**Analysis of Disclosure of Wrongdoing**

Analysis completed by: Click or tap here to enter text.

Date: Click or tap to enter a date.

Ref: Click or tap here to enter text.

**This form is used to assist with the analysis of disclosures of wrongdoing made by employees to a designated officer in accordance with section 9(a) of the *Public Interest Disclosure (Whistleblower Protection) Act* (the Act)**

**PART 1: Preliminary Considerations**

1. **Has the disclosure been made in writing?**

***Note:*** *A disclosure must be made in writing. A verbal conversation, or transcript of a phone call is not considered a disclosure of wrongdoing. If a written disclosure has not been received, the employee should be contacted to obtain the disclosure in writing.*

1. **Does the contents of the disclosure include, if known:**

[ ]  A description of the wrongdoing

[ ]  The name of the individual(s) alleged to have committed, or are about to commit the wrongdoing

[ ]  The date of the wrongdoing

[ ]  Any additional information reasonably required in order to investigate the matters

***Note:*** *If the details above are not provided in the written disclosure, further information should be obtained from the employee who made the disclosure. In some circumstances, an employee may not have all the details outlined in section 13 available to them. This does not preclude the matter from being investigated under the Act if sufficient information is provided that would permit the conduct of a fair and effective investigation.*

1. **Is the disclosure from an employee, or a non-employee?**

**Note:** *An organization is not precluded from dealing with complaints from non-employees under the Act. If a complaint is received from a non-employee consider whether the matter should be dealt with under another internal mechanism or whether it should be dealt with under the Act. The primary considerations are the severity of the alleged wrongdoing, and whether other employees involved in a potential investigation would benefit from the protection provisions of the Act. If the organization’s whistleblower policy does not allow for the investigation of disclosures made by non-employees, the complainant should be forwarded to the Public Interest Commissioner.*

 Following these preliminary considerations, proceed to **Part 2**.

**PART 2: Jurisdictional Assessment**

1. Is the wrongdoing alleged to have occurred within this organization*?* **YES**[ ]  **NO**[ ]
2. Has the alleged wrongdoing occurred post-enactment (June 2013)? **YES**[ ]  **NO**[ ]

*If either are* ***“NO”,*** *the disclosure is non-jurisdictional, and the case may be closed. If the disclosure is jurisdictional, proceed to* ***Part 3****.*

**PART 3: Imminent Risk Assessment**

Do you believe the matter could constitute an imminent risk of a substantial or specific danger to the life, health or safety of individuals, or to the environment?

|  |  |
| --- | --- |
| **YES**[ ]  | *You must disclose the matter:*1. *To an appropriate law enforcement agency*
2. *If it is a health-related matter, to the Chief Medical Officer of Health*
3. *To any other public entity responsible for managing, controlling or containing the risk, and*
4. *To the Public Interest Commissioner*

*You must suspend the investigation and may resume only after any charge relating to an offence or any investigation by a law enforcement agency or the Minister of Justice has been finally disposed of.*  |
| **NO**[ ]  | *Proceed to* ***Part 4****.* |

**PART 4: Offence Assessment**

Based on the disclosure, do you have reason to believe that an offence has been committed under an Act or regulation or under an Act or regulation of the Parliament of Canada (including the *Criminal Code)?*

|  |  |
| --- | --- |
| **YES**[ ]  | *You must, as soon as reasonably practicable, report the alleged offence:*1. *To a law enforcement agency of jurisdiction*
2. *To the Minister of Justice*

*You must suspend the investigation and may resume only after any charge relating to an offence or any investigation by a law enforcement agency or the Minister of Justice has been finally disposed of.*  |
| **NO**[ ]  | *Proceed to* ***Part 5****.* |

**PART 5: Analysis of alleged wrongdoing**

**GUIDANCE:**

In assessing disclosures of wrongdoing, designated officers must make a decision regarding whether an investigation is required. The organization’s procedures established under Section 5 of the Act for managing disclosures should be referred to for guidance. Designated officers may also consider other circumstances outlined in the Act, where the Public Interest Commissioner is not required to conduct an investigation.

**An investigation may not be required if any of the following circumstances apply:**

1. The subject‑matter of the disclosure could more appropriately be dealt with according to a procedure provided for under another Act or a regulation. (E.g. *Freedom of Information and Protection of Privacy Act)*
2. The disclosure relates to a matter that could more appropriately be dealt with according to the procedures under a collective agreement or employment agreement
3. The disclosure is frivolous or vexatious, or has not been made in good faith
4. The disclosure does not deal with a wrongdoing as **described in section 3 of the Act**
5. The disclosure relates to a decision, action or matter that results from a balanced and informed decision‑making process on a public policy or operational issue. (E.g. *A decision to discontinue a remote-work policy)*
6. The disclosure does not provide adequate particulars about the wrongdoing as required by section 13 to permit the conduct of a fair and effective investigation
7. More than 2 years has passed since the date that the wrongdoing was discovered (***Note:*** *this does not apply if the wrongdoing is ongoing*), or
8. There is another valid reason for not investigating the disclosure.

**Supplemental assessment for allegations relating to gross mismanagement of employees:**

Gross mismanagement of employees is described in the Act as a pattern of behaviour or conduct of a systemic nature indicating a problem in the culture of the organization relating to bullying, harassment or intimidation. The Act is not intended to address individual conduct-related incidents, or grievances between employees, or between management and an employee. All other internal mechanisms to address the bullying or conduct, including human resource processes and processes under a collective agreement, should be used or considered first. An investigation may not be required into an allegation of gross mismanagement of employees, if:

1. The allegation does not deal with wrongdoing described under the Act – it relates to an individual incident of bullying, harassment or intimidation, and not a pattern of behaviour or conduct of a systemic nature.
2. The allegation does not deal with wrongdoing described under the Act - the allegation relates to an individual grievance between employees or between management and an employee.
3. All internal mechanisms to address the bullying, harassment or intimidation have not been used or considered.

 (***Note:*** *An employee may have a valid reason why an internal mechanism may not be used. In this circumstance, consider whether an investigation under the Act may be required.)*

**PART 5: Analysis of alleged wrongdoing (continued)**

*The following detailed analysis tool is used to assess and record decisions on whether to investigate disclosures of wrongdoing. Each allegation should be assessed separately and on its own merit. If more than one allegation is made, use the “+” tab at the bottom of the graph to add additional sections.*

|  |
| --- |
| **Type of alleged wrongdoing:** Choose an item. |
| **Summary of allegation:**  |
|  |
| **Analysis:**  |
| **Is an investigation required?** **YES**[ ] **NO**[ ] Choose an item. |
|  |
| **[Press + to add new item]🡪** |

**PART 6: Is a referral to the Public Interest Commissioner required**

1. Does the subject matter of the disclosure relate to a member of executive leadership?**YES**[ ]  **NO**[ ]
2. Does the alleged wrongdoing relate to a systemic problem in the organization? **YES**[ ]  **NO**[ ]
3. Do issues of time, resources or expertise inhibit your ability to manage the disclosure? **YES**[ ]  **NO**[ ]
4. Could there be a perceived conflict of interest in managing the disclosure internally? **YES**[ ]  **NO**[ ]

***If “Yes” to any of above, consider referring the complainant to the office of the Public Interest Commissioner.***

**PART 7: Investigation Recommendation**

**Is an investigation required? YES**[ ]  **NO**[ ]

**If yes, identify issues of investigation:**

Click or tap here to enter text.