

Human Resources Policy 24 – Public Interest Disclosure

Last updated December 2, 2019

The purpose of this policy statement is to describe the roles and responsibilities for employees in government ministries under the Public Interest Disclosure Act (PIDA). PIDA is being implemented in phases. Phase one will include all government ministries but will not include all the organizations with staff appointed under the Public Service Act. See appendix 1 for the list of government ministries to which this policy applies. Other agencies, boards and commissions will be included in future phases of implementation. This policy does not apply to employees of the Offices of the Legislature.¹

PIDA gives employees a clear process for disclosing concerns about serious wrongdoing in the BC Public Service and provides guidance on the management and investigation of disclosures. The policy statement supports the core policy objective that “public service employees exhibit the highest standards of conduct.”

The BC Public Service is committed to maintaining high standards of professional values and ethics in responding to the public service needs of British Columbians. All employees share a common interest in ensuring the public service operates within an environment of integrity, accountability and trust.

PIDA promotes integrity and accountability in the BC Public Service by:

- encouraging public service employees to disclose serious wrongdoing;
- ensuring that public service employees who make public interest disclosures under PIDA are supported and protected from reprisals; and,
- ensuring that disclosures by public service employees are properly investigated and dealt with.

PIDA establishes a separate reporting procedure for employees to disclose serious wrongdoing and does not affect an employee’s duty to report wrongdoing under the Public Service Oath and Standards of Conduct for Public Service Employees (SOC). PIDA does not replace provisions in collective agreements, or other HR Policies including the SOC. Under the SOC, employees who have concerns about such matters must follow existing HR policies and procedures.

Principles

1. Accountability and Leadership

Deputy ministers and all corporate executives demonstrate ethical leadership and are committed to fostering a workplace culture where employees at all levels are encouraged to disclose serious wrongdoing. This includes responsibility for ensuring employees:

- are made aware of the legislation, policies and procedures;

¹Please refer to the [Office of the Ombudsperson's website](#) for the policy and procedures for employees of the Offices of the Legislature.

- have access to information, support and training about PIDA.

2. Protection from Reprisal

Under PIDA, "reprisal" means any of the following measures taken against an employee:

- a disciplinary measure;
- a demotion;
- termination of employment;
- any measure that adversely affects an employee's employment or working conditions; or
- a threat to do any of the above.

It is an offence, punishable by a fine of up to \$25,000 for the first offence and up to \$100,000 for each subsequent offence, for any person to take a reprisal against an employee, or direct that one be taken against an employee, because the employee has, in good faith:

- sought advice about making a disclosure;
- made a disclosure; or
- co-operated in an investigation of a disclosure of serious wrongdoing under PIDA.

Any employee in the BC Public Service may file a written complaint with the Ombudsperson if they believe reprisal action has been taken.

3. Confidentiality, Procedural Fairness and Natural Justice

All employees, including supervisors, designated officers and disclosing employees, are responsible for maintaining confidentiality of the identity of a disclosing employee and others involved in the disclosure process, as well as the confidentiality of any information collected to the fullest extent possible. Any investigation of a disclosure of wrongdoing under PIDA will adhere to the principles of procedural fairness and natural justice.

4. Transparency

The Agency Head will report annually on the implementation of PIDA.

What is a "Wrongdoing" under the Public Interest Disclosure Act?

Types of conduct classified as serious wrongdoing defined in section 7 (1) of the Act includes:

- 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 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 described in paragraphs (a) to (d).

PIDA is not intended to provide an avenue for employees to address their individual employment disputes. Employees who have concerns about such matters have existing policies and procedures to deal with these issues.

Who Can Make a Disclosure

A disclosure can be made by a current or former BC public service employee in a government ministry. This includes public service employees (regular or auxiliary) and employees in Ministers' Offices and the Office of the Premier. Note that a disclosure can be made only if the wrongdoing occurred or was discovered during the period in which the individual was a public service employee.

What is the Process for Making a Disclosure

An employee may make a disclosure to their supervisor, a designated officer for their ministry, the Agency Designated Officer, or to the Ombudsperson, if the employee reasonably believes that a serious wrongdoing has been committed or is about to be committed. The designated officer for each ministry is appointed by the Deputy Minister and may be the ethics advisor for that ministry or another senior official.

A disclosure should:

- be in writing using the following [form](#):
- include the following information, (if known):
 - a description of the wrongdoing;
 - the name of the alleged wrongdoer;
 - the date of the wrongdoing; and
 - whether the wrongdoing has already been disclosed and a response received.

Disclosures may be made anonymously. While anonymous disclosures are accepted, there must be enough information to ensure the Agency Designated Officer is able to follow-up. Anonymous disclosures may also be made to the Ombudsperson.

After Making a Disclosure

Under PIDA, the BC Public Service has [procedures](#) in place to receive and manage disclosures. These procedures outline what takes place once a disclosure is received by a supervisor, a designated officer or the Agency Designated Officer.

If a disclosure is made to a supervisor, ministry designated officer or the Agency Designated Officer, the following apply:

- Supervisors and ministry designated officers will forward disclosures promptly to the Agency Designated Officer for assessment.

- The Agency Designated Officer will assess whether the disclosure falls within the scope of PIDA and the risk of reprisal for the disclosing employee and will determine how the disclosing employee wishes to receive future communication about the disclosure.
- If the Agency Designated Officer determines the disclosure falls within PIDA, they will review the disclosure and determine whether an investigation is required.
- If it would be inappropriate for the Agency Designated Officer to deal with the disclosure, the Agency Designated Officer may refer it to the Ombudsperson, with notice to the disclosing employee.
- The disclosing employee will be advised of the outcome of the review or investigation of the disclosure.

Making an Urgent Public Disclosure

Section 16 of the Act gives employees the ability to make public disclosures under limited circumstances as follows:

- a matter poses an imminent risk of a substantial and specific danger to the life, health or safety of persons, or to the environment.

Before making a public disclosure, the employee must consult with and follow the direction of one of the following protections officials:

- The Provincial Health Officer, with respect to health matters;
- Emergency Management BC, regarding environmental factors; or
- An appropriate law enforcement agency, for any other matter.

An employee must follow any direction that the Provincial Health Officer, Emergency Management BC or an appropriate law enforcement agency considers necessary in the public interest. Immediately after the public disclosure is made, an employee must notify their supervisor, ministry designated officer or Agency Designated Officer, as appropriate, about the public disclosure and then make their disclosure to any of these individuals or to the Ombudsperson. For more information please refer to the [Managing Public Interest Disclosure Procedures](#).

Roles and Responsibilities

Deputy Ministers

- Ensure all employees are made aware of PIDA;
- Promote a work environment that encourages employees to report wrongdoing;
- Assign the role of designated officer under PIDA to the ministry ethics advisor or other senior ministry official;
- Deal with breaches of this policy statement in a timely manner, taking the appropriate action based upon the facts and circumstances; and,
- Report on number of disclosures, disposition, outcomes and other relevant measures.

BC Public Service Agency Designated Officer (Agency Designated Officer)

- Receive disclosures from supervisors, ministry designated officers and employees and collect information about the disclosure in writing;
- Provide advice to employees about making a disclosure;
- Manage the disclosure according to the principles of administrative fairness, including maintaining confidentiality to the fullest extent possible;
- Assess the risk of reprisal;
- Assess and investigate the disclosure in a timely manner and follow-up with the disclosure as required; and,
- Collect information to report on number of disclosures, disposition, outcomes and other relevant measures.

Ministry Designated Officers/Supervisors

- Provide advice to employees about making a disclosure;
- Receive disclosures from employees and collect information about the disclosure in writing;
- Maintain confidentiality;
- Forward disclosures to the Agency Designated Officer in a timely manner; and,
- Contribute to a work environment that encourages employees to report wrongdoing.

Employees

- Make public interest disclosures in good faith and in accordance with established procedures;
- Maintain confidentiality and cooperate with investigations;
- Check with their supervisor or manager, ministry designated officer, or Agency Designated Officer when they are uncertain about any aspect of this policy statement;
- Co-operate with the Ombudsperson in the handling of a disclosure or information under the Act;
- Report under other BC laws, practices or processes (e.g., PIDA does not replace the responsibilities and obligations under laws such as The Child and Family Community Services Act, the Financial Administration Act, Workers' Compensation Act).

The BC Ombudsperson has responsibility for the oversight of PIDA and further information is available at the [Office of the Ombudsperson's website](#).

Appendix 1 – Government Ministries – *Public Interest Disclosure Act*²

- **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**

² It should be noted that this list is not exhaustive it is intended to be illustrative, all branches of ministries will be subject to PIDA