* Includes requests submitted under *The Freedom of Information Act* January to April 1998.

** As of Nov. 30, 2003, 900 requests were reported. It is anticipated that the total number for 2003 will be approximately 1,100. Complete and verified figures will be available by April 2004.

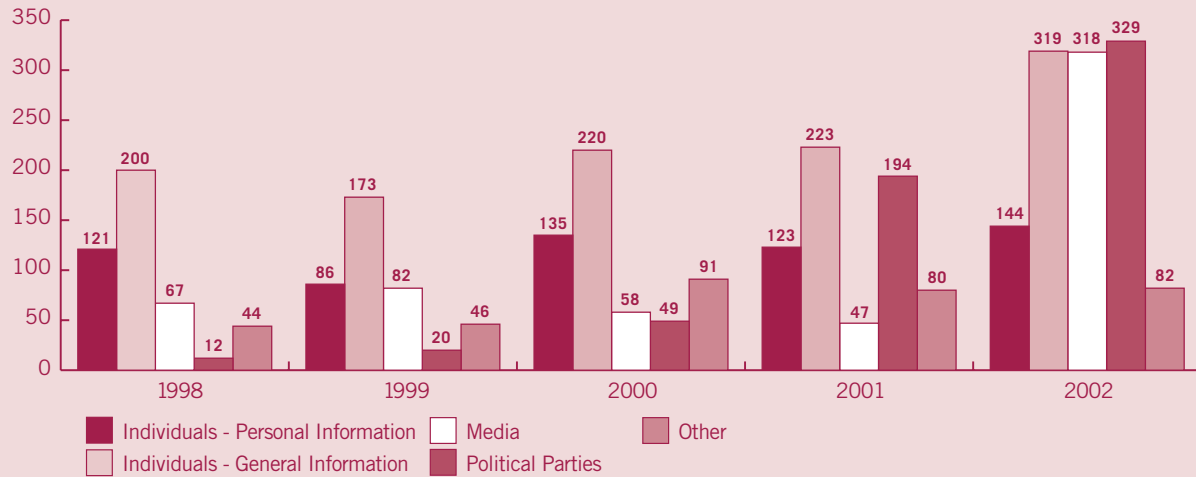
Who requests access?

Individuals may submit requests for access to records on their own behalf or for media outlets, political parties and other organizations such as businesses or interest groups. Table 2 shows the number of applications received from each source since 1998.

Historically, the largest group making applications under FIPPA, and its predecessor legislation, has been individuals seeking information of a general nature. In all years except 2001, the second largest group has been individuals seeking their own personal information, such as their Autopac claim files or social allowance files.

As Table 2 indicates, in 2001 and 2002 there was a large increase in use of FIPPA by political parties. Media representatives also used the act much more frequently in 2002.

Table 2. FIPPA Requests by Type of Applicant



Who receives the most FIPPA applications?

Larger public bodies usually receive the largest number of applications. Among government departments, Conservation, Health, Justice, and Labour and Immigration typically receive the most applications each year. In 2001, each had more than 70 applications. In 2002, Conservation had 124 requests and Health reported 116. Culture, Heritage and Tourism, a smaller department, had 121 requests in 2002, of which 107 were submitted by one applicant on a single topic.

Section 8 of FIPPA provides that applicants must submit their requests directly to the public body they believe holds the relevant records.

The Workers Compensation Board and Manitoba Public Insurance Corporation traditionally have the largest number of access requests among government agencies.

Among local public bodies, the City of Winnipeg received 150 requests in 2001 and 183 requests the following year. The Winnipeg Regional Health Authority had 119 in 2002, an increase over the 39 applications received in the previous year. The

other local public bodies have all reported fewer than 25 in each year.

What is the response time under FIPPA?

Manitoba government departments and agencies have maintained a good response rate since FIPPA was proclaimed, and under the previous legislation, *The Freedom of Information Act*. Close to 90% of the applications are responded to within 30 calendar days. No other Canadian jurisdiction responds so quickly. This level of response has been sustained even as the number of requests for access has increased.

Section 11 requires that a public body make a reasonable effort to respond to an access request within 30 calendar days, unless it transfers the request to another public body under Section 16, or takes a time extension because of the number of records requested or for other reasons allowed in Section 15.

The following table provides some recent response rates from a number of provinces.

Table 3. Response Rates

Province	30-Days Response Rate
Manitoba (2001)	89%
Saskatchewan (2000-2001)	84%
Alberta (2000-2001)	80%
Ontario (2000)	67%

In 2002, the 30-day response rate for Manitoba government departments and agencies declined to 74%. This occurred as a result of a very large number (105) of access requests on one issue, which an applicant sent to three departments. As the matter was under police investigation at the time, a longer response time was required.

Manitoba local public bodies also have an excellent response rate. In 2001, they responded to 87% of their requests within 30 days and the following year, 83% were handled within this time frame.

How much access is provided?

In responding to an application under FIPPA, public bodies may grant access to all, some, or none of the records that the applicant has requested. Denial of access must be based on the exceptions to disclosure in the act. Some exceptions are mandatory, which means that they must be applied. Other exceptions are discretionary and require the public body to determine if release of the information is appropriate.

The exceptions to disclosure are set out in **Sections 17 to 32** of FIPPA.

In 2002, 42% of applicants to government departments and agencies were granted full access to the records they requested, 31% were given some information from the requested records, and only 10% were totally denied access. Of the remainder, 14% had asked for records that did not exist and two per cent of the requests were either repetitive or incomprehensible.

Since FIPPA came into effect in 1998, an average of less than 13% of applicants have been totally denied by government departments and agencies.

In 2002 local public bodies granted 62% of their applicants access to all the records they requested and another 16% were granted access to some of the information in requested records.

The most common reason for denying access is that the requested record contains personal information about another person (Section 17). In 2002, this exception was used to deny, or partly deny, access in 149 applications to government departments and agencies.

Section 17 of FIPPA provides that the public body must refuse to disclose personal information about another individual if the disclosure would be an “unreasonable invasion” of that person’s privacy.

Other frequently used exceptions are third party business interests (Section 18) and advice to a public body (Section 23).



How much do applicants pay?

All Canadian jurisdictions have a fee structure that shares the costs of access between the person asking for information and the public body responding to the request. The fees respect the right of access and try to discourage abuse of the access process. Usually the fee for the applicant is quite low, compared to the total cost of responding to the request. The fee framework attempts to balance rights, responsibilities and costs in a reasonable way.

The Access and Privacy Regulation **sections 5 and 6** establishes fees for search and preparation of the records, copying, and computer processing.

Currently, there is no fee for submitting a request. There is also two free hours of records search and preparation. This includes locating the records requested, doing any severing or blocking out of portions necessary to protect any information that is not going to be released, and making the records available to the applicant, either for examination within an office or by preparing copies. The current search and preparation fee of \$30 per hour was set when the act was proclaimed in 1998.


In 2002, fees collected by government departments and agencies for providing access to records under FIPPA totaled \$1,230 with search and preparation charges making up 55% of the total. The fees paid to local public bodies in that year were slightly less, \$1,165. Between 1998 and 2001, the Manitoba government collected an average of \$1,354 annually in FIPPA fees. Most charges are related to applications for general, not personal, information. General requests often require more searching and review of numerous records while most requests for personal information requests are often handled within the two free hours.

Some Canadian jurisdictions have implemented different fee schedules for applicants seeking their own personal information and those wanting information of a general nature. The trend is to provide access to one's own personal information at little or no cost. Access to information about yourself held by governments and public bodies is increasingly seen as vital to personal well being and necessary for privacy protection. In some cases, people who are most likely to want to view their personal records may be least able to afford fees.

On the other hand, for general information, several provinces (Alberta, Ontario, Nova Scotia, Newfoundland, Prince Edward Island) and Canada now have an application fee, ranging from \$5 to \$25. Such a fee may discourage applicants who break up single requests into many separate applications to take advantage of the free search and preparation period.

Section 9 of the regulation sets out three conditions in which a fee waiver may be granted: if payment would impose an unreasonable hardship, if an applicant is requesting their own personal information and it would be reasonable and fair to waive the fees, or if the record relates to a matter of public interest concerning public health, public safety or the environment.

Like other Canadian access laws, FIPPA gives a public body the discretion to waive all or part of the fees under certain conditions. In 2001, only one department reported granting a fee waiver, on the grounds that the record related to a matter of public interest concerning public health, safety or the environment. No waivers were granted in 2002.



How much does it cost to give access?

Responding to FIPPA applications requires staff of provincial government departments and other public bodies to take the time to identify and find the requested records and then decide what information can be released. The person requesting the information is not charged for the time it takes to decide what information should be disclosed, a process which can be very time-consuming for a number of staff. The hours spent responding to FIPPA applications is time that is taken away from the delivery of other government programs and services. This is appropriate to meet the principle of open access to information, particularly personal information. However, issues arise on the appropriate use of time if numerous applications for access to general information are being made by one organization or person.

The revenue collected from FIPPA access fees covers only a small portion of the actual cost of delivering the service. For example, in 2002, government departments and agencies reported that it cost a total of \$196,126 to handle FIPPA requests, including dealing with the Ombudsman's Office on any complaints. The fees paid by the applicants (\$1,230) amounted to less than 1% of the total costs for processing requests, not counting legal, administrative and Ombudsman's services. Every year the cost of providing FIPPA services is significantly more than fees collected to process applications. FIPPA is not a way to raise revenues. However, there may be merit in examining the current fee structure, to balance the right of access while placing less of the burden of costs on the taxpayer.

For example, when an applicant simultaneously sends the same request to all or several government departments, more time is required to ensure common understanding of the request and to give consistent responses that will be useful to the applicant. As a result, these 'blanket requests' require more time on the part of departmental officials and are more costly.

Recently, the number of 'blanket requests' has increased significantly. In 2000 there were 6 'blanket requests' and in 2002 there were a total of 46. Of the 46 received in 2002, 24 came from one reporter and 16 were from a political party.

FIPPA does not limit the number of requests an individual or organization may make to a public body at one time or during a year. Some individuals and organizations submit many requests each year, sometimes even simultaneously. Some media organizations and political parties now use the act frequently as a research tool. For example, in 2002 a single reporter submitted more than 200 applications to government departments. Considerable time and expense is incurred in responding to these types of applications.

Exceptions to Access

Across Canada access to information legislation recognizes that an absolute rule of openness to all records of a public body could prevent or hinder that organization's ability to meet its responsibilities effectively and protect the privacy of third parties. For this reason, there are exceptions to the general principle of public access to information.

Section 7(2) provides for severing information in records to protect and withhold information to which there is no right of access under FIPPA. This usually involves preparing a copy of the requested records for the applicant, in which information falling under an exception cannot be seen, while leaving the remainder legible.

In responding to each application for access, a public body must determine if there are any exceptions to access that could apply to the requested records. The mandatory exceptions, such as personal information about another person, must be applied in each case.

There is a long-established tradition in the British and Canadian parliamentary system of cabinet confidentiality and ministerial responsibility. As a result, cabinet records are subject to a mandatory exception in access legislation or closed under legislation. Under Manitoba's FIPPA, cabinet records are closed for 30 years, unless the cabinet for which they were created agrees to allow access. Some provinces have shortened this time frame ranging from 25 years in Saskatchewan and Quebec to 10 years in Nova Scotia.

Most exceptions in FIPPA are discretionary, which means that a public body must consider the circumstances in order to decide if it is appropriate to release the requested information. The more records requested by an applicant, the more work is

Mandatory Exceptions to Access

- Unreasonable invasion of a third party's privacy
- Harm to a third party's business interests
- Cabinet confidences less than 30 years old
- Information provided in confidence by another government
- Law enforcement information which federal law makes an offence to disclose
- Solicitor-client privilege of a person other than a public body

Discretionary Exceptions to Access

- Harm to intergovernmental relations
- Local public body confidences
- Advice to a public body
- Individual or public safety
- Harm to law enforcement or legal proceedings
- Security of property
- Solicitor-client privilege of the public body
- Harm to the economic or other interests of a public body
- Testing procedures, tests and audits
- Confidential evaluations about the applicant
- Information which could damage heritage resources
- Information which will be publicly available within 90 days

required to determine what should be released and what must be severed or blocked for what reasons.

When a public body uses discretionary exceptions, a number of factors must be taken into consideration as well as the spirit and purpose of FIPPA. Sometimes disclosure of some information may seem to be in the interest of an individual or the general public, but from another perspective it may be harmful — and sometimes even dangerous — to release that information.

One of the most difficult discretionary exceptions to apply is advice to the public body, which protects the advisory and deliberative processes within government and other public bodies. The requested records often deal with current issues and decisions. All governments with access legislation face the challenge of finding a workable approach to recognizing ministerial responsibility in the development of policy and the operations of government under the principles of access.

Protecting Personal Information

Governments and other public bodies hold significant amounts of personal information about individual Manitobans. A major objective of FIPPA is to ensure that Manitoba public bodies collect and handle personal information responsibly to protect personal privacy.

In **Section 1**, personal information is defined as recorded information about an identifiable individual including name, address, age, gender, sexual orientation, marital status, ethnic origin, religion, personal health information, hereditary characteristics, political activity, education, employment, financial circumstances, criminal history, and an identifying number assigned to the individual.

Part 3 of FIPPA requires that public bodies follow new standards and procedures in their day-to-day management of the personal information in their custody or control. The legislation is based on the principles of “fair information practices”, accepted by many governments and businesses around the world. While fair information practices may be articulated differently from one country or organization to another, there are common minimum standards. The 1996 statement of the Canadian Standards Association is one of the best known in this country.

Since FIPPA came into effect, the Manitoba government and other public bodies have been reviewing the type of personal information they gather, how it is used and who has access to it. Departments are refining the collection of personal information to comply with the protective principles of FIPPA and sustain public confidence that personal information is being managed responsibly. Statements are being added to application forms explaining why the personal information is being collected and to whom it will be disclosed. Transparency, telling people what is being done with their personal information, is critical to privacy protection.

Fair Information Practices Canadian Standards Association

1. Accountability

An organization is responsible for personal information under its control and shall designate an individual or individuals who are accountable for the organization’s compliance with the following principles.

2. Identifying purposes

The purpose for which personal information is collected shall be identified by the organization at or before the time the information is collected.

3. Consent

The knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate.

4. Limiting Collection

The collection of personal information shall be limited to that which is necessary for the purposes identified by the organization. Information shall be collected by lawful means.

5. Limited Use, Disclosure and Retention

Personal information shall not be used or disclosed for purposes other than those which is collected, except with the consent of the individual or as required by law. Personal information shall be retained only as long as necessary for the fulfillment of those purposes.

6. Accuracy

Personal information shall be accurate, complete, and up-to-date as is necessary for the purposes for which it is to be used.

7. Safeguards

Personal information shall be protected by security safeguards appropriate to the sensitivity of the information.

8. Openness

An organization shall make readily available to individuals specific information about its policies and practices relating to the management of personal information.

9. Individual Access

Upon request, an individual shall be informed of the existence, use, and disclosure of his or her personal information and shall be given access to that information. An individual shall be able to challenge the accuracy and completeness of the information and have it amended as appropriate.

10. Challenging Compliance

An individual shall be able to address a challenge concerning compliance with the above principles to the designated individual or individuals accountable for the organization's compliance.

Public bodies have reviewed how personal information is released, and in some cases have stopped or changed procedures. For example, after careful consideration, the Manitoba Assessment Office and the Property Registry decided to end the long-standing practice of releasing bulk personal information from their databases. While this form of access was useful for certain commercial purposes, it was determined that individual examination of the records provided more reasonable access considering the purpose of the collection of the information. A number of organizations have undertaken audits to ensure that sensitive personal information is handled and stored responsibly in their offices.

Some Canadian jurisdictions have introduced compulsory privacy impact assessment processes. These processes require government programs developing services using personal information to conduct a rigorous examination of the potential effect on personal privacy. Funding for any new services or programs is linked to the demonstrated protection of personal information. British Columbia, Alberta, Ontario and the Government of Canada have already put impact assessments into effect. The Manitoba Ombudsman's Office has recently prepared an assessment tool, *Respecting Privacy: A Compliance Review Tool for Manitoba's Information Laws*, to assist Manitoba public bodies.

For situations where, on balance, there may be a public interest in a linking or matching personal information in databases or in disclosing personal information on a volume or bulk basis, and this is not authorized in another section of the act, FIPPA allows for a case-by-case decision by the head of the public body after a privacy assessment review. Section 46 requires a Privacy Assessment Review Committee to review such proposals in the Manitoba government and provide advice to the minister of the department concerned. Local public bodies may review such proposals internally or seek the advice of the Privacy Assessment Review Committee.

People who believe their personal information has been collected, used or disclosed in violation of the privacy protection provisions of FIPPA may complain to the Office of the Ombudsman. In 2002, the Ombudsman investigated two privacy complaints under FIPPA, compared to nine in 2001 and 16 in 2000.

FIPPA also allows individuals to request correction of their personal information in records held by public bodies, but there has been very little use of this provision to date.



Citizen services and privacy

Research and everyday experience tells governments and other public bodies that citizens want, and increasingly expect to access government information and services easily and conveniently, preferably close to their community and at a time of their choosing. The 2002 Citizens First survey showed strong support for efficient “one-stop shop” services — 70% of Manitoba businesses and almost 80% of citizens favoured “one-stop shop” for government services.

Governments worldwide are responding to these expectations through electronic service delivery and integrated service offices. “At Your Service Manitoba” is focussed on enhancing the accessibility and responsiveness of government to citizens. The three levels of government in Manitoba have established bilingual service centres in an effort to improve delivery of services in areas with significant francophone populations. The Manitoba government website enables people to find information on more than 1,000 government services, to apply for employment, enroll for Pharmacare coverage, or apply for child care subsidies. These services are available 24 hours a day, 7 days a week, 365 days a year.

Inevitably, changing the way services are delivered will change the way in which personal information is handled. Until recently, privacy has been somewhat protected by our reliance on typewriters and photocopiers. Personal information was generally used only by the specific office that collected it. Licenses, permits, financial subsidies and client files are examples of records containing personal information that typically have been held and used within separate parts of government. FIPPA generally does not allow government departments and agencies to share personal information with each other, except under certain specified conditions. However, under an enhanced service delivery model, government bodies may need to share personal information in new ways to deliver services. In “one-stop shops” offering a variety of interactive services, it may be necessary for staff, as well as citizens, to access personal data from several different sources. It may be necessary to draw on personal contact history from databases across the government or public body to make decisions about services such as eligibility for social assistance, issuing a particular license, reviewing payments or verifying facts.

Similar issues are part of the ongoing national debate about security and the development of identification cards (“smart” cards) including, for example, biometric personal data that can be read by retinal scanning devices. There appear to be differences of opinion among the Canadian public on how competing goals of security, convenience, efficiency and privacy can all be met.

Information technology makes it possible to bring together all kinds of personal information outside of the traditional office that gathered and kept files for its own limited uses. Technology means that services and activities of government can be carried out faster and more efficiently. A major challenge of all governments in the 21st century is finding a balance between protecting individual privacy and meeting wider social needs.

Complaints under FIPPA

All access to information and privacy laws have a process for reviewing complaints about the way access requests are handled or about abuse of personal information. While the responsibility varies among Canadian jurisdictions, each has an independent office to ensure that public bodies properly interpret and apply the legislation.

Manitoba has given that responsibility to the Office of the Ombudsman, which has similar responsibilities under *The Personal Health Information Act*. The Ombudsman is an independent officer of the Manitoba Legislature. The Ombudsman has the authority to comment publicly on any issue related to access and privacy and the office reports annually to the Legislature.

The Ombudsman's website can be found at

www.ombudsman.mb.ca

The Ombudsman's broad powers of investigation, auditing, monitoring, and commenting on access and privacy issues are set out in Parts 4 and 5 of FIPPA. The Ombudsman's review mechanism is similar in scope and power to the federal Access Commissioner and Privacy Commissioner, and to the review officers in Saskatchewan, Nova Scotia, Yukon, and Northwest Territories.

Manitoba's choice of the Ombudsman model built upon the capacity of an office that had been in operation since 1970. In keeping with the principle of ministerial responsibility in parliamentary government, final decision-making on access and privacy in Manitoba remains with those who are ultimately accountable within the public body.

FIPPA also provides applicants who feel they have been improperly denied access to a record with the right to appeal to the Manitoba Court of Queen's Bench, provided that the Ombudsman has investigated the complaint. This right of appeal to court is an important part of the independent oversight mechanism in FIPPA.

What do You Think?

The observations and experiences of Manitobans with *The Freedom of Information Act* and their general ideas on privacy and access to information helped shape the development of *The Freedom of Information and Protection of Privacy Act* (FIPPA) in 1998. Once again, the views and experiences of Manitobans are being sought to help shape this important legislation. Your response to this discussion paper and any other issues that you wish to raise will assist government in the process of reviewing and updating the act. Your views on the following issues, which have been raised frequently since the legislation was implemented, would be particularly appreciated.

1. What has been your experience in using FIPPA to access information? Have you tried other ways to obtain access before using FIPPA; if so, what was your experience?
2. FIPPA provides a right of access to records with limited exceptions. Can you identify types of information that should be made more readily available? Can you suggest types of personal information that require greater protection? Please explain.
3. Some Manitoba government departments and other public bodies experience frequent, concurrent or very broad requests which must be managed along with other service delivery requirements. To date, public bodies have maintained a high standard for responding to requests within the legislated time frames. To meet their diverse public service commitments, should public bodies have greater flexibility in response times?
4. The legislation has mandatory and discretionary exceptions that may limit access to information as set out in sections 17 to 34 of FIPPA. Do you have any specific recommendations or comments about these provisions?
5. Like other governments, the Manitoba government and other public bodies are delivering more information and services through websites and common service centres. Can you suggest the types of services you would expect to see delivered online or via a “one-stop” or consolidated service unit? What benefits would this service delivery provide you? To protect your privacy, what safeguards do you feel should be part of these initiatives?
6. FIPPA provides for protection of personal information held by the government of Manitoba and by local public bodies. Are there any specific circumstances where you believe different uses or disclosures should be allowed under FIPPA?
7. The Ombudsman’s Office is independent from the government of Manitoba, and handles complaints relating to FIPPA and PHIA as well as under *The Ombudsman Act* and other legislation. Sections 59 to 74 of FIPPA and section 10 of the *Access and Privacy Regulation* outline how complaints are handled under the act. Do you have any suggestions for changes to the current complaints process?
8. Are the provisions of FIPPA appropriate for local public bodies — such as municipalities, school divisions, community colleges, universities and regional health authorities?

Your views are important. Public hearings will be held in Manitoba this year, along with hearings about *The Personal Health Information Act*.

For information about the public hearings or any other matter, please contact:

FIPPA Review

Telephone: (204) 945-2523

Toll Free: 1-800-617-3588 (MB)

Website: www.gov.mb.ca/fippa

E-mail: govrecs@gov.mb.ca