



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 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 employees who come forward to report wrongdoing and participate in investigations.

Frequently Asked Questions

Why am I being interviewed?

The Commissioner is investigating a disclosure of wrongdoing or complaint of reprisal 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 provide a better understanding of an organization, its processes, and allow an individual to share their knowledge and observations about a particular issue.

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

- Procedural fairness may require your identity be revealed if it is necessary for the alleged wrongdoer to be able to adequately respond to the allegations.
- Records that reveal your identity may be disclosed if a decision of the Commissioner is reviewed by the courts (judicial review).
- Disclosure is otherwise required by law or a court order.

In any of these circumstances, the Commissioner's office will notify you in advance of such a disclosure. Although confidentiality cannot be guaranteed, the Act is intended to protect the identities of whistleblowers, witnesses, and alleged wrongdoers.

Information collected during investigations by the Commissioner is not subject to the *Access to Information Act* and cannot be obtained through an access to information request.

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

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

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

It is an offence to retaliate against an employee who cooperates in an investigation by the Commissioner. Under the Act, "reprisal" is any measure taken that adversely affects the employment or working conditions of an employee as the result of them cooperating in the Commissioner's 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 provides a mechanism for remedies through the Alberta Labour Relations Board to persons who have suffered reprisal.

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 your interview to ensure that the information you provide 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 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 is important that you do not speculate when answering questions, and if you are unable to answer the question or do not have information to provide, to simply say 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 by privacy laws.

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 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.

Can I discuss this matter with others?

It is imperative that the matter be kept confidential to protect your identity, avoid unjustified reputational harm, and to preserve the integrity of the investigation. For these reasons, you should not discuss the matter with colleagues or others not involved with the matter, except to obtain legal advice or support.

If you wish to speak with someone internal to your organization, you may seek information or advice from your designated officer.

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 will notify the individual who reported the wrongdoing and any others directly affected by the outcome of the investigation.

If wrongdoing is found in your organization, you may see changes resulting from the Commissioner's recommendations. The head of your 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 in the public interest. The identities of witnesses and whistleblowers are not disclosed in any public reporting by the Commissioner.