

The Public Interest Disclosure (Whistleblower Protection) Act

What Employees of the Public Service Need to Know About Protection from Reprisal

1. Preamble

The Manitoba government is committed to maintaining high standards of professional values and ethics in responding to the public service needs of Manitobans. Elected officials, senior management and employees share a common interest in ensuring the public sector operates within an environment of integrity, accountability and trust.

To build on protections already in place under other Manitoba laws, as well as existing provincial practices and processes, *The Public Interest Disclosure (Whistleblower Protection) Act* has been passed into law. This new law gives employees and others a clear process for disclosing concerns about significant and serious wrongdoing in the Manitoba public service and provides protection from reprisal.

This fact sheet provides information for any employee in the Manitoba public service who wants to know how the new law protects them if they make, or are considering making, a disclosure of wrongdoing.

The new law is not intended to deal with routine operational or human resource matters. Employees who have concerns about such matters should follow existing procedures to deal with these issues. (See **3. What is “wrongdoing” under the new law?** for additional information.)

2. Am I an employee in the Manitoba public service under the new law?

The new law applies to employees and officers at all levels of provincial departments, Offices of the Legislative Assembly and government bodies. These bodies include government agencies, regional health authorities, child and family services authorities and agencies, and any other government body that has been included by a regulation under the new law.

3. What is “wrongdoing” under the new law?

The following are wrongdoings under the new law:

- an act or omission that is an offence under an Act or regulation (breaking the law);
- an act or omission that creates a substantial and specific danger to the life, health or safety of persons or the environment (not including dangers that are normally part of an employee’s job);
- gross mismanagement, including mismanaging public funds or a public asset (government property); and
- knowingly directing or advising someone to commit any wrongdoing described above.

An employee who commits a wrongdoing may be disciplined appropriately up to and including dismissal, in addition to and separate from any penalty provided for by law.

4. How do I know if it’s wrongdoing under the new law?

An employee who is considering making a disclosure may request advice from the designated officer or the Manitoba Ombudsman. The designated officer or Ombudsman may require the request for advice to be in writing.

5. What is a reprisal?

Under the new law, "reprisal" means any of the following measures taken against an employee:

- a disciplinary measure;
- a demotion;
- termination of employment (being fired);
- any measure that adversely affects employment or working conditions;
- a threat to take any of the above measures.

6. How does the new law protect me from reprisals?

It is an offence, punishable by a fine of up to \$10,000, for any person to take a reprisal against an employee, or direct that one be taken against an employee, because the employee has, in good faith:

- sought advice about making a disclosure (See **4. How do I know if it's wrongdoing under the new law?**);
- made a disclosure; or
- co-operated in an investigation under the new law.

Any employee or officer in the Manitoba public service may file a written complaint with the Manitoba Labour Board if they believe reprisal action has been taken.

7. If I believe a reprisal has been taken against me, what can I do?

An employee or officer in the Manitoba public service may file a written complaint with the Manitoba Labour Board if he or she believes a reprisal has been taken.

8. What is the process to make a disclosure?

Every provincial department, Office of the Legislative Assembly or government body under the new law must designate a senior official ("designated officer") to deal with disclosures.

An employee may make a disclosure to the employee's supervisor or designated officer, or to the Manitoba Ombudsman, if the employee reasonably believes that he or she has information that could show a wrongdoing has been committed or is about to be committed. An employee of the Ombudsman's office may make a disclosure to the Auditor General.

A disclosure must be in writing and include specific details about the wrongdoing that has been, or is about to be, committed.

Anonymous disclosures and any other disclosures that do not meet the requirements of the new law are not protected.

For additional information on the disclosure process, see the fact sheet titled **What Employees of the Public Service Need to Know About the Disclosure Process**.

For information on requirements for public disclosures, see the fact sheet titled **What Employees of the Public Service Need to Know About Making a Disclosure**.

9. Will my identity be protected?

The identity of a disclosing employee and others involved in the disclosure process, as well as the confidentiality of any information collected, will be protected to the fullest extent possible. Any investigation of a disclosure of wrongdoing under the new law must also ensure that the principles of procedural fairness and natural justice are observed.

All supervisors, designated officers and employees, including disclosing employees, are responsible for maintaining confidentiality.

For more information about The Public Interest Disclosure (Whistleblower Protection) Act, visit the Civil Service Commission's website at www.gov.mb.ca/csc.