

 Winnipeg Regional Health Authority Office régional de la santé de Winnipeg Caring for Health À l'écoute de notre santé	REGIONAL Applicable to all WRHA governed sites and facilities (including hospitals and personal care homes), and all funded hospitals and personal care homes. All other funded entities are excluded unless set out within a particular Service Purchase Agreement.		Level: 1
	Policy Name: Access to Information under <i>The Freedom of Information and Protection Of Privacy Act</i>	Policy Number: 10.40.190	Page 1 of 4
	Approval Signature: <i>Original Signed by M. Nader.</i>	Section: GENERAL ADMINISTRATION	
	Date: January 1, 2022	Supersedes: May 2019	

Language used within this Policy, particularly discretionary language, is reflective of the terms used in *The Freedom of Information and Protection of Privacy Act (Manitoba)*.

1.0 **PURPOSE:**

- 1.1 To allow any person a right of access to Records maintained by the Public Body, subject to the limited and specific exceptions set out in "*The Freedom of Information and Protection of Privacy Act*" ("FIPPA").
- 1.2 To allow Individuals a right of access to records containing Personal Information about themselves maintained by the Public Body, 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 Public Body and for the Public Body to permit or refuse such access in accordance with the legislation.
- 1.4 To ensure that requests for access to information are responded to within the legislated timeframes.
- 1.5 To protect the property right to records maintained by the Public Body 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*.

2.0 **DEFINITIONS:**

- 2.1 Applicant: means a person who makes a request for access to a Record. For the purpose of access to and correction of Personal Information; Applicant includes Persons Authorized to Exercise the Rights of Another Person.
- 2.2 Employees and Persons Associated With the Public Body: means all contracted persons, volunteers, students, researchers, medical staff, educators, members of the Board of Directors, Information Managers, employees, or agents of any of the above or other health agencies.

WRHA Policy Name: Access to Information Under <i>The Freedom of Information and Protection Of Privacy Act</i>	Policy Number: 10.40.190	Page 2 of 5
---	-----------------------------	----------------

- 2.3 FIPPA Access and Privacy Coordinator: means any employee of a Public Body to whom the head has delegated a duty or power under Section 81 of *FIPPA*. The delegate is responsible for receiving applications for access to records and for the day-to-day administration of the Act. At the WRHA, the FIPPA Access and Privacy Coordinator is the Chief Privacy Officer.
- 2.4 FIPPA Access and Privacy Officer: means the Individual at the Public Body who is responsible for overall direction of access to information and protection of privacy functions. At the WRHA, the FIPPA Access and Privacy Officer is the President and Chief Executive Officer.
- 2.5 Individual: means the natural person (human being) the information is about. For the purpose of collection, Use and Disclosure of Personal Information, includes Persons Authorized to Exercise the Rights of Another Person.
- 2.6 Maintain: means in relation to Personal Information, to have custody or control of the information.
- 2.7 Personal Information: means 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;
 - 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.
- 2.8 Personal Representative: means
- an Executor/Executrix or joint Executor/Executrix named in a deceased Individual's will; or

WRHA Policy Name: Access to Information Under <i>The Freedom of Information and Protection Of Privacy Act</i>	Policy Number: 10.40.190	Page 3 of 5
---	-----------------------------	----------------

- a court appointed Administrator or joint Administrator of a person's estate.

2.9 Persons Authorized to Exercise the Rights of Another Person: means

- 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* or a substitute decision maker appointed for the Individual under *The Vulnerable Persons Living with a Mental Disability Act*, if the exercise of the right or power relates to the powers and duties of the committee or substitute decision maker;
- by 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 a minor when, 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; or
- if the Individual is deceased, his or her Personal Representative if the exercise of the right or power relates to the administration of the Individual's estate.

2.10 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 school division or school district established under *The Public Schools Act*, The University of Manitoba, The University of Winnipeg, Brandon University, University College of the North, Université de Saint-Boniface, St. Paul's College, St. John's College, a college as defined in section 1 of *The Advanced Education Administration Act*, and any other body designated as an educational body in the FIPPA Regulations;
 - a health care body; and
 - a local government body.

Within the WRHA, this means any community health services and all Winnipeg hospitals.

2.11 Record: means 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.

3.0 **POLICY:**

3.1 An Applicant requesting access to a Record shall complete a FIPPA Application for Access Form.

3.2 FIPPA Application for Access Forms shall be submitted to the FIPPA Access and Privacy Coordinator. Any Employee or Person Associated With the Public Body who

WRHA Policy Name: Access to Information Under <i>The Freedom of Information and Protection Of Privacy Act</i>	Policy Number: 10.40.190	Page 4 of 5
---	-----------------------------	----------------

receives a FIPPA Application For Access Form shall immediately record the date on the form and forward it directly to the FIPPA Access and Privacy Coordinator.

- 3.3 The right of access is subject to the Applicant paying any fees as required in accordance with the regulations under FIPPA.
- 3.4 The Public Body shall make every reasonable effort to assist an Applicant and to respond without delay, openly, accurately and completely.
- 3.5 The Public Body shall respond to an Applicant within 45 days after receiving the application, unless the time limit for responding is extended or the application has been transferred to another Public Body.
- 3.6 The FIPPA Access and Privacy Officer shall inform the Applicant as to whether access to the Record is granted in full or in part or refused; if access is granted, where, when and how access will be given.
- 3.7 FIPPA Application forms shall be available from the FIPPA Access and Privacy Coordinator, on the WRHA Website http://home.wrha.mb.ca/privacy/fippa_forms.php and the Government of Manitoba Information and Privacy Policy Secretariat Website <https://www.gov.mb.ca/chc/fippa/appforms.html>
- 3.8 Any Employee or Person Associated with the Public Body who willfully makes false statements or misleads, attempts to mislead, or obstruct the Provincial Ombudsman or a person in performing their duties or exercising powers under FIPPA, or destroys or erases information in a Record, is subject to disciplinary action.
- 3.9 This policy is not relevant for access to a clinical record under *The Mental Health Act* or personal health information under *The Personal Health Information Act*.

4.0 **PROCEDURE:**

- 4.1 The Applicant:
 - 4.1.1 shall complete 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 the individual has a limited ability to read or write English or French, or has a disability or condition that prevents them from making a written request.
 - 4.1.3 shall provide enough detail to enable the FIPPA Access and Privacy Coordinator to identify the Record.
- 4.2 The FIPPA Access and Privacy Coordinator shall:
 - 4.2.1 review the request to determine if the information is maintained by the Public Body, whether the application is understandable and complete and, if necessary, contact the Applicant to seek clarification.
 - 4.2.2 transfer the Application to another Public Body or government agency

WRHA Policy Name: Access to Information Under <i>The Freedom of Information and Protection Of Privacy Act</i>	Policy Number: 10.40.190	Page 5 of 5
---	-----------------------------	----------------

within ten (10) days, if the Public Body does not have custody or control of the requested Record.

4.2.3 determine whether the response can be completed within 45 days and if not, notify the Applicant that the time will be extended.

4.2.4 determine whether a fee will be charged and notify the Applicant of the estimated cost.

4.2.5 review the information retrieved to fulfill the request to determine whether an exception to disclosure applies and where necessary sever the information that the Applicant is not entitled to access.

4.3 The FIPPA Access and Privacy Officer shall:

4.3.1 advise the Applicant whether access to the requested information is granted in full or in part or refused.

4.3.2 advise the Applicant of their right to make a Complaint to the Provincial Ombudsman when access is partially granted or refused.

5.0 **REFERENCE:**

5.1 *The Freedom of Information and Protection of Privacy Act.*

5.2 FIPPA Application for Access Form <https://wrha.mb.ca/files/fippa-application-for-access.pdf>

Policy Contact: *Christina Von Schindler, Chief Privacy Officer and FIPPA Access and Privacy Coordinator.*