



# Policy on Complaints of Reprisal Arising from Harassment or Workplace Grievances

Application of Subsection 2(1) and Section 8) of the *Public Servants Disclosure Protection Act*

## 1 Application

This policy applies to the Public Sector Integrity Commissioner and to all employees of the Office of the Public Sector Integrity Commissioner of Canada (the Office).

## 2 Context

The *Public Servants Disclosure Protection Act* (the Act) protects federal public servants from reprisal for having made a protected disclosure of wrongdoing, or having cooperated in an investigation into a disclosure, as intended under the Act.

The Federal Court of Canada has held that the Act is intended to address wrongdoing “of an order of magnitude that could shake public confidence if not reported and corrected” and that poses a “serious threat to the integrity” of the federal public sector.

In determining whether a federal public servant has made a protected disclosure of wrongdoing under the Act, the Commissioner will consider the Act’s purpose and intent.

## 3 Definitions

For definitions to be used in the interpretation of this policy refer to Appendix A.

## 4 Policy Statement

### 4.1 Objective

The objectives of this policy are to:

- Support greater consistency in the decision-making process within the Office by bringing clarity in the application of [subsection 2\(1\)](#) and [section 8](#) of the Act—specifically, by clarifying the nature of wrongdoing that the Act is concerned with and the types of disclosures that are protected under the Act; and,
- Increase transparency around the Office’s decision-making process.

### 4.2 Expected results

The expected results of this policy are:

- A more efficient process for dealing with complaints of reprisal; and,
- A decision-making process that is clear, transparent, consistent and fair.

## 5 Policy Requirements

In determining whether a complainant’s disclosure of information concerning harassment or a workplace grievance is protected under the Act, the following factors will be taken into consideration:

- Whether the subject matter of the disclosure could seriously impact the public’s confidence in the integrity of the federal public sector; or
- Whether the subject matter of the disclosure primarily concerns a personal matter, such as an individual harassment complaint or an individual workplace grievance.

## 6 References

### 6.1 Legislation

- *Financial Administration Act*
- *Public Servants Disclosure Protection Act*

### 6.2 Related Policy Instruments and Publications

- *Intake, Inquiries & Investigations Manual of the Public Sector Integrity Commissioner of Canada*
- [Factors for Determining Wrongdoing: Gross Mismanagement](#)
- [Factors for Determining Wrongdoing: Serious Breach of a Code of Conduct](#)

## 7 Enquiries

Enquiries about this policy should be directed to the Office of the Public Sector Integrity Commissioner of Canada.

[www.psic-ispcc.gc.ca](http://www.psic-ispcc.gc.ca)

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## Appendix A – Definitions

For the purpose of this policy and in accordance with the *Public Servants Disclosure Protection Act* (the Act), the following definitions apply:

### **Complaint**

Means a reprisal complaint filed by a federal public servant or a former federal public servant in a form acceptable to the Public Sector Integrity Commissioner in accordance with section 19.1(1) of the Act.

### **Protected disclosure of wrongdoing**

Means a disclosure that is made in good faith and that is made by a public servant (a) in accordance with this Act; (b) in the course of a parliamentary proceeding; (c) in the course of a procedure established under any other Act of Parliament; or (d) when lawfully required to do so.

### **Public sector**

Means (a) the departments named in Schedule I to the *Financial Administration Act* and the other portions of the federal public administration named in Schedules I.1 to V to that Act; and (b) the Crown corporations and the other public bodies set out in Schedule 1. However, subject to sections 52 and 53, public sector does not include the Canadian Forces, the Canadian Security Intelligence Service or the Communications Security Establishment.

### **Public servant**

Means every person employed in the public sector, every member of the Royal Canadian Mounted Police and every chief executive.

## **Reprisal**

Means any of the following measures taken against a public servant because the public servant has made a protected disclosure or has, in good faith, cooperated in an investigation into a disclosure or an investigation commenced under section 33: (a) a disciplinary measure; (b) the demotion of the public servant; (c) the termination of employment of the public servant, including, in the case of a member of the Royal Canadian Mounted Police, a discharge or dismissal; (d) any measure that adversely affects the employment or working conditions of the public servant; and (e) a threat to take any of the measures referred to in any of paragraphs (a) to (d).

## **Wrongdoing**

Means a wrongdoing referred to in section 8 of the *Public Servants Disclosure Protection Act*. Section 8 states that this Act applies in respect of the following wrongdoings in or relating to the public sector: (a) a contravention of any Act of Parliament or of the legislature of a province, or of any regulations made under any such Act, other than a contravention of section 19 of this Act; (b) a misuse of public funds or a public asset; (c) a gross mismanagement in the public sector; (d) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of a public servant; (e) a serious breach of a code of conduct established under section 5 or 6; and (f) knowingly directing or counselling a person to commit a wrongdoing set out in any of paragraphs (a) to (e).