

The Public Interest Disclosure (Whistleblower Protection) Act

Purpose of the Act

- To facilitate disclosure and investigation of significant and serious matters (wrongdoing) in or relating to the public service, that are potentially unlawful, dangerous to the public or injurious to the public interest; and, to protect persons who make those disclosures
- Does not affect protections or obligations under other statutes (e.g., *The Child and Family Services Act*, *The Workplace Safety and Health Act*)

Overview

- Provides protection for employees and officers in the public service - i.e., government departments, offices of the Legislative Assembly and government bodies
- Government bodies include government agencies as defined by *The Financial Administration Act*, Regional Health Authorities, Child and Family Services Authorities and agencies, and any other government body designated by regulation
- Confidential disclosure by employees/officers to supervisor, designated officer or Ombudsman

Overview

- Employees/officers in the public service may file complaint with the Labour Board regarding reprisal
- Non-employees may provide information regarding wrongdoing to the Ombudsman
- The Act establishes protection for contractors and private sector employees who provide information to the Ombudsman
- Information regarding number and nature of disclosures to be reported annually

Wrongdoing

- Act or omission that constitutes an offence under an Act or regulation
- Act or omission that creates substantial and specific danger to life, health or safety of persons or the environment (other than danger inherent in carrying out employee's duties)
- Gross mismanagement, including of public funds or a public asset
- Knowingly directing or counselling a person to commit a wrongdoing (as set out above)

Disclosures

- An employee may request advice from designated officer or Ombudsman before making a disclosure
- A disclosure must be made in good faith and with a reasonable belief of wrongdoing. A disclosure must be in writing and include specific information
- Disclosure may be made to the public, following disclosure to law enforcement agency or chief medical officer of health, *if* the situation constitutes imminent risk and there is insufficient time to make a disclosure to supervisor, designated officer or Ombudsman. Disclosure to supervisor or designated officer to follow immediately

Disclosures – Information

- Information that is restricted under another Act or regulation may be included in a disclosure, except:
 - information described in subsection 19(1) of *The Freedom of Information and Protection of Privacy Act* (FIPPA), except as set out in subsection 19(2)
 - information protected by solicitor-client privilege
- Restrictions imposed by other Acts or regulations continue to apply if disclosure is to the public
- If disclosure involves personal or confidential information, reasonable precautions must be used to disclose no more information than necessary

Protections

- No reprisals for employees – whether seeking advice, making disclosures, or cooperating.
Employees may complain to Labour Board
- No reprisals for private sector employees providing information to the Ombudsman
- Protection for persons contracting with government, offices and government bodies who provide information to the Ombudsman
- Designated officer or Ombudsman may arrange for legal advice

Obligations of Chief Executive

- To establish procedures to manage disclosures
- To designate a senior official (designated officer) to receive and deal with disclosures
- To ensure that information about the Act and disclosure procedures are communicated widely to employees
- To prepare a report annually on the number and nature of any disclosures that have been made to a supervisor or designated officer