Whistleblowing Policy



HR managers *in any part of the country can adapt this Model Policy for use at their own workplace.*

1. **Policy objective**

To allow employees to bring forward information concerning wrongdoing, and to ensure that they are treated fairly and are protected from reprisal when they do so in a manner consistent with this policy.

2. **Definitions**

Disclosure *(divulgation)* – is defined as information raised within the organization in good faith, based on reasonable belief, by one or more employees concerning a wrongdoing that someone has committed or intends to commit.

Duty of loyalty *(devoir de loyauté)* – refers to the commitment of employees to fulfil their duties faithfully and honestly and not to disclose confidential information unless authorized to do so.

Responsible use of information *(*utilisation *responsable d'information)* – is defined as use of information that:

- shows proper concern for its accuracy and for the legitimacy of how the information is acquired; and
- shows proper concern for its protection and authorised disclosure in accordance with the Go*vernment Security Policy* and other relevant policies that exist or may be adopted.

Wrongdoing *(actes fautifs)* – is defined as an act or omission concerning:

1. a violation of any law or regulation; or
2. a breach of the *Values and Ethics Code for the Public Service*; or
3. misuse of public funds or assets; or
4. gross mismanagement; or
5. a substantial and specific danger to the life, health and safety of Canadians or the environment.

3. **Application**

This policy applies to all departments and organizations of the Public Service listed in Part I, Schedule I, of the *Public* Service *Staff Relations Act*.

4. **Responsibility and authority**

The primary responsibility and authority for applying this policy rests with the deputy head.

Policy requirements

- **Responsibilities of Deputy Heads**

Deputy heads must:

1. ensure that employees understand the requirement to use government information responsibly;
2. promote a culture of open communication within their organisations where issues and concerns can easily be dealt with in the normal interaction between employees and their managers;
3. establish internal mechanisms to manage the disclosure of wrongdoing, including – at a minimum – a designated Senior Officer, who will be responsible for receiving and acting on such disclosures. This Senior Officer will report directly to the deputy head on matters related to this policy but could report to another manager for administrative purposes and could be involved in other responsibilities within the organization.

(**Note:** Departments which already have in place internal mechanisms to administer the disclosure of wrongdoing should ensure that they do meet the requirements of this policy while others might want to take additional measures to respond to their specific mandate or organisational requirements.);

4. inform all employees of this policy, including the name, location and phone number of the Senior Officer who will be responsible for receiving and acting on disclosures;
5. ensure that disclosures are reviewed in a timely fashion and investigated when required, and that prompt, appropriate action is taken to correct the situation; and
6. protect from reprisal the employees who disclose wrongdoing in good faith.

- **Responsibilities of Employees**

Employees are responsible for:

1. using government information responsibly and in good faith in accordance with their duty of loyalty;
2. following the internal processes established to raise instances of wrongdoing in the workplace; and
3. respecting the reputation of individuals by not making trivial or vexatious disclosures of wrongdoing or, by making disclosures in bad faith.

Employees should also be aware of their responsibilities under the various policies and laws, for example the *Criminal Code*, the *Government Security Policy*, the *Values and Ethics Code for the Public Service*, the *Conflict of Interest and Post-Employment Code for the Public Service*, the *Policy on Losses of Money and Offences and Other Illegal Acts Against the Crown*.

- **Responsibilities of Managers**

Managers are responsible for:

1. informing their employees of this policy;
2. ensuring that their employees understand the requirement to use government information responsibly;
3. ensuring that their employees are aware of the processes available to them if they wish to disclose information concerning wrongdoing under this policy;
4. promoting openness in their interaction with employees;
5. acting promptly when information concerning wrongdoing is brought to their attention; and
6. protecting from reprisal the employees who disclose wrongdoing in good faith.

5. **Responsibilities of the Senior Officer**

The Senior Officer shall be responsible for:

1. disseminating information on this policy, providing interpretation and related advice;
2. receiving, recording and reviewing disclosures of information concerning wrongdoing, establishing if there are sufficient grounds for further action and;
3. ensuring that prompt action is taken in all cases;
4. ensuring that procedures are in place to manage disclosures that require immediate or urgent action;
5. initiating investigations when required, reviewing and reporting the results of the investigations and making recommendations to the deputy head;
6. ensuring that the privacy rights of both parties, the employees making the disclosure and the employees implicated or alleged to be responsible for the wrongdoing, are respected;
7. establishing adequate procedures to ensure that the protection of the information and the treatment of the files are in accordance with the*Privacy Act* and *the Access to Information Act*;
8. maintaining information on the number of disclosures received, rejected, accepted; completed without investigation, of disclosures investigated; of disclosures still under consideration or investigation; and
9. preparing an annual report to the deputy head.

As a minimum, the annual report should cover the number of general inquiries and advice; the number of disclosures received from employees and their status (e.g. rejected, accepted, completed without investigations, still under consideration); the number of disclosures investigated, completed, still under consideration.

Refer to Appendix A for information on the Internal Disclosure and Resolution Process.

- 01 **Responsibilities of the Office of Values and Ethics of the Treasury Board Secretariat**

The Office of Values and Ethics will:

1. provide policy support and interpretation to deputy heads and departmental Senior Officers;
2. provide advice and assistance to the departmental Senior Officers on the handling of disclosures of information concerning wrongdoing, as required; and
3. review the efficiency of mechanisms established in departments for the internal

disclosure of information concerning wrongdoing.

- **Responsibilities of the Public Service Integrity Officer**

The mandate of the Public Service Integrity Officer is to act as a neutral entity on matters of internal disclosure of wrongdoing. In particular, he or she assists employees who:

- believe that their issue cannot be disclosed within their own department; or
- raised their disclosure issue(s) in good faith through the departmental mechanisms but believe that the disclosure was not appropriately addressed.

As such, the responsibilities of the Public Service Integrity Officer are:

1. to provide advice to employees who are considering making a disclosure;
2. to receive, record and review the disclosures of wrongdoing received from departmental employees and/or the requests for review submitted from departmental employees;
3. to establish if there are sufficient grounds for further action and review;
4. to ensure that procedures are in place to manage instances of wrongdoing that require immediate or urgent action;
5. to initiate investigation when required, to review the results of investigations and to prepare reports, and to make recommendations to deputy heads on how to address or correct the disclosure;
6. in some special cases or in cases when the departmental responses are not adequate or timely, to make a report of findings to the Clerk of the Privy Council in his role as head of the Public Service;
7. to establish adequate procedures to ensure that the protection of the information and the treatment of the files are in accordance with the *Privacy Act* and the*Access to Information Act*;
8. to protect from reprisal employees who disclose information concerning wrongdoing in good faith;
9. to monitor the type and disposition of cases brought to the attention of the Public Service Integrity Officer; and
10. to prepare an annual report to the President of the Privy Council on his or her activities for tabling in Parliament.

As a minimum, the annual report should cover the number of general inquiries and advice; the number of disclosures received directly from departmental employees and their status (e.g. rejected, accepted, completed without investigation, still under consideration); the number of disclosures investigated, completed, still under consideration. The same data would be provided in relation to requests for review. The report could include an analysis of the categories of disclosures and recommendations to improve the processes.

See Appendix B for information on the Public Service Integrity Officer Disclosure and Review Process.

- **Administrative and disciplinary measures**

In respect to the application of this policy, employees and managers may be subject to administrative and disciplinary measures up to and including termination of employment, when they:

1. retaliate against another employee who has made a disclosure in accordance with this policy or against an employee who was called as a witness; and/or
2. choose to disclose in a manner that does not conform to this policy and its procedural requirements.

Any administrative or disciplinary measures are to be taken in consultation with departmental Human Resources Services and Legal Services.

- **Protection from reprisal**

Except in circumstances stated directly above, no employee shall be subject to any reprisal for having made a good faith disclosure in accordance with this policy, or in the course of a parliamentary proceeding or an inquiry under Part I of the *Inquiries Act* related to the 2003 Report of the Auditor General of Canada. This includes employees who may have been called as witnesses. Reprisal may include any administrative and disciplinary measures.

Employees who believe they are subject to reprisal as a direct consequence of having made a disclosure in accordance with this policy may complain to the Senior Officer or to the Public Service Integrity Officer in the case where the original disclosure was made directly to the Public Service Integrity Officer. The Senior Officer or the Public Service Integrity Officer will review the matter following basically the same process as a disclosure (see Appendix A or B). Employees may also resort to other existing redress procedures , for example those under the *Public Service Staff Relations Act* and the Treasury Board *Policy on the Prevention and Resolution of Harassment in the Workplace*.

- **Confidentiality**

Confidentiality, within the intent of this policy, is subject to the provisions of the *Privacy Act* and *Access to Information Act*. The Senior Officer and the Public Service Integrity Officer will explain the parameters of confidentiality employees can expect when they make a disclosure. The Senior Officer and the Public Service Integrity Officer are also available to provide information on the policy and to give informal advice to assist employees who are considering making a disclosure. Employees should feel free to consult them in confidence.

Disclosure of any information concerning criminal activity or action should be referred to proper authorities for investigation in accordance with the *Policy on Losses of Money and Offences and Other Illegal Acts Against the* Crown. Confidentiality in such circumstances will be subject to the applicable regime.

- **Monitoring**

The Office of Values and Ethics will verify that all departments and organizations have in place, on the effective date of this policy, internal disclosure mechanisms.

Treasury Board Secretariat, departments and organizations will work together to monitor the activities and the results in achieving the objectives of this policy.