

SECTION 7

EMPLOYEE RELATIONS

7.06 PUBLIC INTEREST DISCLOSURE AND WHISTLEBLOWER PROTECTION POLICY

AUTHORITY: EXECUTIVE COUNCIL (EC#2026-388)

ADMINISTRATION: PUBLIC INTEREST DISCLOSURE COMMISSIONER

Sub-section 7.06 Public Interest Disclosure and Whistleblower Protection Policy	Date: 16 October 2026	Page 1 of 6
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1. PURPOSE

- 1.01 The Government of Prince Edward Island is committed to open, ethical, accountable and transparent government.
- 1.02 It is in the public interest to maintain and enhance public confidence in the Provincial Government and its employees, by providing for the disclosure of wrongdoing with respect to government operations.
- 1.03 This policy provides a procedure for reporting wrongdoing as well as protection from reprisal for all employees who, in good faith, report wrongdoing.

2. PRINCIPLES

- 2.01 Employees are expected to act with integrity as they apply judgment and discretion in the course of their employment. They are expected to use government property, services and resources responsibly in the execution of their duties.
- 2.02 The Conflict of Interest Policy and the Fraud Awareness and Reporting Policy provide guidance and mechanisms for employees to report suspected misuses or misappropriation of resources and assets. The effectiveness of any prevention program is dependent on employees being able to report suspected cases of wrongdoing without fear of reprisal for doing so.

3. APPLICATION

- 3.01 This policy applies to employees of entities listed in the schedules to the *Financial Administration Act*, with the exception of the Legislative Assembly, the Office of the Auditor General, the Island Regulatory and Appeals Commission and the Human Rights Commission.

Sub-section 7.06 Public Interest Disclosure and Whistleblower Protection Policy	Date: 16 October 2026	Page 2 of 6
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4. DEFINITIONS

- 4.01 **Commissioner** - means the Public Interest Disclosure Commissioner.
- 4.02 **Complaint** - means a complaint respecting an alleged reprisal, made in accordance with section 19 of the *Public Interest Disclosure and Whistleblower Protection Act*.
- 4.03 **Conflict of Interest** - Conflict of Interest is defined in the Conflict of Interest Guidelines in Human Resource policy 5.03.
- 4.04 **Disclosure** – means a disclosure of information respecting alleged wrongdoing made in accordance with section 9 of the *Public Interest Disclosure and Whistleblower Protection Act*.
- 4.05 **Reprisal** – means any measure taken, directed or threatened against an employee because the employee has, in good faith, sought advice about making a disclosure, made a disclosure or participated in an investigation of a disclosure, or is suspected of doing any of those things, where the measure adversely affects or would adversely affect the employee's employment, including a dismissal, layoff, suspension, demotion, transfer, reprimand, discontinuation or elimination of position, change of employment location or hours of work, or reduction in wages.
- 4.06 **Wrongdoing** – means any of the following conduct in or in relation to a public entity:
- (a) the contravention of an enactment or an Act of the Parliament of Canada or any regulations made pursuant to it,
 - (b) the gross mismanagement of public funds or government assets,
 - (c) an act or omission that creates a substantial and specific danger to the life, health or safety of persons or the environment,
 - (d) a direction or counsel to others to engage in conduct described in subclause (a), (b) or (c).

Sub-section 7.06 Public Interest Disclosure and Whistleblower Protection Policy	Date: 16 October 2026	Page 3 of 6
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5. REPORTING AND INVESTIGATION

- 5.01 An employee who reasonably believes that they have information indicating that a person has committed wrongdoing or is about to commit wrongdoing may make a disclosure in writing, in the form required by the Commissioner, to the employee's supervisor, deputy head, or the Commissioner.
- 5.02. An employee who is considering making a complaint may request confidential advice from the Commissioner.
- 5.03 The identities of the following persons shall be kept confidential, subject to the principles of natural justice and the proper conduct of an investigation respecting a complaint:
- (a) an employee who makes a disclosure or complaint of reprisal;
 - (b) a person alleged to have committed or be about to commit a wrongdoing;
 - (c) a person alleged to have taken or directed, or counselled another person to take or direct, a reprisal against the employee;
 - (d) a witness or any other person involved in the investigation of a complaint.
- 5.04 The disclosure shall be in writing [Form 1- Disclosure of Wrongdoing or Form 2- Report of a Reprisal] and shall include the following information:
- (a) the name of the person or persons alleged to have committed or be about to commit wrongdoing;
 - (b) a description of the alleged wrongdoing, including the date on which it is alleged to have occurred or is expected to occur;
 - (c) whether the employee has made a previous disclosure about the same matter and, if so, a copy of the disclosure and any documents related to it;
 - (d) the contact information and signature of the employee making the disclosure;
 - (e) any other information required by the regulations.

Sub-section 7.06 Public Interest Disclosure and Whistleblower Protection Policy	Date: 16 October 2026	Page 4 of 6
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- 5.05 The deputy head or Commissioner may request, and the employee who made the complaint shall provide, any additional information available to the employee that may reasonably be required to investigate the complaint.
- 5.06 If a disclosure is made to the deputy head or referred to the deputy head for investigation by the commissioner, the deputy head:
- (a) shall review the disclosure to determine whether to proceed with an investigation or not;
 - (b) may refer the disclosure to the Commissioner if, in the opinion of the deputy head, it would be inappropriate for the deputy head to manage or investigate the disclosure;
 - (c) in a case where a disclosure is not referred to the Commissioner, has a duty to report to the Commissioner the nature of the disclosure and whether the deputy head intends to conduct an investigation;
 - (d) may conduct an investigation of the disclosure in accordance with the principles of natural justice;
 - (e) where applicable, shall complete investigation and provide a report after 120 days of receipt.
- 5.07 Where a disclosure is made to the Commissioner or referred to the Commissioner by a deputy head, the Commissioner:
- (a) shall investigate the disclosure or refer it to the deputy head of the public entity to which the disclosure relates for investigation; and
 - (b) may take any steps the Commissioner considers appropriate to help resolve the matter within the public entity to which the disclosure relates.
- 5.08 The Commissioner is not required to investigate a disclosure or refer it to the deputy head of the public entity to which the disclosure relates for investigation, or continue to investigate a disclosure, if:
- (a) more than one year has passed since the employee who made the disclosure discovered the information respecting the alleged wrongdoing;
 - or
 - (b) in the opinion of the Commissioner,

Sub-section 7.06 Public Interest Disclosure and Whistleblower Protection Policy	Date: 16 October 2026	Page 5 of 6
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- (i) the disclosure does not contain adequate particulars about the alleged wrongdoing to enable the conduct of a fair and effective investigation;
- (ii) the disclosure relates to a matter that could be dealt with more appropriately according to the procedures under a collective agreement or employment contract, or another Act, regulation or policy;
- (iii) the disclosure is frivolous or vexatious, has not been made in good faith, concerns a trivial matter or is not about wrongdoing;
- (iv) the disclosure relates to conduct resulting from a balanced and informed decision-making process on a public policy or operational issue; or
- (v) the circumstances of the matter do not warrant investigation.

- 5.09 If the deputy head or Commissioner decides not to investigate or ceases an investigation, the deputy head or Commissioner shall notify the employee who made the disclosure and, in the case of the Commissioner, the deputy head of the public entity to which the disclosure relates and give reasons for the decision or action, in writing.
- 5.10 On completing an investigation respecting a disclosure, the deputy head or Commissioner shall:
- (a) prepare a report in writing that sets out the deputy head or Commissioner's findings and reasons for those findings, and any recommendations that the deputy head or Commissioner considers appropriate respecting the disclosure and any wrongdoing committed or about to be committed;
 - (b) in the case of the deputy head, provide a copy of the report to the commissioner including any steps that have been taken or will be taken within the public entity in response to recommendations of the deputy head;
 - (c) in the case of the Commissioner, provide a copy of the report to the deputy head of the public entity to which the report relates; and
 - (d) notify the employee who made the disclosure that a report has been prepared and provided in accordance with clauses (a) and (b) and provide

Sub-section 7.06 Public Interest Disclosure and Whistleblower Protection Policy	Date: 16 October 2026	Page 6 of 6
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the employee with any information respecting the report that the deputy head or Commissioner considers appropriate in the circumstances.

- 5.11 Where the Commissioner has made recommendations in an investigation report respecting a disclosure, the deputy head of the public entity to which the report relates shall report to the Commissioner, within the time period required by the Commissioner, the steps that have been or will be taken within the public entity to give effect to the Commissioner's recommendations.
- 5.12 Where the Commissioner believes that the deputy head or employees of a public entity did not cooperate in an investigation respecting a disclosure conducted by the Commissioner or have not followed up on the recommendations of the Commissioner respecting a disclosure, the Commissioner may make a report on the matter to the head of the public entity or the Clerk of the Executive Council.

6. NO REPRISALS

- 6.01 No person shall take or direct, or counsel another person to take or direct, a reprisal against an employee.
- 6.02 An employee or former employee who reasonably believes that they are or have been within the past year, while an employee, the subject of a reprisal may make a complaint in writing, in the form required by the Commissioner, to the Commissioner.
- 6.03 An employee or former employee who is considering making a complaint may request confidential advice from the Commissioner.
- 6.04 A complaint shall include the following information:
- (a) the name of the person or persons alleged to have taken or directed, or counselled another person to take or direct, a reprisal against the employee or former employee;
 - (b) a description of the alleged reprisal, including the date on which it is

alleged to have occurred;

(c) whether the employee or former employee has taken any other steps or actions in relation to the alleged reprisal and, if so, information respecting the outcome and any related documents;

(d) the contact information and signature of the employee or former employee making the complaint;

(e) any other information required by the regulations.

6.05 The Commissioner may request, and the employee or former employee who made the complaint shall provide, any additional information available to the employee or former employee that may reasonably be required to investigate the complaint.

6.06 Where a complaint is made to the Commissioner, the Commissioner shall give notice in writing of the nature of the complaint to:

(a) the deputy head of any employee who is the subject of an allegation of reprisal in the report and the Chief Executive Officer of the Public Service Commission; or

(b) where a deputy head is the subject of an allegation of reprisal in the report, the head responsible for the deputy head.

6.07 The Commissioner shall investigate a complaint and on completing the investigation shall:

(a) prepare a written report that sets out the Commissioner's findings and reasons for those findings, and any recommendations that the Commissioner considers appropriate respecting the complaint and any reprisal taken, directed or counselled against the employee or former employee; and

(b) serve a copy of the written report on:

(i) the employee or former employee who made the complaint;

(ii) each person who is the subject of an allegation of reprisal in the complaint;

(iii) where a person who is the subject of an allegation of reprisal in the complaint is an employee, the employee's deputy head or, where the deputy head is the subject of an allegation of reprisal in the complaint, the head responsible for the deputy head; and

(iv) any other person the Commissioner considers appropriate.

- 6.08 Where the Commissioner finds that an employee or a former employee is or has been within the year preceding the complaint, while an employee, subject to a reprisal, the deputy head or the head, as the case may be, (a) shall take appropriate disciplinary action against any employee responsible for the reprisal; and (b) may take any other action recommended by the Commissioner, including action to stop, reverse or remedy the effects of the reprisal.
- 6.09 No person shall obstruct, interfere, or knowingly make a false or misleading statement, orally or in writing, to a deputy head, a head, the Commissioner or a person acting on behalf of or under the direction of any of those persons in relation to a disclosure, an investigation of a disclosure, a complaint or an investigation of a complaint. Any employee who knowingly makes a false or misleading statement may be subject to disciplinary or legal action.

7. ATTACHMENTS

- 7.01 Attachment - Form 1 - Disclosure of Wrongdoing
7.02 Attachment - Form 2 - Report of Reprisal

GOVERNMENT OF PRINCE EDWARD ISLAND

PUBLIC INTEREST DISCLOSURE AND WHISTLEBLOWER PROTECTION POLICY

FORM 1 - DISCLOSURE OF WRONGDOING

1. Name of person making disclosure: _____
2. I am making this disclosure to:
(a) my deputy head _____; or
(b) the Public Interest Disclosure Commissioner _____
3. (a) Name of department or agency where you work:

(b) Your position with that department or agency:

(c) Are you/were you a unionized employee? Yes _____; No _____.

(d) If yes, what union do/did you belong to?

4. (a) Your contact information, including mailing address with postal code and telephone number(s).

Mailing Address: _____
Postal Code _____
Telephone Number(s): (Home) _____ (Work) _____

(b) I would like to be called at work _____; at home _____.

Public Interest Disclosure and Whistleblower Policy
Form 1 - Disclosure of Wrongdoing
Page 2 of 3

5. The alleged wrongdoing relates to:

_____ a violation of a provincial or federal law;

_____ gross mismanagement of public funds or government assets;

_____ an act or omission that creates a substantial and specific danger to the life, health or safety of persons or the environment; or

_____ direction or counsel to others to engage in the above.

6. Name and position of person(s) alleged to have committed the wrongdoing:

Name of Person

Position Title

7. Date of wrongdoing: _____

8. Date you became aware of the wrongdoing: _____

9. Details of the wrongdoing: (Attach additional page if necessary)

[illegible]

Public Interest Disclosure and Whistleblower Policy
Form 1 - Disclosure of Wrongdoing
Page 3 of 3

10. Have you made a previous disclosure of the wrongdoing, and if so, when and to whom?

11. To the best of your knowledge, is this situation the subject of an action or proceeding before any other legal, administrative or public bodies?

Yes _____ No _____

12. If the answer to the above question is “yes”, before which body and since when?

Signature of Person Making the Disclosure:

Date of Disclosure: _____

This form, including any attachments, may contain confidential or personal information that is protected under Prince Edward Island’s Public Interest Disclosure and Whistleblower Protection Act and Freedom of Information and Protection of Privacy Act.

The Public Interest Disclosure and Whistleblower Protection Act requires that information related to disclosures be kept confidential to the fullest extent possible. Subject to the principles of fairness and natural justice, the name of the employee making a disclosure, the name of the person alleged to have committed the wrongdoing, and the names of any witnesses involved in the investigation of the disclosure shall be kept confidential.

GOVERNMENT OF PRINCE EDWARD ISLAND

PUBLIC INTEREST DISCLOSURE AND WHISTLEBLOWER PROTECTION POLICY

FORM 2 - REPORT OF A REPRISAL

1. Name of person reporting reprisal: _____

2. I am making this report to:

Public Interest Disclosure Commissioner
301, 149 Kent Street,
Charlottetown, PE C1A 1N5
contactus@ombudspei.ca

3. (a) Name of department or agency where you work or used to work:

(b) Your position with that department or agency:

(c) Are you/were you a unionized employee? Yes ____; No ____.

(d) If yes, what union do/did you belong to?

4. (a) Your contact information, including mailing address with postal code and telephone number(s).

Mailing Address: _____

Postal Code _____

Telephone Number(s): (Home) _____ (Work) _____

(b) I would like to be called at work ____; at home ____

5. Name and position of person(s) alleged to have been involved in the reprisal:

Name of Person

Position Title

Public Interest Disclosure and Whistleblower Policy
Form 2 - Report of a Reprisal
Page 2 of 2

6. Please provide details of the wrongdoing you reported and the reprisal against you. (Attach additional page if necessary)

7. Date of the reprisal: _____

8. (a) Have you taken any other steps in relation to the alleged reprisal?
Yes _____; No _____.

(b) If so, provide details on the steps taken and any outcomes. (Supporting documents may be attached if necessary)

Signature of Person Making the Report:

Date of Report: _____

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