



Procedures for Managing Disclosures

Political Staff



Where ideas work

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Public Interest Disclosure Procedure

Government of British Columbia – Political Staff

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 all employees, including political staff to report serious wrongdoing.

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

PIDA applies to all employees of a ministry including political staff, this procedure is for political staff specifically. If you are an employee who is not a political staff member, please refer to the [Public Interest Disclosure Procedure for Ministries](#).

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

2. What are Public Interest Disclosures?

A public interest disclosure occurs when a political staff member reports a serious wrongdoing to their employer, through their supervisor, designated officer, or to the [BC Ombudsperson](#). Political Staff are considered employees of the Office of the Premier, which is considered a ministry for the purposes of PIDA.

Public interest disclosures must relate to a matter of public interest and be related to an allegation of serious wrongdoing in or relating to a ministry, office or government body (designated by regulation).

PIDA encourages all employees, including political staff 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 political staff who make disclosures against reprisal and provides a fair and objective process for those accused of wrongdoing.

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 (1) of the Act as:

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

- 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.

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 a current or former political staff member (if they were a political staff member at the time the wrongdoing was committed);
- 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 (their 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 32 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 officer – Political Staff

“Political staff” are persons appointed under section 15(1)(a) of the *Public Service Act* who report through to the Chief of Staff to the Premier, and who are not assigned job duties primarily of an administrative, technical or communications nature. Political staff are considered employees of the Office of the Premier for the purposes of PIDA. The designated officer for providing advice, receiving disclosures and managing the investigation of disclosures under PIDA for political staff is the Chief of Staff to the Premier.

4. Requests for Advice About Making a Disclosure

1. A political staff member who is considering making a disclosure under PIDA may request advice from:
 - a. Their union representative or employee association representative (as applicable);
 - b. A lawyer;
 - c. Their supervisor;
 - d. Their designated officer; and
 - e. The BC Ombudsperson.
2. A supervisor and the designated officer may require that requests for advice made to them are in made writing. Providing advice in writing is encouraged.
3. If political staff member asks for advice from one of the people listed in s. 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. Political staff members may make a disclosure about a serious wrongdoing that is defined in s7. 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.
2. Disclosures of serious wrongdoing must be made in good faith and in writing to their supervisor, the 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, their designated officer and the BC Ombudsperson or to the appropriate protection official in the case of an urgent public disclosure. Please refer to s.11 for the process for making an urgent public disclosure).

3. Political staff members should make the disclosure using the [PIDA disclosure form for Political Staff](#). If the PIDA disclosure form for Political Staff is not used, political staff members should clearly indicate that they are making a disclosure under PIDA.

6. Anonymous Disclosures

1. Disclosures may be made anonymously to the 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 designated officer or BC Ombudsperson to follow up. It is possible that an anonymous report will not contain adequate detail with respect to an allegation to enable a full and thorough investigation. The designated officer may also be unable to seek clarification or further information if an anonymous discloser does not provide sufficient information. Additionally, the 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. Political staff are protected from reprisals resulting from:
 - a. seeking advice about making a disclosure;
 - b. making a disclosure; or
 - c. 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. Political staff are encouraged to contact the [BC Ombudsperson](#) if they believe that they have experienced a reprisal.

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. Results of an investigation should be communicated to the disclosers 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 as required, and to be given the opportunity to respond to the disclosure. The investigator 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 political staff who make a disclosure, witnesses and persons who are alleged to be responsible for the wrongdoing, must be protected from unauthorized access, use and disclosure¹.
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 (disclosures and investigations).

10. Internal Procedures for Managing disclosures

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

10.1 Disclosures made to a supervisor

1. All information that comes to the knowledge of a supervisor in the exercise of their duties or functions under PIDA must be kept confidential to the fullest extent possible. This includes storing the information in a secure location that is not accessible by other people (for example a shared LAN).
2. Upon receipt of a disclosure, the supervisor must, without delay, forward the disclosure to the designated officer.

¹ For clarity, all persons involved in the disclosure process, including disclosers, witnesses, alleged wrongdoers, supervisors, and the designated officer are responsible for maintaining confidentiality.

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 designated officer who is responsible for including this information in the disclosure file.

10.2 Disclosures made or transferred to the designated officer

1. If the designated officer receives information from a political staff member making a disclosure or is transferred the disclosure from another source, they must advise the disclosing political staff member 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 to keep confidential the information related to the disclosure, including the identity of the persons involved in the disclosure process.

10.3. Preliminary assessment of the disclosure

1. The designated officer must review the disclosure for meeting the requirements under the Act, including:
 - a. The disclosure was made by a current or former political staff member; and
 - b. If proven, the allegations would constitute a wrongdoing under the Act.
2. The designated officer must decide in an expeditious manner whether an investigation is required and notify the political staff member who made the disclosure of this decision and the reason for the decision.
3. The designated officer must ensure each disclosure is assessed (whether or not the criteria are met for a disclosure under PIDA) for the risk of reprisal.

10.4 Reasons for stopping or refusing to investigate

1. The designated officer must refuse to investigate or stop investigating a disclosure under PIDA if:
 - a. The dispute is between the political staff member and the ministry respecting the political staff member'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 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 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;
 - 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 designated officer refuses or stops an investigation under PIDA they must notify the discloser. Notification should include the reasons for stopping or refusing to investigate the disclosure.

10.5 Investigations

1. Investigations must be managed by the designated officer, with appropriate assistance/consultation, depending on the nature of the disclosure. This includes working with the investigative units in government, including the Office of the Chief Information Officer, the Office of the Comptroller General, and external legal counsel.
2. The 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. The designated officer may request advice from the Ombudsperson with respect to the management and investigation of a disclosure.
4. If during an investigation the designated officer has reason to believe that another wrongdoing has been committed or may be committed, the designated officer may investigate the wrongdoing whether or not an official disclosure has been made under PIDA.

5. If more than one disclosure of wrongdoing is received by the designated officer with respect of the same matter, a single investigation into the alleged wrongdoing may be conducted.
6. Except in extenuating circumstances, the designated officer must report to Deputy Minister to the Premier, Cabinet Secretary and Head of the BC Public Service 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.
7. The Deputy Minister to the Premier, Cabinet Secretary and Head of the BC Public Service shall consider the recommendations, implement corrective measures to remedy the wrongdoing, and take appropriate disciplinary action up to and including dismissal.
8. The discloser must be provided with a summary of the outcome of the investigation by the designated officer (as appropriate).

10.6 Reasons for suspending an investigation

1. The designated officer may suspend an investigation under PIDA if the 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 designated officer decides to suspend an investigation, they must notify the:
 - a. Discloser;
 - b. Deputy Minister to the Premier, Cabinet Secretary and Head of the Public Service; and
 - c. Person alleged to have committed the wrong doing.
3. The 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 to the Premier, Cabinet Secretary, and Head of the BC Public Service may appoint an alternate individual to function as the designated officer or may refer the matter to an alternate authority.

10.7 Referral to another organization

1. The designated officer may refer a disclosure of serious wrongdoing to an alternate authority, including to the BC Ombudsperson and law enforcement. Factors in considering whether to refer a disclosure of serious 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 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 designated officer may become aware of a situation that is not a wrongdoing under PIDA, but that requires attention. In these situations, the designated officer is responsible for taking the appropriate action to ensure the matter is addressed. This responsibility may arise under another law, a policy or a collective agreement.

11. Procedures for Making an Urgent Public Disclosure

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

1. In order to make a public disclosure, the political staff member 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 political staff member 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 environmental factors; or
 - c. An appropriate police force, for any other matter.
3. For clarity, the political staff member 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 political staff member must only release the personal information necessary to make a public disclosure.

5. The political staff member must not disclose Cabinet information, information subject to solicitor client privilege or confidential information received during the course of their employment² when making a public disclosure.
6. Immediately after making the public disclosure the employee must:
 - a. Advise their supervisor or the 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 designated officer must ensure that there is a mechanism in place to track disclosures of alleged wrongdoing that have been made to a supervisor and the designated officer. This includes those initially made to the public under section 16 of the Act.
2. The designated officer must ensure that a public annual report on disclosures made under PIDA is released.
3. The 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.

² Political Staff 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 Political Staff Oath of Employment is a regulation under the *Public Service Act* and is an enactment.



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