



Guide to Organizational Public Reporting Obligations under the *Public Servants Disclosure Protection Act*

Introduction

The *Public Servants Disclosure Protection Act* (PSDPA) requires a variety of public reports. The following people are required to report publicly:

- chief executives of the public sector organizations governed by the Act;
- the Minister responsible for the Canada Public Service Agency (CPSA); and
- the Public Sector Integrity Commissioner (PSIC).

This guide is intended to assist organizations in preparing the public reports required by the Act, by describing these obligations.

Public Reporting Requirements for Chief Executives

If a disclosure to a supervisor or the senior officer leads to a finding of wrongdoing, the chief executive of the organization must promptly:

- provide public access to information that describes the wrongdoing;
- indicate any recommendations that result from the finding of wrongdoing;
- report on any corrective action taken as a result of the wrongdoing, or explain why no corrective action was taken.

Reporting this information is in addition to the annual requirement to report to CPSA on activity under the Act, as described below.

In describing the wrongdoing, the Act allows that, if not otherwise restricted by any other statute, chief executives may include information that might identify the person who committed the wrongdoing, only if required to describe the wrongdoing adequately. In those cases where it is not necessary to identify the wrongdoer, caution must be taken not to identify them inadvertently through other facts provided, such as by publication of their job title.

The Act does not specify the means of "public access" that chief executives must offer regarding a finding of wrongdoing, but the text of the Act suggests that the information should be made available in a form that a member of the public could find if making reasonable efforts to find it. Making the information available only on request, via the provisions of the *Access to Information Act*,

would not suffice, since it requires a formal request for the information to be released. Moreover, the Act specifies that information must be made available promptly. Reporting any founded wrongdoing should be proactive, for example, by:

- publishing the information on a web site; or
- including the information in another document produced by the organization, provided that the other document satisfies the requirement to report promptly.

Another consideration for chief executives is the Act's provision that any wrongdoing found "as a result of a disclosure" must also be reported publicly. This means that any wrongdoing not described in the initial disclosure, but uncovered through the investigation, must also be reported.

Other Obligations Related to Reporting

Senior Officers should be aware of the reporting obligations of chief executives, and provide sufficient information regarding founded cases of wrongdoing to allow their chief executives to meet the reporting requirements under the Act.

Similarly, supervisors should be aware of the reporting required of their chief executives under the Act. They should also provide sufficient information regarding founded cases of wrongdoing to their chief executives, via the Senior Officer, for those reporting requirements to be satisfied, and to meet the reporting requirements to CPSA described below.

Public Reporting Requirements for CPSA

Within 60 days of the end of each fiscal year, chief executives must submit a report to CPSA with respect to all disclosures made to supervisors or Senior Officers in their organization. Subsequently, within six months of the end of each fiscal year, and based on the reports from chief executives, the President of CPSA will submit a report to the Minister responsible for CPSA (the President of the Treasury Board) indicating:

- the number of enquiries received related to the Act;
- the number of disclosures received under the Act and whether they were acted upon;
- the number of investigations commenced;
- whether any systemic problems were found that lead to wrongdoing; and
- any other matter deemed necessary by the President of CPSA.

The Minister must then promptly table the report in each House of Parliament.

Public Reporting Requirements for the PSIC

Annual Report of the PSIC

Within three (3) months of the end of the fiscal year, the PSIC is required to prepare a report to Parliament on his or her activities, which will contain:

- the number of enquiries received related to the Act;
- information about the numbers and outcomes of disclosures of wrongdoing and reprisal complaints;
- the numbers of investigations commenced, recommendations made, and status of same;
- with respect to reprisal complaints, the numbers of settlements, applications to the Tribunal, and dismissed complaints;
- a report of any systemic problems found that lead to wrongdoings;
- recommendations for improvement; and
- any other matter deemed necessary by the PSIC.

Special Reports

The PSIC may also prepare and submit special reports to Parliament at any time, on any matter he or she deems to be of sufficient importance or urgency that informing Parliament should not be deferred until the next annual report.

Reports of Founded Cases of Wrongdoing

If, as a result of investigating a disclosure made under the Act, the PSIC determines that there was a wrongdoing, the PSIC will report this to the chief executive of the organization in which the wrongdoing occurred. Within 60 days, the PSIC will also submit a report of the founded case of wrongdoing to the Speaker of the Senate and the Speaker of the House of Commons, for prompt tabling in each House of Parliament. This report will include:

- the finding of wrongdoing;
- any recommendations made to the chief executive (including any deadlines for responding to these recommendations);
- any comments regarding the chief executive's response to the finding of wrongdoing; and
- the chief executive's comments, as submitted in writing to the PSIC, if any.

Further Considerations

As the Act is implemented, jurisprudence and best practices will be developed with regard to public reporting. This document will be updated accordingly.

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