



PUBLIC INTEREST COMMISSIONER

Your Voice Protected

2016-17 ANNUAL REPORT

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Message from the Public Interest Commissioner

Welcome to the 2016-17 edition of our annual report.

On July 4th, 2017, I was honoured to be appointed as Alberta's second Public Interest Commissioner. In my short time in the role, I have observed that significant work has occurred since the inception of the office in mid-2013. The implementation of a new program requires dedication, flexibility and vision – all of which clearly exist in the team assembled by my predecessor, Peter Hourihan. Peter led the office since its creation in 2013 and retired this past spring. He was instrumental in the ground-breaking work achieved by the office in its first three years of operation, and oversaw the creation of the policies, procedures, significant investigations, education and outreach.

Although I was not present during this past reporting period, my initial review of the office revealed that through 2016-17 there was continued evolution and advancement with the program. This included a complete restructure of investigative procedures, placing more emphasis on case analysis during the preliminary assessment of complaints as well as streamlining and defining the internal reporting process. Additionally, substantial modifications were made to the electronic case management system which now more efficiently capture and reflect the work of the team. I also recognize these accomplishments were achieved in spite of the fact there was a lengthy disruption; the result of a move of our Edmonton office to a new location in the city.

I have been briefed on the work undertaken concerning the review of the *Public Interest Disclosure (Whistleblower Protection) Act* by the Select Special Ethics and Accountability Committee. The recommendations of the committee, which are now included in the *Public Interest Disclosure (Whistleblower Protection) Amendment Act*, are very progressive and will lead

to promoting public confidence in those entities covered by this legislation. Upon proclamation, this Act and the amended regulations will afford protections to more Albertans and institute a process whereby remedies can be sought in cases of reprisal. This is an exciting time to be Commissioner as we will be increasing our efforts to meet with new entities, assisting in establishing procedures and ensuring employees are aware of reporting processes when they encounter wrongdoing in the workplace.

Our objective as an independent office of the Legislature is to provide employees of the public sector an avenue for safe external disclosure, professional unbiased investigations and deliver strong but reasonable recommendations for improvement to entities when wrongdoing occurs. In parallel with this objective, we are striving to encourage a culture within public entities to embrace internal disclosure by employees, take appropriate action and preventative steps concerning wrongdoing, ensuring the whistleblower does not suffer a reprisal. This can be challenging, as employees who “blow the whistle” are often ostracized in the workplace, but it is a challenge I am confident that we – along with the Alberta public sector – can champion.

I have noted the many advancements and achievements the team made over the past year. As I settle into this new role and look to the year ahead, I foresee the office building upon the strong established foundation, implementing the legislative changes and promoting awareness to employees as our primary focus.

Marianne Ryan
Public Interest Commissioner

The benefits an effective whistleblower protection policy brings to an organization

The *Public Interest Disclosure (Whistleblower Protection) Act* requires provincial government departments and public entities to have procedures in place for receiving and investigating whistleblower complaints. However, the effectiveness of those procedures depends on the motivation of senior management within an organization to promote a whistleblower protection policy, stand behind it, and encourage employees to use it.

Whistleblowers are important.

No organization, public or private, is immune to wrongdoing within its ranks. Whistleblowers expose illegal activity, mismanagement, prevent disasters and identify issues that otherwise may have gone undetected. In essence, they help protect an organization.

Whistleblowers have historically been viewed as an adversary to their employer. They've been seen as speaking out against their organization and damaging reputations by opening doors to public eyes. But whistleblowers do not have to be an adversary. What organizations have been slow to recognize, is the value of whistleblowers and how changing the culture around whistleblowing can benefit an organization.

The benefits of an effective whistleblower protection policy.

There are several benefits a whistleblower protection policy brings to an organization. First, an effective policy will **encourage employees to report wrongdoing that otherwise may have gone undetected**. If left undetected, wrongdoing can cause significant harm to an organization, its clients, the public or the environment. Tips remain the leading mechanism for unearthing wrongdoing ahead of internal audits, regulatory reviews and management reviews.¹ However, employees who are unconvinced they will have the support of the head of the organization and be protected for coming forward, may choose not to expose themselves to a potential reprisal and keep the information to themselves.

Second, an effective whistleblower policy will also serve as a **deterrent to would-be wrongdoers** who would cause harm to an organization or take reprisal action against whistleblowers who try to stop it.

Third, a whistleblower policy **simplifies the internal complaints process** by having a centralized mechanism to address all allegations of wrongdoing in an organization.

Employees who are unaware of how to report wrongdoing in their organization may try several different avenues to have the matter addressed. This often results in repetitive complaints made to several individuals or divisions within an organization, thereby increasing the amount of time and human resources required to address the issue. An effective whistleblower protection policy establishes clear and consistent procedures for employees to report wrongdoing and for an organization to receive, investigate, and respond to the allegations.

In large hierarchal organizations, information about alleged wrongdoing can become distorted, delayed and discredited as it flows through several layers of management. An effective policy will facilitate the **accurate reporting of information** by providing a direct, unimpeded method of reporting wrongdoing to the heads of organizations.

An effective whistleblower policy will **reduce the involvement of external regulators** and oversight bodies in an organization. Most employees do not want to report wrongdoing to an external authority – they would rather the matter be addressed and resolved internally. Employees will, however, report a wrongdoing if they feel they have been ignored or reprisal against.² An effective whistleblower protection policy will encourage employees to report wrongdoing internally and reduce the potential for involvement of external regulators and oversight bodies.

Though ironic, one of the most significant benefits an effective whistleblower protection policy brings, is it helps an organization **avoid negative publicity**. Often, negative publicity occurs when wrongdoing is publicly reported through the media as the result of a whistleblower coming forward. However, this negative publicity is created as the result of the adversarial state of the relationship between the whistleblower and their employer. By effectively responding to a whistleblower complaint and working with the whistleblower, the organization becomes a partner in discovering and remedying the wrongdoing. When this happens, the adversarial relationship ceases to exist and the organization is positioned to publicly report, if necessary, that it effectively remedied wrongdoing as the result of the whistleblower coming forward. No organization is immune to wrongdoing. However, an organization that effectively addresses wrongdoing when it is discovered, will **instill public trust and confidence**.

Finally, organizations have often found themselves embroiled in civil suits as a result of failing to respond to reports of wrongdoing, or wrongful dismissal suits resulting from the termination of whistleblowers. Effectively responding to whistleblower complaints will **lessen the potential for future litigation** and the significant costs and human resources associated with it.

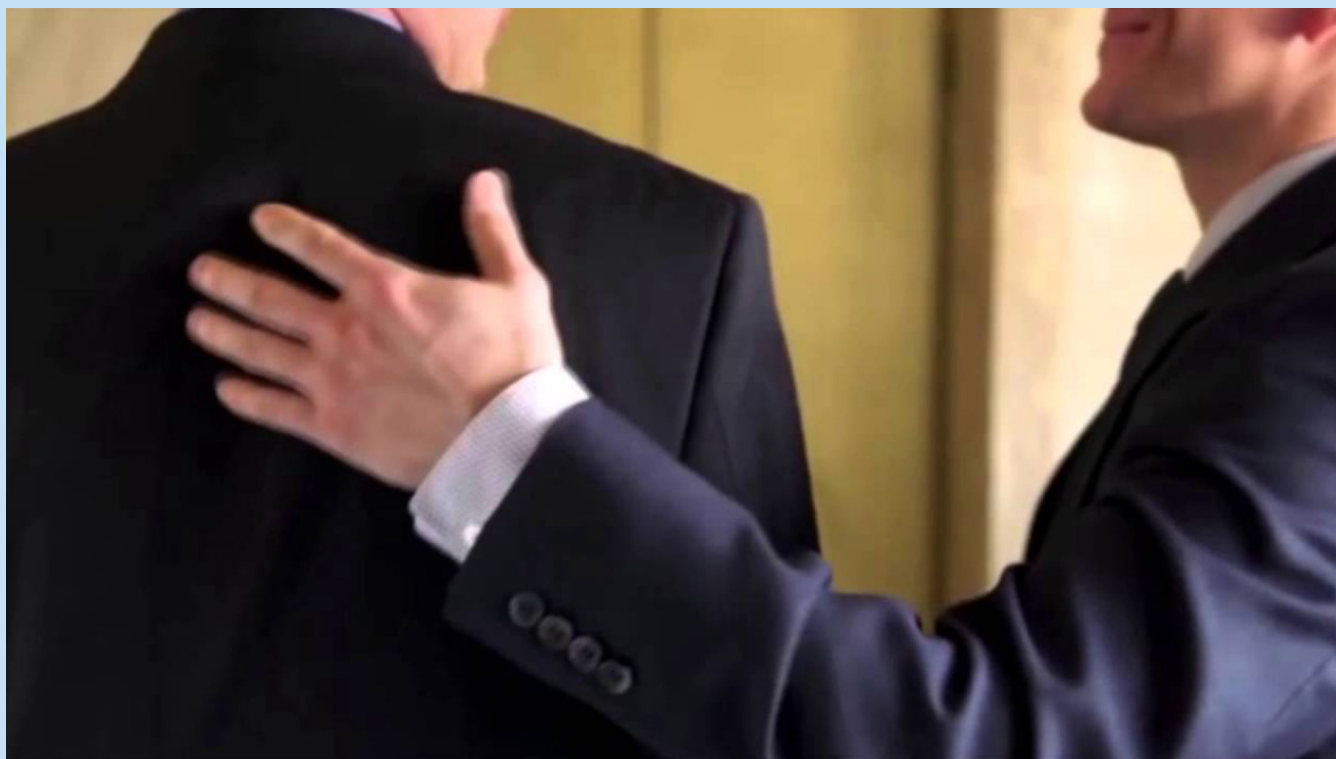
A change in culture and perception.

Organizations and managers who are persistent in viewing whistleblowers in an adversarial way will continue to endure the same unproductive controversy surrounding unhappy and

mistreated whistleblowers. However, progressive organizations that embrace whistleblowers and view them as an ally will experience the benefits of a healthy work culture and positive public perception. Organizations need to promote a culture where employees and senior management share a common goal of detecting and remedying wrongdoing, and whistleblowers are protected and appreciated for helping their organization.

¹The Economist. The age of the whistleblower. 03 December 2015. Web

²Ethics Resource Centre. National Business Ethics Survey. 2014. Web



2016-17 Annual Report Statistics



The number of general inquiries made to the Commissioner regarding the Act

A total of 213 files were generated, the result of inquiries into the program. The inquiries were categorized into the following sectors:

Government Departments	69
Education	54
Health Authorities	34
Post-Secondary Institutions	3
Agencies, Boards & Commissions	5
Offices of the Legislature	1
Non-Jurisdictional Individuals/Entities	47

The number of disclosures of wrongdoing received by the Commissioner

- 15 disclosures were received
- 5 of the disclosures received were made anonymously

The number of disclosures acted on, the number of disclosures not acted on

All disclosures were acted on:

- 4** investigations were commenced
- 6** disclosures were referred to Chief Officers for follow-up
- 3** disclosures were determined to be non-jurisdictional
- 2** anonymous disclosures were analyzed however insufficient detail provided-no investigation as per section 19(1)(f) PIDA

1 disclosure investigation carried over from the previous reporting period was concluded

A total of 4 investigations into disclosures of wrongdoing concluded this reporting period and 1 remains ongoing. Of the investigations which concluded this year there were no findings of wrongdoing.

In addition to the 15 disclosures of wrongdoing which were received, an additional 40 complaints were assessed by the Public Interest Commissioner. Upon receipt, all complaints undergo a jurisdictional assessment process to determine whether the Commissioner has the authority to initiate an investigation. Although many complaints have merit, in order to be considered for investigation, the complaint must meet a basic or prima facie test in complying with the definition of wrongdoing.

Disclosures of wrongdoing are defined in the *Public Interest Disclosure (Whistleblower Protection) Act* as:

- Contravention of an Act, a regulation made pursuant to an Act, Act of Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada;*
- An act or omission that creates:*
 - A substantial and specific danger to the life, health or safety of individuals other than a danger that is inherent in the performance of the duties and functions of an employee, or*
 - A substantial and specific danger to the environment;*
- Gross mismanagement of public funds or a public asset;*
- Knowingly directing or counselling an individual to commit a wrongdoing mentioned in clauses (a) to (c)*

As stated, over this reporting period 40 cases did not meet this test and these cases were classified as being non-jurisdictional to our office. These complaints included code of conduct issues, allegations of harassment, breaches of policy or entities not covered by the Act (i.e.: municipalities).

Complaints – Non-Jurisdictional

2 cases of policy breaches

12 cases of harassment or human resource management issues

2 cases of code of conduct

2 cases of ineligible timeline

8 cases of non-jurisdictional entities

14 other cases regarding issues not defined as wrongdoing by the Act

Even though these matters are determined to be non-jurisdictional, complainants are directed to other processes, departments or entities for assistance. Further, Chief Officers are often notified of the complaint raised for their own situational awareness purposes and to take any action they deem appropriate.

The number of complaints of reprisal received

- 6 complaints of reprisal were received and all were investigated.
 - 3 related to the Health Sector
 - 2 related to the Education Sector
 - 1 related to a Government Ministry
- 1 reprisal investigation, carried over from the previous reporting period, was also concluded.
- None of the investigations supported a finding of reprisal.
 - In 2 investigations it was determined the employee had not made a protected disclosure to the Chief/Designated Officer or to the Public Interest Commissioner, a prerequisite occurrence, required by the Act.
 - In 2 investigations it was determined that fixed-term employment contracts expired and were not renewed.
 - 1 investigation revealed that a termination of an employee was the result of a long term work conflict and performance management issues not related to making a disclosure.
 - 1 investigation determined the employee was in probation status and was terminated for cause – not related to a protected disclosure of wrongdoing.
 - 1 investigation determined the employee resigned and this event could not be linked to seeking advice or making a disclosure in accordance with the Act.

Complaints of reprisal are received directly by the office of the Public Interest Commissioner and can only be accepted in the format as prescribed in the Regulation. Neither Chief nor Designated Officers investigate reprisals, instead they refer employees to the Commissioner in accordance with the Act.

The number of recommendations made by the Commissioner and whether entities complied with the recommendations

The Commissioner makes recommendations to entities when a finding of wrongdoing or reprisal is determined. During the 2016-17 fiscal year there were no findings of wrongdoing or reprisal which resulted in no recommendations being issued.

Were any systemic problems identified which may give rise to or have given rise to wrongdoings?

- None identified.

Any recommendations for improvement that the Commissioner considers appropriate?

Legislative Improvements - Update

The Commissioner and staff dealt directly with the Select Special Ethics and Accountability Committee in conducting a review of the *Public Interest Disclosure (Whistleblower Protection) Act* and providing recommendations for amendments to the Act. At the time of the writing of this report Bill 11, the *Public Interest Disclosure (Whistleblower Protection) Amendment Act*, was awaiting proclamation.

Amendments to the *Public Interest Disclosure (Whistleblower Protection) Regulation* are currently being drafted with the intention of bringing them before the Legislature by spring 2018.

Organizational Improvements

Chief Officers are required to widely communicate to their employee's information concerning the Act. A consistent observation made when we meet with employees is how few of them were aware of the protections provided by the Act. Communication to employees by Chief and Designated Officers concerning the Act must be improved, not only to be compliant with the legislation but to reinforce senior management support for people who step forward to identify wrongdoings. This is a critical element in advancing or changing cultures to where employees feel their concern will be addressed appropriately and they are confident they will not be the target of a reprisal.



Anonymous disclosures – are they fair and effective?

The *Public Interest Disclosure (Whistleblower Protection) Act* gives the Commissioner the ability to receive anonymous complaints. However, the Commissioner is not automatically required to investigate them. There is inherently more skepticism in reviewing and considering whether to investigate allegations made anonymously. Without having an ability to clarify information and obtain further details, the Commissioner is left with considering only the information ‘slipped under the door’.

The principles of procedural fairness are fundamental to investigations conducted by the Commissioner. This includes ensuring investigations are fair and effective, and that they will achieve the objective of detecting and remedying wrongdoing. When receiving a disclosure, the Commissioner requires adequate particulars about an alleged wrongdoing to determine whether there is sufficient information to suggest a wrongdoing may have occurred, or is occurring. Without having adequate particulars about an alleged wrongdoing, any investigation would become a ‘fishing expedition’ and would not be procedurally fair or effective.

During the 2016-17 fiscal year (or, between April 2016 and March 2017) our office received two anonymous disclosures whereby the Commissioner was unable to initiate an investigation because adequate particulars about the alleged wrongdoing were not provided. As the disclosures were made anonymously, investigators were unable to obtain clarity or additional information about the alleged wrongdoing. Had investigators been able to communicate with the whistleblower(s) and obtain further information, a fair and effective investigation may have been possible. These two cases demonstrate that generally, anonymous complaints are not an effective way to report wrongdoing.

Employees who are considering making an anonymous complaint are strongly encouraged to contact the office of the Public Interest Commissioner and speak with an investigator to discuss the pros and cons of doing so. Employees are often unaware that disclosures to the Commissioner are made in confidence and the identity of a whistleblower is not revealed to an employer. An investigator can also discuss the employee’s concerns and give advice on the type of information required in a disclosure.



Business Plan Results for 2016-17 Fiscal Year

DESIRED OUTCOME ONE:

Service Excellence

Public interest disclosure is a cornerstone of a modern public sector accountability and transparency framework. Organizations have established and implemented procedures to both facilitate and encourage employees to surface concerns of wrongdoing, while being assured they do not suffer a negative job action as a result. An effective and efficient public sector whistleblowing process contributes to Albertans' views of an ethical and integrity based public sector.

A priority of the Commissioner is providing excellent service. The office takes a proactive approach in working with entities and has established relationships and programs to assist entities with implementation of viable internal whistleblowing procedures. Additionally, the office works extensively with employees, providing advice and direction to help them in navigating the Act and engaging internal processes when appropriate.

- Goals:**
- Investigations are timely and demonstrate the highest level of professionalism, competence and confidentiality.
 - Employees of the office are skilled, engaged and able to provide service at a high level.
 - Annual reporting to the Legislative Assembly on the performance of the Commissioner's functions and duties, in accordance with the Act.

Performance Measures and Results:

	Actual 2014-15	Actual 2015-16	Target 2016-17	Actual 2016-17
1.a Investigation timeline compliance	50%	75%	60%	82%
1.b Percentage of PIC employees with a learning plan	40%	50%	100%	80%
1.c Percentage of employees who engaged in professional development opportunities	60%	75%	80%	80%

- The Act sets out a 110-day period for investigation, otherwise an extension by the Commissioner is required. Our goal is to achieve completion of all investigations within the initially allotted timeline. Investigators have made significant strides in improving on this service delivery objective since the inception of the office. The achievements have been the result of improved understanding of the role of the Public Interest Commissioner with entities we are investigating and establishing internal best practices, which guide investigations more efficiently. Continued awareness and outreach to entities coupled with advancing investigative practices will further reduce the amount of time required to complete investigations.
- Recent amendments to internal policies and procedures have been instituted, reflecting lessons learned and best practices, which have led to streamlined intake and analysis of complaints. These changes have translated into an expedited process on the front end and have assisted in improving investigative timelines.
- All employees, with the exception of a recent hire, have established learning plans and are actively participating in professional development. Employees have identified training opportunities to enhance their ability to conduct thorough investigations and provide an excellent service to clients.
- Continued professional development advances the effectiveness of the Public Interest Commissioner and promotes the confidence of employees and the public in the administration of departments, public entities and offices of the Legislature.
- Several internal changes have been developed and implemented over this fiscal period, advancing the tracking of statistical data and annual reporting requirements. The Act sets out mandatory reporting requirements, for which the office has always met and exceeded. However, the modifications implemented have increased clarity and the ability to conduct more thorough analysis of requests for service.

DESIRED OUTCOME TWO:

Enhanced Awareness of the Act and Public Interest Commissioner

The Act applies to approximately 180,000 employees, in over 200 entities, across Alberta. These encompass a number of sectors including government departments, Alberta Health Services, agencies boards and commissions, post-secondary institutions and school boards. Public sector employees need awareness and understanding of the Act, internal procedures for reporting wrongdoing and assurance they will not be subjected to a reprisal.

The Act places the onus on individual Chief Officers for widely communicating information about the Act and

their established procedures to employees. A comprehensive awareness program is achieved by a coordinated and enduring effort, for which the Commissioner is taking a lead role. This includes working collaboratively with Chief and Designated Officers in developing and implementing procedures to manage disclosures internally and providing advice. More importantly, it means meeting directly with employees to provide guidance, lectures, presentations and promotional/educational materials. It is through these efforts that employees gain the necessary understanding and confidence to disclose matters, which they believe to be wrongdoing, early and openly.

- Goals:**
- Employees understand the rights and protections afforded them by the Act.
 - Supervisors and management understand their responsibilities as well as the role of the Commissioner.
 - A public sector culture exists where employees are encouraged to disclose wrongdoings, and management effectively and appropriately addresses the wrongdoing.
 - All entities included in the Act have implemented compliant internal procedures and processes.

Performance Measures and Results:

	Actual 2014-15	Actual 2015-16	Target 2016-17	Actual 2016-17
2.a Percentage of entities checked and advised procedures are in place	40%	48%	80%	92%
2.b Increase website visits and electronic disclosures received via website and assess by 2% per year	n/a	23,390	20,400	16,973
2.c Presentations/information sessions conducted	11	22	20	25

- Our office continues to monitor all entities included in the Act to ensure compliant procedures and processes are in place. One of the targeted groups for this fiscal year was private schools. Our office worked with Alberta Education in confirming the schools to which the Act applies, and initiated an outreach program with each of the 110 schools or authorities. Our office assisted a number of schools with completing procedures and worked with others to ensure compliance.
- The Act places responsibility on Chief Officers to widely communicate information concerning PIDA to their respective employees. Through the course of our outreach efforts, we have observed that little internal communication to employees concerning the Act and the protections offered exist. We continue to encourage Chief Officers to expand communication efforts and we provide assistance in the way of material and presentations upon request.

- In 2016-17, our office conducted presentations to Government of Alberta employees across the Province including Calgary, Lethbridge, Medicine Hat, Grande Prairie, Peace River, Camrose, Red Deer, Drumheller and Edmonton. We also provided presentations to a number of specific organizations, such as Environment and Parks Ministry and the University of Alberta.
- In early 2017, our office moved its outreach focus to teachers in Alberta. We attended the North Central Teacher's Convention, Central East Alberta Teacher's Convention, and Mighty Peace Teacher's Convention, in an effort to engage with teachers and staff within public school divisions, promote our office, and gauge the knowledge employees within this sector have of the *Public Interest Disclosure (Whistleblower Protection) Act*. We found overwhelmingly

that teachers were unaware of the legislation and our office. This indicates more work needs to be done by public school divisions to widely communicate information about the legislation to their employees.

- Despite efforts to promote our website and encourage employees seeking direction or more information regarding the Public Interest Commissioner and the protections afforded when reporting wrongdoing in the workplace, we noted a drop in the number of visits compared to our previous reporting period. We believe the vacant communications manager position, which we share with the Ombudsman office, impacted our efforts in this regard. The number of visits to our website is one way of monitoring and measuring employees' awareness of the Act and our office, and we will continue to strive for increased engagement in this area.

DESIRED OUTCOME THREE:

Assisting with the Legislative Review

This legislation came into force in June 2013 and, in accordance with section 37 of the Act, a comprehensive review was initiated in 2015-16 by an all-party Select Special Ethics and Accountability Committee. The work of the committee

resulted in a total of 21 recommendations and suggested amendments, which have been submitted for consideration by the Legislative Assembly.

Goal: • A legislative review is completed, amendments are considered and clarity is achieved for public sector employees and management.

Performance Measures and Results:

	Target 2016-17	Actual 2016-17
3a. Identify, collect and document concerns and recommendations for improvement for consideration by the committee	Complete April 2016	Achieved
3b. Provide information to the Committee as required.	Complete September 2016	Achieved

- Our office remained fully engaged in the legislative review process during the 2016-17 reporting period. The Director, General Counsel and Commissioner himself appeared numerous times before the Select Special Ethics and Accountability Committee, providing advice and subject matter expertise. A total of 21 recommendations were proposed by the committee.
- The office provided assistance and service to the legislative reform lawyers and staff tasked with preparing and drafting

Bill 11 – the *Public Interest Disclosure (Whistleblower Protection) Amendment Act* - which was introduced by the Minister Responsible for Democratic Renewal in June 2017 and received Royal Assent.

- As amendments to the Act have been completed our office has shifted to assisting the Legislative Reform Unit of Justice and Solicitor General in amending the *Public Interest Disclosure (Whistleblower Protection) Regulation*.

A gap in employee protection to be addressed by legislative amendment

The main purpose of the *Public Interest Disclosure (Whistleblower Protection) Act*, as the name implies, is the protection of whistleblowers. However, a significant gap in the protection provisions offered by the Act became apparent since the Act was initially proclaimed in 2013.

In order for the protection provisions to apply, the Act requires an employee to undertake a protected activity; specifically, the employee needs to either seek advice, decline to participate in a wrongdoing, or make a protected disclosure to either their Designated Officer or to the Public Interest Commissioner. This presents two issues as follows:

First, this requirement assumes employees are aware of the Act and the process for seeking advice or reporting wrongdoing. The Act places an onus on the administrative heads of organizations to widely communicate information about the Act and procedures for making a disclosure. However, our experience indicates that employees in the public service largely remain unaware of the Act.

Second, organizations often have policies requiring employees to utilize their internal chain of command to report wrongdoing first. These internal policies are at odds with whistleblower legislation. Employees who choose to report wrongdoing to their supervisor first do not receive protection under the Act.

This resulted in a scenario where an employee, who reported wrongdoing to a supervisor because they were either unaware of the Act or chose to follow internal policies, could be reprisal against with no protection available to them under the Act. This gap in the legislation was challenging to explain to employees who contacted our office because they believed they suffered a reprisal under these circumstances.

The *Public Interest Disclosure (Whistleblower Protection) Amendment Act* received Royal Assent on June 7, 2017. On proclamation, the new Act will address this gap. Employees considering making a disclosure will now be able to request information or advice from their supervisor and subsequently be protected from reprisal for doing so. This is a significant step forward in ensuring public service employees are protected for trying to do the right thing.

With the legislative amendments, Chief Officers need to ensure their management is aware of the Act and their obligation to provide information and advice about the Act to employees under their supervision. This may include providing detailed information and advice, or simply referring the employee to their Designated Officer or to the Public Interest Commissioner.

2016-17 Case Examples



A wide variety of issues are brought to our office by individuals concerned about a potential wrongdoing, or simply looking for advice or direction. The Commissioner has significant discretion in how to address each case, however in all circumstances, our office seeks the most appropriate avenue to address a complainant's concerns. This may result in a formal investigation by the Commissioner, referring the matter to another authority, or informally resolving the matter by other means. Below are examples of some of the cases brought to our office and how they were managed.

**Allegations referred
to Designated
Officer** *20 April 2016*

The discloser reported concerns with hiring practices, training and the enforcement of policies at a correctional facility. The discloser's concerns were that poor hiring practices and training may impact operations at the correctional facility. The discloser had not yet utilized the procedures for making a disclosure internally and the matter was subsequently referred to the Designated Officer for the Government of Alberta.

An employee may return a matter to the Public Interest Commissioner if they are dissatisfied with the action taken by the Designated Officer. In this case, the matter was not returned to the Public Interest Commissioner.

**Allegation of
non-compliant
regulated
professional** *02 June 2016*

An employee alleged a regulated professional was practicing without maintaining their registration obligations with their college. The matter was referred to the Chief Officer of the affected entity.

The Chief Officer subsequently reported back to the Commissioner that the matter had already been addressed and corrective action was taken. The Chief Officer further reported implementing additional safeguards and annual monitoring for regulated professionals.

**Allegations relating
to a procurement
at a provincial
corporation** *14 June 2016*

A disclosure alleged a provincial corporation grossly mismanaged public funds by entering into a service contract valued at \$1 million without a justifiable need. The disclosure also alleged collusion during the procurement of a consultant.

The disclosure was referred to the Chief Officer of the corporation and an investigation was undertaken by the Designated Officer. The Designated Officer concluded wrongdoing had not occurred – the purchase of the service contract was a requirement and was part of the corporation's existing strategic goals and objectives. The Designated Officer further demonstrated collusion did not occur and that the procurement followed the policies and procedures in place.

The outcome was reported to the Commissioner and subsequently to the discloser. The discloser was satisfied with the outcome of the investigation.

**A complaint more
appropriately
addressed under
the *Health
Professions Act***

16 June 2016

A physician submitted a complaint of reprisal alleging three supervisors took reprisal action against them. The physician further made 29 allegations of wrongdoing against their supervisors.

An analysis of the complaints found the allegations did not meet the criteria of wrongdoing, as defined in the Act. Rather, they related to standards of practice and professional conduct issues best addressed under the *Health Professions Act* or Medical Staff Bylaws. The complaints also related to human resource issues and contractual matters between the complainant and their employer.

The investigation of the alleged reprisal found the employee did not seek advice or make a protected disclosure to either the Designated Officer or the Public Interest Commissioner, and therefore, a reprisal could not have occurred as a result of either of those actions. An employee is protected from reprisal once they seek advice or make a disclosure to their Designated Officer or to the Public Interest Commissioner.

**Complaint relating
to code of conduct
and ethics for the
public service**

05 July 2016

An anonymous employee alleged a senior manager within the Government of Alberta was instructing staff to order food for office meetings from a franchise owned by the manager. The matter was determined to be more appropriately addressed under the *Code of Conduct and Ethics for the Public Service of Alberta* and did not meet the definition of wrongdoing under the Act. The complaint was forwarded to the Deputy Minister of the department for appropriate action.

Although this case was more appropriately addressed under a different mechanism, the employee who contacted our office was subsequently afforded protections under the Act. Regardless if a wrongdoing occurred, an employee receives protection simply by seeking advice from the Public Interest Commissioner.

**Employee with
management
concerns referred to
Designated Officer**

06 July 2016

A disclosure was received from an employee relating to management practices within a branch of the Department of Justice. However, the employee had not yet made a disclosure to their Designated Officer. The employee was referred to their Designated Officer and was advised they may return the matter to the Public Interest Commissioner if they are dissatisfied with the outcome. Ultimately, the matter was not returned to the Public Interest Commissioner for further investigation.

**Allegations relating
to the *Employment
Standards Code***

02 August 2016

An employee submitted a disclosure of wrongdoing to their Designated Officer and concurrently to the Public Interest Commissioner, as permitted in the Act. It was alleged operating procedures adopted by a branch within a government department contravened the *Employment Standards Code*; specifically, complainants were not being served with notification when a decision was made to refuse to investigate a complaint.

The matter was investigated by the Designated Officer who did not support a finding of wrongdoing. It was found that in certain cases, the complainants did not provide current or up-to-date contact information and could therefore not be contacted. The procedure placed the complaint in abeyance for a period of time, pending the complainant re-contacting the department. The Designated Officer found the procedure did not contravene the *Employment Standards Code*.

The employee was dissatisfied with the Designated Officer's investigation and returned the matter to the Public Interest Commissioner. The Commissioner conducted further investigation of the matter and supported the Designated Officer's findings.

Alleged interference in a procurement process

06 September 2016

The employee concurrently made a disclosure to their Designated Officer and to the Public Interest Commissioner, as permitted in the Act. The disclosure alleged interference in the selection of a vendor by a government department. It was alleged the team evaluating proposals had recommended a vendor; however, another department became involved in the process and influenced the outcome. An alternate vendor was subsequently awarded the contract.

The Designated Officer investigated the matter and concluded a wrongdoing had not occurred. The investigation found the second department was part of the evaluation process. The Deputy Minister considered the advice of the evaluation team and the second department, then subsequently selected a vendor. The decision to select the vendor was therefore made by the Deputy Minister, who is ultimately responsible for managing the affairs of the department.

The employee did not request the Public Interest Commissioner investigate the matter further.

Alleged risk to health and safety following water line breaks

14 September 2016

The discloser alleged that two depressurization events of the water distribution system in a municipality were followed by inadequate flushing, presenting a risk to the life, health or safety of individuals.

The investigation examined the response of Alberta Health Services (AHS) and the Department of Environment and Parks. The investigation concluded no contraventions of statutes or regulations occurred; AHS and the department responded to the event appropriately and there was no risk to the life, health or safety to the public. Further details of this case can be found in a report published by the Commissioner.

Allegations of gross mismanagement

06 October 2016

An employee alleged management within an AHS department was grossly mismanaging public funds by circumventing policies and procedures governing the planning and financing of projects.

The investigation concluded the department did not grossly mismanage funds and complied with applicable AHS policies. Additional details of this case are available in a report published by the Commissioner.

Alleged reprisal as the result of declining to participate in wrongdoing

19 October 2016

An employee alleged management within an AHS department reprisal against them as a result of the employee declining to participate in a wrongdoing. The Act protects employees who decline to participate in a wrongdoing prior to a protected disclosure being made.

The investigation concluded the employee did not decline to participate in the alleged wrongdoing, but rather negotiated authorization in exchange for participation in activities which, ultimately, were not wrongdoing. Additional details of this case are available in a report published by the Commissioner.

Alleged reprisal not the result of making a disclosure

07 November 2016

An employee alleged their employment was terminated as a result of submitting a disclosure of wrongdoing to their Designated Officer.

The investigation did not support a finding of reprisal. The employee had been placed on paid administrative leave pending a human resource investigation into separate matters. The employee was subsequently terminated from their position. The decision to terminate the employee was not the result of the employee making a disclosure under the Act.

**Alleged reprisal
stemming from
the non-renewal
of employment
contract**

08 November 2016

A complaint of reprisal was submitted alleging the employee's fixed term contract was not renewed as the result of their contact with our office.

The investigation found a history of conflict between the employee and their employer, which culminated in the decision not to renew their contract of employment. These events occurred prior to the employee contacting our office. The investigation found no nexus between the employee contacting our office and the public entity's decision not to renew the employee's contract of employment.

An employer is not restricted from making reasonable human resource management decisions in good faith.

**Alleged use of non-
certified teachers in
a private school**

21 November 2016

A disclosure alleged contraventions of the *School Act* at a private school, specifically relating to individuals teaching classes who are not certified teachers.

A review of the matter determined Alberta Education was already conducting an investigation. An investigation was therefore not initiated by the Commissioner as the matter was already being addressed through an alternate process. The employee was satisfied with this process as they were able to receive protections under the Act, while also having the department of Education investigate the matter.

**Alleged reprisal for
seeking advice**

26 January 2017

An employee with a funded private school contacted the Public Interest Commissioner's office requesting information about making a disclosure of wrongdoing concerning the members of the school board. After reviewing the whistleblower's concerns, it was determined the concerns did not meet the definition of wrongdoings under the Act. The employee was provided with information on other avenues to address their concerns.

The employee subsequently submitted a complaint of reprisal to the Commissioner alleging employment action had been taken against them as the result of previously contacting our office. Following an investigation, the Commissioner determined the employee and the members of the board had a long-standing conflict, which resulted in the employment action taken by the board. The employment action was not the result of the employee contacting our office.

**Anonymous
complaint results
in prompt action by
public entity**

06 February 2017

It was alleged that executive(s) with a public entity attended conferences sponsored by suppliers and took extra days for social activities that were then billed back to the public entity.

However, the disclosure did not provide adequate particulars about the alleged wrongdoing. As the disclosure was made anonymously, further details and clarity could not be obtained. The information was provided to the Chief Officer of the public entity for consideration. The Chief Officer promptly responded, instructing the Ethics Officer to investigate the matter and to report the outcome to the Board of Directors.

**Insufficient
information
provided in
alleged gross
mismanagement**

14 February 2017

An anonymous disclosure was made alleging gross mismanagement of public funds by a private school. However, the disclosure did not provide adequate particulars about the alleged wrongdoing. As the complaint was made anonymously, additional information and clarity could not be obtained. The disclosure was not investigated per section 19(1)(f) of the Act. The limited information available was provided to the Chairperson of the Board of the private school.

This case highlights the challenge of receiving an anonymous complaint. In the absence of sufficient detail about an alleged wrongdoing, an investigation will not be initiated if the Commissioner believes doing so would be unfair and ineffective. Without the ability to communicate with a complainant, investigators are often unable to obtain pertinent details about a disclosure.

Employees are urged to contact our office and speak with an investigator confidentially, before deciding to make an anonymous complaint.

**Complaint
of reprisal
unsupported**

14 February 2017

An employee alleged they were dismissed from their employment as a result of making disclosures to their employer – an institution within the education sector.

The investigation found the employee had not made a protected disclosure in accordance with the Act and the issues they were reporting to their employer did not relate to wrongdoing as defined in the Act.

**Allegation
of improper
distribution of
income support
benefits**

15 February 2017

An anonymous disclosure alleged a supervisor within a government department had an inappropriate relationship with a client and was providing benefits to which the client was not entitled. However, salient details were not provided and as the disclosure was made anonymously, further details and clarity could not be obtained.

As the limited information provided would not permit a fair and effective investigation, it was determined the subject matter could more appropriately be addressed by the affected department. The information provided in the complaint was forwarded to the Deputy Minister of the Department for consideration.

**Allegation relating
to a school division**

16 March 2017

A disclosure of wrongdoing was received relating to alleged risk to the health and safety of students in a school division as the result of mould contamination. The investigation is continuing and the outcome will be reported when the investigation is completed.

**Allegation of gross
mismanagement of
public funds**

22 March 2017

An anonymous disclosure alleged gross mismanagement of public funds at a post-secondary institution.

The institution reported it had already reviewed the matter and provided an internal audit report to the Commissioner detailing its findings. A review of the internal audit supported the institution's findings and further investigation was not undertaken. The allegation of gross mismanagement was not supported.

CASE REVIEW:

Allegations of gross mismanagement and interference with the Office of the Chief Medical Examiner

In late 2014, the Commissioner received disclosures of wrongdoing from the Chief Medical Examiner at the time, against the Department of Justice and Solicitor General (the department). The allegations stemmed from a public procurement by the department to contract services for the transportation of deceased persons. A pre-qualification offer was tendered to develop a list of qualified contractors to provide these services. Those who qualified could enter into a standing offer contract with the department and provide transportation services when required.

The Alberta Funeral Services Association (AFSA) lobbied on behalf of its members against changes to the compensation structure within the standing offer contract. The AFSA warned the department a work stoppage would occur unless it changed the terms and conditions in the standing offer. It was reported the then-Minister of the department met with the AFSA and subsequently instructed the department to revise the terms and conditions of the procurement, resulting in increased costs to the department for these services. The Chief Medical Examiner alleged the actions of the department constituted a gross mismanagement of public funds and the department's interference with the Office of the Chief Medical Examiner (OCME) during the procurement contravened the *Fatality Inquiries Act*.

The Chief Medical Examiner further submitted a complaint of reprisal against the department, alleging as a result of reporting wrongdoing, the department did not renew their fixed-term contract of employment.

The investigation of this matter carried over into the beginning of the 2016-17 fiscal year. The investigation encompassed an extensive review and analysis of 5,571 records, a review of department policies, applicable legislation, best practice standards for procurements and internal legal reviews. Thirty-seven employees of the Government of Alberta were interviewed as part of the investigation. This included 19 current and former employees of the OCME. Formal written responses were also obtained from the department, from the then-Minister of the department, and from the then-Deputy Minister of the department. The investigation also included interviews of members of the funeral services industry and a written response from the AFSA.

Did the actions of the department constitute a gross mismanagement of public funds?

The investigation found the department made the decision to revise the standing offer based on what it believed was in the public interest. Although the services for transporting deceased persons may have cost more as a result of the revised standing offer, it was believed the consequence of not revising the standing offer could have had a more significant impact on the public (i.e., there would be a lack of service providers available to transport deceased persons). The department's actions were not illegal and were based on a legitimate concern that service providers would not be available to transport deceased persons. Therefore, the actions of the department did not meet the threshold of gross mismanagement and did not result in a finding of wrongdoing as defined under the Act.

However, the investigation found the management of the procurement process was poor and was influenced. The department inappropriately negotiated and collaboratively revised the terms and conditions of the standing offer with potential vendors during an active solicitation. This presented a risk to the department and the Government of Alberta in general, as it could be seen to establish an expectation and set an example for future procurements.

What constitutes interference with the OCME?

The over-arching dispute between the Chief Medical Examiner and the department, related to the degree of independence the OCME has from government. Although the Chief Medical Examiner is a statutorily appointed official, the OCME is part of the Justice Services Division within the department.

The investigation sought to determine whether the actions of the department constituted interference with the statutory duties of the Chief Medical Examiner, in a manner which contravened the *Fatality Inquiries Act*. An offence under the *Fatality Inquiries Act* occurs when a person hinders, obstructs or in any way interferes with a medical examiner in the performance of their duties.

The investigation concluded the Chief Medical Examiner does not have delegated authority over the administration of the OCME, and the procurement of services is not a defined duty of the Chief Medical Examiner within the *Fatality Inquiries*

Act. The procurement of services is an administrative function of the department. Therefore, the department's involvement in the administration of the OCME and its assuming control of the procurement, did not interfere with the Chief Medical Examiner in a manner which contravened the *Fatality Inquiries Act*.

Is the non-renewal of a fixed-term contract a reprisal?

A decision not to renew or extend a fixed-term employment contract is not a dismissal of employment; employment simply ends at the expiration of the term. No specific action is required to terminate a fixed-term contract and an employer is under no obligation to renew the contract of employment.

If, however, a promise to renew a fixed-term contract occurred, and the failure to renew the contract was directly the result of an employee's disclosure of wrongdoing under the *Public Interest Disclosure (Whistleblower Protection) Act*, such action may be considered a reprisal.

The investigation concluded that although the decision not to renew the Chief Medical Examiner's contract of employment was made after their disclosure to the Commissioner, there was no conclusive evidence linking the disclosure as the specific reason for the decision. The evidence supported that the decision was made as the result of a strained relationship between the Chief Medical Examiner and the department. This discord existed prior to the disclosure of wrongdoing. Therefore, the balance of probabilities favoured the department in that it did not commit a reprisal.

However, concerns were identified with the department's management and human resource practices. The investigation found the management of complaints against the Chief Medical Examiner was unfair, and that the department relied on unsubstantiated allegations to support performance management measures and ultimately, the decision not to renew the Chief Medical Examiner's contract.

Investigations that do not result in a finding of wrongdoing often identify concerns with policies and business practices that public entities ought to be aware of. This case served as a caution that departments need to distinguish between legitimate lobbying and interference in a public procurement process. Elected officials also need to be cautious when considering requests to meet with potential vendors or lobbyists during an active procurement process. This case also brought attention to the department's management and human resource practices.



CASE REVIEW:

Allegations against a Private School

In May 2016, the Commissioner received a disclosure alleging wrongdoing at a Private School in Alberta. The Private School was alleged to have contravened the *Early Childhood Services Regulation* by using non-certificated teachers to instruct children. It was also alleged the Director of the school had misled the Department of Education (the department) in order to obtain funding for English as a Second Language (ESL) and Program Unit Funding (PUF).

Alleged use of non-certificated teachers

In Alberta, individuals employed as teachers in Early Childhood Services (ECS) programs must hold a certificate of qualification issued under the *School Act*. During the Private School's 2014-15 school year, a non-certificated teacher (the Instructor) oversaw the ECS programming within the preschool class. Although the Instructor was not a certificated teacher, the Instructor was certified as a Child Development Supervisor and had experience with children. The following year, the Private School changed its practice and appointed a certificated teacher to oversee the ECS program, including the preschool class.

Although this technically contravened the *Early Childhood Services Regulation*, it was not considered a wrongdoing. The investigation found there was no apparent intent to mislead or otherwise neglect to conform to the requirements of the Regulation. Rather, there was a lack of clarity provided to the Private School by the department regarding the requirements for certificated teachers within ECS programs.

Allegation the department was misled in order to secure funding

As part of the public funding it received from the department, the Private School received grants for ESL and PUF. ESL funding may be claimed for students who require additional English language support and instruction, and PUF funding is provided for students with a severe disability or delay.

The investigation found concerns with the ESL funding process. Teachers are required to complete assessments for students when ESL funding is claimed. However, there is no requirement for the teacher to make a specific recommendation for ESL funding on the assessment. ESL funding claims therefore become a discretionary decision made by school administrators — in this case, the Director of the Private School. This process can result in discrepancies between teachers and school administrators regarding whether funding is required for a particular student, and the appropriate use of those funds.

The investigation concluded that ultimately the department accepted the ESL and PUF claims submitted by the Private School, and although there was a lack of documentation supporting the ESL and PUF expenditures claimed, the Private School met its statutory requirements and submitted financial statements reporting its expenditures to the department. The Private School therefore did not mislead the department and a finding of wrongdoing was not supported.

Expanding the investigative scope to examine alleged financial irregularities

During the investigation of the initial allegations, witnesses reported the Private School was associated with a transnational religious and social movement, indicating an organization associated with the movement was a tenant at the school and this relationship involved some financial irregularities. Further, information was found indicating an individual associated with the Private School may have offered a benefit to a government official. As this information provided the potential for wrongdoing, the scope of the investigation was expanded to include these issues.

The investigation confirmed the Private School was associated with a transnational religious and social movement. However, a substantial review of the school's financial records concluded public funds were not misappropriated to the third-party organization affiliated with the movement. Investigators also confirmed the government official did not receive a specific offer or inducement by the Private School, and no benefit was received by the government official.

Concerns highlighted by the investigation

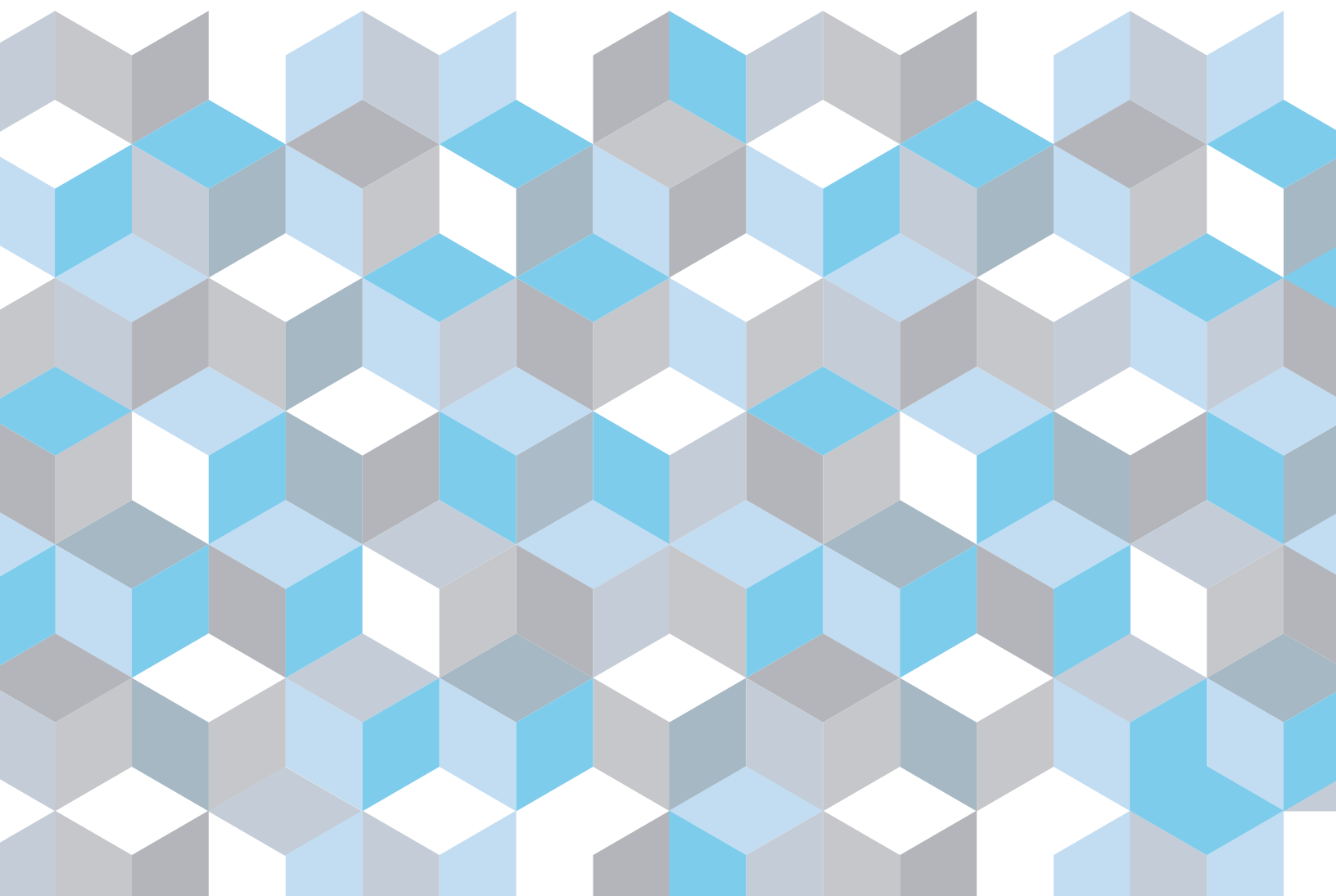
During our review of the Private School's financial records, we found the documentation and detail in its record keeping was lacking, making it difficult to assess the merit of the issues. This was addressed with the Private School and the department.

There were also concerns noted with the department's process of approving the Private School's application. Specifically, the individual identified in the Private School's application as the principal had no connection to the school, and department officials met with individuals reportedly representing the Private School who had no legal connection to the Private School. It was also noted that the school had \$130 in its account when its application for accreditation was recommended for approval.

The department's monitoring of the Private School was also concerning. As part of its monitoring practice, the department advises private schools in advance when monitors will be visiting, the specific student records it intends on reviewing and the specific questions it intends to ask. The approach may not always provide an accurate perspective of the day-to-day operations of the school. This was evidenced through teaching staff who reported the Private School made changes in staffing and required teachers to practice responses in advance of the monitoring visits. Further, the department does not interview principals and teaching staff independently during monitoring visits, and allows school administration and board members to

be present. In this case, teaching staff did not believe they were able to speak freely to monitors during their visits.

Where an investigation does not find wrongdoing as defined in the Act, the Commissioner does not have the ability to make recommendations. As wrongdoing was not found in this case, no recommendations were made. However, the concerns highlighted by the investigation were reported to the Private School and the department so they may consider implementing changes, with an aim of enhancing public confidence.



Financial Statements

Year ended March 31, 2017

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To the Members of the Legislative Assembly

Report on the Financial Statements

I have audited the accompanying financial statements of the Office of the Public Interest Commissioner, which comprise the statement of financial position as at March 31, 2017, the statements of operations, change in net debt and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian public sector accounting standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Office of the Public Interest Commissioner as at March 31, 2017, and the results of its operations, its remeasurement gains and losses, its changes in net debt, and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

[Original signed by Merwan N. Saher FCPA, FCA]

Auditor General
July 12, 2017
Edmonton, Alberta

Statement of Operations

Year ended March 31, 2017

Expenses - Directly Incurred (Note 3(b), 4 and Schedule 2)

	2017		2016
	Budget	Actual	Actual
Salaries, Wages, and Employee Benefits	\$ 957,000	\$ 612,563	\$ 831,269
Supplies and Services	387,000	429,342	309,552
Amortization of Tangible Capital Assets	1,944	1,944	1,944
	1,345,944	1,043,849	1,142,765
Less: Recovery from Support Service Arrangements with Related Parties	(113,000)	—	(89,698)
	1,232,944	1,043,849	1,053,067
Cost of Operations	\$ (1,232,944)	\$ (1,043,849)	\$ (1,053,067)

The accompanying notes and schedules are part of these financial statements.

Statement of Financial Position

As at March 31, 2017

	2017	2016
Liabilities		
Accounts Payable and Accrued Liabilities	\$ 18,436	\$ 18,256
Accrued Vacation Pay	51,924	50,373
	<u>70,360</u>	<u>68,629</u>
Net Debt	<u>(70,360)</u>	<u>(68,629)</u>
Non-Financial Assets		
Tangible Capital Assets (Note 5)	1,945	3,889
	<u>1,945</u>	<u>3,889</u>
Net Liabilities	<u>\$ (68,415)</u>	<u>\$ (64,740)</u>
Net Liabilities at Beginning of Year	\$ (64,740)	\$ (81,500)
Cost of Operations	(1,043,849)	(1,053,067)
Financing Provided from General Revenues	1,040,174	1,069,827
Net Liabilities at End of Year	<u>\$ (68,415)</u>	<u>\$ (64,740)</u>

The accompanying notes and schedules are part of these financial statements.

Statement of Change in Net Debt

Year ended March 31, 2017

	2017		2016
	Budget	Actual	Actual
Cost of Operations	\$ (1,231,000)	\$ (1,043,849)	\$ (1,053,067)
Acquisition of Tangible Capital Assets	—	—	—
Amortization of Tangible Capital Assets (Note 5)	1,944	1,944	1,944
Changes in Prepaid Expenses		—	1,101
Financing Provided from General Revenue		1,040,174	1,069,827
(Increase)/Decrease in Net Debt		\$ (1,731)	\$ 19,805
Net Debt at Beginning of Year		(68,629)	(88,434)
Net Debt at End of Year		<u>\$ (70,360)</u>	<u>\$ (68,629)</u>

The accompanying notes and schedules are part of these financial statements.

Notes to the Financial Statements

Year ended March 31, 2017

Note 1: Authority

The Office of the Public Interest Commissioner (the Office) operates under the authority of the *Public Interest Disclosure (Whistleblower Protection) Act*. The cost of the operations of the Office is borne by the General Revenue Fund of the Province of Alberta. The Office's annual operating budget is approved by the Standing Committee on Legislative Offices.

Note 2: Purpose

The Office of the Public Interest Commissioner manages, investigates and makes recommendations respecting disclosures of wrongdoings relating to department and public entities and reprisals relating to public service employees.

Note 3: Summary of Significant Accounting Policies and Reporting Practices

These financial statements are prepared in accordance with Canadian public sector accounting standards, which use accrual accounting.

The Office has adopted PS3450 Financial Instruments. The adoption of this standard has no material impact on the financial statements of the Office, which is why there is no statement of re-measurement gains and losses.

Other pronouncements issued by the Public Sector Accounting Board that are not yet effective are not expected to have a material impact on the future financial statements of the Office.

(a) Reporting Entity

The reporting entity is the Office of the Public Interest Commissioner, which is a legislative office for which the Public Interest Commissioner is responsible.

The Office operates within the General Revenue Fund (the Fund). The Fund is administered by the President of Treasury Board and Minister of Finance. All cash disbursements made by the Office are paid from the Fund.

(b) Basis of Financial Reporting

Expenses

Directly Incurred

Directly incurred expenses are those costs the Office has primary responsibility and accountability for, as reflected in the Office's budget documents.

In addition to program operating expenses such as salaries, supplies, etc., directly incurred expenses also include:

- amortization of tangible capital assets,
- pension costs, which are the cost of employer contributions for current service of employees during the year, and
- valuation adjustments which represents the change in management's estimate of future payments arising from obligations relating to vacation pay.

Incurred by Others

Services contributed by other entities in support of the Office's operations are not recognized and are disclosed in Schedule 2.

Valuation of Liabilities

Fair value is the amount of consideration agreed upon in an arm's length transaction between knowledgeable, willing parties who are under no compulsion to act.

The fair values of accounts payable and accrued liabilities are estimated to approximate their carrying values because of the short term nature of these instruments.

Notes to the Financial Statements

Year ended March 31, 2017

Note 3: Summary of Significant Accounting Policies and Reporting Practices (cont'd)
(b) Basis of Financial Reporting (cont'd)

Liabilities

Liabilities are present obligations of the Office to others arising from past transactions or events, the settlement of which is expected to result in the future sacrifice of economic benefits.

Non-Financial Assets

Non-Financial assets of the Office are limited to tangible capital assets.

Tangible capital assets are recorded at historical cost and are amortized on a straight-line basis over the estimated useful lives of the assets.

The threshold for capitalizing new systems development is \$250,000 and the threshold for major system enhancements is \$100,000. The threshold for all other tangible capital assets is \$5,000.

Amortization is only charged if the tangible capital asset is put into service.

(c) Net Debt

Net debt indicates additional cash required from the Fund to finance the Office's cost of operations to March 31, 2017.

Note 4: Support Services Arrangements

The Public Interest Disclosure (Whistleblower Protection) Act appoints the Ombudsman to also be the Public Interest Commissioner. The Office of the Public Interest Commissioner is a separate Legislative Office physically located with the Office of the Ombudsman.

The Offices of the Ombudsman and Public Interest Commissioner have a formal support services agreement for provision of shared services. The Office of the Ombudsman's employees provides services to the Office of the Public Interest Commissioner for:

- General Counsel
- Administration
- Corporate (Finance, HR, IT)
Director, Officer (effective April 1, 2016)
- Communications (effective April 1, 2016)

These employees' salaries and benefits expenses are allocated to the Office of the Public Interest Commissioner based on the percentage of time spent providing the services. This allocation is included in the voted operating estimates and statement of operations as a cost recovery for the Office of the Ombudsman and as a supplies and services expense for the Office of the Public Interest Commissioner.

From June 10, 2013 to March 31, 2016, the Office of the Public Interest Commissioner provided corporate officer and communication services to the Office of the Ombudsman. This arrangement was cumbersome as both Offices were providing and receiving shared services resulting in recoveries and expenses included in both Offices' voted operating expenses and statement of operations.

Effective April 1, 2016, the Office of the Public Interest Commissioner's corporate officer and communications positions were transferred to the Office of the Ombudsman to streamline the shared services process.

Notes to the Financial Statements

Year ended March 31, 2017

Note 4: Support Services Arrangements (cont'd)

For 2016-17, the Office's cost recovery from the Office of the Ombudsman was \$0 (2016 - \$89,698) and the Office's supplies and services expense for services provided by the Office of the Ombudsman was \$351,291 (2016 - \$239,556).

Note 5: Tangible Capital Assets

	2017		
	Cost	Accumulated Amortization	Net Book Value
Computer hardware and software	\$5,833	\$3,889	\$1,945

	2016		
	Cost	Accumulated Amortization	Net Book Value
Computer hardware and software	\$5,833	\$1,944	\$3,889

In 2016-17, there were no tangible capital asset additions (2016 \$0) and no disposals (2016 \$0). The useful life for computer hardware and software is 3 years.

Note 6: Defined Benefit Plans (in thousands)

The Office participates in the multi-employer Management Employees Pension Plan and Public Service Pension Plan. The expense for these pension plans is equivalent to the annual contributions of \$77 for the year ended March 31, 2017 (2016 - \$128).

At December 31, 2016, the Management Employees Pension Plan had a surplus of \$402,033 (2015 surplus \$299,051) and the Public Service Pension Plan had a surplus of \$302,975 (2015 deficit \$133,188). The Office also participates in the multi-employer Long Term Disability Income Continuance Plan. At March 31, 2017, the Management, Opted Out and Excluded Plan had a surplus of \$31,439 (2016 surplus \$29,246). The expense for this plan is limited to the employer's annual contributions for the year.

Note 7: Approval of Financial Statements

These financial statements were approved by the Public Interest Commissioner.

Schedule 1

Salary and Benefits Disclosure

Year ended March 31, 2017

	2017				2016
	Base Salary	Other Cash Benefits ⁽¹⁾	Other Non-Cash Benefits ⁽²⁾⁽³⁾	Total	Total
Senior Official ⁽⁴⁾⁽⁵⁾ Ombudsman/Commissioner	\$259,908	\$51,418	\$21,869	\$333,195	\$321,760

⁽¹⁾Other cash benefits are pension-in-lieu payments and vacation pay-out.

⁽²⁾Other non-cash benefits include the Office's share of all employee benefits and contributions or payments made on behalf of the employee including CPP/EI, extended health care, dental coverage, group life insurance, and long-term disability premiums.

⁽³⁾Automobile provided; lease, insurance and operating costs of \$13,843 (2016-\$15,650) are included in other non-cash benefits. The Ombudsman/Commissioner received a taxable benefit at December 31, 2016 of \$14,944 (2015-\$16,910).

⁽⁴⁾The senior official functions as the Ombudsman and the Public Interest Commissioner and does not receive additional remuneration for the role of Public Interest Commissioner. This salary and benefits disclosure schedule represents 100% of the senior official's total salary and benefits received in 2016-17 and 2015-16.

⁽⁵⁾Note 4 on the Notes to the Financial Statements provides information regarding allocation of shared services costs for financial statement presentation.

Schedule 2

Allocated Costs

Year ended March 31, 2017

2017					2016
		Expenses - Incurred by Others			
Program	Expenses ⁽¹⁾	Accommodation ⁽²⁾	Business ⁽³⁾	Total Expenses	Total Expenses
Operations	\$1,043,849	\$35,118	\$2,160	\$1,081,127	\$1,090,250

⁽¹⁾Expenses - directly incurred as per Statement of Operations.

⁽²⁾Accommodation expenses - allocated by the total square meters occupied by the Office.

⁽³⁾Business expenses - Service Alberta's costs for the Office's telephone lines and the Public Service Commissioner's costs to deliver training courses to employees of the Office of the Public Interest Commissioner.



**PUBLIC INTEREST
COMMISSIONER**

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