Fo	REWORD	İ
OVI	ERVIEW OF THE FIPPA RESOURCE MANUAL	i
1.	PRINCIPLES, HISTORY & PURPOSES OF FIPPA	
	Overview	1-1
	Principles of Access and Privacy Legislation Access to Information Legislation Information Privacy Legislation	1-1 1-1 1-2
	 History of FIPPA Manitoba's Freedom of Information Act Development and Enactment of FIPPA Statutory Review of and Amendments to FIPPA Statutory Review of FIPPA Amendments to FIPPA Information and Privacy Adjudicator [Parts 4.1 and 5] Definitions and interpretation Purposes Access to information – Part 2 Protection of privacy – Part 3 Ombudsman Other provisions 	1-5 1-5 1-6 1-6 1-7 1-7 1-7 1-7 1-8 1-9
	Purposes of FIPPA Section 2 of FIPPA sets out Five Purposes Right of access to records Right of access to records containing one's own personal information Right to request correction of one's own personal information Protection of privacy Independent review of access and privacy decisions	1-11 1-11 1-12 1-12 1-13 1-13

MANITOBA FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY RESOURCE MANUAL

2. SCOPE OF FIPPA - WHO AND WHAT FALLS UNDER FIPPA

A word about definitions	2- 1
Public bodies that Fall under FIPPA [Subsection 1(1)]	2-2
Overview of the Definition "Public Body"	2-2
Departments, Ministers' Offices and the Executive Council Office	2-4
 Departments of the government 	2-4
Ministers' Offices	2-5
 The Executive Council Office 	2-5
■ "Government Agencies"	2-6
 Government agencies 'by definition' [clause (a)] Government agencies brought under FIPPA 	2-6
 Government agencies brought under FIPPA by the FIPPA regulation [clause (b)] 	2-8
"Local Public Bodies"	2-9
 Educational bodies 	2-9
 Health care bodies 	2-10
 Local government bodies 	2-11
Bodies that are Not Public Bodies Under FIPPA	2-12
 A Note on Establishing a New Board or Other Body 	2-14
Records that Fall Under FIPPA [Definition of "Record"	
in Subsection 1(1); Section 4]	2-15
Definition of "Record" [subsection 1(1)]	2-15
Custody or Control of a Record [section 4]	2-17
"Custody <u>or</u> Control"	2-17
Custody	2-17
 Control A note about "control" and contracts 	2-18 2-19
 A note about "control" and contracts Records from outside organizations, etc. 	2-18
 Records created, received or obtained before FIPPA 	2-20
came into effect	2-20
Records That Do Not Fall Under FIPPA [Clauses 4(a) to 4(k)];	
Subsection 6(2); Records Excluded by Other Legislation	2-21
Records Excluded from FIPPA by Clauses 4(a) to 4(k)	2-21
 Clause 4(a) - Court records 	2-21
 Clause 4(b) - Notes, etc. of persons acting in a judicial 	
or quasi-judicial capacity	2-22
Clause 4(d) Minister's personal or constituency records	2-24
 Clause 4(d) - Minister's personal or constituency records Clause 4(e) - Records of an officer of the 	2-25
Legislative Assembly	2-25

		Clause 4(f) - Local public body constituency records	2-26
		Clause 4(g) - Teaching materials or research information	
		of an employee of an educational institution	2-27
		Clause 4(h) - Examination or test questions	2-27
		Clause 4(i) - Records about an ongoing prosecution	0.00
		or inquest	2-28
		Clause 4(j) - Archival records acquired from a person	2 20
		other than a public body	2-29
_		Clause 4(k) - Record originating from a credit union	2-29
•		cess Provisions Do Not Apply to Publicly Available Information	0.00
	-	osection 6(2)]	2-30
•	Red	cords Excluded by Other Legislation [Section 5]	2-31
Proce	dure	es Not Affected by FIPPA [Section 3]	2-32
		Clause 3(a) - Records normally available to the public	2-32
		Clause 3(b) - Transfer, storage or destruction of records	2-34
		Clause 3(c) - Information available to parties to legal proceedings	2-35
	0	Clause 3(d) - Power of a court or tribunal to compel testimony or	
		production of documents	2-35
Key D	efini	tions: Personal Information, Personal Health Information,	
Law E	nfor	cement, Third Party [Subsection 1(1)]	2-36
•	Per	sonal Information [subsection 1(1)]	2-37
		Overview of the definition "personal information"	2-38
		Opening words: "recorded information about an identifiable	
		individual"	2-39
		The information must be "recorded"	2-40
		The information must be about an "individual"	2-40
		The information must be about an "identifiable" individual	
		(that is, about an individual who can be identified)	2-41
	0	The examples of personal information in clauses (a) to (n)	2-43
		Clause (a) - individual's name	2-43
		Clause (b) - home address, telephone, facsimile or	
		e-mail	2-44
		 Clause (c) – age, sex, sexual orientation, marital or 	
		family status	2-44
		Clause (d) - ancestry, race, colour, nationality or national	
		or ethnic origin	2-45
		Clause (e) - religion or creed, or religious belief, association	
		or activity	2-45
		Clause (f) - personal health information	2-45
		 Clause (g) – blood type, fingerprints or other hereditary 	
		characteristics	2-45
		 Clause (h) – political belief, association or activity 	2-45

	Clause (i) - education, employment or occupation, or	0.40
	educational, employment or occupational history	2-46
	 Clause (j) - source of income or financial circumstances, activities or history 	2-47
	Clause (k) - criminal history, including regulatory offences	2-4 <i>1</i> 2-48
	 Clauses (I) and (m) - personal views or opinions 	2-48
	Clause (n) - identifying number, symbol or other particular	2 40
	assigned to the individual	2-49
•	Personal Health Information [subsections 1(1) and 1(2)]	2-50
•	Law Enforcement	2-54
	 Opening words: "any action taken for the purpose of enforcing an 	
	enactment"	2-55
	 Clause (a) - Policing 	2-55
	Clause (b) - Investigations or inspections that lead or could	
	lead to a penalty or sanction being imposed, or that are	0 FG
	 otherwise conducted for the purpose of enforcing an enactment Investigation or inspection that leads or could lead to 	2-56
	a penalty or sanction	2-56
	 Investigation or inspection conducted to enforce a statute or 	2 00
	regulation	2-56
	 Clause (c) - Proceedings that lead or could lead to a penalty 	
	or sanction being imposed, or that are otherwise conducted	
	for the purpose of enforcing an enactment	2-57
•	Third Party [subsection 1(1)]	2-59
Relation	onship of FIPPA to Other Legislation [Section 5]	2-61
ivelativ	onship of the A to Other Legislation [dection of	2-01
Acts T	That Prevail Over FIPPA	2-63
•	The Personal Health Information Act	2-64
	 Personal health information 	2-64
	 Trustees under The Personal Health Information Act 	2-65
	Requests for access to one's own personal health information	2-66
	Protection of personal health information	2-67
	Independent review and resolving complaintsOffences and penalties	2-68 2-69
	Relationship with other Acts	2-69
	The Adoption Act	2-70
	The Child and Family Services Act	2-70
	The Correctional Services Act	2-71
	The Manitoba Evidence Act	2-71
	The Legislative Assembly Act	2-71
•	The Legislative Assembly Act The Mental Health Act	2-72
-		2-72
_	The Regional Health Authorities Act	Z-13

	 The Safer Communities and Neighbourhoods Act 	2-73
	The Securities Act	2-74
	The Statistics Act	2-74
	 The Tax Administration and Miscellaneous Taxes Act 	2-75
	The Testing of Bodily Fluids and Disclosure Act	2-75
	■ The Vital Statistics Act	2-76
	The Witness Security Act The Witness Security Act	2-76
	■ The Workers Compensation Act	2-77
	The Youth Drug Stabilization (Support to Parents) Act	2-78
	 Examples of Federal Legislation That Prevails Over FIPPA 	2-79
	Youth Criminal Justice Act (Canada)	2-79
	Copyright Act (Canada)	2-79
-	ADMINISTRATION OF FIPPA	
	Overview	3-1
	Roles and Responsibilities of Public Body Officials	3-2
	The Head of a Public Body	3-2
	 Who is the head of a public body? 	3-2
	Delegation by the head	3-4
	 Access and Privacy Officers 	3-6
	Access to information mattersPrivacy protection matters	3-6 3-7
	 Privacy protection matters The Access and Privacy Coordinator 	3-9
	 Access and Privacy Coordinator Access to information duties 	3-10
	 Privacy protection duties 	3-11
	 Training responsibilities 	3-12
	■ The Records Officer	3-13
	Program Directors and Managers	3-14
	The Responsible Minister for FIPPA	3-15
	 The Information and Privacy Policy Secretariat 	3-16
	A Note about Proactive Disclosure and Routine Disclosure of Information	3-18
	Giving Notice under FIPPA [Section 78]	3-21 3-23
	Exercising Rights on Behalf of Another [Section 79] O Clause 79(a) - Written authorization from the individual	3-23 3-24
	 Clause 79(a) - Written authorization from the individual Clause 79(b) - Committee or substitute decision maker 	3-24
	 Clause 79(c) - Attorney under a power of attorney 	3-25

	 Clause 79(d) - Parent or guardian of a minor Clause 79(e) - Personal representative of a deceased individual 	3-26 3-26
	Protection from Liability [Section 84]	3-27
	Protection when Disclosing Information to the Ombudsman or the Adjudicator [Section 86]	3-28
	Offences and Penalties [Section 85]	3-29
4.	ACCESS TO RECORDS	
	Overview	4-1
	The Right of Access [Section 7, and Sections 4 and 6]	4-2
	The Duty to Assist an Access Applicant [Section 9]	4-5
	The Duty to Protect the Privacy of an Access Applicant [Sections 41 and 42]	4-6
	Making an Access Request [Subsections 8(1) and 8(2); Access and Privacy Regulation, Section 3]	4-8
	 How to Apply For Access 	4-8
	 Where a Request for Access Includes Personal Health Information 	4-10
	When Oral Requests Are Permitted [Subsection 8(3)]	4-11
	What to Do When an Access Request is Received – Initial Steps	4-12
	 Date Stamp Is Required 	4-12
	 A Note about Documentation 	4-13
	 Initial Review of the Access Request 	4-15
	 The request is unclear, provides insufficient information, or is over broad 	rıy 4-15
	 The request should have been sent to another public body 	4-15
	 The information is available outside the FIPPA process 	4-16
	 Blanket Requests 	4-16
	Transferring an Access Request to Another Public Body [Section 16]	4-17
	Time Limit for Responding to an Access Request [Sections 11 and 15]	4-20
	 Time Limit for Responding [Section 11] Extending the Time Limit for Responding [Section 15] 	4-20 4-23
	- Extending the Lime Limit for Responding (Section 15)	4-7.3

 Time for Responding Suspended If Fee Estimate Given [Subsection 82(4)] 	4-26
 Failure to Respond in Time is a Deemed Refusal of Access [Subsect 	
11(1)]	4-27
Limited Authority to Disregard Certain Requests [Section 13]	4-28
 The request is incomprehensible, frivolous or vexatious 	
[clause 13(1)(a)]	4-29
 Repetitious or systematic requests [clause 13(1)(b)] The request is for information already provided to 	4-31
 The request is for information already provided to the applicant [clause 13(1)(c)] 	4-33
	7-00
Processing an Access Request	4-34
Verifying Identity [Subsection 3(4) of the Regulation]	4-34
 Searching for Records that Respond to the Access Request 	4-34
 Preliminary Assessment 	4-38
Line-by-Line Review of the Records [Subsection 7(2)]	4-39
 Non-responsive information 	4-39
 Exceptions to disclosure in sections 17 to 32 of FIPPA 	4-40
 Documenting the Line-by-Line Review 	4-42
Severing a Record [Subsection 7(2)]	4-44
Response to an Access Applicant [Subsection 12(1)]	4-47
Response when access is provided	4-48
 Response when access is denied to all or part of a record 	4-48
 Response when the record does not exist or cannot be located 	4-49
Refusal to Confirm or Deny the Existence of a Record [Subsection 12(2	2)] 4-51
Giving Access [Sections 14 and 10]	4-53
Manner of Giving Access [Subsection 14(1)]	4-53
 Where the applicant has asked to examine a record 	4-53
 Where the applicant has asked for a copy of a record 	4-54
 A note about access to records protected by copyright 	4-54
 Providing Additional Information to Explain a Record [Subsection 14(2)] 4-56
 Access to Electronic Records [Subsection 10(1)] 	4-57
 Creating a Record in the Form Requested [Subsection 10(2)] 	4-59
Fees, Fee Estimates and Fee Waivers	
[Section 82; Regulation, Sections 4 to 9]	4-61
Fees [Subsections 82(1) and 82(6)]	4-61
 Search and preparation fees [Regulation, section 4] 	4-62

		4-62
	· ·	4-62
	 Computer programming and data processing fees 	
		4-63
		4-63
	, , , , , , , , , , , , , , , , , , , ,	4-64
	 Matters for which no fees can be charged 	4 0 4
		4-64
	 Fee Estimates [Subsections 82(2), (3) and (4); 	1 GE
	J , 1	4-65 4-68
		4-69
	. ,, ,	4-09 4-70
	 The request relates to one's own personal information 	4-70
	and waiving the fees would be reasonable and fair	
		4-71
	Matter of public interest concerning public healthor safety or the	
		4-71
	Third Party Notice and Intervention [Sections 33 and 34]	4-73
		4-73
	 Notice to Third Party [Subsection 33(1)] 	4-74
	When and How Notice Must be Given	4-76
		4-76
	, ,,,	4-76
	· · ·	4-77
	 Representations by Third Party [Clause 33(3)(c) and Subsection 33(5)] 	4-77
	 Decision by the Head [Section 34] 	4-78
	 Decision to Give Access 	4-78
	 Decision to Refuse Access 	4-79
_		
5.	EXCEPTIONS TO DISCLOSURE	
	Overview	5-1
	Overview	J-1
	The Exceptions Apply to Information in a Record – Severing	5-3
	General Approaches to Interpreting the Exceptions to Disclosure	5-4
	Limits to an Exception	5-5
	Limits to an Exception	J-J
	Exceptions That Protect Third Parties	5-6
	Mandatory Exceptions to Disclosure	5-7

Discretionary Exceptions to Disclosure	5-8
Exercising a Discretion	5-9
Class Exceptions	5-10
Reasonable Expectation of Harm	5-11
Privacy of a Third Party [Section 17] Summary of the Exception	5-13 5-13
 Disclosure an Unreasonable Invasion of Privacy: Scope of the Exception [Subsection 17(1)] Exception protects "personal information" about individuals When the third party privacy exception applies Requests for personal health information Record containing personal information about 	5-16 5-16 5-17 5-18
more than one third party Severing - subsection 7(2) "Unreasonable Invasion" of a Third Party's Privacy	5-20 5-20 5-21
 When Disclosure is Deemed to be an Unreasonable Invasion of Privacy [Subsection 17(2)] 	5-22
 Deemed Invasion: Personal Health Information [Clause 17(2)(a)] 	5-23
 Deemed Invasion: Information Compiled as Part of an Investigation Into a Violation of Law [Clause 17(2)(b)] 	5-26
 Deemed Invasion: Identity of Third Party Providing Confidential Information for Law Enforcement or Administration of an Enactment [Clause 17(2)(c)] Deemed Invasion: Information Relates to Eligibility for, 	5-28
Receipt of or Determination of Income Assistance or Other Benefits [Clause 17(2)(d)]	5-31
 Deemed Invasion: Employment, Occupational or Educational History [Clause 17(2)(e)] 	5-32
 Deemed Invasion: Personal Information Collected for Tax Purposes [Clause 17(2)(f)] 	5-33
 Deemed Invasion: Source of Income or Financial Circumstances, Activities or History [Clause 17(2)(g)] 	5-35
 Deemed Invasion: Personal Recommendations, Evaluations, etc. [Clause 17(2)(h)] 	5-36
 Deemed Invasion: Information about Racial or Ethnic Origin, Religious or Political Beliefs or Associations, or Sexual Orientation [Clause 17(2)(i)] 	5-37
2. 2. 3. 4. 4. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.	

•	Determining When Disclosure is an Unreasonable Invasion of Privacy if Subsection 17(2) Does Not	E 20
	Apply [Subsection 17(3)] Consideration: Disclosure would Subject Activities of	5-38
_	Manitoba or a Public Body to Public Scrutiny [Clause 17(3)(a)]	5-40
•	Consideration: Disclosure would Promote Public	
	Health or Safety or Protection of the Environment	
	[Clause 17(3)(b)]	5-41
•	Consideration: Disclosure will Assist In a Fair Determination of the Applicant's Rights [Clause 17(3)(c)]	5-43
	Consideration: Disclosure may Unfairly Expose the	J -4 3
	Third Party to Harm [Clause 17(3)(d)]	5-45
•	Consideration: Provided, Explicitly or Implicitly, in	
	Confidence [Clause 17(3)(e)]	5-46
•	Consideration: Highly Sensitive Personal Information	
_	[Clause 17(3)(f)]	5-47
•	Consideration: Inaccurate or Unreliable Information [Clause 17(3)(g)]	5-49
	Consideration: Damage to Reputation [Clause 17(3)(h)]	5- 4 9
•	Consideration: Inconsistent With Purpose for Which the	0 00
	Information was Obtained [Clause 17(3)(i)]	5-51
•	When Disclosure Is Not an Unreasonable Invasion	
	of Privacy [Subsection 17(4)]	5-52
•	Disclosure Not Unreasonable: Consent or at the	F F0
•	Request of the Third Party [Clause 17(4)(a)]	5-53
•	Disclosure Not Unreasonable: Compelling Circumstances Affecting Health or Safety [Clause 17(4)(b)]	5-55
•	Disclosure Not Unreasonable: Authorized or Required	0 00
	by an Enactment [Clause 17(4)(c)]	5-57
•	Disclosure Not Unreasonable: For Research Purposes	
	Under Section 47 [Clause 17(4)(d)]	5-58
•	Disclosure Not Unreasonable: Certain Information About Officers,	5-59
	Employees, Elected Officials [Clause 17(4)(e)] Disclosure Not Unreasonable: Financial or other Details	5-59
	of a Contract [Clause 17(4)(f)]	5-61
•	Disclosure Not Unreasonable: Discretionary Benefit of a	
	Financial Nature [Clause 17(4)(g)]	5-62
•	Disclosure Not Unreasonable: Individual Dead	
_	more than 10 Years [Clause 17(4)(h)]	5-63
•	Disclosure Not Unreasonable: Record Publicly Available [Clause 17(4)(i)]	5-65
•	No Volume or Bulk Access to Personal Information	J-0J

:	in a Public Registry [Subsection 17(6)] Refusal to Confirm or Deny Existence of Record [Clause 12(2)(b)] Third Party Notice and Consultations [Clause 12(2)(b)] Legal requirement to provide notice Informal consultations with third party may be advisable Section 17: Related Provisions in FIPPA	5-66 5-67 5-68 5-68 5-68 5-69
	,	5-71 5-71
Su ■	mmary of the Exception Purpose of the Exceptions in Subsections 18(1) and 18(2) o "Third Party" o Severing - subsection 7(2)	5-71 5-72 5-73
•	Disclosure Harmful to a Third Party's Business Interests: Scope of the Exception in Subsection 18(1) Clauses 18(1)(a), (b) and (c) each contain a separate exception Reveal	5-74 5-74 5-74
•	 Exception to Disclosure: Trade Secret of a Third Party [Clause 18(1)(a)] Source of the trade secret information Meaning of "trade secret" "Of a third party" 	5-75 5-75 5-75 5-76
•	Exception to Disclosure: Commercial and Other Information Supplied on a Confidential Basis - Clause 18(1)(b)	5-77
•	Exception to Disclosure: Harm to a Third Party's Competitive Position, Negotiations, etc Opening Words of Clause 18(1)(c) Type of information protected by clause 18(1)(c) Source of the information	5-81 5-81 5-81
•	Exception to Disclosure: Harm to Competitive Position of a Third Party [Paragraph 18(1)(c)(i)]	5-83
•	Exception to Disclosure: Interfere with Negotiations of a Third Party [Paragraph 18(1)(c)(ii)]	5-84
•	Exception to Disclosure: Significant Financial Loss or Gain to a Third Party [Paragraph 18(1)(c)(iii)]	5-85
•	Exception to Disclosure: Disclosure would Result in Similar Information no Longer being Supplied [Paragraph 18(1)(c)(iv)]	5-86
•	Exception to Disclosure: Disclosure would Reveal Report of Labour Relations Arbitrator, etc. [Paragraph 18(1)(c)(v)]	5-87
•	Exception to Disclosure: Third Party Tax Information [Subsection 18(2)]	5-89
•	When the Exceptions Don't Apply: Limits to the Exceptions Protecting Third Party Business Interests [Subsection 18(3)]	5-91
•	Limit on Exceptions: Consent of Third Party [Clause 18(3)(a)]	5-91

Limit on Exceptions: Information is Publicly Available	
[Clause 18(3)(b)]	5-92
 Limit on Exceptions: Disclosure is Authorized or 	
Required by an Enactment [Clause 18(3)(c)]	5-93
 Limit on Exceptions: Final Results of Product or 	
Environmental Test [Clause 18(3)(d)]	5-94
 Disclosure of Third Party Business Information in the Public Interest 	
[Subsection 18(4)]	5-95
 Third Party Notice and Intervention [Sections 33 and 34] 	5-97
Legal requirement to provide notice	5-97
 Informal consultations with third party may be advisable 	5-97
 Section 18: Related Provisions in FIPPA 	5-98
	0 00
Cabinet Confidences [Section 19]	5-99
Summary of the Exception	5-99
 Scope of the Cabinet Confidence Exception 	
[Subsection 19(1)]	5-100
 Basis for the Cabinet Confidence Exception 	5-100
 Meaning of "Cabinet" 	5-101
 Severing - subsection 7(2) 	5-101
 Clauses 19(1)(a) to (e) are examples only - "including" 	5-102
Exception to Disclosure: "Reveal the Substance of Deliberations of	
Cabinet" - the Opening Wording [Subsection 19(1)]	5-103
o "Reveal"	5-103
 "Substance of deliberations of Cabinet" 	5-104
 Exception to Disclosure: Agenda, Minute or Record of Cabinet 	
Deliberations or Decisions [Clause 19(1)(a)]	5-105
 Exception to Disclosure: Briefing Materials for Cabinet 	
[Clause 19(1)(b)]	5-106
 Exception to Disclosure: Proposals or Recommendations 	
for Cabinet [Clause 19(1)(c)]	5-107
 Exception to Disclosure: Communications Among Ministers 	
[Clause 19(1)(d)]	5-108
Exception to Disclosure: Record Briefing a Minister	
[Clause 19(1)(e)]	5-109
When the Exceptions Don't Apply: Limits to the	
Cabinet Confidences Exception: [Subsection 19(2)]	5-110
Limit on Exception: Record More than Twenty Years Old	
[Clause 19(2)(a)]	5-111
Limit on Exception: Access with Consent of Cabinet	
[Clause 19(2)(b)]	5-112
■ Section 10: Related Provisions in FIPPA	5-113

	nation Provided by Another Government [Section 20] ummary of the Exception	5-114 5-114
	•	
_	Exception to Disclosure: Confidential Information Provided by And Government, etc. to a Manitoba Government Department or Government.	
	Agency [Subsection 20(1)]	5-115
	 Subsection 20(1) applies where request is to a department 	0 110
	or government agency	5-115
	 Severing - subsection 7(2) 	5-116
	o "Reveal"	5-116
	 Information provided explicitly or implicitly in confidence 	5-117
	 Source of the confidential information 	5-118
•	Exception to Disclosure: Confidential Information Provided by And	other
	Government to a Local Public Body [Subsection 20(2)]	5-121
	 Scope of the Exception in subsection 20(2) 	5-121
	 Severing - subsection 7(2) 	5-122
•	When the Exceptions Don't Apply: Limits to the	
	Exceptions in [Subsections 20(1) and (2)]	5-123
-	Section 20: Related Provisions in FIPPA	5-124
Relati	ions between Manitoba and Other Governments [Section 21]	5-125
	ummary of the Exception	5-125
•	Exception to Disclosure: Scope of the Exception	0 120
	Protecting Relations Between Manitoba and Other Governments	
	[Subsection 21(1)]	5-126
	Discretionary exception	5-126
	Severing - subsection 7(2)	5-127
	Reasonable expectation of harm	5-127
	"Harm relations between"	5-128
	 "Government of Manitoba or a government agency" 	5-128
	 Other governments and their agencies 	
	- clauses 21(1)(a) to (f)	5-129
•	Consent Required for Disclosure by a Local Public Body	
	[Subsection 21(2)]	5-132
•	Section 21: Related Provisions in FIPPA	5-133
Local	Public Body Confidences [Section 22]	5-134
	ummary of the Exception	5-134
•	Scope of the Local Public Body Confidences Exceptions [Section	
	 Exceptions limited to local public bodies 	5-135
	"Reveal"	5-137
	 Discretionary exceptions 	5-137
	 Severing - subsection 7(2) 	5-137
	Reasonable expectation of harm	5-138
	 Each clause contains a separate exception 	5-138

•	Exception to Disclosure: Draft Resolution, By-law or Other Legal Instrument of a Local Public Body [Clause 22(1)(a)]	5-139
•	Exception to Disclosure: Substance of Deliberations	0 100
	of Meeting Authorized to be Held in the Absence of the Public [Clause	<u> </u>
	22(1)(b)]	5-141
	"Substance of deliberations"	5-141
	 "Meeting of elected officials, governing body or a committee" 	5-142
	 Legal authority to hold the meeting in the absence 	•
	of the public required	5-142
•	When the Exceptions do not Apply: Limits to the	
	Local Public Body Confidences Exception [Subsection 22(2)]	5-144
•	Limit to Exception: Draft Resolution, etc. or Deliberations	
	Considered in a Public Meeting [Clause 22(2)(a)]	5-144
•	Limit on Exception: Record More than 20 Years Old	
	[Clause 22(2)(b)]	5-146
•	Section 22: Related Provisions in FIPPA	5-147
	Section 22. Related Flovisions III File A	J-1 -1
Advic	e to a Public Body [Section 23]	5-148
	immary of the Exception	5-148
•	Scope of the 'Advice to a Public Body' Exceptions [Subsection 23(1)]	5-149
	o "Reveal"	5-150
	 Discretionary exceptions 	5-150
	 Severing - subsection 7(2) 	5-151
•	Exception to Disclosure: Advice, Opinions, Proposals,	
	Recommendations, Analyses or Policy Options [Clause 23(1)(a)]	5-152
	 "Developed by or for" the public body or a minister 	5-152
	o "Advice"	5-153
	o "Opinions"	5-154
	o "Proposals"	5-154
	o "Recommendations"	5-154
	o "Analyses or policy options"	5-154
_	o Factual information	5-155
•	Exception to Disclosure: Consultations or Deliberations	E 450
	[Clause 23(1)(b)]	5-156
	"Consultations or deliberations" "Involving officers or ampleyees of the public body or a minister"	5-156 5-156
_	o "Involving officers or employees of the public body or a minister"	5-156
•	Exception to Disclosure: Positions, Plans, etc. for Contractual or	E 4E0
	Other Negotiations [Clause 23(1)(c)]	5-158
	 "Positions, plans, procedures, criteria or instructions or related considerations" 	5-158
	UD and an addition the announce of a software to all an other	J-150
	"Developed for the purpose of contractual or other negotiations"	5-159
	 "Developed by or on behalf of the Government of Manitoba 	5 100
	or the public body"	5-159

•	Exception to Disclosure: Plans Relating to Management of Personnel or Administration [Clause 23(1)(d)]	5-160
	Exception to Disclosure: Draft Legislation, Regulations and Orders	0 100
	[Clause 23(1)(e)]	5-162
•	Exception to Disclosure: Information about a Pending Policy or	
	Budgetary Decision [Clause 23(1)(f)]	5-163
	 Proposed plans, policies and projects 	5-163
	o Of <u>a</u> public body	5-163
	o "Pending"	5-164
•	When the Exceptions Don't Apply: Limits to the Advice to a Public Bo	
_	Exceptions [Section 23(2)]	5-165
•	Limit on Exception: Record More than 20 Years Old	E 40E
_	[Clause 23(2)(a)]	5-165
•	Limit on Exception: Instruction or Guideline [Clause 23(2)(b)]	5-166
•	Limit on Exception: Substantive Rule or Statement of Policy	- 40-
	[Clause 23(2)(c)]	5-167
	Limit on Exception: Result of Product or Environmental Test	5 400
	[Clause 23(2)(d)]	5-168
•	Limit on Exception: Statement of the Reasons for a Decision	5 400
	[Clause 23(2)(e)]	5-169
•	Limit on Exception: Background Research of a	E 474
	Scientific or Technical Nature [Clause 23(2)(f)]	5-171
	Background researchScientific research	5-171 5-172
	 Scientific research Technical research 	5-172 5-172
	 Technical research does not include economic or financial research 	
	Limit on Exception: Public Opinion Polls)
	[Clause 23(2)(f.1)]	5-174
	Limit on Exception: Statistical Surveys [Clause 23(2)(g)]	5-175
	Limit on Exception: Final Report or Final Audit on	0 170
	Performance or Efficiency [Clause 23(2)(h)]	5-176
	Section 23: Related Provisions in FIPPA	5-178
	Geotion 25. Related Flovisions III Fill A	3-170
Disclo	sure Harmful to Individual Health or Safety	
	olic Safety [Section 24]	5-179
	mmary of the Exception	5-179
•	Scope of Individual or Public Safety Exceptions [Section 24]	5-180
	 Discretionary exception 	5-180
	Severing - subsection 7(2)	5-180
	 Reasonable expectation of harm 	5-181
	Each clause contains a separate exception	5-181
	o Refusal to confirm or deny existence of record [subsection 12(2)]	5-181
	Exception to Disclosure: Threaten or Harm Health or Safety of	

Another Person [Clause 24(a)]	5-182
 Exception to Disclosure: Serious Harm to the Applicant's Heal 	
or Safety [Clause 24(b)]	5-184
Exception to Disclosure: Threaten Public Safety [Clause 24(c)]] 5-185
Section 24: Related Provisions in FIPPA	5-186
Law Enforcement and Legal Proceedings [Section 25]	5-187
Summary of the Exception	5-187
 Scope of the Exception for Law Enforcement and Legal Proceed 	
[Subsection 25(1)]	5-188
 Discretionary exceptions 	5-188
 Severing - subsection 7(2) 	5-189
 Reasonable expectation of harm Reasonable expectation of harm and the 'mosaic effect' 	5-189 5-189
 Reasonable expectation of harm and the 'mosaic effect' Refusal to confirm or deny existence of record [clause 12(2)] 	
 Exception to Disclosure: Harm a Law Enforcement Matter 	.)(a)] 5 150
[Clause 25(1)(a)]	5-192
 Exception to Disclosure: Prejudice the Defence of 	0 102
Canada; Espionage, Sabotage or Terrorism [Clause 25(1)(b)]	5-194
 Prejudice the defence of Canada or allied or associated 	0 10
states	5-194
 Harm the detection, prevention or suppression of 	
espionage, sabotage or terrorism	5-195
Exception to Disclosure: Harm Investigative Techniques	
and Procedures [Clause - 25(1)(c)]	5-196
"Harm the effectiveness"	5-196
 "Investigative technique or procedure" 	5-197
 "Currently used, or likely to be used, in law enforcement" 	5-197
Exception to Disclosure: Criminal Intelligence [Clause 25(1)(d)	-
 "Interfere with the gathering of criminal intelligence" 	5-198
"Reveal criminal intelligence" "Gringinal intelligence"	5-198
o "Criminal intelligence"	5-199
Exception to Disclosure: Life or Safety of Law Enforcement	5 004
Officer or Others [Clause 25(1)(e)]	5-201
 Exception to Disclosure: Fair Trial or Impartial Adjudication 	F 000
[Clause 25(1)(f)]	5-203
 Exception to Disclosure: Confiscated Record [Clause 25(1)(g)]] 5-205
Exception to Disclosure: Facilitate Escape from Custody	
[Clause 25(1)(h)]	5-207
 Exception to Disclosure: Facilitate an Unlawful Act or Interfere 	
with the Control of Crime [Clause 25(1)(i)]	5-209
 "Facilitate the commission of an unlawful act" "Interfere with the control of crime" 	5-209 5-209
O Interfere with the control of crime.	5-209

 Exception to Disclosure: Technical Information 	
Relating to Weapons or Potential Weapons [Clause 25(1)(j)]	5-210
 Exception to Disclosure: Interfere with Custody or 	
Supervision [Clause 25(1)(k)]	5-211
 Exception to Disclosure: Information in a Correctional 	
Record Supplied in Confidence [Clause 25(1)(I)]	5-213
Exception to Disclosure: Protection of Author of Law	
Enforcement Record from Civil Liability [Clause 25(1)(m)]	5-215
 Exception to Disclosure: Injurious to Conduct of Existing or 	
Anticipated Legal Proceedings [Clause 25(1)(n)]	5-217
 Exception to Disclosure: Disclosure Prohibited Under an 	
Enactment of Canada [Subsection 25(2)]	5-219
When the Exceptions Don't Apply: Limit on the Law Enforcement	
Legal Proceedings Exceptions [Subsection 25(3)]	5-221
Limit on Exception: Report on the Degree of Success	
Achieved by a Law Enforcement Program [Clause 25(3)(a)]	5-222
 Limit on Exception: General Outline of the Structure or 	
Programs of a Law Enforcement Agency [Clause 25(3)(b)]	5-223
Section 25: Related Provisions in FIPPA	5-224
Security of Property [Section 26]	5-225
Summary of the Exception	5-225
 Scope of the Security of Property Exception [Section 26] 	5-226
Discretionary exception	5-226
 Severing - subsection 7(2) 	5-226
 "Reasonable expectation of harm" 	5-227
 "Harm or threaten the security" 	5-227
"Of any property or system"	5-227
Section 26: Related Provisions in FIPPA	5-229
Solicitor- Client Privilege [Section 27]	5-230
Summary of the Exception	5-230
 Exception to Disclosure: Solicitor-Client Privilege of the Public Bo 	
[Subsection 27(1)]	5-231
 Discretionary exceptions 	5-232
 Severing - subsection 7(2) 	5-232
 Each clause contains a separate exception 	5-232
Solicitor-Client Privilege [Clause 27(1)(a)]	5-233
 Solicitor-client privilege 	5-233
 Waiver of solicitor-client privilege 	5-236
 Exception to Disclosure: Information Prepared by 	
or for an Agent or Lawyer [Clause 27(1)(b)]	5-237
Exception to Disclosure: Correspondence Between	

an Agent or Lawyer and Another Person [Clause 27(1)(c)]	5-239
Exception to Disclosure: Solicitor-Client Privilege of Other	
Persons [Subsection 27(20)]	5-241
Section 27: Related Provisions in FIPPA	5-243
Economic and Other Interests of a Public Body [Section 28]	5-244
Summary of the Exception	5-244
 Scope of the Exceptions for Economic and Other Interests 	
of a Public Body [Subsection 28(1)]	5-245
 Relationship to section 18 - Business interests of third par 	
 Discretionary exceptions 	5-246
 Severing - subsection 7(2) 	5-246
o "Of a public body"	5-247
o "Of the Government of Manitoba"	5-247
 Scope of the exception in subsection 28(1) - "including" 	5-248
Exception to Disclosure: Economic or Financial Interests or	
Negotiating Position of a Public Body or the Government	
of Manitoba - Opening Wording of Subsection 28(1)	5-249
 Reasonable expectation of harm 	5-249
Economic interests	5-249
"Financial interests"	5-250
"Negotiating position" "Of a public hadren the Covernment of Manitaball "Of a public hadren the Covernment of Manitaball".	5-250
 Of a public body or the Government of Manitoba 	5-250
 Exception to Disclosure: Trade Secret of a Public Body or 	
the Government [Clause 28(1)(a)]	5-251
Meaning of "trade secret" One of the control of Manifelant One	5-251
 Of a public body or the Government of Manitoba 	5-252
Exception to Disclosure: Financial, Commercial, Scientific,	
Technical or Other Proprietary Information [Clause 28(1)(b)]	5-253
 "Financial, commercial, scientific, technical or other inform 	
o "Proprietary interest or right of use"	5-254
 "Of a public body or the Government" 	5-255
 Exception to Disclosure: Result in Financial Loss, 	
Prejudice Competitive Position or Interfere With Negotiations	
[Clause 28(1)(c)]	5-256
Reasonable expectation of harm test	5-256
o "Result in financial loss" - paragraph 28(1)(c)(i)	5-257
 "Prejudice the competitive position" - paragraph 28(1)(c)(ii 	i) 5-257
 "Interfere with or prejudice contractual or other 	E 0E7
negotiations" - clause 28(1)(c)(iii)	5-257
o "Of a public body or the Government of Manitoba"	
 Exception to Disclosure: Innovative Scientific or Technical 	5 050
Research [Clause 28(1)(d)]	5-259
 "Innovative scientific or technical information obtained 	

through research"	5-259
 "Employee of a public body or the Government of Manitoba" 	5-260
	3-200
Exception to Diodiodate. Chade Lede of Benefit to a 1 crosh of	E 064
Premature Disclosure of a Pending Policy Decision [Clause 28(1)(e)]	5-261 5-261
o "Including, but not limited to"	5-261
 Exceptions to Disclosure: "Undue loss or benefit to a person, or premature disclosure of a pending 	
·	
policy decision" - Exceptions in opening wording of clause 28(1)(e)	5-262
* * * *	3-202
Exceptions to Biodesdate: Examples of Office Less of	
Benefit or Premature Disclosure of a Pending Policy Decision	E 264
[Clauses 28(1)(e)(i) to (iv)]	5-264
When the Exceptions Don't Apply: Limit to the Exceptions	
for Economic and Other Interests of a Public Body	- 00-
[Subsection 28(2)]	5-265
 Section 28: Related Provisions in FIPPA 	5-266
Testing Procedures, Tests and Audits [Section 29]	5-267
Summary of the Exception	5-267
 Scope of the Exception: Testing Procedures, Tests 	
and Audits [Section 29]	5-268
 Discretionary exceptions 	5-268
 Severing - subsection 7(2) 	5-269
 Reasonable expectation of harm 	5-269
 "Prejudice the use or results of particular tests or audits" 	5-269
 Section 29: Related Provisions in FIPPA 	5-271
Confidential Evaluations about the Applicant [section 30]	5-272
Summary of the Exception	5-272
 Scope of the Exception for Confidential Evaluations [Section 30] 	5-273
 Scope of the exception 	5-273
 Discretionary exception 	5-275
 Severing - subsection 7(2) 	5-275
 Section 30: Related Provisions in FIPPA 	5-276
Preservation of Heritage Resources and Life Forms [Section 31]	5-277
Summary of the Exception	5-277
 Scope of Exception: Disclosure Harmful to Preservation 	J
of Heritage Resources and Life Forms [Subsection 31(1)]	5-278
Discretionary exceptions	5-279
 Biscretionary exceptions Reasonable expectation of harm 	5-279
 Severing - subsection 7(2) 	5-279
Severing - Subsection 7(2)"Heritage resource" - clause 31(1)(a)	5-280
 "Rare, endangered, threatened or vulnerable life form" 	0 200

	 clause 31(1)(b) Result in damage to heritage resource or life form Interfere with preservation, protection or conservation of heritage resource or life form 	5-281 5-282 5-282
	 Scope of Exception: Contemplated Designation of Heritage Sites or Objects [Subsection 31(2)] Scope of the exception Discretionary exceptions Severing - subsection 7(2) Section 31: Related Provisions in FIPPA 	5-283 5-283 5-284 5-284 5-285
	Information That Will Be Available to the Public [Section 32]	5-286
	Summary of the Exception	5-286
	Scope of Exception: Information That Will be Available	
	to the Public [Subsections 32(1) and (2)]	5-287
	 Scope of the Exception 	5-287
	 Discretionary exception 	5-288
	 Severing - subsection 7(2) 	5-289
	Section 32: Related Provisions in FIPPA	5-290
6.	PROTECTION OF PRIVACY	
	Overview	6-1
	Preliminary Privacy Considerations – Necessary,	
	Effective and Proportional	
		6-5
	•	6-5 6-5
	 The Ombudsman's three part test 	6-5 6-5
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed 	6-5
	 The Ombudsman's three part test 	
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test 	6-5 6-6
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test Privacy Principles in FIPPA	6-5 6-6 6-7
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test Privacy Principles in FIPPA Principle #1: Consent 	6-5 6-6 6-7 6-8
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test Privacy Principles in FIPPA Principle #1: Consent Principle #2: Accountability 	6-5 6-6 6-7 6-8 6-8
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test Privacy Principles in FIPPA Principle #1: Consent Principle #2: Accountability Principle #3: Identifying Purposes 	6-5 6-6 6-7 6-8
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test Privacy Principles in FIPPA Principle #1: Consent Principle #2: Accountability Principle #3: Identifying Purposes Principle #4: Collection Limitation (and Data Minimizing) 	6-5 6-6 6-7 6-8 6-9
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test Privacy Principles in FIPPA Principle #1: Consent Principle #2: Accountability Principle #3: Identifying Purposes 	6-5 6-6 6-7 6-8 6-8 6-9 6-10
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test Privacy Principles in FIPPA Principle #1: Consent Principle #2: Accountability Principle #3: Identifying Purposes Principle #4: Collection Limitation (and Data Minimizing) Principle #5: Use, Retention and Disclosure Limitation 	6-5 6-6 6-7 6-8 6-8 6-9 6-10 6-11
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test Privacy Principles in FIPPA Principle #1: Consent Principle #2: Accountability Principle #3: Identifying Purposes Principle #4: Collection Limitation (and Data Minimizing) Principle #5: Use, Retention and Disclosure Limitation © Limits on use 	6-5 6-6 6-7 6-8 6-8 6-9 6-10 6-11
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test Privacy Principles in FIPPA Principle #1: Consent Principle #2: Accountability Principle #3: Identifying Purposes Principle #4: Collection Limitation (and Data Minimizing) Principle #5: Use, Retention and Disclosure Limitation Limits on use Limits on retention 	6-5 6-6 6-7 6-8 6-8 6-9 6-10 6-11 6-11
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test Privacy Principles in FIPPA Principle #1: Consent Principle #2: Accountability Principle #3: Identifying Purposes Principle #4: Collection Limitation (and Data Minimizing) Principle #5: Use, Retention and Disclosure Limitation Limits on use Limits on retention Limits on disclosure 	6-5 6-6 6-7 6-8 6-8 6-10 6-11 6-11 6-12 6-12
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test Privacy Principles in FIPPA Principle #1: Consent Principle #2: Accountability Principle #3: Identifying Purposes Principle #4: Collection Limitation (and Data Minimizing) Principle #5: Use, Retention and Disclosure Limitation Limits on use Limits on retention Limits on disclosure Principle #6: Accuracy 	6-5 6-6 6-7 6-8 6-9 6-10 6-11 6-12 6-12 6-13
	 The Ombudsman's three part test The Privacy Commissioner of Canada has developed a similar 4 point test Privacy Principles in FIPPA Principle #1: Consent Principle #2: Accountability Principle #3: Identifying Purposes Principle #4: Collection Limitation (and Data Minimizing) Principle #5: Use, Retention and Disclosure Limitation Limits on use Limits on retention Limits on disclosure Principle #6: Accuracy Principle #7: Security - Safeguarding Personal Information 	6-5 6-6 6-7 6-8 6-9 6-10 6-11 6-12 6-12 6-13 6-13

 Correcting one's own personal information Principle #10: Compliance 	6-14 6-15
Consent and FIPPA	6-17
Elements of a Valid Consent	6-17
 A consent must relate to the purpose for which it is being sought A consent must be knowledgeable – that is, it 	6-18
must be 'informed'	6-18
A consent must be voluntary	6-19
 A consent must not be obtained through misrepresentation 	6-19
 A consent may be subject to conditions A consent may be withdrawn 	6-19 6-19
 A consent may be withdrawn A consent may be provided on behalf of an individual by 	0-19
an authorized person	6-20
Form of Consent	6-21
 Privacy Provisions in FIPPA where Consent is Important 	6-23
Accountability and Employees, Contractors and Agents	6-24
 Responsibility of public bodies 	6-24
 Responsibility of public body for its officers and staff 	6-24
 Responsibility of public body for its contractors and agents 	6-25
Protection of Personal Health Information [Section 35; Subsections 1(1) and 1(2)]	6-27
Collection of Personal Information [Sections 36 and 37]	6-29
Overview of Sections 36 and 37 – Collection	0-29
and Indirect Collection	6-29
Meaning of "Collect"	6-30
•	6-31
 Collection – Principles and Requirements Relevant privacy principles 	6-31
 Requirements respecting collection of personal information 	6-31
 Purposes for which Personal Information May be Collected 	00.
[Subsection 36(1)]	6-34
 Summary of sections 36 and 37 	6-34
 Collection "by or for" a public body 	6-34
 Collection of personal information must be authorized 	
under FIPPA	6-35
 Collection Authorized by or Under an Enactment 	
[Clause 36(1)(a)]	6-37
o "Enactment"	6-37
 Collection authorized "by" an Act or regulation 	6-37
 Collection authorized "under" an Act or regulation The Information Relates Directly to and is Necessary for an Existir 	6-38 ng

	Service, Program or Activity [Clause 36(1)(b)] O A note about unsolicited personal information	6-39 6-41
	Collection for Law Enforcement Purposes or Crime	•
	Prevention [Clause 36(1)(c)]	6-42
	Law enforcement	6-42
		6-43
	Crime prevention Callection of paragraphic for law	0-43
	 Collection of personal information for law 	
	enforcement purposes or crime prevention	6-43
	 A Note about Collecting Personal Information from Other 	
	Organizations	6-45
	Limit on Amount of Personal Information Collected:	
	Minimum Amount Necessary [Subsection 36(2)]	6-46
•	Manner of Collection: Direct and Indirect Collection	
_		C 47
	[Subsection 37(1)]	6-47
	• Indirect Collection Authorized by the Individual or by an Enactment	
	[Clause 37(1)(a)]	6-49
	 Direct Collection Could Harm the Individual or Others 	
	[Clause 37(1)(b)]	6-52
	 Reasonable expectation of harm 	6-52
	◆ Time or Circumstances Do Not Permit Direct Collection	
	[Clause 37(1)(c)]	6-54
	Direct Collection Could Result in Collection of Inaccurate	
	Information [Clause 37(1)(d)]	6-55
	Personal Information Disclosed to the Public Body	
	under Division 3 [Clause 37(1)(e)]	6-56
	Callegate of fam a Dublia Degistmy [Clause 07/4)/f)]	6-58
	• • • • • • • • • • • • • • • • • • • •	0-30
	Collected for Law Enforcement Purposes or Crime Provention [Clause 37(1)(x)]	G EC
	Prevention [Clause 37(1)(g)]	6-59
	Law enforcement	6-59
	Crime prevention	6-60
	 Indirect collection 	6-61
	◆ Collected for Legal Proceedings [Clause 37(1)(h)]	6-62
	 Collected for Use in Providing Legal Advice or Legal 	
	Services [Clause 37(1)(i)]	6-64
	 History, Release or Supervision of an Individual in Custody, 	
	or Security of a Correctional Institution [Clause 37(1)(j)]	6-66
	Collected to Enforce a Family Maintenance Order	
	[Clause 37(1)(k)]	6-69
	Collected to Inform the Public Guardian and Trustee or the	0 00
	Vulnerable Persons Commissioner [clause 37(1)(I)]	6-70
	TI B I II O II IT (
		6-70
	The Vulnerable Persons Commissioner Information and Trustee	6-71
	 Information collected to inform the Public Guardian and Trustee 	
	or the Vulnerable Persons Commissioner about a client	
	or potential client [clause 37(1)(l)]	6-71
	 Collected to Determine or Verify Eligibility 	

[Clause 37(1)(m)]	6-72
 Collected to determine eligibility 	
[paragraph 37(1)(m)(i)]	6-72
 Collected to verify eligibility [paragraph 37(1)(m)(ii)] 	6-74
 Determining or Collecting a Fine, Debt, Tax or Payment Owing or 	
Making a Payment [Clause 37(1)(n)]	6-75
 Collected to determine the amount of or to collect a fine, 	
debt, tax or payment owing to the Government of	
Manitoba or the public body, or an assignee of	
either of them [paragraph 37(1)(n)(i)]	6-75
 Collected to make a payment [paragraph 37(1)(n)(ii)] 	6-77
 Collected to Manage or Administer Personnel 	
[Clause 37(1)(o)]	6-78
 Collected to Audit, Monitor or Evaluate Activities 	
[Clause 37(1)(p)]	6-81
Collected to Determine Suitability for an Honour or	
Award [Clause 37(1)(q)]	6-83
Information That Must Be Provided to the Individual:	
The "Privacy Notice" [Subsections 37(2) and 37(3)]	6-84
 What information must be provided to the individual 	6-85
 Circumstances in which the privacy notice must be given 	6-86
 Form of privacy notice 	6-87
Accuracy of Personal Information [Section 38]	6-89
"A decision that directly affects" the individual	6-89
 "Reasonable steps" to ensure accuracy or completeness 	6-90
Requests to Correct Personal Information [Section 39]	6-92
 Overview of "Requests to Correct Personal Information" 	
[Section 39]	6-92
 How to Request Correction of Personal Information 	0 02
[Subsections 39(1) and 39(2)]	6-94
■ Time Limit for a Decision about Correction	0 54
[Subsections 39(3) and 39(4)]	6-95
	0-33
 Decision about Request to Correct Information 	6.06
[Subsection 39(3)]	6-96
Duty to Notify Others [Subsections 39(5) and 39(6)]	6-98
Retention of Personal Information [Section 40]	6-100
 Meaning of "retention" 	6-100
 When is a public body required to establish a records 	
retention policy under FIPPA? [subsection 40(1)]	6-100
 Content of retention policy [subsection 40(2)] 	6-101
 Storage and destruction of records containing 	
personal information	6-102

Protec	ction of Personal Information [Section 41]	6-104
•	Overview of the Duty to Protect Personal Information [Section 41]	6-104
•	Duty to Protect Personal Information [Section 41]	6-106
	 Custody or control 	6-106
	 "Reasonable security arrangements" 	6-107
	"Unauthorized access"	6-108
	"Unauthorized use"	6-109
	"Unauthorized disclosure"	6-109
	 "Unauthorized destruction" 	6-110
	 Determining reasonable security arrangements 	6-110
•	A Note on the Duty to Protect the Privacy of Access Applicants	6-116
•	What To Do If a Privacy Breach Occurs	6-118
Use of	Personal Information [Sections 42 and 43]	6-120
•	Overview of "Use" of Personal Information	6-121
•	Meaning of "Use"	6-122
•	Limits on Use of Personal Information [Section 42]	6-124
	 Use must be "authorized" 	6-124
	o Use must be limited to the minimum amount of information necess	sary 6-124
	 Use must be limited to employees who need to know it 	6-125
•	Authorized Uses of Personal Information [Section 43]	6-126
•	Use for the Original Purpose or for a Consistent Purpose	
	[Clause 43(a)]	6-127
	 Use for the purpose for which the personal information was original 	
	collected or compiled	6-127
	 Use of personal information for a consistent purpose 	6-128
•	Use with the Individual's Consent [Clause 43(b)]	6-131
•	Use for a Purpose for which the Information may be	
	Disclosed to the Public Body [Clause 43(c)]	6-134
Disclo	sure of Personal Information [Sections 42 and 44]	6-135
•	Overview of Disclosure of Personal Information	6-135
•	Meaning of Disclosure	6-136
•	Relationship of Authorized Disclosure under Section 44	
	to Access to Information under Part 2 of FIPPA	6-137
•	Limits on Disclosing Personal Information	
	[Subsections 42(1) and (2)]	6-139
	 Disclosure must be "authorized" 	6-139
	\circ Disclosure must be limited to the minimum amount of information	
	necessary	6-139
•	Authorized Disclosure of Personal Information	
	[Subsection 44(1)]	6-141

	 Disclosure of personal information must be authorized Disclosure is authorized, or permitted, not required, under 	6-141
	section 44 o Disclosure is authorized only in the circumstances set	6-141
	out in subsection 44(1) Disclosure for the Original or a Consistent Purpose	6-143
	[Clause 44(1)(a)] O Disclosure for the purpose for which the personal information was	6-144
	originally collected or compiled under subsection 36(1)	6-144
	 Disclosure of personal information for a consistent purpose 	6-146
•	Disclosure with the Individual's Consent [Clause 44(1)(b)]	6-148
•	Disclosure in Accordance with Part 2: Access	
	to Information [Clause 44(1)(c)]	6-151
	Disclosure to Comply with an Enactment or Agreement	
	under an Enactment [Clause 44(1)(d)]	6-153
	Disclosure to comply with an enactment of Manitoba or Canada	6-153
	 Disclosure to comply with a treaty, arrangement or agreement entered into under an enactment of Manitoba or Cana 	da 6-154
	Disclosure Authorized or Required by an Enactment [Clause 44(1)(e)	
_	 Meaning of enactment 	6-156
	Disclosure <u>authorized</u> by an enactment	6-157
	Disclosure <u>authorized</u> by an enactment Disclosure <u>required</u> by an enactment	6-157
•	Disclosure to a Minister or Elected Official [Clause 44(1)(f)]	6-159
•	Disclosure for a Common or Integrated Service, Program	
	or Activity [Clause 44(1)(f.1)]	6-161
	 Disclosure to officer or employee of a public body 	6-162
	 Common or integrated service, program or activity 	6-162
	 The information to be disclosed must be <u>necessary to</u> 	
	deliver the common or integrated service, program or activity.	6-163
	 The public body officer or employee to whom the information is 	
	disclosed must "need the information to carry out his or her	
	responsibilities".	6-164
•	Disclosure to Manage or Administer Personnel	
	[Clause 44(1)(g)]	6-165
	Disclosure to the Manitoba Auditor General, etc. for	
	Audit Purposes [Clause 44(1)(h)]	6-168
•	Disclosure to the Government of Canada to Monitor, Evaluate or Auc	
	Shared Programs or Services [Clause 44(1)(i)]	6-170
•	Disclosure to Determine or Verify Suitability or Eligibility	0.4=4
	[Clause 44(1)(j)]	6-171
	 Disclosure to <u>determine</u> suitability or eligibility for a program, serv benefit 	ice or 6-171
	 Disclosure to <u>verify</u> suitability or eligibility for a program, 	
	service or benefit	6-172

•	Disclosure for Evaluation or Monitoring or for Research	
	and Planning [Clause 44(1)(j.1]	6-173
	 Evaluating or monitoring a service, program or 	
	activity [Clause 44(1)(j.1)(i)]	6-173
	Research and planning that relates to a service, Program or activity Clause 44(1)(i 1)(ii)	6 17/
_	program or activity [Clause 44(1)(j.1)(ii)]	6-174
•	Disclosure to Enforce a Family Maintenance Order	6 176
_	[Clause 44(1)(k)]	6-176
•	Disclosure Necessary to Protect Mental or Physical Health or Safety [Clause 44(1)(I)]	6-177
•	V / (/2	0-177
-	Disclosure to Comply with a Subpoena, Warrant or Order [Clause 44(1)(m)]	6-179
•		6-182
	Disclosure for Legal Advice or Legal Services [Clause 44(1)(n)]	
-	Disclosure to Enforce a Legal Right [Clause 44(1)(o)]	6-184
•	Disclosure to Determine the Amount of or Collect a Fine,	
	Debt, Tax or Payment Owing or to Make a Payment [Clause 44(1)(p)]	6-186
	 Disclosure to determine the amount of or to collect a fine, 	0-100
	debt, tax or payment owing to the Government of Manitoba	
	or the public body, or an assignee of either of them	
	[Clause 44(1)(p)(i)]	6-186
	Making a payment [Clause 44(1)(p)(ii)]	6-189
•	Disclosure for Use in Legal Proceedings [Clause 44(1)(q)]	6-190
•	Disclosure for Law Enforcement Purposes or Crime Prevention	
	[Clause 44(1)(r)]	6-192
	 Meaning of "Law enforcement" 	6-192
	 Meaning of "Crime prevention" 	6-193
	 Discretion to disclose 	6-194
•	Disclosure Among Law Enforcement Agencies [Clause 44(1)(s)]	6-195
	 What is a law enforcement agency? 	6-195
	Disclosure to another law enforcement agency in Manitoba	0.400
	or Canada [Clause 44(1)(s)(i)]	6-196
	Disclosure to a law enforcement agency in a forcign agents (Clause 44(4)(a)(ii)	6-197
	foreign country [Clause 44(1)(s)(ii]	0-197
-	Disclosure for the Purpose of Supervising an Individual in Custody [Clause 44(1)(t)]	6-199
	Custody Custody	6-199
	CustodyControl or supervision	6-200
•	Disclosure Necessary for the Security of a Correctional Institution	3 200
	[Clause 44(1)(u)]	6-201
•	Transfer to the Archives of Manitoba or to the Archives of	5 201
	the Public Body [Clause 44(1)(v)]	6-202
•	Disclosure to an Officer of the Legislature	5 252

	[Clause 44(1)(w)]	6-204
•	Disclosure to an Expert Under Clause 24(b)	
	[Clause 44(1)(x)]	6-206
•	Disclosure of Business Contact Information	
	[Clause 44(1)(x.1)]	6-207
•	Disclosure to a Relative in the case of Injury, Illness or Death	0.000
_	[Clause 44(1)(y)]	6-209
	Disclosure to a Relative of a Deceased Individual [Clause 44(1)(z)]	6-211
•	Disclosure to an Information Manager [Clause 44(1)(aa)]	6-213
	Disclosure of Information Available to the Public [Clause 44(1)(bb)]	6-214
	Disclosure under Section 47 (Research Purposes) or	0-214
	Section 48 (Record More than 100 Years Old) [Clause 44(1)(cc)]	6-215
	Disclosure by an Education Institution for Fundraising	0 = .0
	[Clause 44(1)(dd)]	6-217
	nation Managers	
[Subs	ection 1(1), Clause 44(1)(aa) & Section 44.1]	6-220
	What is an 'information manager'? Dequirements respecting information managers.	6-222 6-222
	 Requirements respecting information managers The information management agreement 	6-222
	[subsection 44.1(3)]	6-225
	(-/)	
Disclo	sure for Research Purposes [Section 47]	6-229
•	Conditions the Research Must Meet [Clause 47(4)(b)]	6-231
•	Conditions Protecting Personal Information [Clause 47(4)(c)]	6-235
•	Written Research Agreement Required [Clause 47(4)(d)]	6-238
D : 1	(B	
	osure of a Record Over 100 Years Old	6-240
[Section	011 40]	0-240
Privac	cy Impact Assessments	6-242
•	What is a "privacy impact assessment"?	6-242
•	When should a privacy impact assessment be carried out?	6-243
•	Why carry out a privacy impact assessment?	6-244
•	Some tips on how to approach a privacy impact assessment	6-246
	 Gather the right team of experts, specialists and advisors 	6-246
	 At the outset, provide a <u>detailed</u> context 	6-246
	Analyze, in detail, the 'information flow' using privacy	
	principles – and the questions that flow from these	6 0 4 0
	 principles – as the framework Use available tools as an aid, but don't be afraid to adjust 	6-248
	them where necessary	6-249

7. INDEPENDENT REVIEW: THE ROLE OF THE OMBUDSMAN

Overview	7-1
The Ombudsman Appointment of the Ombudsman The Ombudsman's staff, and protection from liability The Ombudsman is not a public body under FIPPA The Ombudsman's duty of confidentiality Annual and special reports, and the duty to make recommendations public	7-3 7-3 7-4 7-4 7-5
The Ombudsman's Powers and Duties under FIPPA [Part 4]	7-7
 Monitoring and Promoting Compliance with FIPPA [Section 49 and Subsection 15(1)] The Ombudsman's general powers under section 49 of FIPPA Requests to extend the time limit for responding to access reque [subsection 15(1)] Promoting Public Awareness of FIPPA [Clause 49(b), Subsection 66(7) and Subsections 58(1) and 58(3)] 	7-8 7-8 sts 7-12
 Investigating and Dealing with Complaints [Part 5, sections 59 to 74] 	7-14
 The Ombudsman's Powers When Conducting an Investigation [Sections 50 and 51] Powers of a Commissioner under The Manitoba Evidence Act [Subsection 50(1)] Power to Require Records to be Produced [Subsections 50(2), (3) and (4)] Right to Enter Offices of Public Bodies, Examine Records, etc. [Section 51] Duty to Public Body to Produce Records, etc. [Subsections 50(3) and 50(4) and Sections 85 and 86] 	7-15 7-16 7-16 7-16 7-17
Protection of Information Provided to the Ombudsman [Sections 52 to 55, Subsection 1(1) and Clause 4(e)]	7-19
■ Investigation in Private [Section 52]	7-19
 Statements to and Reports of the Ombudsman Not Admissible in Evidence [Sections 53 and 54] Restrictions on Disclosure of Information by the Ombudsman 	7-19
[Section 55] Ombudsman's Records Not Accessible Under FIPPA	7-20
 Ombudsman's Records Not Accessible Under FIPPA [Section 1 and Clause 4(1)(e)] 	7-22

8. INDEPENDENT REVIEW: COMPLAINTS

Overview	8-1
The Information and Privacy Adjudicator	
[Part 4.1, Sections 58.1 to 58.8]	8-3
■ The Role of the Adjudicator	
[Subsections 58.1(2) and 66.8(7), and Section 58.5]	8-3
Appointment of the Adjudicator Appointment of the Adjudicator	0.4
[Part 4.1, Sections 58.1, 58.2, 58.3 and 58.7]	8-4
 The Adjudicator is Not a Public Body under FIPPA [Subsection 4(4) and Clause 4(6)] 	8-5
[Subsection 1(1) and Clause 4(e)]	0-0
 Protection of Information Provided to the Adjudicator [Sections 58.4, 58.5 and 58.6, Subsection 1(1) and Clause 4(e)] 	8-6
[Sections 56.4, 56.5 and 56.6, Subsection 1(1) and Clause 4(e)]	0-0
Complaints to the Ombudsman [Part 5, Sections 59 to 66]	8-8
Who May Complain to the Ombudsman under FIPPA	
[Sections 59 and 79]	8-9
 Complaints about access to records 	8-9
Complaint about a refusal to correct a record	8-10
 Complaints about collection, use or disclosure of personal 	0.40
information ○ Complaints initiated by the Ombudsman	8-10 8-10
 Complaints initiated by the Ombudsman Complaints on behalf of another 	8-11
 How and When a Complaint May be Made 	0-11
[Section 60 and Subsection 34(5)]	8-12
 A complaint must be in the prescribed form [Section 60] 	8-12
 When a complaint about access must be made 	0
[Subsections 60(2) and 60(3), and Subsection 34(5)]	8-12
General rule	8-12
 Third party intervention – head decides to refuse access 	8-12
 Third party intervention – head decides to give access 	8-12
 Head fails to respond – deemed refusal of access 	8-13
 When a complaint about a refusal to correct personal 	
information in a record must be made [Subsection 60(2)]	8-13
 When a complaint about collection, use or disclosure of personal information must be made [Subsection 50(2)] and Clause 63(4)(c)]. 	0.40
information must be made [Subsection 59(3) and Clause 63(1)(a)]	8-13
 Investigation of a Complaint by the Ombudsman 	8-14
[Sections 61 to 65] The Ombudsman must notify head, etc. of a complaint	0-14
[Section 61]	8-14
 Duty of the Ombudsman to investigate a complaint 	J

MANITOBA FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY RESOURCE MANUAL

	[Subsection 62(1) and Section 63]	8-14
	 Informal resolution of a complaint [Subsection 62(2)] 	8-15
	Representations to the Ombudsman [Section 64]	8-15
	 Time limit for the Ombudsman's investigation [Section 65] 	8-16
•	Ombudsman's Report About a Complaint [Section 66]	8-17
•	Public Body's Response to the Ombudsman's Report	
	[Subsections 66(4), 66(5) and 66(6)]	8-18
	 Duty of the head of a public body to respond to the Ombudsman's 	
	recommendations [Subsection 66(4)]	8-18
	 Time limit for complying if the head accepts the Ombudsman's 	
	recommendations [Subsection 66(6)]	8-18
	 If the head refuses to act on the Ombudsman's 	
	recommendations about access to information - notice of rights	
	from the Ombudsman [Subsection 66(5)]	8-19
•	Ombudsman Must Publish Recommendations [Subsection 66(7)]	8-20
Povio	w by the Information and Brivery Adjudicator	
	w by the Information and Privacy Adjudicator	8-21
_	ons 66.1 to 66.10]	0-21
•	Ombudsman's Power to Request Review by Information and Privacy	0.00
	Adjudicator [Section 66.1]	8-22
	 In what circumstances may the Ombudsman request a review by the Adjudicator? [Subsection 66 4(4)] 	e 8-22
	Adjudicator? [Subsection 66.1(1)]	0-22
	 What matters can the Ombudsman ask the Adjudicator to review? [Subsections 66.1(2) and 66.1(3)] 	8-22
	Review of access decisions	8-22
		8-23
	Review of privacy matters Time limit for Ombudgmen to request review [Subsection 66 1/4]]	
_	Time limit for Ombudsman to request review [Subsection 66.1(4)]	8-23
•	Conduct of Review by the Information and Privacy Adjudicator [Sections	
	66.2 to 66.10]	8-24
	The Adjudicator must notify complainant, etc. of the Ombudsman's The Adjudicator must notify complainant, etc. of the Ombudsman's The Adjudicator must notify complainant, etc. of the Ombudsman's	0.04
	request [Section 66.2]	8-24 8-24
	 The Adjudicator must conduct a review [Section 66.3] Powers of the Adjudicator when conducting a review [Section 66.4 at a conduction of the Adjudicator when conducting a review [Section 66.4 at a conduction of the Adjudicator when conducting a review [Section 66.4 at a conduction of the Adjudicator when conducting a review [Section 66.3] 	
	Section 50]	มาน 8-24
	Duty to public body to produce records ato	0-24
	Subsections 66.4(4), 50(3), 50(4), 86(1) and 86(2)]	8-26
	Representations to the Adjudicator [Section 66.5]	8-27
	 Time limit for completing the Adjudicator's review [Section 66.6] 	8-28
	Who has the burden of proof in the Adjudicator's review of	0-20
	an access matter? [Section 66.7]	8-28
	Where the head has refused access	8-28
	 Where the head has decided to give access to third party 	J-20
	information	8-29
_		0-23
_	The Information and Privacy Adjudicator's Orders [Sections 66.8, 66.9 and 66.10]	8-30
	1050110113 110.0. 110.3 ATA 110 IVI	ひつつひ

	 What can the Adjudicator order? [Section 66.8] Adjudicator's orders respecting access to information 	8-30
	decisions	8-30
	 Adjudicator's orders respecting privacy and other matters 	8-31
	 Limit re Adjudicator's orders about access to information Adjudicator's orders must be given to the parties and 	8-33
	must be published [Subsections 66.8(6) and 66.8(7)] O Duty of public bodies to comply with the Adjudicator's orders	8-33
	[Section 66.9]	8-34
	 Judicial review of the Adjudicator's orders [Section 66.10] 	8-34
	Appeal to Court about Access [Sections 67 to 74]	8-36
	 Who May Appeal to Court about Access and in What Circumstances When and How an Appeal to Court is Made 	8-36
	[Subsections 67(3), 67(4) and 67(5)]	8-37
	■ The Hearing of the Access Appeal [Sections 69 and 70]	8-38
	Access appeal considered as a new matter	8-38
	 Burden of proof 	8-38
	 The Court May Order Records to be Produced for Examination [Sections 71 and 72] 	8-39
	Powers of the Court on Appeal [Sections 73 and 74]	8-40
9.	REPORTING	
	Overview	9-1
	Introduction	9-2
	 Reporting Access Requests – Government Departments 	9-2
	 Quarterly Report – Government Departments and Agencies 	9-3
	 Instructions for completing the Quarterly Report form 	9-3
	 Annual Report – Local Public Bodies 	9-16
	 Instructions for completing the Local Public Body 	
	Annual Report form	9-16

10. APPENDIX 1 - GLOSSARY OF TERMS