



**Public Interest
Commissioner**
of Alberta

Information for witnesses during public interest disclosure investigations

About Our Office

The Public Interest Commissioner (the Commissioner) is an independent Officer of the Alberta Legislature responsible for investigating disclosures of wrongdoing and complaints of reprisal made under the Public Interest Disclosure (Whistleblower Protection) Act (the Act).

The Commissioner investigates significant and serious matters within the public sector that an employee believes may be unlawful, dangerous to the public, or injurious to the public interest. The Act protects public service employees who come forward to report wrongdoing and who participate in investigations.

Frequently Asked Questions

Why am I being interviewed?

The Commissioner is investigating a matter, and you may have information that will help.

The Commissioner may require individuals to provide information that is needed to assist with any matter under investigation. Interviews are a common way of doing this and are conducted for a variety of purposes. This may include gaining a better understanding of an organization and its processes or allowing an individual to share their knowledge and observations about a particular issue. Depending on the circumstances, interviews may be conducted in-person, online or by phone. Alternatively, the investigator may ask for written responses to questions.

The investigator will provide you with additional context about the investigation and the specific information that is needed.

Will my identity be kept confidential?

Investigations are conducted discreetly and confidentially to afford you the ability to speak freely and outside the knowledge of others, including your employer.

The Act and the Commissioner's policies and procedures require that your identity be kept confidential, unless one of the following circumstances applies:

- Procedural fairness requires your identity to be revealed to allow the individual accused of wrongdoing to respond to any allegations made against them
- A decision of the Commissioner is reviewed by the courts
- Disclosure is otherwise required by law or a Court order

In any of these circumstances, our office will notify you in advance of such a disclosure. Although confidentiality cannot be guaranteed, the Act's reprisal protections are specifically intended to provide security from retaliation if a whistleblower's or witness's identity becomes known.

Information collected during investigations is not subject to the *Freedom of Information and Protection of Privacy Act* and cannot be obtained through an access to information request.

I have concerns that I will be retaliated against. How am I protected?

The Act protects you for providing information as part of the investigation.

It is an offence to retaliate against an employee who co-operates in an investigation by the Commissioner. Under the Act, "reprisal" refers to any measure that adversely affects the employment or working conditions of an employee taken because the employee participated in the investigation.

Individuals who commit a reprisal against an employee could be subject to prosecution, substantial monetary penalties, civil liability and other remedial action including termination of employment. The Act also provides a mechanism for remedies to persons who have suffered reprisal.

Allegations of reprisal are taken very seriously and are investigated by the Commissioner.

How do I prepare for the interview?

If any preparation is needed, you will be informed in advance of the interview. This may include reviewing certain documents to familiarize yourself with them. Otherwise, no preparation is needed.

Is the interview recorded?

The investigator will record the interview to ensure the information provided is captured accurately.

What is expected of me during the interview?

The Act requires that investigations be conducted as informally as possible. Interviews are therefore relaxed and conversational in nature.

The expectation is that you answer questions truthfully and as completely as possible. You may be cautioned at the beginning of the interview that knowingly withholding material information, or making a false or misleading statement, are offences under the Act.

It is understandable that, due to time passing or other factors, you may not recall certain events. It's important not to speculate and if you are unable to answer a question or do not have information to provide, to simply indicate so.

If you require any special accommodations for the interview, we ask that you let our office know in advance so that accommodations can be arranged.

Can I share confidential or privileged information?

The Act authorizes you to disclose any information requested by the Commissioner. This includes confidential information, financial information, personal information and individually identifying health information which, in other circumstances, may be protected through employee confidentiality agreements, non-disclosure agreements, or privacy laws. The Act is intended to address serious and significant wrongdoing and supercedes the confidentiality obligations placed on an individual by their employer.

However, the Act does not authorize sharing information or documents that are protected by solicitor-client privilege, litigation privilege, parliamentary privilege, or quality assurance records.

Can I have third-party representation?

You may request to have a representative present during an interview. This may be your lawyer or a union representative.

The role of a representative will be limited. A representative may ask questions and provide you advice; however, they may not answer questions on your behalf. Their involvement must also not interfere with or obstruct the interview. The Commissioner does not provide funding for legal support or reimburse legal fees.

You may also request to have a support person present during the interview, such as a friend or family member. A support person, however, may not participate in the interview.

If you would like to have a representative or support person present, please make this request to the investigator prior to your interview.

What happens after the interview?

We require that you do not discuss the investigation or interview with anyone else, including your colleagues. This is important to help protect your confidentiality and to preserve the integrity of the investigation.

We may ask for a follow-up interview to answer further questions, clarify information, or request records.

Will I know the outcome of the investigation?

It is not our practice to notify witnesses of the outcome of an investigation unless they are directly affected by the final decision.

At the conclusion of the investigation, the Commissioner provides a report to the head of the affected organization explaining the findings and any recommendations for corrective measures. The Commissioner also notifies the individual who reported the wrongdoing and any other persons directly affected by the outcome of the investigation.

Should wrongdoing be found, changes may occur in the affected organization resulting from the Commissioner's recommendations. The head of the organization may choose to share the outcome of the investigation to give effect to corrective measures.

In some circumstances, the Commissioner may choose to make a public report on a matter if it is believed to be in the public interest. The identities of witnesses or whistleblowers are not disclosed in any public reporting by the Commissioner.

Need more information? Contact the office of the Public Interest Commissioner at 780-641-8659 or info@pic.alberta.ca