



**PUBLIC INTEREST
COMMISSIONER**
of Alberta

2021-22
ANNUAL REPORT



**PUBLIC INTEREST
COMMISSIONER**
of Alberta



To the Honourable Speaker
of the Legislative Assembly

The Public Interest Commissioner's office is pleased to present its 9th Annual Report to you and through you, to the Legislative Assembly.

The Report has been prepared in accordance with section 33(1) of the *Public Interest Disclosure (Whistleblower Protection) Act* and covers the activities of the Public Interest Commissioner's office for the period April 1, 2021 through March 31, 2022.

Respectfully,

Peter Sherstan
Public Interest Commissioner (Acting)

November, 2022
Edmonton, Alberta

Vision

A public sector wherein wrongdoings are confidently reported without fear of reprisal, and effective and appropriate management responses are undertaken.

Mission

The Public Interest Commissioner fosters a culture that:

- Encourages the reporting of wrongdoings
- Provides fair, independent and impartial investigations
- Protects employees from reprisals

Values

Integrity

Respect

Accountability

Independence



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Message from the Public Interest Commissioner



Nine years after whistleblower legislation was proclaimed in Alberta, public sector employees with complaints of wrongdoing in the workplace continue to be protected. A welcome cultural shift is taking place in the working relationship between the Alberta Public Interest Commissioner and the public entities that fall under the *Public Interest Disclosure (Whistleblower Protection) Act* (the Act). Many organizations see the benefits of backing whistleblowers and collaborating with the Commissioner's office to investigate allegations of wrongdoing.

The Act conceives that both the public entity and the Commissioner share a common responsibility to manage and investigate disclosures of wrongdoing in the public interest. One purpose of the Act is to promote public confidence in the administration of public entities. A collaborative approach between public entities and the Commissioner's office helps foster public confidence. The underlying goal is to find the truth, not build walls to protect the entity.

Public entities have an internal position called a "designated officer." When collaboration takes place, this person works with my investigation team. Typically, a designated officer contacts our office for advice before deciding whether to investigate a disclosure. There are obvious operational advantages to working together. First, investigative time and resources are conserved. My staff provide the investigative and legislative expertise, whereas the designated officer provides the organizational knowledge. Second, the spirit and intent of the Act is to work together to protect the public interest. An opportunity is created for the Commissioner to work with the entity to increase internal accountability.

As beneficial as a collaborative approach can be, the Commissioner can choose to investigate independently. The choice may depend on the actions of the whistleblower or the type of alleged wrongdoing. Public sector employees have the legislated mechanism to come directly to my office, should they feel safer in doing so. Not all cases should be investigated jointly. If the entity does not support an investigation, the designated officer could be placed in a volatile position by responding to requests for assistance. Or, if the matter relates to senior executives, we may not elect to undertake a joint investigation with a designated officer.

In March of 2022, our investigative team hosted a conference for designated officers. This will be an annual event going forward as yearly contact can help build trust, foster collaboration, and encourage designated officers to consult with my office.



Another change over the past couple of years relates to the increasingly complex and time intensive nature of public interest investigations, even when conducted in collaboration with the entity. Public sector employees are recognizing my office as the only avenue available to report wrongdoing confidentially and receive legislative protections. Whistleblower complaints are now more varied and likely to raise complex issues that may not have formerly been conceived as wrongdoing, but in fact are covered by the Act.

A provision in the Act requires that it undergo a legislative review every five years. The most recent review was completed in 2021. The resulting report and recommendations were presented to government. The committee assigned to complete the review received representations from all interested parties, including the public, and much of their input was reported on in the media. The review received a significant amount of input from Alberta stakeholders. In my capacity, I provided technical expertise to the Standing Committee on Resource Stewardship and submitted 22 recommendations to enhance the scope of the Act, strengthen protections for whistleblowers and witnesses, and improve functionality of the Act. As Commissioner, I would like to commend those who submitted thoughtful presentations and recognize the need for whistleblower protection. It is my hope that the government will draft the amendments in short order to enhance whistleblower protection and improve the effectiveness of Alberta's whistleblower protection legislation.

My five-year term as Public Interest Commissioner ended June 2022. I would like to thank the Legislative Assembly for entrusting me with this important and significant responsibility.

Marianne Ryan

Public Interest Commissioner

Integrity in Alberta's Public Service

An effective public service depends on the commitment of everyone who works in it to maintain the highest possible standards of honesty, openness and accountability. The *Public Interest Disclosure (Whistleblower Protection) Act* (the Act) creates a confidential avenue for public sector employees to report wrongdoing or reprisal and protects them for doing so.

A whistleblower may be someone working in a government department, an office of the Legislature, a publicly funded entity such as a post-secondary academic institution, or a public health organization. Often, whistleblowers speak up, guided by a desire to do the right thing when faced with fraud, corruption, or other harmful activity occurring in the workplace.

The Public Interest Commissioner's office exists to facilitate safe, confidential disclosure of wrongdoing and reprisal. The Commissioner operates independently of government and is legislated to investigate allegations of wrongdoing or reprisal and make the appropriate recommendations. A disclosure to our office can lead to resolution, even without a finding of wrongdoing.

A whistleblower's confidence to entrust our office with their complaint comes from the protection the Act provides. The identity of the whistleblower remains confidential, except under exceptional circumstances. This level of confidentiality offers security to whistleblowers as they may continue working in their place of employment without their involvement becoming known.



What is "wrongdoing"?

According to section 3 of the Act, a wrongdoing is:

- A contravention of an Act or regulation (provincial or federal);
- An act or omission that creates a substantial and specific danger to the life, health or safety of individuals;
- A substantial and specific danger to the environment;
- Gross mismanagement of public funds, a public asset or the delivery of a public service;
- Gross mismanagement of employees, by a pattern of behaviour or conduct of a systemic nature that indicates a problem in the culture of the organization relating to bullying, harassment, or intimidation; or
- Knowingly directing or counselling an individual to commit a wrongdoing mentioned in the above instances.



Protecting employees by sharing expertise

The relationship between the Commissioner's office and designated officers is an important one. To empower public sector organizations to handle disclosures by employees fairly and effectively, our office hosts an annual conference for designated officers. We also welcome requests for presentations about the Act from chief and designated officers seeking advice on whistleblower protection programs and policies.

Employees of public entities can either make a complaint of wrongdoing to their designated officer, or directly to the Public Interest Commissioner. The Act requires public sector entities to establish an internal process to manage and investigate reports of wrongdoing from their employees. Complaints of reprisals, however, may only be made to the Commissioner for independent review.

The Public Interest Commissioner is also Alberta's Ombudsman, whose office responds to complaints of unfair treatment by authorities and organizations identified in the *Ombudsman Act*. The Ombudsman, along with the Deputy and the Director of Investigations, lead three investigative teams in providing oversight to ensure fair treatment through independent investigations, recommendations, and education for all Albertans.

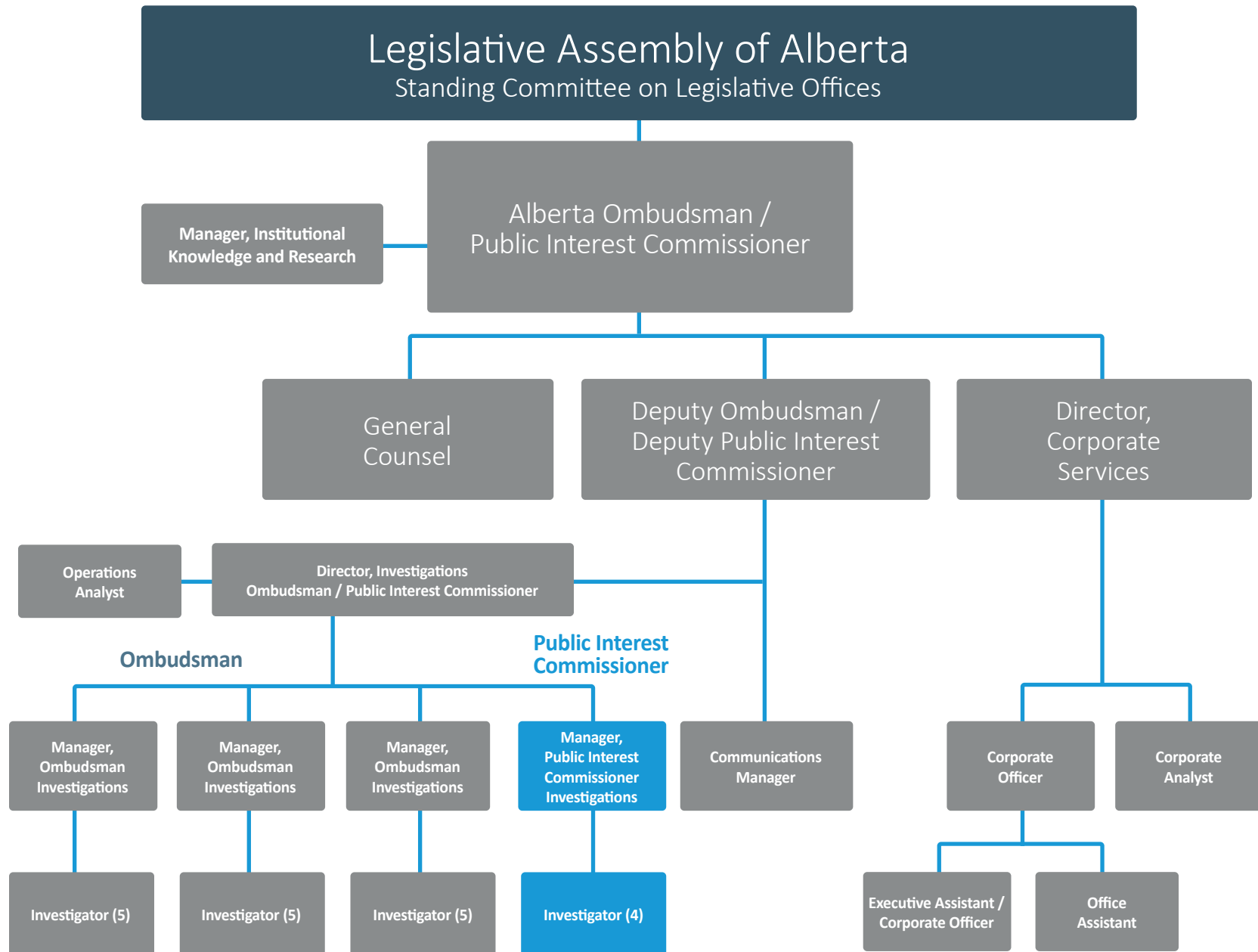
The two offices maintain separate investigative operations but share corporate services and executive management.



What is "reprisal"?

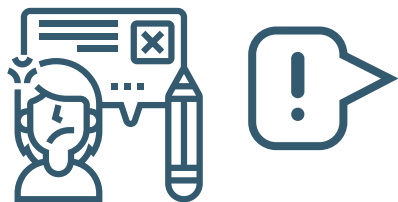
A reprisal is any measure that is taken, directed, or counselled against a public sector employee that adversely affects their employment or working conditions. When an employee wishes to make a disclosure or participate in an investigation under the Act, they are afforded legal protections from reprisal. In other words, no person shall take or direct reprisal action or make a threat of reprisal action against the employee, including:

- Dismissal from employment;
- A layoff, suspension, demotion, or transfer;
- A discontinuation or elimination of a job; or
- A change of job location, reduction in wages, changes in hours of work or reprimand.



Submitting Your Disclosure

The Commissioner's office receives complaints from public sector employees across a wide array of issues. This model is intended to assist public sector employees in understanding our complaints-handling process.



Our online complaint forms guide the disclosure process and offer a secure, confidential way to submit your complaint. We will contact you within five working days to acknowledge receipt of your complaint.



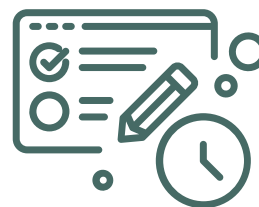
Once jurisdiction is confirmed, we assess if our legislation is the most appropriate way to address the complaint and whether there is a public interest component.



Upon completing an investigation, the Commissioner will prepare a report that sets out the findings, reasons for those findings, and any recommendations the Commissioner considers appropriate.



Think you have witnessed a wrongdoing or have been subjected to reprisal? In Alberta, all public sector employees have the right to submit a complaint to the Public Interest Commissioner.



We then review your submission to determine if the matter is within our mandate under the Act.

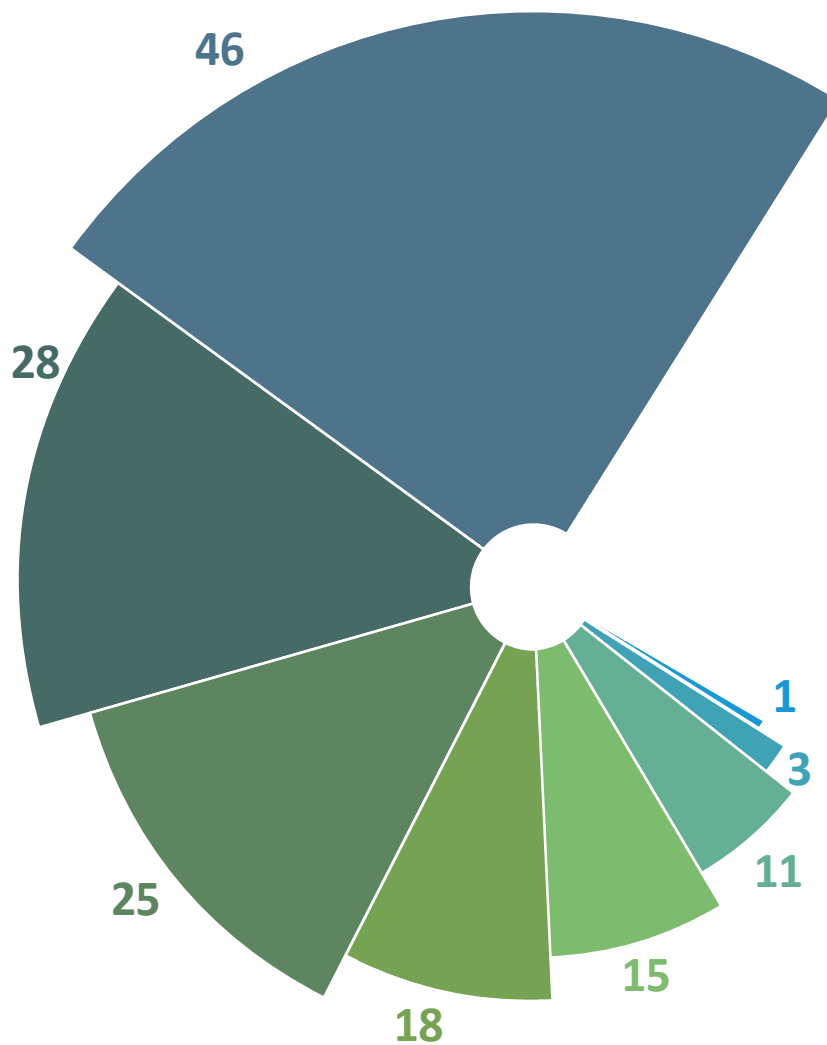
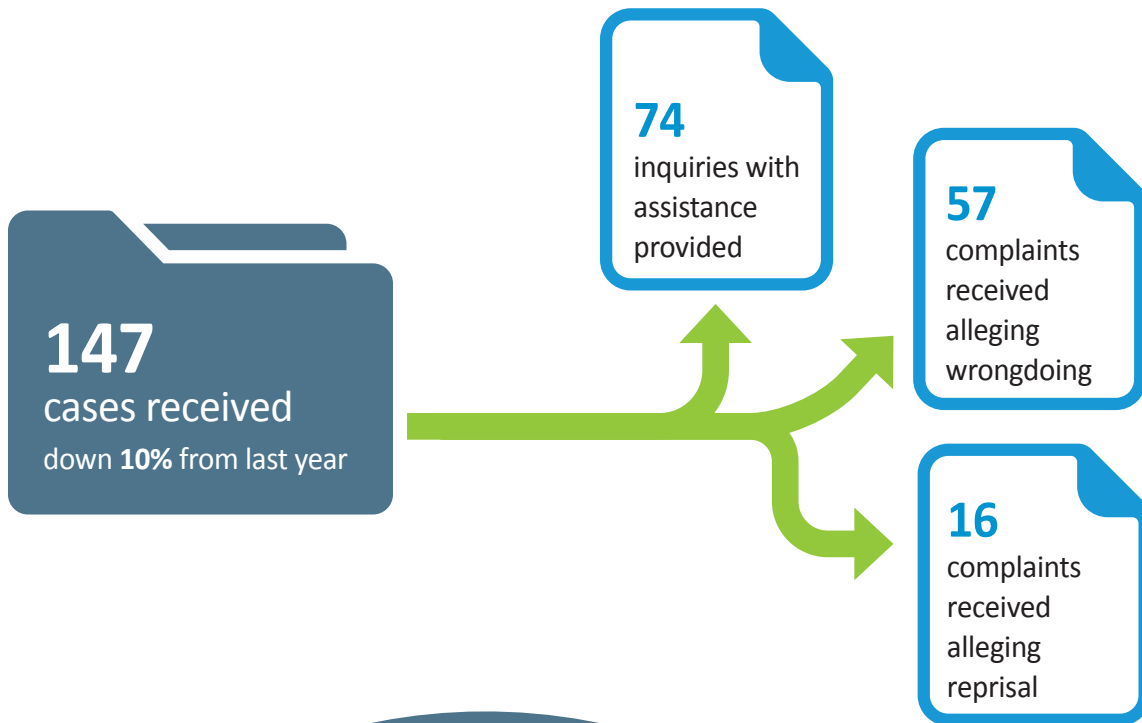


If we determine the matter requires action by our office, we look for opportunities to resolve the matter informally. If unsuccessful, it may be appropriate to open a full investigation.



The Commissioner has the discretion to make any report public.

2021-22 By the Numbers



Cases Received by Sector

- 46** Non-jurisdictional
- 28** Health Sector
- 25** Government Ministries
- 18** Education Sector
- 15** Agencies, Boards & Commissions
- 11** Post-Secondary Institutions
- 3** Offices of the Legislature
- 1** Members of the Legislative Assembly



2021-22 By the Numbers

The following information meets the mandatory reporting requirement for 2021-22 as per the *Public Interest Disclosure (Whistleblower Protection) Act* (the Act).

| Exemption, section 31(3) | |
|--|---|
| The Commissioner must provide reasons for giving an exemption under this section and must ensure the exemption, including any terms or conditions imposed, and the reasons for the exemption are made publicly available. | No exemption requests received |
| Commissioner's annual report, section 33(1) | |
| The Commissioner must report annually to the Legislative Assembly on the exercise and performance of the Commissioner's functions and duties under this Act, setting out | |
| (a) the number of general inquiries made to the Commissioner relating to this Act, | 74 |
| (b) the number of disclosures received by the Commissioner under this Act, | 57 |
| the number of disclosures acted on and | 13 |
| the number of disclosures not acted on by the Commissioner, | 44 |
| (b.1) the number of disclosures referred by the Commissioner to a designated officer for investigation in accordance with Part 2 and | 0 |
| the number of investigation outcomes, | 0 |
| enforcement activities or | 0 |
| other follow-up reported concerning those disclosures, | 0 |
| (c) the number of investigations commenced by the Commissioner under the Act, | 11 |
| (d) in the case of an investigation that results in a finding of wrongdoing, a description of the wrongdoing and any recommendations made, | Please refer to the articles on pages 20 and 25 |
| (d.1) the number of recommendations the Commissioner has made, and | 8 |
| (i) whether the departments, public entities, offices or prescribed service providers to which the recommendations relate have fully implemented the recommendations or taken any corrective measures, and | Please refer to the article on page 20 |
| (ii) if the departments, public entities, offices or prescribed service providers to which the recommendations relate have not fully implemented the recommendations or taken any corrective measures, the reasons provided, | Please refer to the article on page 25 |

| | |
|--|---------------------------------|
| (e) the number of complaints of reprisals received by the Commissioner under this Act, | 16 |
| the number of reprisals the Commissioner finds to have been taken, directed or counselled contrary to section 24 and a description of the reprisals, | 0 |
| (e.1) the number of complaints of reprisals with respect to which the Commissioner finds that no reprisal was taken, directed or counselled, | 10 |
| (e.2) the number of reprisals in or respecting the office of a member of the Legislative Assembly that the Commissioner finds to have been taken, directed or counselled contrary to section 24, a description of the reprisals and any recommendations provided to the Speaker of the Legislative Assembly and the resulting corrective measures taken, if any, | 0 |
| (e.3) the number of remedial orders made by the Board, a description of each remedy awarded, the number of referrals for which no remedy was awarded and the reasons why no remedy was awarded, | 0 |
| (e.4) in the case of a prosecution under this Act, a description of the offence and any penalty imposed in relation to the offence, | Not applicable |
| (f) whether, in the opinion of the Commissioner, there are any systemic problems that may give rise to or have given rise to wrongdoings, and | No systemic problems identified |
| (g) any recommendations for improvement that the Commissioner considers appropriate. | None |



2021-22 Active Investigations

The Act facilitates the disclosure and investigation of wrongdoing or reprisal occurring in government departments, offices of the Legislature, and public entities (including provincial agencies, boards and commissions, publicly funded academic institutions and public sector health entities.)

The Commissioner's office manages a caseload of active investigations, several of which were commenced in the 2021-22 fiscal year.

These investigations will determine:

- Whether the superintendent of a school division grossly mismanaged employees.
- Whether reprisals were taken against employees of a school as the result of participating in an investigation by the Commissioner.
- Whether the acts or omissions of employees created a danger to the life, health, or safety of individuals.
- Whether the acts or omissions of a public entity resulted in a serious and significant danger to the environment.
- Whether employees of a public entity within the education sector have been grossly mismanaged.
- Whether a contract or arrangement between a public entity and a consultant constitutes a gross mismanagement of public funds, or contravention of an Act or regulation.

2021-22 Business Plan Results

Using the Act as its foundation, the office's annual business plan charts our way forward. Included in the business plan are key outcomes, strategies, and performance measures used as benchmarks to assess progress toward our goals. In looking back at our accomplishments, we consider how our results will guide future decision-making, including those required to develop forecasts, outreach strategies and budget planning for upcoming fiscal years.

Results from the 2021-22 fiscal year include:

Outcome 1: All public sector employees recognize the office of the Commissioner as an avenue for reporting wrongdoing in the public service, and are aware of the protections afforded to them under the Act.

Throughout the majority of the 2021-22 fiscal year, the pandemic continued to challenge public entities. The Government of Alberta issued directives to counter the ongoing impact of COVID-19, including its *Proof of COVID-19 Vaccination Policy for the Alberta Public Service*. We recognized the need for clarity as questions arose concerning the policy and how to address complaints in relation to the Act. The office published an article as a resource for both public sector employees and designated officers subject to the government's policy called [Proof of COVID-19 Vaccination Policy in the Alberta Public Service and the Applicability of the Public Interest Disclosure \(Whistleblower Protection\) Act](#). Here, we explained the purpose of the Act, where it applies and how employees could appropriately address concerns about the application of the policy to their individual circumstances.

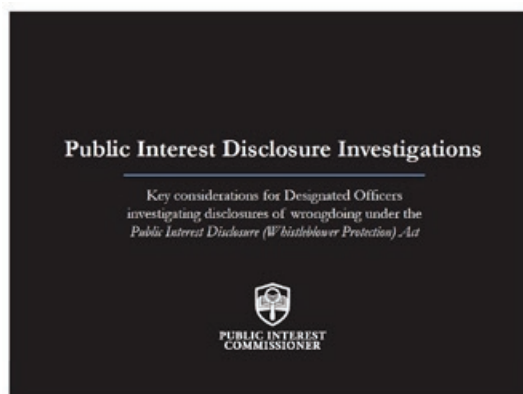
The office continued to act as a resource to chief officers responsible under the Act for communicating the organization's procedures on managing and investigating disclosures made by employees. We presented information on auditing whistleblower programs to the Edmonton Integrity Network and to Alberta's Mental Health Advocate about the Commissioner's role and function. For a second year, the office also celebrated [Journée des lanceurs d'alerte / Whistleblower Awareness Day](#) on March 24, 2022 and joined other public sector integrity offices in encouraging support for this national initiative.



Outcome 2: Designated officers within departments, offices and public entities are aware of how to assess and investigate disclosures of wrongdoing under the Act.

Designated officers share a common legislative mandate with the Public Interest Commissioner in that they are responsible for managing and investigating disclosures within their respective organizations that are made under the Act. Designated officers are critical to the success of the Act. For this reason, the Commissioner made it a strategic priority to provide training and resources to assist designated officers in managing and investigating public interest disclosures, and to encourage designated officers to utilize the Commissioner's office for assistance and advice.

On March 24, 2022, the Commissioner's office hosted the Alberta Public Interest Disclosure Conference and delivered educational content to over 50 representatives from government, offices of the Legislature, health authorities, provincial agencies, boards and commissions, school divisions and independent schools. The conference was targeted toward designated officers and persons who assist designated officers in managing and investigating public interest disclosures. The conference educated attendees on the benefits of an effective whistleblower protection program, how to audit whistleblower programs, how to assess the jurisdiction of disclosures of wrongdoing, and key considerations for conducting investigations under the Act. Participants were also given the opportunity to network with the Commissioner's staff and ask questions on topics impacting them. The underlying message of the conference was that the Commissioner's office is available to support them with advice and assistance when needed.



The [conference training materials](#) are now available on the Commissioner's website for use by designated officers and public entities that fall under the Act.

The Alberta Public Interest Disclosure Conference was a significant success. As a result of the positive feedback, the Commissioner's office plans to continue hosting annual conferences and enhance communication and collaboration with designated officers.

Outcome 3: Departments, offices and public entities are positively motivated to work collaboratively with the office of the Public Interest Commissioner to investigate and remedy wrongdoing within their organizations, in order to advance public confidence in the administration of the department, office or public entity.

Our office's ongoing objective is to encourage a positive philosophy among public entities toward the Act's protections and build Albertans' confidence in the administration of the public service. The Act allows for the reporting and investigation of wrongdoing to be conducted either internally by the designated officer, or by the office of the Public Interest Commissioner. Where appropriate, the Commissioner's office may opt to conduct investigations in collaboration with the affected entity.

Of the investigations concluded in 2021-22, the Commissioner's office conducted 75% in collaboration with the designated officer. These results include a collaborative investigation between our office and Keyano College's Board of Governors into complaints of wrongdoing on the part of the former President and CEO. On September 9, 2021, the Commissioner released a public report of her findings along with a statement highlighting how organizations can work with our office to identify and remedy wrongdoing when it occurs. The case summary is found on page 20.



Outcome 4: The Commissioner will contribute to the review of the Act and the implementation of any amendments to ensure the legislation meets the needs of Albertans and her office has the ability to fulfill its roles and responsibilities.

Almost ten years ago, the Public Interest Commissioner's office was established as an independent office of Alberta's Legislative Assembly. The office's role is to ensure a safe avenue for public sector employees to speak out against wrongdoing and to submit complaints of reprisal they believed to be occurring in their workplaces.

The Act is scheduled for review every five years. In our 2020-21 annual report, we detailed our office's participation in the review process in the article *Comprehensive Review of the Whistleblower Protection Act Leads to Recommendations for Improvement*. In June 2021, the committee tasked with the review submitted its final report to the Legislative Assembly, identifying 10 recommendations in relation to the Act.

The recommendations now rest with the Legislative Assembly to make changes to Alberta's *Public Interest Disclosure (Whistleblower Protection) Act*.

Explaining “Reprisal”

When the Act came into effect in 2013, one of its primary purposes was to protect public sector employees who use it to make disclosures. However, to receive the available statutory protections, an individual must have undertaken an activity that is specifically detailed in the Act. These include:

- Making a whistleblower complaint (disclosure) under the Act;
- Seeking advice about making a disclosure—it is enough to simply seek advice, making a disclosure is not required;
- Co-operating in an investigation under the Act;
- Declining to participate in a wrongdoing (“wrongdoing” as defined in the Act); or doing anything in accordance with the Act.

One of the safeguards available to whistleblowers under the Act is protection against reprisal. The term “reprisal” does not frequently come up in everyday conversation and is typically associated with notions of retaliation and revenge. In a whistleblower context, a reprisal can simply be thought of as any action, or threat of action, which adversely affects an employee’s working conditions or employment (such as dismissal, demotion, or a reduction in pay).

Over the years, the office of the Public Interest Commissioner has received several complaints alleging reprisal; however, as of the date of this report, the Commissioner has yet to find reprisal under the Act. This has resulted in some criticism and concern on the effectiveness of Alberta’s whistleblower protection legislation, particularly given the number of years the Act has been in place.

There are several factors explaining why complaints of reprisal made to the Commissioner’s office have not resulted in a finding of reprisal. First, there are no limitations on a person’s ability to make a complaint of reprisal to the Public Interest Commissioner. Regardless of the content or merit of the complaint, it is statistically recorded as a complaint of reprisal. Across an average year, we receive a wide variety of complaint types, many outside the scope of the Act’s definition for reprisal.

Second, some complainants may not fully understand the Act, its provisions, and where it applies. The Commissioner’s jurisdiction is very specific to public sector entities. The Commissioner does not have the authority to investigate a complaint of reprisal from an employee in the private sector or from certain organizations not covered by the Act. Further, the protection from reprisal provisions of the Act only apply to employees when they do anything **in accordance with the Act**. The Act’s terms of protection from reprisal do not apply when individuals choose to disclose information through the media, or any other alternative complaint mechanism.

A common scenario reported to our office is where a complaint comes to us while the employer and the whistleblower are already involved in an ongoing dispute. When this circumstance arises, an investigation is necessary to critically examine the decisions of the employer and determine whether their actions were related to the employee's whistleblowing activity. If the employer's actions prove to be unrelated to the employee's whistleblowing activity, a reprisal has not occurred. Our office has received several cases where an employer is taking legitimate employment action involving an employee prior to any whistleblower activity. The intent of whistleblower protection legislation is to shield employees from reprisal for being a whistleblower; it is not intended to restrict employers from making reasonable human resource management decisions.

Finally, it should also be noted that the reprisal provisions in the Act have a strong deterrent effect. An individual found to have committed a reprisal may face serious consequences.

The lack of findings of reprisal should not deter employees from seeking protection under the Act. In fact, the lack of findings may indicate the legislation's effectiveness. We can confidently say that employees who have reported wrongdoing to the Commissioner's office have not suffered reprisal and their identities remain confidential. Employees should have confidence in Alberta's whistleblower protection legislation as it remains the only mechanism where public sector employees receive statutory protection for reporting wrongdoing.

As required in the legislation, the Act is comprehensively reviewed every five years by a committee established by the Legislative Assembly. Recently, the Standing Committee on Resource Stewardship completed its review and made [10 recommendations](#) to amend the Act, two of which relate to strengthening protection from reprisal provisions.





The Risks of Conflating Whistleblower Procedures with Other Policies and Codes of Conduct

The Act requires that public entities, to which the Act applies, have written procedures for managing and investigating disclosures made by employees. The Commissioner's office has observed several instances where organizations have attempted to conflate these procedures with other existing internal policies and codes of conduct. The intent of doing so is often rooted in the desire to give broad protection to employees on any matter they report. While the intent may be legitimate, there are significant challenges and risks when combining whistleblower procedures with other internal policies.

1. Improper application of the Act

The purpose of the Act is to facilitate the disclosure and investigation of significant and serious matters that may be unlawful, dangerous to the public or injurious to the public interest. The Act is intended as a mechanism to report serious forms of wrongdoing, and in this regard, legislators included the specific types of wrongdoing to which the Act applies.

Organizations may be creating and applying policies that do not conform with the legislation if they include forms of wrongdoing or terminology not included in the Act. Phrases such as "improper activity" or "inappropriate conduct" for example, are not contemplated by the Act, and contraventions of policy or codes of conduct—though wrong—are not forms of wrongdoing which the Act was intended to address.

2. Confusion of employees

A whistleblower procedure should be straight forward and encourage employees to report internally. This means making the procedure simple and easy to follow. Organizations that blend whistleblower procedures with other processes can create confusion and may dissuade employees from reporting the wrongdoing or cause them to use another external mechanism to try and address their concern.

3. Averting legitimate whistleblower complaints

Where multiple policies and complaint processes are interconnected, the process the complainant intended to use becomes ambiguous. A complainant will not always reference the Act or state they are a “whistleblower”. Rather, an employee will simply report their concern using the mechanism that is made available. The Commissioner’s office has seen cases where an employer has arbitrarily applied a process or policy other than the whistleblower procedure to manage the complaint, despite the complainant’s intent that the matter be addressed under the Act. In such cases, the employee has a legitimate belief that they are protected as a whistleblower. Ultimately, these matters made their way to the Commissioner’s office as the employees did not believe the whistleblower procedure was appropriately applied.

Use of Third-Party Whistleblower Hotlines for Public Interest Disclosures

Third-party whistleblower hotlines are a service used by many organizations in both the public and private sectors. The intent of these hotlines is to give employees the ability to make anonymous whistleblower complaints through a mechanism outside the organization. One perspective is that this will give employees more confidence in coming forward as it affords a degree of separation from the employer. There have, however, been significant issues with the use of whistleblower hotlines for the purposes of making disclosures under the Act.

In addition to managing and investigating disclosures of wrongdoing, designated officers also have a statutory responsibility to give advice to employees who are considering making a disclosure. They are required to be familiar with the Act and the organization’s whistleblower procedure so they may give employees advice. Organizations that utilize third-party whistleblower hotlines put employees in touch with operators potentially depriving them of needed advice about the Act or the organization’s whistleblower procedures. Moreover, the Act does not contemplate protections for employees who seek advice from third-party hotlines.

The issue is further complicated when organizations use third-party hotlines for employees to report issues that are not considered wrongdoing under the Act. As a result of using the hotline, an employee may believe they are entitled to whistleblower protection; however, the issue may not be treated as a whistleblower complaint when reported back to the employer. The Commissioner’s office is currently investigating and seeking to remedy instances where this has occurred.

The Commissioner’s office strongly discourages public sector organizations from using third-party whistleblower hotlines as a mechanism for employees to make public interest disclosures under the Act. Employees who wish to make a disclosure of wrongdoing external to their employer should be referred to the Public Interest Commissioner’s office.





4. Restricting human resource decisions

The Act protects employees from reprisal when they make a disclosure of wrongdoing in accordance with the Act. The subject matter of the disclosure is inconsequential; rather, employees are protected for the action of making the disclosure. A reprisal is serious. Those found to have committed a reprisal may face prosecution under the Act, substantial penalties, employment consequences, and may be liable for remedies. These consequences have a significant deterrent effect.

Where an organization elects to include other forms of misconduct in its whistleblower procedure that are not contemplated by the Act, the organization is inviting employees to expect legislative whistleblower protections for reporting other types of complaints. For example, a code of conduct infraction can be addressed through the organization's standard human resource processes. However, if an organization includes a code of conduct violation as a reportable form of wrongdoing under a whistleblower procedure, employees may seek whistleblower protection for reporting interpersonal disputes and grievances between management and employee. Further, the employer may become restricted managing the issue or making reasonable human resource management decisions out of fear it may be perceived as a reprisal.

As a best practice, employers should ensure whistleblower policy and procedure is independent from all other internal procedures, and that a distinct process is in place for making public interest disclosures. This removes ambiguity and ensures both the employee and employer are clearly aware that a complaint is being made under the Act, that decisions must be made under the Act, and that legislative protections apply to the employee.



Investigation Yields Improvement at Keyano College

Whistleblowers serve a significant role in helping expose harmful activity in the workplace. An investigation by the Commissioner's office and Keyano College (the College) found wrongdoing committed by the former President and CEO under the Act. The Commissioner released a public report about the matter on September 9, 2021.

Located in the Regional Municipality of Wood Buffalo, the College is a publicly funded post-secondary institution. It operates under a Board of Governors established by the *Post-secondary Learning Act*. The President and CEO is responsible for the general supervision and direction of the College's operation, management of academic staff, and for performing any powers, duties and functions assigned by the Board.

Over a 12-day period in the spring of 2020, the Commissioner received five disclosures of wrongdoing from public sector employees working for the College. Employees of post-secondary institutions like Keyano College are entitled to protection provisions when making a disclosure of wrongdoing under the Act.

In circumstances where a complaint is jurisdictional and an organization is willing to work with the Commissioner's office, the matter may be returned to the affected entity for investigation. In this case, the ensuing collaborative investigation between the Board of Governors and the Commissioner's office found three instances of serious wrongdoing committed by the former President and CEO involving gross mismanagement of public funds, gross mismanagement of the delivery of a public service, and gross mismanagement of employees.

The investigation determined the former President and CEO pursued initiatives and made fiscal decisions without a clear plan or rationale and in a manner that demonstrated a reckless and wilful disregard for the proper management of public funds. The investigation highlighted the former President and CEO's extensive absenteeism, that they released confidential information to staff, and created adversarial relationships by engaging in confusing, inappropriate, and unprofessional communication with executives, the Ministry of Advanced Education, the municipality, and donors. Further, the former President and CEO grossly mismanaged employees through a pattern of bullying, harassment, and intimidation. The individual's conduct had financial and reputational implications for the College and impacted the culture of the organization. The Commissioner made three recommendations to the College and the Board for corrective measures.

Near the onset of the investigation, the College announced the former President and CEO's resignation and the appointment of an interim President and CEO. The actions of the Board demonstrated a progressive culture that supports whistleblowers and advances public



confidence in the administration of the College. The Commissioner encouraged the Board to continue its work cultivating a positive shift in the culture of the organization and to leverage our office's resources.

The Commissioner's report can be found here: [*A report of the Public Interest Commissioner in the matter of disclosures of wrongdoing under the Public Interest Disclosure \(Whistleblower Protection\) Act.*](#)

The Commissioner's Recommendations

1. Keyano's Safe Disclosure Procedure was established per section 5 of the Act, to manage and investigate disclosures of wrongdoing. The procedure lacks information on the process for making a complaint against the President and CEO, who is the chief officer as defined in the Act. Disclosures of wrongdoing relating to the President and CEO, or relating to the Board of Governors, ought to be made directly to the Public Interest Commissioner. It is recommended the College adjust its procedure in this regard. Alternatively, should the Board of Governors wish to receive complaints relating to the President and CEO, it must establish procedures for the management and investigation of those complaints, including the reporting of outcomes to complainants.
2. It is recommended the College ensure it maintains best practices related to hiring for executive positions and ensuring that those decisions involve robust and stringent screening and due diligence.
3. The Board ensure that it conducts impartial evaluations of the performance of the President and CEO on a regular and scheduled basis. This evaluation should not be perfunctory, but rather a robust evaluation that assesses performance metrics against the Board's business plans and strategies, examines concerns brought forward by employees, and considers results from employee satisfaction surveys.



"This investigation was a collaborative effort between Keyano College's Board of Governors and my office. The Board is commended for supporting its employees and taking steps to safeguard the institution. Their actions demonstrate a progressive culture that supports whistleblowers and advances public confidence in the administration of Keyano College. This case is an example of the effectiveness of this Act, and how organizations can work with my office to identify and remedy wrongdoing. I also commend the employees of Keyano College who saw the Act as a means to bring their concerns to light. These employees shall remain anonymous."

Marianne Ryan,
Alberta's Public Interest
Commissioner

Allegation of Danger to Healthcare Workers Triggers an Expeditious Response

The COVID-19 pandemic created an inherent danger to the health and safety of the public, and even more acutely to healthcare workers who have been selfless and steadfast in caring for those most seriously affected by the pandemic. When an employee came to the Commissioner's office with concerns about a potential risk to the health and safety of healthcare workers, the Commissioner ordered an urgent investigation.

The pandemic triggered an unprecedented global demand for Personal Protective Equipment (PPE). PPE is a critical line of defence for front-line healthcare workers against COVID-19 and was particularly crucial during the height of the pandemic. An employee recognized suspicious labelling on shipments of N95 respirators destined for healthcare workers and brought forward concerns regarding the integrity of the product. These concerns were exacerbated when we learned the manufacturer's approval had been revoked by Health Canada, making importation and sale of the product unlawful.

The Commissioner's concern and sense of urgency was matched by the affected organization and the designated officer who immediately responded and worked with the Commissioner's office to expeditiously investigate the allegations.

Ultimately, we determined the concern regarding labelling of the product was the result of classification terminology used by Health Canada which deviates from terminology used in other jurisdictions. Although the classification terminology differed, it did not affect the product itself. We also determined that the product had been procured prior to Health Canada revoking approval, the product had been tested to meet regulated standards, and the affected entity's procurement group had already confirmed continued use of the product with Health Canada. Further, it was also already in the process of procuring and fit-testing staff with product from a new manufacturer. In this regard, the affected entity had exercised diligence and took steps to ensure the integrity of the product.

With the support of the designated officer, the investigation was concluded quickly, preventing a disruption in the delivery of the PPE to healthcare workers. Moreover, it gave a sense of relief to the whistleblower and other employees who may have had similar concerns.

The action taken by the whistleblower is precisely what the legislation intended. An employee believed something may be seriously wrong and recognized the Commissioner's office as the safe avenue to report it. The employee who came forward is commended and their identity will remain confidential.





Multiple Staff Contributing to a Toxic Work Environment

An investigation cleared administrators of wrongdoing; however, significant work still lies ahead to improve a school's workplace environment.

The Commissioner's office has received an increased number of cases involving allegations of gross mismanagement of employees. This type of wrongdoing occurs where there is a pattern of behaviour or conduct of a systemic nature, indicating a problem in the culture of an organization relating to bullying, harassment, or intimidation.

Some public entities are very large and operate out of various geographic regions and business centres, resulting in the creation of sub-cultures within those branches. This has been particularly evident in schools that are part of larger public-school divisions. A toxic culture within a school can have a debilitating impact on those who work and learn there, even if the problem is isolated and does not necessarily impact the culture of the broader division.

In one such case, employees of a school brought forward allegations of gross mismanagement against the principal and vice-principal. A subsequent investigation was undertaken which involved interviews of 24 staff at the school. Ultimately, the investigation did not support the allegations. Though there were consistent concerns with the working environment and culture at the school, the investigation determined the actions and behaviours of the principal and vice-principal were not the sole cause but more so a contributing factor. Several employees shared a responsibility for creating significant interpersonal issues that existed at the school. There was evidence of a lack of professional decorum at times by administrators. As well, there were ongoing disagreements and differences of opinion between teaching staff and administrators relating to programming decisions and operational changes. However, the investigation determined these types of disagreements did not constitute bullying, harassment, or intimidation.

All parties agreed there was a level of toxicity within the working environment at the school. The toxicity resulted from various factors, such as the conduct of administrators and certain staff, as well as a sense of division and apprehension perpetuated by those involved. This was exacerbated with anxieties surrounding the management of a school under budgetary constraints during the COVID-19 pandemic.

The findings of the investigation were reported to the Superintendent of the Division so that informed decisions may influence the appropriate change.



Alleged Misuse of Public Assets Remedied Through Informal Resolution

When an employee makes a disclosure, the Act affords the Commissioner the ability to take any steps she considers appropriate to help resolve a matter. In some circumstances, an investigation may not be the most efficient or effective way to address an alleged wrongdoing. In cases where an organization recognizes wrongdoing may be occurring, has a positive culture around whistleblowing, and is keen to work with the Commissioner's office to resolve the matter as quickly as possible, the Commissioner may first attempt an informal resolution.

In attempting informal resolution, the Commissioner outlines the issues that must be addressed and corrected to avert the need for investigation. This process is not only efficient but gives the public entity the opportunity to be accountable and responsible to resolve a matter, subject to the Commissioner's oversight. Informal resolutions have been an effective way of addressing potential wrongdoing within organizations.

In one case, an employee reported concerns regarding the misuse of public assets. Specifically, they alleged certain staff members were using the resources, tools, and space within a publicly owned facility for their own personal use. When informed of the allegation, the executive leader responsible for the facility was keen to work with the Commissioner's office to determine what was transpiring and put a stop to any inappropriate practice. A liaison representing the public entity worked with the Commissioner's office as internal inquiries were made and steps were taken to resolve the matter. The affected entity recognized the opportunity to revise its applicable policy to meet current government standards. When communicated to

staff, the practice of personal use of the public space ceased immediately. Further, administrative leaders reviewed and included all assets on the current capital asset list and appointed a surplus agent to manage the disposal of assets in a manner that met government standards.

The affected entity took the matter seriously and demonstrated accountability in addressing the concerns that were brought forward. Its response, under the Act, demonstrates that public confidence in the administration of the organization is well founded. The Commissioner was satisfied the matter was dealt with appropriately and an investigation was not required.





Conflict Within an Organization Leads to Gross Mismanagement of Employees

When wrongdoing is found under the Act, it provides the opportunity for public entities to ensure whistleblower protection policies reflect current best practices and promote a positive workplace culture where whistleblowing is embraced.

An investigation found the President and CEO of a publicly funded academic institution grossly mismanaged employees through a pattern of bullying and intimidation, indicating a problem in the culture of the organization.

The investigation found long-standing cultural issues that existed within the organization, aggravated by interpersonal conflicts with senior employees and deep-rooted management practices that conflicted with change. There was also a divide in perspective or inability to effectively apply the necessary cultural change. Although these problems existed prior to the President and CEO's tenure, their behaviour contributed to and perpetuated them.

Most employees interviewed described a pattern of intimidating and bullying behaviours by the President and CEO. They gave examples of repeated incidents where employees were intimidated, offended, or degraded, and where the President and CEO asserted their authority through aggressive behaviours such as yelling and threatening employment. This induced fear and deterred employees from making decisions or questioning decisions made by the President and CEO. These behaviours had serious consequences on the workplace culture and resulted in the degradation of the work environment for employees at the public entity.

Following the investigation, the Board of Directors applied substantive corrective measures stemming from five recommendations made by the Commissioner. The President and CEO departed the academic institution during the investigation, and a new President and CEO has been hired. The new President and CEO has undertaken several initiatives, including an employee engagement survey (to be completed in 2022), involving all employees in new strategic planning and budgeting processes, hosting monthly all-staff forums, and conducting regular meetings with groups of staff. An engagement audit that included interviews with more than 300 staff was also conducted by a third party—the results of which will be used as part of the organization's strategic planning.

Leadership training is being provided to enable staff to learn and work together, and the Board has implemented an annual review to evaluate the performance of the President and CEO. This is a comprehensive review aligned with a new strategic plan which, among other things, aims to be one of the top employers in Canada. Further, human resources staff received training on how to manage whistleblower complaints—including how to direct people to the appropriate process—and the organization has worked to update its whistleblower policy and Respectful Workplace Policy.

Implementing cultural reform requires time and dedication. It is a process of building trust and confidence, and a spirit of collaboration between staff and organizational leaders. The steps taken by the Board of Directors and the new President and CEO are leading the organization in the right direction.

The Commissioner's Recommendations

In cases where a finding of wrongdoing occurs, the Commissioner may make recommendations to assist public entities in addressing the matter. In this case, the Commissioner made five recommendations:

1. The organization consider retaining a corporate culture consultant to provide advice, training, and guidance to organizational leaders on implementing cultural reform in order to meet its financial and strategic goals.
2. The organization ensures that it conducts impartial evaluations of the chief officer's performance on a regular and scheduled basis. This evaluation should not be perfunctory but rather a comprehensive evaluation that assesses performance metrics against the organization's business plans and strategies, examines concerns brought forward by employees, and considers results from employee satisfaction surveys.
3. The organization ensure there is more robust training provided to employees on managing whistleblower complaints.
4. The organization review its whistleblower protection policy and procedures to ensure they are current, reflect best practices and promote a positive whistleblower culture.
5. The organization take steps to ensure information about the Act and the organization's procedures for reporting wrongdoing are widely communicated to employees, and that employees are aware they may contact the Commissioner's office for information and advice.



Office of the Public Interest Commissioner

Financial Statements

March 31, 2022

OFFICE OF THE PUBLIC INTEREST COMMISSIONER
FINANCIAL STATEMENTS
Year Ended March 31, 2022

Independent Auditor's Report

Statement of Operations

Statement of Financial Position

Statement of Change in Net Debt

Statement of Cash Flows

Notes to the Financial Statements

Schedule 1 – Salary and Benefits Disclosure

Schedule 2 – Allocated Costs



Independent Auditor's Report

To the Members of the Legislative Assembly

Report on the Financial Statements

Opinion

I have audited the financial statements of the Office of the Public Interest Commissioner, which comprise the statement of financial position as at March 31, 2022, and the statements of operations, change in net debt, and cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In my opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Office of the Public Interest Commissioner as at March 31, 2022, and the results of its operations, its changes in net debt, and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

Basis for opinion

I conducted my audit in accordance with Canadian generally accepted auditing standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Office of the Public Interest Commissioner in accordance with the ethical requirements that are relevant to my audit of the financial statements in Canada, and I have fulfilled my other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Other information

Management is responsible for the other information. The other information comprises the information included in the *Annual Report*, but does not include the financial statements and my auditor's report thereon. The *Annual Report* is expected to be made available to me after the date of this auditor's report.

My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, my responsibility is to read the other information identified above and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I will perform on this other information, I conclude that there is a material misstatement of this other information, I am required to communicate the matter to those charged with governance.

Responsibilities of management and those charged with governance for the financial statements

Management is responsible for the preparation and fair presentation of the 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 the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Office of the Public Interest Commissioner's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless an intention exists to liquidate or to cease operations, or there is no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Office of the Public Interest Commissioner's financial reporting process.

Auditor's responsibilities for the audit of the financial statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, I exercise professional judgment and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit 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 Office of the Public Interest Commissioner's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Office of the Public Interest Commissioner's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Office of the Public Interest Commissioner to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

[Original signed by W. Doug Wylie FCPA, FCMA, ICD.D]
Auditor General

July 5, 2022
Edmonton, Alberta

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

STATEMENT OF OPERATIONS

Year ended March 31, 2022

| | 2022 | | 2021 |
|---|-----------------------|---------------------|---------------------|
| | Budget | Actual | Actual |
| Expenses - directly incurred (Note 2(b), 4 and schedule 2) | | | |
| Salaries, wages, and employee benefits | \$ 557,000 | \$ 510,311 | \$ 466,060 |
| Supplies and services | 473,000 | 463,130 | 445,680 |
| Program - operations | 1,030,000 | 973,441 | 911,740 |
| Cost of operations | \$ (1,030,000) | \$ (973,441) | \$ (911,740) |

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

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

STATEMENT OF FINANCIAL POSITION

As at March 31, 2022

| | <u>2022</u> | <u>2021</u> |
|--|--------------------|--------------------|
| Financial assets | | |
| Accounts receivable | \$ 3,345 | \$ - |
| | <u>3,345</u> | <u>-</u> |
| Liabilities | | |
| Accounts payable and other accrued liabilities | 29,226 | 25,004 |
| Accrued vacation pay | 45,322 | 32,878 |
| | <u>74,548</u> | <u>57,882</u> |
| Net debt | <u>(71,203)</u> | <u>(57,882)</u> |
| Non-financial assets | | |
| Tangible capital assets (Note 5) | - | - |
| Prepaid expenses | 530 | - |
| | <u>530</u> | <u>-</u> |
| Net liabilities | <u>\$ (70,673)</u> | <u>\$ (57,882)</u> |
| Net liabilities at beginning of year | \$ (57,882) | \$ (39,589) |
| Cost of operations | (973,441) | (911,740) |
| Net financing provided from General Revenues | 960,650 | 893,447 |
| Net liabilities at end of year | <u>\$ (70,673)</u> | <u>\$ (57,882)</u> |
| Contractual obligations (Note 8) | | |

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

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

STATEMENT OF CHANGE IN NET DEBT

Year Ended March 31, 2022

| | 2022 | | 2021 |
|--|----------------|--------------------|--------------------|
| | Budget | Actual | Actual |
| Cost of operations | \$ (1,030,000) | \$ (973,441) | \$ (911,740) |
| Increase in prepaid expenses | | (530) | - |
| Financing provided from General Revenues | | 960,650 | 893,447 |
| Increase in net debt | | \$ (13,321) | \$ (18,293) |
| Net debt at beginning of year | | (57,882) | (39,589) |
| Net debt at end of year | | <u>\$ (71,203)</u> | <u>\$ (57,882)</u> |

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

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

STATEMENT OF CASH FLOWS

Year ended March 31, 2022

| | <u>2022</u> | <u>2021</u> |
|--|------------------|------------------|
| Operating Transactions | | |
| Cost of operations | \$ (973,441) | \$ (911,740) |
| Non-cash items included in net operating results: | | |
| Valuation adjustment-increase | | |
| in vacation accrual | 12,444 | 2,910 |
| Increase in Accounts Receivable | (3,345) | |
| Increase in prepaid expenses | (530) | - |
| Increase in accounts payable and accrued liabilities | 4,222 | 15,383 |
| Cash applied to operating transactions | <u>(960,650)</u> | <u>(893,447)</u> |
| Financing Transactions | | |
| Financing provided from General Revenues | <u>960,650</u> | <u>893,447</u> |
| Change in cash | - | - |
| Cash at beginning of year | - | - |
| Cash at end of year | <u>\$ -</u> | <u>\$ -</u> |

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

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

Notes to the Financial Statements

Year ended March 31, 2022

NOTE 1 AUTHORITY AND PURPOSE

The Office of the Public Interest Commissioner (the Office) operates under the authority of the *Public Interest Disclosure (Whistleblower Protection) Act*.

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

NOTE 2 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.

As the Office does not have any transactions involving financial instruments that are classified in the fair value category, there is no statement of re-measurement gains and losses.

(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's annual operating budget is approved by the Standing Committee on Legislative Offices.

The cost of the operations of the Office is borne by the General Revenue Fund (the Fund) of the Province of Alberta which is administrated by the President of Treasury Board, Minister of Finance. All cash disbursements made by the Office are paid from the Fund

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

Notes to the Financial Statements (Cont'd)

Year ended March 31, 2022

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (Cont'd)

(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:

- pension costs, which comprise the cost of employer contributions for current service of employees during the year; and
- a valuation adjustment 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 related entities in support of the Office's operations are not recognized but disclosed in Schedule 2.

Financial Assets

Financial assets are assets that could be used to discharge existing liabilities or finance future operations and are not for consumption in the normal course of operations.

Financial assets are financial claims such as advances to and receivables from other organizations, employees, and other individuals.

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

Notes to the Financial Statements (Cont'd)

Year ended March 31, 2022

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (Cont'd)

(b) Basis of Financial Reporting (Cont'd)

Accounts Receivable

Accounts receivable are recognized at lower of cost or net recoverable value. A valuation allowance is recognized when recovery is uncertain.

Valuation of Liabilities

Fair value is the amount of consideration agreed upon in an arm's length transaction between knowledgeable and 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.

Liabilities

Liabilities are present obligations of the Office to external organizations and individuals arising from past transactions or events, the settlement of which is expected to result in the future sacrifice of economic benefits. They are recognized when there is an appropriate basis of measurement and management can reasonably estimate the amounts.

Non-Financial Assets

Non-Financial assets are acquired, constructed, or developed assets that do not normally provide resources to discharge existing liabilities, but instead:

- (a) are normally employed to deliver the Office's services;
- (b) may be consumed in the normal course of operations; and
- (c) are not for sale in the normal course of operations.

Non-financial assets of the Office are limited to tangible capital assets and prepaid expenses.

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

Notes to the Financial Statements (Cont'd)

Year ended March 31, 2022

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (Cont'd)

(b) Basis of Financial Reporting (Cont'd)

Non-Financial Assets (Cont'd)

Tangible Capital Assets

Tangible capital assets of the Office are recognized at historical cost and 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.

Prepaid Expenses

Prepaid expenses are recognized at cost and amortized based on the terms of agreement.

(c) Net Debt

Net debt indicates additional cash required from the Fund to finance the Office's cost of operations to March 31, 2022.

NOTE 3 FUTURE CHANGES IN ACCOUNTING STANDARDS

The Public Sector Accounting Board has approved the following accounting standard:

PS 3400 Revenue (effective April 1, 2023)

This standard provides guidance on how to account for and report on revenue, and specifically, it differentiates between revenue arising from exchange and non-exchange transactions.

The Office has not yet adopted this standard. Management is currently assessing the impact of this standard on the financial statements.

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

Notes to the Financial Statements (Cont'd)

Year ended March 31, 2022

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 (the “agreement”) for provision of shared services.

The Office of the Ombudsman’s employees provide general counsel, communications, and corporate (finance, human resources, information technology, administration) services to the Office of the Public Interest Commissioner. The salaries and benefits costs of these Ombudsman employees are allocated to the Office of the Public Interest Commissioner based on the percentage of time spent providing the shared services.

The agreement authorizes allocation of other office services (i.e., photocopier fees, etc.) paid by the Office of the Ombudsman to be allocated, on a usage basis, to the Office of the Public Interest Commissioner.

The shared services 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.

For 2021-22, the Office’s supplies and services expense for services provided by the Office of the Ombudsman was \$401,047 (2021-\$393,972).

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

Notes to the Financial Statements (Cont'd)

Year ended March 31, 2022

NOTE 5 TANGIBLE CAPITAL ASSETS

| | Computer Hardware | 2022 Total | 2021 Total |
|---|----------------------|---------------|---------------|
| Estimated Useful Life | 3 yrs | | |
| Historical Cost | | | |
| Beginning of year | \$ 5,833 | \$ 5,833 | \$ 5,833 |
| Additions | - | - | - |
| Disposals | (5,833) | (5,833) | - |
| | - | - | 5,833 |
| Accumulated Amortization | | | |
| Beginning of year | 5,833 | 5,833 | 5,833 |
| Amortization expense | - | - | - |
| Effect of disposals | (5,833) | (5,833) | - |
| | - | - | 5,833 |
| Net Book Value at March 31, 2022 | \$ - | \$ - | |
| Net Book Value at March 31, 2021 | \$ - | \$ - | |

NOTE 6 DEFINED BENEFIT PLANS (IN THOUSANDS)

The Office participates in the multi-employer Management Employees Pension Plan and Public Service Pension Plan. The Office also participates in the multi-employer Supplementary Retirement Plan for Public Service Managers. The expense for these pension plans is equivalent to the annual contributions of \$49 for the year ended March 31, 2021 (2021 - \$44).

At December 31, 2021, the Management Employees Pension Plan had a surplus of \$1,348,160 (2020 surplus \$809,850), the Public Service Pension Plan had a surplus of \$4,588,479 (2020 surplus \$2,223,582) and the Supplementary Retirement Plan for Public Service Managers had a deficit of \$20,982 (2020 deficit \$59,972).

The Office also participates in the multi-employer Long Term Disability Income Continuance Plan. At March 31, 2022, the Management, Opted Out and Excluded Plan reported a surplus of \$6,597 (2021 - surplus \$7,858). The expense for this plan is limited to the employer's annual contributions for the year.

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

Notes to the Financial Statements (Cont'd)

Year ended March 31, 2022

NOTE 7 BUDGET

The budget shown on the statement of operations is based on the budgeted expenses that the all-party Standing Committee on Legislative Offices approved on December 4, 2020. The following table compares the office's actual expenditures, excluding non-voted amounts such as amortization, to the approved budgets:

| | <u>Voted budget</u> | <u>Actual</u> | <u>Unexpended</u> |
|------------------------|---------------------|-------------------|-------------------|
| Operating expenditures | \$ 1,030,000 | \$ 973,441 | \$ 56,559 |
| Capital investment | - | - | - |
| | <u>\$ 1,030,000</u> | <u>\$ 973,441</u> | <u>\$ 56,559</u> |

NOTE 8 CONTRACTUAL OBLIGATIONS

Contractual obligations are obligations of the Office to others that will become liabilities in the future when the terms of those contracts or agreements are met.

| | <u>2022</u> | <u>2021</u> |
|---|-------------|-------------|
| Obligations under operating leases, contracts and programs | \$7,125 | \$17,400 |

Estimated payment requirements over the next two years are as follows:

| | <u>Operating leases, contracts, and programs</u> |
|---------|--|
| 2022-23 | \$5,700 |
| 2023-24 | <u>1,425</u> |
| | <u>\$7,125</u> |

NOTE 9 APPROVAL OF FINANCIAL STATEMENTS

These financial statements were approved by the Acting Public Interest Commissioner.

Schedule 1

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

Salary and Benefits Disclosure

Year Ended March 31, 2022

| | 2022 | | | 2021 | |
|---|-------------|------------------------------|----------------------------------|------------|------------|
| | Base Salary | Cash Benefits ⁽¹⁾ | Non-Cash Benefits ⁽²⁾ | Total | Total |
| Senior Official ^{(3) (4) (5)} Ombudsman / Public Interest Commissioner | \$ 240,945 | \$ 42,608 | \$ 9,716 | \$ 293,269 | \$ 292,287 |
| Executive ^{(4) (5)} Deputy Ombudsman / Deputy Public Interest Commissioner | \$ 161,564 | \$ - | \$ 31,327 | \$ 192,891 | \$ 192,319 |
| | \$ 402,509 | \$ 42,608 | \$ 41,043 | \$ 486,160 | \$ 484,606 |

- (1) Cash benefits are pension-in-lieu payments and vehicle allowance.
- (2) Non-cash benefits include the Office's share of all employee benefits and contributions or payments made on behalf of employees including pension plans, CPP/EI employer premiums, extended health care, dental coverage, group life insurance, long-term disability premiums, health spending account, parking and WCB premiums.
- (3) For 2021-22, the Ombudsman / Public Interest Commissioner was not provided an automobile and did not receive a taxable benefit on December 31, 2021 (2020-\$0).
- (4) The Senior Official is both the Ombudsman and the Public Interest Commissioner and the Executive is both the Deputy Ombudsman and the Deputy Public Interest Commissioner. These positions do not receive additional remuneration for their Public Interest Commissioner roles. This schedule represents 100% of total salary and benefits for the Senior Official and the Executive for fiscal years 2021-22 and 2020-21.
- (5) Note 4 on the Notes to the Financial Statements provides information regarding allocation of shared services costs for financial statement presentation.

OFFICE OF THE PUBLIC INTEREST COMMISSIONER

Allocated Costs

Year Ended March 31, 2022

| Program | 2022 | | | 2021 | |
|------------|-------------------------|------------------------------|----------------------------------|----------------|----------------|
| | Expenses ⁽¹⁾ | Accommodation ⁽²⁾ | Business Services ⁽³⁾ | Total Expenses | Total Expenses |
| Operations | \$ 973,441 | \$ 25,582 | \$ 62,000 | \$ 1,061,023 | \$ 943,506 |

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

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

(3) Business Services - costs include charges allocated by Service Alberta for finance services (accounts payable, pay and benefits), IT support, and 1GX - the financial and human resources system.



**PUBLIC INTEREST
COMMISSIONER**
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