



# Procedures for Managing Disclosures

BC Government Ministries



Where ideas work

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# Public Interest Disclosure Procedure

Government of British Columbia - Ministries<sup>1</sup>

## 1. Introduction

The Government of British Columbia is committed to enhancing accountability and transparency by supporting an ethical culture within the public service that encourages employees to report serious wrongdoing.

To build on protections already in place under other B.C. laws, as well as the [Standards of Conduct for Public Service Employees](#), the [Public Interest Disclosure Act](#) (PIDA) was brought into effect on December 1, 2019. PIDA provides employees a clear process for disclosing concerns about wrongdoing in the BC Public Service and provides legislative protection from reprisal.

These procedures apply to employees in government ministries (please see Appendix A for a complete list).

Employees are encouraged to read these procedures in concert with [HR Policy 24 Public Interest Disclosure](#).

## 2. What are Public Interest Disclosures?

PIDA encourages employees to come forward and make a disclosure if they believe that serious wrongdoing has occurred or is about to occur in the workplace. It also ensures that there are mechanisms in place to protect employees who make disclosures against reprisal and provides a fair and objective process for those accused of wrongdoing.

A public interest disclosure occurs when an employee reports a wrongdoing to their employer, through their supervisor, designated officer<sup>2</sup>, or to the [BC Ombudsperson](#).

Public interest disclosures must be about a matter of public interest, regarding an allegation of serious wrongdoing in or relating to a ministry, office or government body.

PIDA is intended to apply to serious wrongdoing that is potentially unlawful, dangerous to the public or injurious to the public interest. A wrongdoing is defined in section 7 of PIDA as:

- a serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada;

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<sup>1</sup> Please note this procedure does not apply to political staff. If you are a political staff member, please see the [Public Interest Disclosure Procedure for Political Staff](#).

<sup>2</sup> For ministries the designated officers for providing advice and receiving disclosures are the Ministry Ethics Advisors, and the [Agency Designated Officer](#) is responsible for providing advice, receiving and managing the investigations of disclosures. Please refer to section 3 for more information.

- an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of an employee's duties or functions;
- a serious misuse of public funds or public assets;
- gross or systemic mismanagement; or
- knowingly directing or counselling a person to commit a wrongdoing listed above.

It is important to note that not all disclosures of information that are made will be a “public interest disclosure” for the purposes of PIDA. The Act applies only to disclosures of serious wrongdoings that meet the following requirements:

- It is made by an employee or former employee of a ministry (if they were an employee at the time the wrongdoing was committed), office or government body;
- The discloser in good faith reasonably believes that they have information that a serious wrongdoing has been committed or is about to be committed; and
- The disclosure is made to the appropriate person (the employee’s supervisor, designated officer or the BC Ombudsperson).

Reporting a wrongdoing under PIDA does not replace other mandatory reporting requirements such as the requirement to report under section 33.2 of the [Financial Administration Act](#).

Additionally, PIDA does not affect other protections found in other B.C. laws such as the [Child, Family and Community Service Act](#) and the [Freedom of Information and Protection of Privacy Act](#). In other words, the protections for disclosers in other B.C. Laws remain for people who report under those frameworks.

### 3. Designated Officers – Government Ministries

Two types of designated officers are responsible for PIDA disclosures for government ministries.

**a. Ministry Designated Officers for receiving disclosures and providing advice**

Each [Ministry Ethics Advisor](#) is the designated officer for receiving disclosures within their ministry. They are also responsible for providing advice to employees who are considering making an official disclosure under PIDA. They are not responsible for reviewing the disclosure to determine if it meets the criteria under PIDA, and they will not manage any investigations that result from a disclosure. For the purposes of these procedures when referencing a Ministry Ethics Advisor, it will be for the purposes of fulfilling their role as the Ministry Designated Officer for receiving disclosures.

**b. Designated Officer for receiving, reviewing and managing the investigations of disclosures and providing advice**

The Assistant Deputy Minister responsible for Employee Relations, within the BC Public Service Agency is designated as the designated officer for receiving and reviewing

disclosures and managing PIDA investigations for government ministries. For the purposes of these procedures the term “the Agency Designated Officer” will be used when referencing this role. For clarity, the Agency Designated Officer’s duties may be delegated to staff within the Employee Relations Division of the BC Public Service Agency.

#### 4. Requests for Advice About Making a Disclosure

1. An employee who is considering making a disclosure under PIDA, or has concerns about reprisal after making a disclosure under PIDA, may request advice from:
  - a. The employee’s union representative or employee association representative (as applicable);
  - b. A lawyer retained by the employee;
  - c. The employee’s supervisor;
  - d. The [Ministry Ethics Advisor](#);
  - e. The [Agency Designated Officer](#); or
  - f. [The BC Ombudsperson](#).
2. A supervisor, Ministry Ethics Advisor, or the Agency Designated Officer may require that requests for advice made to them are in made writing. Providing advice in writing is encouraged.
3. If an employee asks for advice from one of the people listed in section 4(1) above, they will receive the same protections from reprisal under PIDA whether they choose to make a formal disclosure or not.

#### 5. Making a Disclosure

1. Employee(s) may make a disclosure about a serious wrongdoing that is defined in section 7. of PIDA as:
  - a. a serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada;
  - b. an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of an employee's duties or functions;
  - c. a serious misuse of public funds or public assets;
  - d. gross or systemic mismanagement; or
  - e. knowingly directing or counselling a person to commit a wrongdoing as listed above.
2. Disclosures of serious wrongdoing must be made in good faith and in writing to their supervisor, Ministry Ethics Advisor, the Agency Designated Officer or the BC Ombudsperson. They must include the following information (if known):

- a. a description of the wrongdoing;
- b. the name of the person alleged to have committed the wrongdoing, or to be about to commit the wrongdoing;
- c. the date of the wrongdoing;
- d. whether information or conduct that is being disclosed relates to an obligation under another enactment and, if so, a reference to the enactment; and
- e. whether the wrongdoing has already been disclosed. If this is the case, the name of the person to whom the disclosure was made and the response, if any, that has been received.

For a disclosure to qualify as a disclosure under PIDA it must be made to the appropriate person (their supervisor, Ministry Ethics Advisor, Agency Designated Officer and the BC Ombudsperson or to the appropriate protection official in the case of an urgent public disclosure. Please refer to section 11 for the process for making an urgent public disclosure).

3. When making an internal disclosure (not to the BC Ombudsperson), employees should make the disclosure using the [PIDA disclosure form](#). If the PIDA disclosure form is not used, employees must make the disclosure in writing and should clearly indicate that they are making a disclosure under PIDA.

## 6. Anonymous Disclosures

1. Disclosures may be made anonymously to the Agency Designated Officer or the BC Ombudsperson. While anonymous disclosures are permitted, those who may be considering making anonymous disclosures should be aware that it can be very difficult for the Agency Designated Officer to follow up, which could impact the investigation of the disclosure.

It is possible that an anonymous report will not contain adequate detail with respect to an allegation to enable a full and thorough investigation and the Agency Designated Officer may be unable to seek clarification or further information if there is no way to contact the anonymous discloser. Additionally, the Agency Designated Officer may be unable to advise an anonymous discloser of whether an investigation will be conducted, or the progress or results of an investigation.

## 7. Reprisals

1. Reprisals may include: a disciplinary measure, demotion, termination of employment and any other measure that adversely affects the employee's employment or working conditions.
2. Employees are protected from reprisals that resulting from:

- a. seeking advice about making a disclosure;
- b. seeking advice about concerns of reprisal;
- c. making a disclosure;
- d. reporting a reprisal; or
- e. cooperating with an investigation in accordance with PIDA.

Reprisals are an offence in PIDA and are subject to a fine up to \$25,000 for the first offence and up to \$100,000 for any subsequent offences.

3. Under PIDA the BC Ombudsperson is responsible for investigating complaints of reprisal. Employees are encouraged to contact the BC Ombudsperson if they feel that they have suffered a reprisal because they participated in an investigation or sought advice about PIDA.<sup>3</sup>

## 8. Timeframes for Managing a Disclosure

1. All disclosures under PIDA must be managed in a fair and expeditious manner and without unreasonable delay. Disclosures should be, where practicable, reviewed within 20 business days and investigated within 120 business days. A summary, as appropriate, should be provided to the discloser within 20 business days of the investigation being completed.

## 9. Administrative Fairness and Confidentiality

1. If an investigation of a disclosure is required, it must be conducted in accordance with the principles of procedural fairness and natural justice. For example, the alleged wrongdoer has the right to know the nature of the disclosure, to receive the relevant information and to be given the opportunity to respond to the disclosure. The Agency Designated Officer must ensure the confidentiality of the information collected and protect the identity of the persons involved to the fullest extent possible.
2. The information collected, and the identity of the persons involved in the disclosure process, including employees who make a disclosure, witnesses and persons who are alleged to be responsible for the wrongdoing, must be protected from unauthorized access, use and disclosure<sup>4</sup>.

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<sup>3</sup>Under the *Standards of Conduct*, employees will not be subject to discipline or reprisal for bringing forward, in good faith allegations of wrongdoing. The Government of British Columbia takes complaints of reprisal very seriously, if an employee feels that they have suffered a reprisal for a disclosure that was not reported under PIDA they should contact the BC Public Service Agency.

<sup>4</sup>For clarity, all persons involved in the disclosure process, including disclosers, witnesses, alleged wrongdoers, supervisors, Ministry Ethics Advisors and the Agency Designated Officer are responsible for maintaining confidentiality.

3. The amount of personal information (and other confidential information) collected, used and disclosed must be limited to what is necessary to carry out the purposes of PIDA (requests for advice, disclosures and investigations).

## 10. Internal Procedures for Managing Disclosures

This section sets out the government procedures for managing a disclosure in a ministry from the time it was received until an investigation is concluded (if appropriate). For further information on making the disclosure please refer to section 5 above.

### 10.1 Disclosures made to the Ministry Ethics Advisor or supervisor

1. All information that comes to the knowledge of a supervisor or Ministry Ethics Advisor in the exercise of their duties or functions under PIDA must be kept confidential to the fullest extent possible. This includes only storing the information in a secure location that is not accessible by other people (for example not on a shared LAN).
2. Upon receipt of a disclosure, the supervisor/Ministry Ethics Officer must, without delay, forward the disclosure to the [Agency Designated Officer](#).
3. All written information, for example emails, instant messaging, texts and formal correspondence, obtained as a result of the receipt of a disclosure under PIDA must be transferred to the Agency Designated Officer who is responsible for including this information in the disclosure file.

### 10.2 Disclosures made or transferred to the Agency Designated Officer

1. If the Agency Designated Officer receives information from an employee making a disclosure or is transferred the disclosure from another source, they must advise the disclosing employee as soon as practicable that:
  - a. the information related to the disclosure including their identity will be kept confidential to the fullest extent possible;
  - b. they also have a responsibility keep confidential the information related to the disclosure, including the identity of the persons involved in the disclosure process.
2. Except in extenuating circumstances<sup>5</sup>, the Agency Designated Officer must advise the Deputy Minister of the appropriate ministry of the disclosure.

### 10.3. Preliminary assessment of the disclosure

1. The Agency Designated Officer must review the disclosure for meeting the requirements under the Act, including:

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<sup>5</sup> For example, notification to the deputy minister may be delayed if the disclosure is about the Deputy.



- a. The disclosure was made by an employee or former employee of the ministry; and
  - b. If proven, the allegations would constitute a wrongdoing under the Act.
2. The Agency Designated Officer must decide in an expeditious manner whether an investigation is required and notify the employee who made the disclosure of this decision and the reason for the decision.
3. The Agency Designated Officer must ensure each disclosure is assessed for the risk of reprisal (whether or not the criteria are met for a disclosure under PIDA). For more information about reprisal protections please see section 7 above.

#### 10.4 Reasons for stopping or refusing to investigate

1. The Agency Designated Officer must refuse to investigate or stop investigating a disclosure under PIDA if;
  - a. The dispute is between the employee and the ministry respecting the employee's employment;
  - b. A law enforcement matter being addressed by members of a police force or conduct of members of a police force;
  - c. A matter relating to the prosecution of an offence; or
  - d. The exercise of an adjudicative function of a court, tribunal or other statutory decision maker.
2. The Agency Designated Officer may decide not to investigate the disclosure under PIDA if they consider that:
  - a. It is impracticable for the disclosure to be investigated because it is an anonymous disclosure and sufficient details have not been disclosed to act further.
  - b. The disclosure:
    - i. Is frivolous or vexatious;
    - ii. was not made by an employee or former employee of a ministry;
    - iii. was not made in good faith;
    - iv. does not deal with a wrongdoing under the Act
  - c. The investigation of the disclosure would serve no useful purpose or could not be reasonably conducted because the length of time that has passed between the date of when the subject matter of the disclosure arose and the date of the disclosure.
  - d. The disclosure relates solely to a public policy decision;
  - e. The disclosure has been referred to another appropriate authority for investigation; or
  - f. The disclosure has already been appropriately investigated;

- g. The investigation of the disclosure would serve no useful purpose because the subject matter of the disclosure is being, or has already been, appropriately dealt with.
- 3. If the Agency Designated Officer refuses or stops an investigation under PIDA they must notify the discloser and Deputy Minister of the responsible ministry, except in extenuating circumstances. Notification should include the reasons for stopping or refusing to investigate the disclosure.

## 10.5 Investigations

1. Investigations must be managed by the Agency Designated Officer, with appropriate assistance/consultation, depending on the nature of the disclosure. This includes working with other investigative units in government, such as the Office of the Chief Information Officer and the Office of the Comptroller General.
2. The Agency Designated Officer may refer an investigation in whole or in part to the BC Ombudsperson. If the Designated Officer refers the investigation to the BC Ombudsperson, they must notify the discloser as soon as reasonably practicable.
3. Except in extenuating circumstances, the Agency Designated Officer must notify the Deputy Minister of the appropriate ministry prior to initiating an investigation into a disclosure of wrongdoing.
4. The Agency Designated Officer may request advice from the BC Ombudsperson with respect to the management and investigation of a disclosure.
5. If during an investigation the Agency Designated Officer has reason to believe that another wrongdoing has been committed or may be committed, the Agency Designated Officer may investigate the wrongdoing whether or not an official disclosure has been made under PIDA.
6. If more than one disclosure of wrongdoing is received by the Agency Designated Officer with respect of the same matter, a single investigation into the alleged wrongdoing may be conducted.
7. Except in extenuating circumstances, the Agency Designated Officer must report to the Deputy Minister of the applicable ministry at the end of an investigation regarding the allegations investigated, whether the investigation found wrongdoing, and make recommendations as appropriate to address the findings of the investigation.

8. The Deputy Minister shall consider the recommendations, implement corrective measures to remedy the wrongdoing as appropriate, and take appropriate disciplinary action up to and including dismissal. The Deputy Minister will inform the Agency Designated Officer of corrective measures taken to address the recommendations and remedy the wrongdoing.
9. The Agency Designated Officer must provide the employee who made the disclosure with an appropriate summary of the outcome of the investigation.

## 10.6 Reasons for suspending an investigation

1. The Agency Designated Officer may suspend an investigation under PIDA if the Agency Designated Officer is:
  - a. Aware that an offence has been committed and reports the offence to an appropriate authority;
  - b. Believes the investigation may compromise another investigation; or
  - c. Aware of another investigation that is already underway in relation to the prosecution of an offence.
2. Except in extenuating circumstances, if the Agency Designated Officer decides to suspend an investigation, they must notify the:
  - a. Discloser;
  - b. Deputy Minister; and
  - c. Person alleged to have committed the wrongdoing.
3. The Agency Designated Officer must recuse themselves from an investigation where they believe they are in a real or perceived conflict of interest, or when they believe a reasonable apprehension of bias exists. In this case the Deputy Minister of the Public Service Agency may appoint an alternate individual to function as the Agency Designated Officer or may refer the matter to an alternate authority.

## 10.7 Referral to another organization

1. The Agency Designated Officer may refer a disclosure of wrongdoing to an alternate authority, including to the BC Ombudsperson and law enforcement. Factors in considering whether to refer a disclosure of wrongdoing include:
  - a. Whether the subject matter of the disclosure would more appropriately be dealt with by another authority;
  - b. The complexity of the subject matter of the disclosure;
  - c. Whether a real or perceived conflict of interest exists;
  - d. The resources and expertise required to conduct a fair and effective investigation;

- e. If the subject matter pertains to an individual that supersedes the hierarchal position of the Agency Designated Officer.
2. Referral to law enforcement agencies must be done in accordance with the [procedure for reporting employee misconduct to police in non-emergency situations](#).

### 10.8 Matters that do not meet the threshold of PIDA

1. As a result of the receipt, review or investigation of a disclosure the Agency Designated Officer may become aware of a situation that is not a wrongdoing under PIDA, but that requires attention. In these situations, the Agency Designated Officer is responsible for taking the appropriate action to ensure the matter is addressed. This responsibility may arise under another law, policy or a collective agreement.

## 11. Procedures for Making an Urgent Public Disclosure

PIDA gives employees the ability to make a public disclosure under limited circumstances.

1. In order to make a public disclosure, the employee must reasonably believe that the matter constitutes an imminent risk of a substantial and specific danger to the life, health or safety of persons or to the environment.
2. Before making a public disclosure, the employee must consult with and follow the direction of one of the following protections officials:
  - a. The [Provincial Health Officer](#), with respect to health matters;
  - b. [Emergency Management BC](#), regarding an environmental matter; or
  - c. An appropriate police force, for any other matter.
3. For clarity, the employee must not make a public disclosure if they have been directed not to by any one of the officials mentioned in section 11.2.
4. The employee must only release the personal information necessary to make a public disclosure.
5. The employee must not disclose Cabinet information, information subject to solicitor client privilege or confidential information received during the course of their employment<sup>6</sup> when making a public disclosure.
6. Immediately after making the public disclosure the employee must:

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<sup>6</sup> Public service employees are bound by their [oath of employment](#) to not disclose confidential information unless required by law, PIDA (s.5(2)) does not authorize the release of information that is restricted under an enactment of British Columbia or Canada, The British Columbia Public Service Oath of Employment is a regulation under the *Public Service Act* and is an enactment.

- a. Advise their supervisor, Ministry Ethics Advisor or the Agency Designated Officer; and
- b. Report the disclosure in accordance with section 5 of this procedure or to the BC Ombudsperson.

## 12. Annual Reporting

1. The Agency Designated Officer must ensure that there is a mechanism in place to track disclosures of alleged wrongdoing that have been made to a supervisor, Ministry Ethics Advisor and the Agency Designated Officer. This includes those initially made to the public under section 16 of PIDA (urgent public disclosures).
2. On behalf of all government ministries, the Agency Designated Officer must release a public annual report on disclosures made under PIDA.
3. The Agency Designated Officer must not publicly identify anyone who has participated in the disclosure process, including employees who have asked for advice but not made an official disclosure.

## 13. Contact Information

### Agency Designated Officer

[PIDA@gov.bc.ca](mailto:PIDA@gov.bc.ca)

Agency Designated Officer  
PO Box 9404 Stn Prov Govt  
Victoria, BC V8W 9V1

### Ministry Ethics Advisors

Please see [here](#) for a list of Ministry Ethics Advisors.

### BC Ombudsperson

Further information on the BC Ombudsperson, including contact information can be found on their [website](#).

## Appendix A -Government Ministries - PIDA<sup>7</sup>

- **Ministry of Advanced Education, Skills and Training**
- **Ministry of Agriculture**
- **Ministry of Attorney General**
  - BC Prosecution Service
  - Court Services Branch
  - Independent Investigations Office
  - Liquor Distribution Branch
- **Ministry of Children and Family Development**
- **Ministry of Citizens Services**
  - Queens Printer
- **Ministry of Education**
- **Ministry of Energy, Mines and Petroleum Resources**
- **Ministry of Environment and Climate Change Strategy**
  - BC Parks and Conservation Service
  - Environmental Assessment Office
- **Ministry of Finance**
  - Crown Agencies and Board Resourcing Office
  - Government Communications and Public Engagement
  - Public Sector Employers' Council Secretariat
  - Public Service Agency
- **Ministry of Forests, Lands, Natural Resource Operations and Rural Development**
  - BC Wildfire Service
- **Ministry of Health**
  - Office of the Provincial Health Officer
  - Office of the Seniors Advocate
  - Vital Statistics Agency
- **Ministry of Indigenous Relations and Reconciliation**
- **Ministry of Jobs, Trade and Technology**
  - BC Stats
- **Ministry of Labour**
- **Ministry Mental Health and Addictions**
- **Ministry of Municipal Affairs and Housing**
- **Ministry of Public Safety and Solicitor General**
  - BC Coroners Service
  - BC Corrections
  - Emergency Management BC
- **Ministry of Social Development and Poverty Reduction**
- **Ministry of Tourism, Arts and Culture**
- **Ministry of Transportation and Infrastructure**
- **Office of the Premier**

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<sup>7</sup>This list is not exhaustive, for clarity every branch in a ministry is covered by PIDA.



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