ADMINISTRATION

Policy & Procedure

Title	**APPLICATION, PROCESSING AND RESPONDING TO REQUESTS UNDER *THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT* (FIPPA)**	Date Effective	**February 18, 2013**
Document #	**AD-04-30**	Date Reviewed	**December 22, 2021**
Scope	**ALL EMPLOYEES**	Date Revised	**April 13, 2022**
Approved By	**EXECUTIVE LEADERSHIP COUNCIL**	Signature	***Original signed by H. Bryant***
Managed By	**REGIONAL PRIVACY & ACCESS OFFICER**		

Table of Contents

PURPOSE 1
DEFINITIONS 2
POLICY STATEMENT(S) 4
PROCEDURE / RESPONSIBILITIES 5
RELATED DOCUMENTS 7
REFERENCES 7
REVISION & REVIEW DATE(S) 8

1.0 PURPOSE

1.1 To allow any person the right to access any record maintained by the Northern Health Region (NHR), subject to the limited and specific exceptions set out in *The Freedom of Information and Protection of Privacy Act* FIPPA.

1.2 To allow any person the right to access records containing their own personal information maintained by the NHR, subject to the limited and specific exceptions set out in FIPPA.

1.3 To establish a consistent and controlled process for individuals to obtain access to information maintained by the NHR and for the NHR to permit, or refuse such access in accordance with the legislation.

1.4 To provide guidance in responding to applications for information within FIPPA timeframes and in processing applications for information made under FIPPA.

1.5 To protect the property right to records maintained by NHR regardless of media (electronic, paper or digital image).

1.6 This policy is not applicable to requests for access to a clinical record under The Mental Health Act or personal health information under The Personal Health Information Act (PHIA).

The Northern Health Region does not guarantee the currency or accuracy of any printed policy. Always refer to the electronic Policies and Procedures for the most current version of this document.

2.0 DEFINITIONS

2.1 **Applicant:** a person who makes a request for access to a record under Section 8 of FIPPA. For the purpose of access to and correction of personal information, applicant includes Persons Authorized to Exercise the Rights of another Individual.

2.2 **Employees:** unless otherwise specified, refers to all employees, medical staff, students, volunteers, board members, contractors, contract workers, agency personnel, and other individuals performing work activities within or on behalf of the Northern Health Region (NHR)

2.3 **FIPPA Access & Privacy Coordinator:** the individual at the Public Body who is responsible for receiving FIPPA applications for access to records, requests for corrections to personal information and for the day-to-day administration of FIPPA. This individual is the public contact for all FIPPA matters in the Public Body and is responsible for ensuring that the local Public Health Care Body understands the personal information protection requirements of FIPPA.

In the NHR, the FIPPA Access & Privacy Coordinator is the Regional Privacy & Access Officer.

2.4 **FIPPA Access & Privacy Officer:** responsible for overall direction of access to information and protection of privacy functions.

In the NHR, the FIPPA Access & Privacy Officer is the Chief Executive Officer.

2.5 **Individual:** the natural person (human being) the information is about. For the purpose of access, collection, correction, use and disclosure of personal information, includes Persons Authorized to Exercise the Rights of another Individual.

2.6 **Maintain:** in relation to personal information, to have custody or control of the information.

2.7 **Person Associated with the Public Body:** includes all contracted persons, volunteers, students, researchers, the region's medical staff, educators, member of the Board of Directors, Information Managers, employees, individuals under purchased salary/service agreements/contracts or agents of any of the above.

2.8 **Personal Information (PI):** recorded information about an identifiable individual including:

- the individual's name;
- the individual's address, telephone or facsimile number or e-mail address;
- information about the Individual's age, sex, sexual orientation, marital or family status;
- information about the Individual's ancestry, race, colour, nationality, or national or ethnic origin;
- information about the Individual's religion or creed, or religious belief, association or activity;
- personal health information about the Individual;
- the Individual's blood type, fingerprints or other hereditary characteristics;
- information about the Individual's political belief, association or activity;
- information about the Individual's education, employment or occupation, or educational, employment or occupational history;

The Northern Health Region does not guarantee the currency or accuracy of any printed policy. Always refer to the electronic Policies and Procedures for the most current version of this document.

- information about the Individual's source of income or financial circumstances, activities or history;
- information about the Individual's criminal history, including regulatory offences;
- the Individual's own personal views or opinions, except if they are about another person;
- the views or opinions expressed about the Individual by another person; and
- an identifying number, symbol or other particular assigned to the Individual.

2.9 **Personal Representative:**

- an Executor or Executrix named in a deceased individual's will; or
- a court appointed Administrator or Administratrix of an individual's estate.

2.10 **Persons Permitted to Exercise the Rights of an Individual:**

- any person with written authorization from the individual to act on the individual's behalf;
- a committee appointed for the individual under *The Mental Health Act* if the committee has the power to make health care decisions on the individual's behalf;
- a substitute decision maker for personal care appointed for the individual under *The Vulnerable Persons Living with a Mental Disability Act* if the exercise of the right relates to the powers and duties of the substitute decision maker;
- an attorney acting under a power of attorney granted by the individual, if the exercise of the right or power relates to the powers and duties conferred by the power of attorney.
- the parent or guardian of an individual who is a minor, in the opinion of the head of the public body concerned, the exercise of the right or power by the parent or guardian would not constitute an unreasonable invasion of the minor's privacy;
- if the individual is deceased, their personal representative if the exercise of the right or power relates to the administration of the individual estate.

2.11 **Public Body: means**

- a department;
- a government agency
- the Executive Council Office;
- the office of a minister; or
- a local public body, consisting of:
    - an educational body;
    - a health care body (i.e. NHR); and
    - a local government body.

In the NHR this means any community health services and all NHR facilities.

2.12 **Record or Recorded Information**: a record of information in any form, and includes information that is written, photographed, recorded or stored in any manner, on any storage medium or by any means, including by graphic, electronic or mechanical means, but does not include electronic software or any mechanism that produces records.

The Northern Health Region does not guarantee the currency or accuracy of any printed policy. Always refer to the electronic Policies and Procedures for the most current version of this document.

3.0 POLICY STATEMENT(S)

3.1 An applicant or any persons authorized to exercise the rights of an individual has the right of access to any record in the custody or under the control of the NHR, including a record containing personal information about the applicant subject to limited and specific exceptions set out in FIPPA.

3.2 An applicant or any persons authorized to exercise the rights of an individual, requesting access to a record completes a FIPPA Application for Access Form.

3.3 FIPPA Application for Access forms are available from the FIPPA Access and Privacy Coordinator, on the NHR website or an applicant may be directed to the form on the Government of Manitoba Information and Privacy Policy Secretariat Website (http://www.gov.mb.ca/chc/fippa/appforms.html).

3.4 Applicants making a FIPPA application for access are instructed to forward their requests to the FIPPA Access and Privacy Coordinator. If, however, an NHR employee inadvertently receives a request for a record, immediately date stamp the FIPPA Application for Access Form and immediately deliver it to the FIPPA Access and Privacy Coordinator.

3.5 The right of access may be subject to the applicant paying any fees as required in accordance with the regulations under FIPPA.

3.6 The NHR makes every reasonable effort to assist an applicant and to respond without delay, openly, accurately, and completely.

3.7 Every reasonable effort is made to respond to an application for access within forty-five (45) days after receiving the application, unless the time limit for responding is extended under Section 15 of FIPPA or the application has been transferred to another Public Body under Section 16 of FIPPA.

3.8 The NHR FIPPA Access and Privacy Coordinator informs the applicant as to whether access to the record or part of the record is granted or refused, and, if granted, where, when and how access will be given.

3.9 An applicant may request information in electronic form and the NHR may provide the information in electronic form if it can be produced using the normal computer hardware and software and technical expertise within the NHR, and would not interfere unreasonably with the operations of the NHR.

3.10 In addition, if a record exists but is not in the form requested by the applicant but can be created in the form requested, the NHR may create the record in the form requested if it would be simpler or less costly to do so.

3.11 Any employee, medical staff, or person associated with the NHR who **willfully:**

- collects, uses or discloses Personal Information in contravention of FIPPA;
- gains access, or attempts to gain access, to personal information in contravention of FIPPA;
- fails to comply with notification of a privacy breach;
- makes false statements to or misleads or attempts to mislead, the Ombudsman or another person performing duties or exercising powers under FIPPA;

The Northern Health Region does not guarantee the currency or accuracy of any printed policy. Always refer to the electronic Policies and Procedures for the most current version of this document.

- obstructs the Ombudsman or another person in performing duties or exercising powers under FIPPA;
- destroys, erases, conceals, alters or falsifies a record with the intent to evade a request for access to records;
- fails to comply with obligations of an information manager; or
- helps another person, or counsels another person, to do anything mentioned above;

is subject to disciplinary action

4.0 PROCEDURE / RESPONSIBILITIES

4.1 The Applicant

4.1.1 Completes a FIPPA Application for Access Form, when requesting access to a record.

4.1.2 May make an oral request for access to a record if they have a limited ability to read or write English or French, or has a disability or condition that impairs their ability to make a written request.

4.1.3 Must provide enough detail to enable the FIPPA Access and Privacy Coordinator to identify the record.

4.2 The FIPPA Access and Privacy Coordinator

4.2.1 Reviews the request to determine if the information is maintained by NHR, whether the application is understandable and complete, and, if necessary contacts the applicant to seek clarification.

4.2.2 Considers transferring the application to another public body within ten (10) days after receipt if:

- the record was produced by or for the other public body;
- the other public body was the first to obtain the record; or
- the record is in the custody or under the control of the other public body.

Before transferring an application, the FIPPA Access and Privacy Coordinator ensures that the second public body has the requested record and agrees to the transfer.

The FIPPA and Access Coordinator notifies the applicant that the request has been transferred in writing.

4.2.3 If the information is available through existing policies or procedures, the FIPPA Access and Privacy Coordinator:

- notifies the applicant as soon as possible and advises them of the existing process. In most cases if existing procedures permit access, the NHR simply provides the information, subject to any copying charges. In some cases, the applicant may be required to complete certain existing forms;
- confirms that the applicant wishes to withdraw the application under FIPPA and ensures that the applicant is fully advised of the existing process to obtain the record. This is noted on the FIPPA application form;
- in this instance, the application is not logged and responded to as a FIPPA Request.

The Northern Health Region does not guarantee the currency or accuracy of any printed policy. Always refer to the electronic Policies and Procedures for the most current version of this document.

4.2.4 Forwards the de-identified request to the program that has the responsive records, and copies both the ELC member of department that maintains the record and the Communications Coordinator.

4.2.5 Determines whether the response can be completed within forty-five (45) days and if not, notifies the applicant that the time needs to be extended and the reasons for extension:

- large number of records requested or that must be searched; or
- the number of requests made by the applicant or by two (2) or more applicants who are associated within the meaning of the regulations;
- time is needed to consult with a third party, or another public body, or to obtain legal advice, before deciding whether or not to grant access to a record
- the third party makes a complaint to Manitoba Ombudsman about a decision to grant access;
- the applicant consents to the extension; or
- exceptional circumstances warrant the extension.

4.2.6 Notifies the applicant with an estimate of costs if search and preparation is likely to take longer than two (2) hours, or computer programming or data processing fees will be incurred.

4.2.7 If additional information is required, the FIPPA Access and Privacy Coordinator must put the request for additional information in writing to the applicant. An applicant has up to thirty (30) days from the day the request is given to provide additional information, and if the additional information is not provided within that time, the FIPPA Access and Privacy Coordinator may determine the that applicant has abandoned the application.

4.2.8 If the FIPPA and Access Officer determines that the application has been abandoned, they must notify the applicant in writing of the determination, and of the applicant's right to make a complaint to the Manitoba Ombudsman.

4.3 Manager, Executive Leadership Council (ELC) Member of Department that Maintains the Record

4.3.1 Receives the request from the FIPPA Access and Privacy Coordinator and responds as soon as possible:

- if they require **clarification;**
- with an **estimate of the time** required to collect (search and retrieval) the responsive information if it is in excess of two (2) hours per request;
- if they are unable to supply the information within this time frame;
- if the information is not available; or
- if they are forwarding the request to another person.

4.3.2 Gathers all information and reviews for accuracy and completeness prior to releasing the information to the FIPPA Access and Privacy Coordinator. All information must be provided to the FIPPA Access and Privacy Coordinator within two (2) weeks of the notification date.

4.3.3 When reviewing for accuracy and completeness, identify any concerns relating to the inclusion of information. The FIPPA Access and Privacy Coordinator takes these concerns into consideration when accessing legislative requirements for disclosure.

The Northern Health Region does not guarantee the currency or accuracy of any printed policy. Always refer to the electronic Policies and Procedures for the most current version of this document.

Forwards the records requested in the application to the FIPPA Access and Privacy Coordinator.

4.4 The FIPPA Privacy and Access Coordinator

4.4.1 Reviews the records retrieved to fulfill the request and determine whether an exception to disclosure applies and where necessary, severs the information that the applicant is not entitled to access. The record(s) are severed in accordance with prescribed procedures as per AD-04-50 FIPPA Severing of Information.

4.4.2 Prepares a draft response and shares the draft (de-identified) response with the Communications Coordinator and ELC member of the program that is responsible for the records. The ELC member makes the final decision regarding disclosure of information.

4.4.3 Advises the applicant whether access to the requested information is granted in full, granted in part or refused.

4.4.4 Advises the applicant of their right to make a complaint to the Manitoba Ombudsman when access is partially granted or refused.

4.4.5 Records the response date and disclosure disposition in the FIPPA Requests Log.

5.0 RELATED DOCUMENTS

5.1 Appendix A Guideline for Processing a FIPPA Request

5.2 AD-04-50 FIPPA Severing of Information

5.3 FIPPA Application for Access Form

6.0 REFERENCES

6.1 Manitoba Government. (2022). *The Freedom of Information and Protection of Privacy Act* (FIPPA)*C.C.S.M.c.F175.*
Retrieved from http://web2.gov.mb.ca/laws/statutes/ccsm/f175e.php

6.2 Manitoba Ombudsman Practice Note. (2022). Checklist: Contents of a Complete Response under *The Freedom of Information and Protection of Privacy Act* (FIPPA)
Retrieved from https://www.ombudsman.mb.ca/documents_and_files/practice-notes.html

6.3 Manitoba Ombudsman Practice Note. (2022). Documenting about processing access requests under Access Decisions under *The Freedom of Information and Protection of Privacy Act* (FIPPA)
Retrieved from https://www.ombudsman.mb.ca/documents_and_files/practice-notes.html

6.4 Manitoba Ombudsman Practice Note. (2022). Guidelines of Time Frames for Processing a FIPPA Request.
Retrieved from https://www.ombudsman.mb.ca/documents_and_files/practice-notes.html

6.5 Manitoba Ombudsman Practice Note. (May 2007). Protecting the Privacy of Access Requestors
Retrieved from https://www.ombudsman.mb.ca/documents_and_files/practice-notes.html

The Northern Health Region does not guarantee the currency or accuracy of any printed policy. Always refer to the electronic Policies and Procedures for the most current version of this document.

6.6 Manitoba Ombudsman Practice Note. (May 2006). Providing Reasons to an Applicant When Refusing Access under *The Freedom of Information and Protection of Privacy Act* (FIPPA)
Retrieved from https://www.ombudsman.mb.ca/documents_and_files/practice-notes.html

6.7 Manitoba Ombudsman Practice Note. (January 2011). The Exercise of Discretion When Applying Discretionary Exceptions to Refuse Access under *The Freedom of Information and Protection of Privacy Act* (FIPPA)
Retrieved from https://www.ombudsman.mb.ca/documents_and_files/practice-notes.html

6.8 Northern Health Region. (2018). AD-04-50 FIPPA Severing of Information

6.9 Shared Health. (2022). 340.100.109 Access to Information under The Freedom of Information and Protection of Privacy Act

7.0 REVISION & REVIEW DATE(S)

Revised (R) April 13, 2022
February 13, 2018
February 18, 2015
reviewed (r) September 27, 2017

The Northern Health Region does not guarantee the currency or accuracy of any printed policy. Always refer to the electronic Policies and Procedures for the most current version of this document.