

# ***The Public Interest Disclosure (Whistleblower Protection) Act***

## **What Private Sector Employees Need to Know About Disclosing Information on Public Service Wrongdoing**

### **1. Preamble**

The Manitoba government is committed to maintaining high standards of professional values and ethics in responding to the public service needs of Manitobans. Elected officials, senior management and employees share a common interest in ensuring the public sector operates within an environment of integrity, accountability and trust.

To build on protections already in place under other Manitoba laws, *The Public Interest Disclosure (Whistleblower Protection) Act* has been passed into law. This new law gives employees and others a clear process for disclosing concerns about significant and serious wrongdoing in the Manitoba public service, and provides protection from reprisal.

This fact sheet provides information for any private sector employee who wishes to disclose information about a wrongdoing in a way that will provide the private sector employee with protection under the new law.

### **2. Who does the new law apply to?**

The new law provides protection to:

- employees in the Manitoba public service; and
- private sector employees and private sector contractors,

who disclose information on wrongdoings in the Manitoba public service in accordance with the new law.

A private sector employee or contractor who wishes to be protected under the new law may provide information on public service wrongdoing to the Manitoba Ombudsman.

### **3. What is “wrongdoing” under the new law?**

The new law is intended to apply to significant and serious wrongdoing in the Manitoba public service.

The following are considered to be wrongdoings under the new law:

- an act or omission that is an offence under an Act or regulation (breaking the law);
- an act or omission that creates a substantial and specific danger to the life, health or safety of persons or the environment (not including dangers that are normally part of an employee’s job);
- gross mismanagement, including mismanaging public funds or a public asset (government property); and
- knowingly directing or advising someone to commit any wrongdoing described above.

The new law is not intended to deal with routine operational or human resource matters. Other procedures are in place for dealing with such matters.

### **4. How do I provide information about a wrongdoing?**

If a person who is not an employee in the Manitoba public service reasonably believes that he or she has information that could show that a public service wrongdoing has been, or is about to be, committed, the person may provide the information to the Manitoba Ombudsman.

The information provided must:

- be in writing; and
- 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 information has already been provided to the provincial department, government body or Office of the Legislative Assembly concerned and a response received.

## **5. Will my identity be protected?**

The identity of persons disclosing wrongdoings under the new law and of others involved in the disclosure process, as well as the confidentiality of any information collected, will be protected to the fullest extent possible

## **6. How are private sector employees and contractors protected under the new law?**

If a person who is not an employee in the Manitoba public service reasonably believes that he or she has information that could show that a wrongdoing has been, or is about to be, committed in the Manitoba public service, the person may provide the information to the Manitoba Ombudsman.

It is an offence under the new law for a private sector employer to take, or threaten to take, any of the following measures against an employee:

- a disciplinary measure;
- a demotion;
- termination of employment (firing); or
- any measure that adversely affects the employee's employment or working conditions,

only because the employee has, in good faith, provided information to the Manitoba Ombudsman about an alleged wrongdoing in or relating to the Manitoba public service, or because the employer believes the employee will do so.

It is also an offence under the new law for a person acting on behalf of the Manitoba government or a government body or Office of the Legislative Assembly that falls under the Act to:

- terminate a contract;
- withhold a payment that is due and payable under a contract; or
- refuse to enter into a subsequent contract,

only because a private contractor or their employee has, in good faith, provided information to the Manitoba Ombudsman about an alleged wrongdoing in or relating to the Manitoba public service.

Nothing in the new law affects any other right of a private sector employee either at law or under a collective agreement or employment contract.

## **7. What happens after I provide information to the Ombudsman?**

Upon receiving information regarding an alleged wrongdoing from a person who is not an employee in the Manitoba public service, the Manitoba Ombudsman will review the information and may conduct an investigation.

Under the new law, the purpose of an investigation by the Ombudsman is to bring the wrongdoing to the attention of the appropriate provincial department, government body or Office of the Legislative Assembly, and to recommend corrective measures that should be taken.

## **8. How are disclosures about wrongdoing reported to the general public?**

Provincial departments, Offices of the Legislative Assembly, government bodies and the Manitoba Ombudsman must report annually on the number and nature of disclosures of wrongdoing made to them.

The Ombudsman may also prepare a special report regarding any matter where the Ombudsman believes it is in the public interest to do so.

For more information about *The Public Interest Disclosure (Whistleblower Protection) Act*, visit the Civil Service Commission's website at [www.gov.mb.ca/csc](http://www.gov.mb.ca/csc).