OPERATIONAL REVIEW:

Five years of operating under the *Public Interest Disclosure Act*

OMBUDSPERSON
BRITISH COLUMBIA

PIDA Special Report No. 4
August 2025

As an independent officer of the Legislature, the Ombudsperson investigates complaints of unfair or unreasonable treatment by provincial and local public authorities and provides general oversight of the administrative fairness of government processes under the *Ombudsperson Act*. The Ombudsperson conducts three types of investigations: investigations into individual complaints; investigations that are commenced on the Ombudsperson's own initiative; and investigations referred to the Ombudsperson by the Legislative Assembly or one of its committees.

Under the *Public Interest Disclosure Act* (PIDA) the Ombudsperson investigates allegations from current and former public sector employees of wrongdoing in or relating to a public body covered by the Act as well as complaints of reprisal.

The Ombudsperson has a broad mandate to investigate allegations of wrongdoing or complaints of reprisal involving provincial ministries; provincial boards and commissions; Crown corporations; health authorities; schools and school boards; and colleges and universities. A full list of the public bodies covered by PIDA can be found on our office's website. The Office of the Ombudsperson also provides advice to those public bodies and their employees about the Act and the conduct of wrongdoing investigations.

We offer educational webinars, workshops and individual consultation with public bodies to support fairness and continuous improvement across the broader provincial and local public sector.

For more information about the Office of the Ombudsperson and for copies of published reports, visit bcombudsperson.ca.

Our office is located on the traditional lands of the Lək̓ʷəŋən (Lekwungen) People and ancestors and our work extends across the homelands of the First Nations Peoples within what we now call British Columbia. We honour the many territorial keepers of the lands and waters where we work.

August 2025

The Honourable Raj Chouhan
Speaker of the Legislative Assembly
Parliament Buildings
Victoria BC V8V 1X4

Dear Mr. Speaker,

It is my honour to present PIDA Special Report No. 4, *Operational review: Five years of operating under the* Public Interest Disclosure Act.

The report is presented pursuant to section 40 of the *Public Interest Disclosure Act*.

Jay Chalke
Ombudsperson
Province of British Columbia

CONTENTS

MESSAGE FROM THE OMBUDSPERSON

Section 50 of the *Public Interest Disclosure Act* requires that, within each five-year period, a special committee of the Legislative Assembly review the legislation to determine whether any amendments should be made.

This report is one of a series of four reports that my office is providing to the Special Committee to Review the *Public Interest Disclosure Act* to assist with its review.

My office has a central mandate under the Act. Since the Act came into force in December 2019, we have received the vast majority of disclosures of wrongdoing from employees across the public sector, conducted the majority of investigations, and assisted public sector organizations and their leadership with implementation of the Act.

Based on our extensive experience working under the Act and the interactions we have had with public bodies, we are particularly well-positioned to make observations and recommendations intended to better protect public sector employees, manage disclosures and ensure the public's confidence in the effective operation of the Act.

I want to thank the staff of our office who have approached this new statutory responsibility with creativity, passion and a commitment to the conduct of impartial, rigorous and fair investigations.

The following is a presentation of the work done by our office and the things we have learned operating under the Act.

Yours sincerely,

Jay Chalke
Ombudsperson
Province of British Columbia

PART 1

The creation of PIDA and our oversight role

Our observations about the first five years of PIDA

THE CREATION OF PIDA AND OUR OVERSIGHT ROLE

BC's *Public Interest Disclosure Act* (PIDA) is the province's legal framework for protecting current and former public sector employees who report serious wrongdoing.[1] The Act promotes transparency, accountability, and public trust by enabling disclosures to be made safely and without fear of reprisal.

The Ombudsperson has four core roles under PIDA:

1. **Providing confidential advice** to current and former employees considering making a disclosure
2. **Investigating allegations of serious wrongdoing** that fall within the Act's scope
3. **Investigating complaints of reprisal**, such as discipline, demotion, or termination related to a disclosure
4. **Advising public bodies on internal investigations**, including offering guidance to designated officers on how to uphold the standards and protections required by the Act

If a public body is unable to conduct an impartial or effective internal investigation, it may refer the matter to the Ombudsperson.

That BC enact a public interest disclosure legislation was a recommendation made in our 2017 report *Misfire: The 2012 Ministry of Health Employment Terminations and Related Matters*. That report found that government lacked a statutory structure to properly consider allegations of employee wrongdoing. In *Misfire,* we recommended the introduction of comprehensive whistleblower protection legislation in BC, consistent with enactments in other provinces and federally. The government accepted this recommendation but, rather than creating a new oversight body, assigned responsibility for PIDA to the Ombudsperson.

PIDA was introduced in April 2018, received Royal Assent the following month, and came into force in December 2019.

When PIDA came into force, it initially applied only to provincial government ministries and offices of the Legislature. In the years since, it has been rolled out in stages to cover much of the broader public sector. By the end of 2024, approximately 320,000 employees and thousands of former employees across 197 organizations were covered under the Act – a nearly nine-fold increase from 2019 to 2024.

Throughout this rollout, we supported public bodies as they implemented their responsibilities under PIDA, including by developing resources and providing training to support consistent interpretation and effective application. The result is a broad and growing system of protection through PIDA that reflects the importance of transparency and accountability in BC's public bodies.

[1] *Public Interest Disclosure Act*, S.B.C. 2018, c. 22.2.

OUR OBSERVATIONS ABOUT THE FIRST FIVE YEARS OF PIDA

Since December 2019, our office has handled hundreds of matters under PIDA. This includes providing advice to employees about making disclosures, managing disclosures and complaints of reprisal, responding to general inquiries from employees that were not yet covered or not scheduled to be covered by PIDA, and managing inquiries from public bodies regarding how to fulfill their obligations under the Act.

Through this work, we have developed views about the operation of PIDA, its effectiveness, and the experiences of those interacting with it. The following is a summary of what we've learned.

PIDA does not yet cover all public sector organizations

PIDA has been implemented in phases across much of the public sector. It now applies to ministries, offices of the Legislature, Crown corporations, health authorities, school districts, post-secondary institutions, tribunals, and most agencies, boards, and commissions. However, many public sector organizations remain outside its scope and government has announced no express plans for further expansion.

We are regularly contacted by employees who want to make a disclosure – or seek advice about doing so – related to public bodies not covered by PIDA. In fact, more than one out of every five disclosures received by our office have related to public bodies outside the scope of PIDA. Employees in these organizations do not have access to PIDA's protections when they come forward with information about wrongdoing in the workplace.

In many cases, these public bodies are within our oversight under the *Ombudsperson Act*, but not under PIDA. This means that for those public bodies, we can investigate administrative unfairness related to an individual aggrieved by an act or omission of a public body but do not have a mandate to investigate disclosures of workplace wrongdoing in the public interest. In these circumstances, the employee has no legal protection for speaking up, since the disclosure itself falls outside the PIDA framework. This gap leaves serious issues unaddressed and the people reporting them unprotected.

Whistleblower protection legislation plays a critical role in ensuring the integrity of the public sector. PIDA provides more than just an internal reporting mechanism – it offers legal protections for those who disclose, allows them to choose between internal and independent oversight, and requires annual public reporting to ensure transparency and accountability. These elements are essential to building public trust.

When PIDA was introduced, government indicated that it would eventually apply to the broader public sector. While coverage has expanded, there are still notable gaps. In particular, we continue to hear from employees in sectors such as local government and professional regulatory bodies – areas not currently covered. Extending PIDA to these additional sectors would be consistent with the Act's intent and ensure more equitable access to protection for public sector employees working in the public interest.

This issue is further addressed in *Special Report No.5: Proposed amendments – 1.2 Align public sector coverage with the Ombudsperson Act.*

Current disclosure limits often exclude those with inside knowledge

PIDA is designed to encourage people with first-hand knowledge of serious wrongdoing to come forward safely and without fear of reprisal. However, the Act currently limits who can make a protected disclosure, leaving out individuals who often possess valuable insights into a public body's operations.

Only employees and former employees can make a disclosure under the Act. Over the last five years, we've also regularly heard from contractors and volunteers working within public bodies who want to report serious concerns. These individuals frequently have access to confidential information due to the nature of their roles. However, because they are not considered employees under the Act, they are not eligible for PIDA protections. In many cases, contractual confidentiality obligations restrict them from disclosing information – even when it is clearly in the public interest to do so.

This exclusion undermines the purpose of PIDA. The Act assumes that only employees hold confidential knowledge about a public body's operations. In practice, others – especially contractors and volunteers – often perform similar work and have comparable access. They are also bound by confidentiality obligations, yet they are denied the same protections if they speak up.

In some legal contexts, contractors and volunteers are treated as employees because of the closeness of their relationship with the organization. Extending PIDA protections to these individuals would strengthen the Act's ability to surface serious wrongdoing and protect those who raise the alarm.

This issue is further addressed in *Special Report No.5: Proposed amendments – 1.1 Expand who can make a disclosure.*

The good faith test is being heavily emphasized by some public bodies, risking a chilling effect for employees

Under section 12(1) of PIDA, current and former employees may disclose concerns if they reasonably believe they have information showing that wrongdoing has occurred or is about to occur, provided they do so in good faith. The Act's protections against reprisal also only apply when individuals make disclosures, seek advice, or otherwise engage with the PIDA process in good faith. This requirement is presumably intended to prevent individuals from using PIDA to pursue personal grievances or conflicts within their workplaces.

In our experience, however, employees overwhelmingly approach our office because they genuinely believe their concerns are serious and should be investigated. Many have carefully considered the ethical implications before coming forward. Sometimes these employees have disagreements with supervisors or general distrust toward their workplace, particularly if previous concerns have been ignored. Yet, these circumstances do not mean their disclosure was made in bad faith. On the contrary, most disclosers are motivated by a sincere desire to address wrongdoing and improve their workplaces.

Unfortunately, some public bodies have emphasized the good faith requirement excessively when communicating with employees about the Act, warning explicitly about consequences for bad faith disclosures. This framing can create a chilling effect, causing employees to doubt whether PIDA is a safe way to raise concerns – particularly if they worry their employer might misinterpret their motives, even if their intentions are genuine.

Assessing the credibility of disclosures should focus on allegations' clarity, level of detail, and the disclosers' underlying knowledge, not the disclosers' intentions or character. If a disclosure is

false or fabricated, that will become clear through the normal course of assessing the concern. Investigations should not require unnecessary scrutiny of personal motives.

PIDA's current emphasis on good faith does not align with international best practices. In other jurisdictions, the focus is instead placed on whether the discloser reasonably believes the information they provide is true.[2] For example:

- Legislation in New South Wales, Australia, requires only that disclosers honestly believe their report shows serious wrongdoing.[3]
- Ireland's public interest disclosure legislation explicitly states that a discloser's motivation is irrelevant to receiving protection.[4]

This approach – assessing disclosers' beliefs rather than motives – is critical because someone may genuinely identify serious wrongdoing even if they have personal grievances against the wrongdoer.

By focusing heavily on motives rather than the reported wrongdoing itself, the good faith requirement risks discouraging employees from speaking up. This undermines employee trust and weakens the culture of safety and support that PIDA aims to foster.

This issue is further addressed in *Special Report No.5: Proposed amendments – 4.2 Remove the 'in good faith' requirement.*

Fear of reprisal discourages disclosures and participation

Under PIDA, disclosers, advice seekers, witnesses, and others who participate in investigations are protected from reprisal. Despite these protections, many employees who contact our office express significant fears of retaliation from within their workplaces. These fears span sectors and seniority levels, and involve concerns about reprisals from colleagues, supervisors, and senior leadership. Some disclosers have shared that they waited until late in their careers – or until after leaving the public body – to disclose concerns, attempting to minimize their risk. Others intended to report wrongdoing but changed their minds after learning that PIDA cannot prevent reprisal; it only offers a mechanism to respond after reprisal occurs.

We cannot always verify whether employees' fears reflect actual risks of reprisal; yet the fear itself is real and deeply consequential. Historically, whistleblowers have been seen as disloyal[5] and have faced severe consequences for speaking up. That legacy continues to shape how employees perceive the risks of disclosing wrongdoing. Even when actual threats of reprisal may be low, perceived risks alone can silence potential disclosers.

Many employees first attempt internal reporting because it can be the fastest and simplest way to address concerns. However, when those concerns are not acknowledged or resolved – or when it is unclear how they were handled – employees may choose to escalate the same concern to our office. Because they have already raised the matter internally, when they come to us, they often know their identity may become obvious to their employer. These employees regularly tell us they fear reprisal, but feel the issue is too serious to ignore.

This fear of reprisal is well documented. A survey conducted by the federal Public Sector Integrity

[2] Marie Terracol, *A Best Practice Guide for Whistleblowing Legislation, Transparency International,* 2018, 14; Tom Devine, *International Best Practices for Whistleblower Policies*, Government Accountability Project, July 22, 2016, 6.

[3] New South Wales, *Public Interest Disclosures Act,* 2022 No 14, section 26(5).

[4] Ireland, *Protected Disclosures Act*, Number 14 of 2014, section 5(7).

[5] *Vile Wretches and Public Heroes: A survey of Canadian whistleblowing literature*, Canadian Public Administration / Administration Publique du Canada, Volume 62, No. 2 (June/Juin 2019), 356–361.

Commissioner[6] found that all participants viewed fear of reprisal as a real concern when considering whether to speak up.[7] In our own 2025 survey of BC ministry employees:

- Only 54% of those familiar with PIDA trust that they would be protected from retaliation if they made a disclosure.
- That number dropped to 49% among unionized employees and to just 38% among those with little understanding of PIDA.
- In addition, 45% of all respondents cited fear of retaliation by their employer as a real barrier to disclose.

These results show that concerns about reprisal are not isolated – they are widely held across the public service.

Witnesses often share similar concerns, especially if they are critical of the public body or if their evidence could identify them. Even former employees worry about reputational damage, negative references, or other consequences, particularly when those implicated in the disclosure of wrongdoing are senior or well-regarded. In several cases, key witnesses have been extremely hesitant to participate in our investigations because of these concerns. When that happens, we weigh the value of their testimony against the potential harm to the individual when deciding whether to legally compel their participation.

It is important to note that these concerns are not unfounded. Research shows that disclosers can face serious long-term impacts to their employment and reputation, and high profile cases of whistleblowers being punished or publicly criticized reinforces the message that speaking up is risky.[8]

The reprisal protections in PIDA are intended to combat that narrative. And over the past five years, we have worked extensively to support designated officers, educate employees and public sector leaders, and promote awareness of PIDA's reprisal protections.

Real culture change depends on senior leaders. Chief executives and other public body leaders must foster environments where speaking up is normalized, concerns are taken seriously, and reprisals are unequivocally condemned. If senior leaders are unsuccessful in achieving this, internal disclosure may not be a viable option. In Québec, for example, the National Assembly recently removed the power of public bodies to investigate disclosures under that province's whistleblower legislation after repeated failures by public bodies to uphold their responsibilities.[9] As a result, the Ombudsman is the only entity to conduct investigations in Québec.

Twelve per cent of the disclosures our office receives are anonymous. This suggests that these individuals are so concerned about reprisal that they will not identify themselves, even to an independent oversight body.

Fear of reprisal is widespread. The most effective way to reduce both the fear and risk of reprisal is to build a culture where speaking up is valued – and to dismantle the negative narrative that has often surrounded whistleblowing.

This issue is further addressed in *Special Report No.5: Proposed amendments – 6.6 Supporting compliance and good practice*.

[6] Office of the Public Sector Integrity Commissioner, *Exploring the Culture of Whistleblowing and the Fear of Reprisal in the Federal Public Sector,* March 2022.

[7] Office of the Public Sector Integrity Commissioner, *Exploring the Culture of Whistleblowing and the Fear of Reprisal in the Federal Public Sector*, March 2022.

[8] Transparency International, *Whistleblower Stories: 12 inspiring individuals who safeguarded public interest by exposing misconduct*, June 23, 2023; Jack Seale, *The Whistleblowers: Inside the UN review – a horrific tale of misogyny, rape and 10,000 deaths*, Manchester Guardian News, June 21, 2022; Toronto Metropolitan University, Centre for Free Expression, *Prominent Canadian Whistleblowers*, June 2024.

[9] Government of Québec, *The Protecteur du citoyen introduces measures to better protect whistleblowers in Québec public services*, December 2, 2024.

Workplace dynamics are a common type of disclosure

Since PIDA came into force, workplace dynamics have been the most common type of disclosure to our office. Thirty-one per cent of the disclosures we have received involve bullying, harassment, discrimination, or cultural safety concerns – issues that can directly affect a public body's work environment and its ability to meet its mandate. These concerns have come from employees across all sectors, with varying lengths of service.

It is not surprising that workplace dynamics are a major theme. For employees, it often captures concerns rooted in their daily work experience. Certainly, some employees also find reassurance in PIDA's reprisal protections when deciding whether to raise concerns about their work environment.

That said, not all workplace concerns fall within the scope of PIDA. For example, we are unable to investigate allegations that are primarily individual employment disputes, even those involving interpersonal conflict, bullying or harassment. That is because our office is barred from investigating a disclosure that primarily relates to the discloser's own employment.[10] These matters are often better addressed through internal processes or existing employment-related frameworks.

However, pervasive issues in the workplace that go beyond an individual's own employment may raise public interest concerns that warrant investigation under PIDA. These include toxic environments, discriminatory practices, or serious harassment involving senior leadership or multiple employees, particularly where problems are known but not addressed. In such cases, the impact goes beyond individual experiences and may compromise the broader functioning of the public body.

In our experience, employees bring forward these concerns because they believe these issues are undermining their organization's ability to serve the public, or because they do not believe other channels are appropriate for systemic concerns. In situations where issues have not been addressed internally, or where the employees fear reprisal, our office can be the most viable option.

Sometimes, disclosures we receive relate to issues that the public body has already addressed. In some cases, the employee was not aware of the steps taken, often because the response was confidential. We have found that even limited communication from the public body to confirm that action was taken can build trust and help reduce unnecessary investigations by our office.

We assessed that 16% of all workplace dynamics disclosures met the threshold for wrongdoing under PIDA and we have investigated or are actively investigating those matters. Based on the volume and nature of concerns raised to date, we anticipate challenging workplace dynamics will likely remain a primary reason why employees come forward under PIDA.

Some internal disclosures are misrouted and not addressed under PIDA

PIDA gives current and former public sector employees a legal framework to report potential wrongdoing. They can make disclosures internally to designated officers within their organization[11] or directly to the Ombudsperson. When they do, the Act provides legal protections against reprisal.

Employees have the right to choose either to raise their concerns under PIDA or through another

[10] *Public Interest Disclosure Act,* S.B.C. 2018, c.22, section 22(1)(a).

[11] Designated officers are primary points of contact within public bodies that current public sector employees can speak to if they wish to seek advice or report wrongdoing.

existing process. When an employee discloses under PIDA, they are exercising their right to choose how their concerns will be assessed and possibly investigated.

We have found, however, that some organizations do not always respect an employee's decision to make a disclosure under PIDA. Instead, disclosures have been diverted to other processes – such as standards-of-conduct investigations or internal workplace complaint procedures – without first assessing whether they meet PIDA's definition of wrongdoing, as the Act requires.

When employees approach a designated officer, supervisor, or another employer representative, they often do not know their reporting options. We have seen situations where employees intended to make a PIDA disclosure but did not explicitly use terms like "PIDA" or "whistleblowing." Without seeking clarification, the public body directed their concerns through another process, potentially denying these employees the protections provided under the Act.

Employees should never be excluded from PIDA simply because they do not use the specific language a designated officer expects. Unless an employee's intentions clearly fall outside PIDA, public bodies should clarify with the employee whether they intend to make a disclosure under the Act.

Chief executives play a central role in fostering informed, ethical and transparent organizations. Under PIDA, they must establish clear, effective processes for handling disclosures and requests for advice. They are also responsible for building an organizational culture where employees feel supported to raise concerns. This includes ensuring that staff who receive disclosures or provide advice clearly understand and fulfill their legislative obligations.

When disclosures are misrouted, they are not included in the public body's annual PIDA report. This leads to underreporting, creating an inaccurate and misleading picture of how many disclosures a public body has actually received.

To address this, we have proposed a legislative amendment that would allow the Ombudsperson to audit whether public bodies are meeting their obligations under PIDA.

These issues are further addressed in *Special Report No.5: Proposed amendments – 6.6 Supporting compliance and good practice.*

Challenges ensuring investigations remain confidential

The Ombudsperson is required to conduct investigations confidentially – this includes investigations under PIDA. Confidentiality protects the integrity of the investigation and helps limit workplace disruption, including speculation about the identity of the discloser and those who may be alleged wrongdoers.

To uphold this, we take several measures to ensure our investigations are as discreet as possible. We scale our approach to match the seriousness of the allegations, limit the number of people contacted – especially early in the process – obtain necessary records from parties with less connection to the allegations or external sources where possible, and ask all parties not to discuss the investigation with others. We also provide clear instructions to the chief executive that senior leaders should not speculate about or discuss the identity of the discloser.

These measures help us obtain records and cooperation more effectively. They also reduce the risk of witnesses collaborating on the evidence they provide. Just as importantly, these measures protect disclosers and witnesses from unwanted attention and prevent broader speculation that could unfairly harm those alleged to have committed wrongdoing.

However, in some cases, public bodies have failed to follow our instructions – for example, by sharing confidential information requests with individuals who are the subject of the investigation. Doing so

directly undermines the fairness and perceived impartiality of the investigation and puts the process at risk. We have also encountered cases where senior managers have openly speculated about who the discloser might be, questioning their motives or directly asking staff whether they are the source of the disclosure. In some cases, these conversations have included comments that portray the discloser as disgruntled, misinformed, or misguided, which can discredit them among colleagues and supervisors.

When information about a PIDA investigation spreads in the workplace – whether accurate or not – it can have negative consequences. It can seriously damage workplace culture, individual reputations, and the integrity of the investigation itself. Speculation about who spoke up normalizes gossip and sends a dangerous message: that it is not safe to raise concerns. This has a chilling effect and runs counter to the spirit and intent of PIDA. Furthermore, it could lead to harmful treatment of employees that constitutes reprisal.

Under PIDA, reprisal includes any measure that negatively affects an employee's job or working conditions. If an employee is harmed after being identified, formally or informally, as a discloser or participant in an investigation, those responsible for revealing their identity may also be considered to have committed reprisal. In short, sharing someone's identity in this context is not only inappropriate, it may be unlawful. Reprisal is a serious matter and constitutes an offence under the Act.

These conversations about a discloser's identity also distract from what matters. The focus should be on allowing the investigation to take its course, supporting the process, and maintaining a workplace culture that protects employees who participate in good faith – not on who raised concerns. Conversations about a discloser's identity serve no legitimate purpose.

The Act requires the Ombudsperson to conduct investigations in private and for the identities of disclosers to be protected. It is in everyone's interest that PIDA investigations are allowed to take place as confidentially as possible. If an employee has questions about our process, those questions should be directed to the investigator or to legal counsel – not discussed broadly.

We have recommended a legislative amendment that would require all parties to follow the Ombudsperson's instructions during a PIDA investigation, helping to protect disclosers' identities. We hope this amendment will reduce harmful speculation and reinforce the importance of protecting the confidentiality of investigations and the identities of those who come forward.

> The issue of confidentiality is further addressed in *Special Report No.5: Proposed amendments – 5.1.4 Require compliance with with Ombudsperson's instructions during an investigation.*

No oversight mechanism for concerns about hiring competitions

We have received 20 disclosures relating to hiring and promotion decisions in the public sector, including allegations of favouritism. While only two met the definition of wrongdoing under PIDA and were investigated, the volume and consistency of these disclosures suggest that many employees view these issues as substantial concerns. In cases where the disclosure was concerning but fell outside of the scope of PIDA, employees were often left with no clear avenue to pursue accountability.

Currently, the Merit Commissioner provides oversight of hiring decisions within ministries, independent offices of the Legislature, and certain other public bodies. However, their mandate is limited: the Commissioner can only hear appeals of staff-

ing decisions related to bargaining unit positions. This means there is no independent oversight of hiring processes for non-bargaining unit appointments other than random retrospective audits.

Given the existing role of the Merit Commissioner in overseeing merit-based hiring, authorizing their office to review additional staffing decisions could offer a practical and efficient way to close this oversight gap. If such a change were made to the *Public Service Act*, a consequential amendment to PIDA allowing the Ombudsperson to refer staffing-related disclosures to the Merit Commissioner would enable the Commissioner to review hiring decisions that currently fall outside of all independent oversight. This avoids forcing serious concerns into ill-fitting processes – or worse, leaving them unaddressed altogether.

Furthermore, the Merit Commissioner is best positioned to determine whether hiring practices in the public service are fair and merit based. If an Ombudsperson investigation identifies a concern, the Commissioner should have the explicit, rather than the implied, authority to monitor the issue and take appropriate steps. This issue was first highlighted in our 2024 report, *Hire Power: The appointment of ineligible candidates to temporary assignments in the public service*. With such a change, the Merit Commissioner would have the explicit ability to monitor recommendations arising from Ombudsperson investigations.

This issue is further addressed in *Special Report No.5: Proposed amendments – 4.4 Broaden the role of the Merit Commissioner to include non-bargaining unit appointments.*

Lack of access to legal advice limits investigation efficiency and effectiveness

While PIDA allows us to access a broad range of information during investigations, privileged information – most commonly legal advice – is excluded. Public bodies are permitted to withhold it, and in every instance where we have requested legal advice in a PIDA investigation, the request has been refused.

Under the *Ombudsperson Act*, public bodies may also refuse to share privileged information. However, since 1991, there has been an agreement between the Ombudsperson and the Attorney General that allows us to receive legal opinions from ministries for *Ombudsperson Act* investigations. These opinions are kept strictly confidential and are not treated as a waiver of privilege. The agreement reflects a shared understanding that full and cooperative oversight is in the public interest, and that providing access to legal advice strengthens our ability to deliver that oversight effectively.

Our experience under the *Ombudsperson Act* shows that receiving legal advice improves investigations in important ways. It allows us to understand the legal basis for decisions, often enabling us to resolve matters more quickly or to narrow the scope of our investigation. In all cases, our findings are more informed and robust when we have access to this information.

By contrast, in PIDA investigations, when public bodies confirm they relied on legal advice but refuse to share it, we are left without key context. This significantly complicates the investigation process. These investigations tend to require more time and resources, involve more participants (which affects confidentiality), and often result in less certain findings (an example of one such case is detailed later in this report: case summary #6).

PIDA requires us to conduct investigations in a manner that is confidential, fair, proportionate, and timely. Refusing to share legal advice impairs our ability to meet those obligations – and undermines the effectiveness of the oversight PIDA is meant to provide.

This issue is further addressed in *Special Report No.5: Proposed amendments – 5.1.2 Improve access to privileged information.*

PART 2

How PIDA is being used: What the numbers tell us

HOW PIDA IS BEING USED: WHAT THE NUMBERS TELL US

Our office's experience with PIDA: Requests for advice and disclosures received

This section analyzes data collected by our office between December 1, 2019, and March 31, 2025, related to advice provided and jurisdictional disclosures received.

We have not included reprisal data in this analysis. While we received 38 complaints of reprisal during this period and investigated seven, this dataset is not large enough to draw statistically meaningful conclusions about reprisals.

PIDA rolled out to the public sector over seven phases. This staged rollout should be considered when interpreting data by sector because some public bodies have been covered by PIDA longer than others.

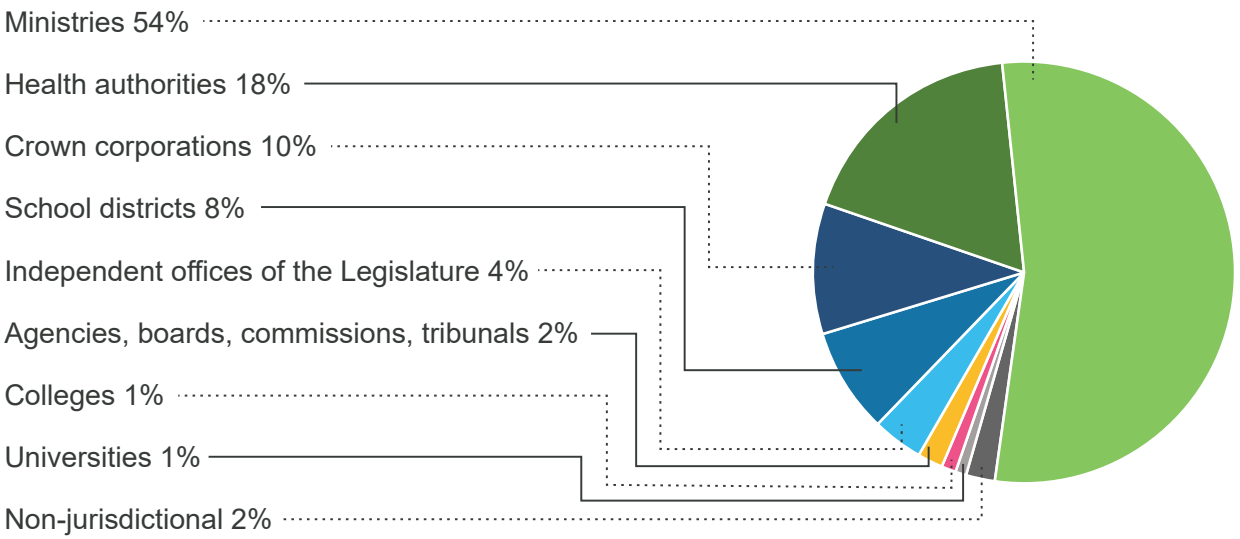
What the numbers tell us about advice

Since December 2019 we have received 235 requests for advice about making a disclosure from current and former employees of public bodies. Over this same period we have received an additional 212 general inquiries about PIDA from public sector employees not yet covered by the Act, members of the public, and from public sector managers seeking clarity about implementing the Act in their organization.

Who is asking for help: Trends in requests for advice under PIDA

Between 2019 and 2025, the highest number of calls came from employees across ministries (54%), health authorities (18%), and Crown corporations (10%). When we consider the size of the sector, independent offices of the Legislature had the highest rate of advice requests, with 14 requests per 1,000 employees, followed by ministries (2.9) and Crown corporations with (1.1).

Advice requests by sector



What the numbers tell us about disclosures

Between December 1, 2019, and March 31, 2025, we received **382 disclosures**:

- **242 jurisdictional disclosures:** made by a current or former employee of a public body covered by PIDA at the time of the disclosure
- **39 non-jurisdictional disclosures:** made by a current of former employee of a public body that was not covered by PIDA at the time of the disclosure but is now covered by PIDA because it was brought under the Act at a later date
- **101 non-jurisdictional disclosures:** about a public body not now covered by PIDA or from a person not eligible to make a disclosure

We will only be analyzing the jurisdictional disclosures.

For the purpose of this analysis, a jurisdictional disclosure includes:

- a disclosure made by a current or former employee of a public body covered or scheduled to be covered by PIDA at the time of the disclosure
- allegations about a public body covered or scheduled to be covered by PIDA at the time of the disclosure

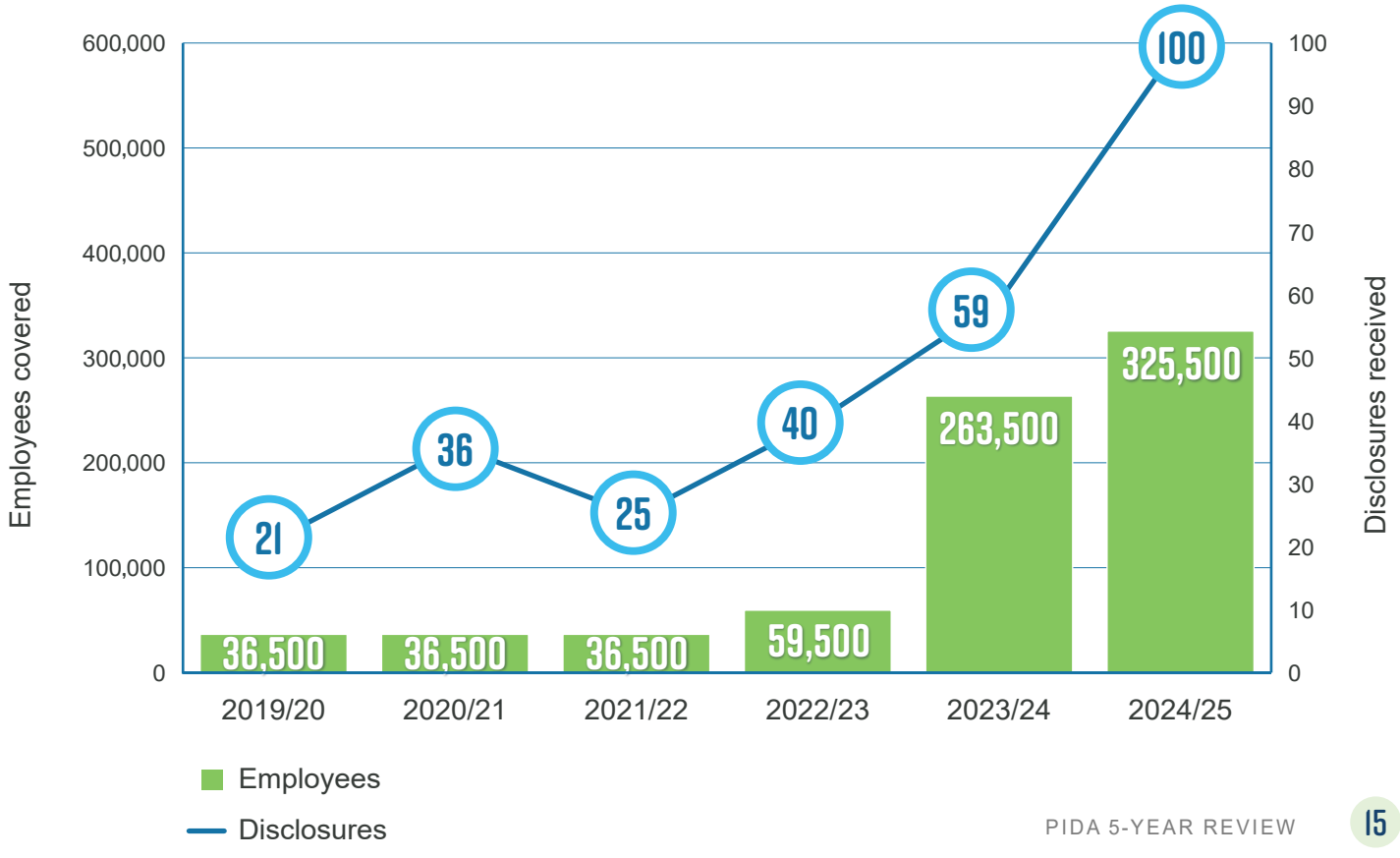
Non-jurisdictional disclosures have been excluded from the analysis. They include:

- disclosures made by individuals who are not employees under PIDA (e.g., members of the public, volunteers, contractors)
- disclosures about a BC public body not covered by PIDA

Who is speaking up: Volume and sector trends in disclosures

As expected, as PIDA coverage expanded to more employees, the number of disclosures increased.

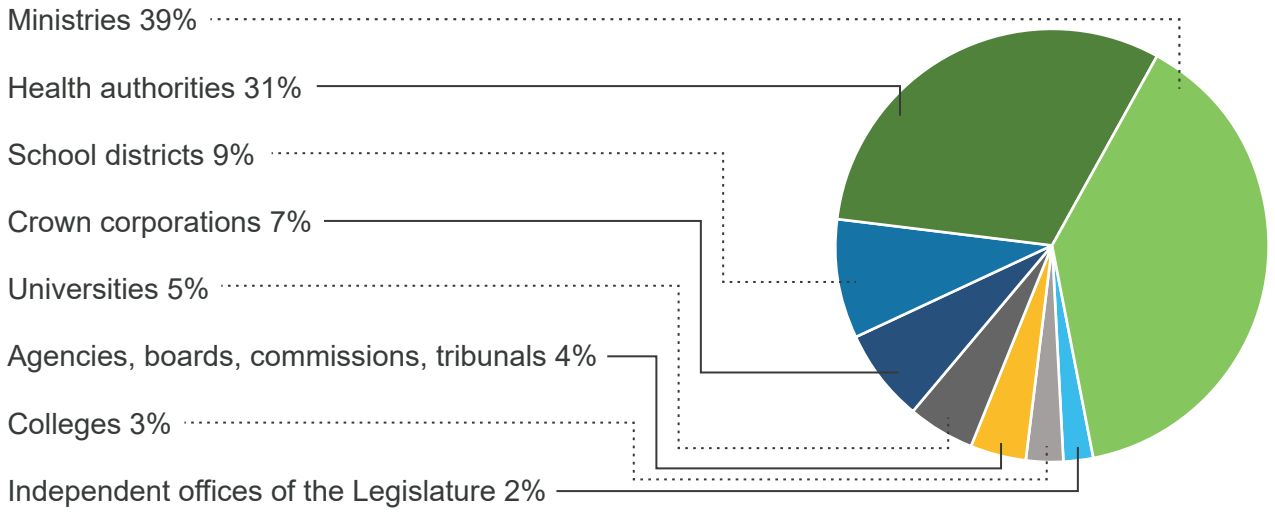
Number of disclosures compared to employees covered



In terms of total disclosures:

- **Most were about ministries**, which have been covered by PIDA since December 2019.
- The **second-highest number were about health authorities**, likely reflecting their large workforce – approximately 121,000 employees, or 38% of the total workforce currently covered by PIDA.

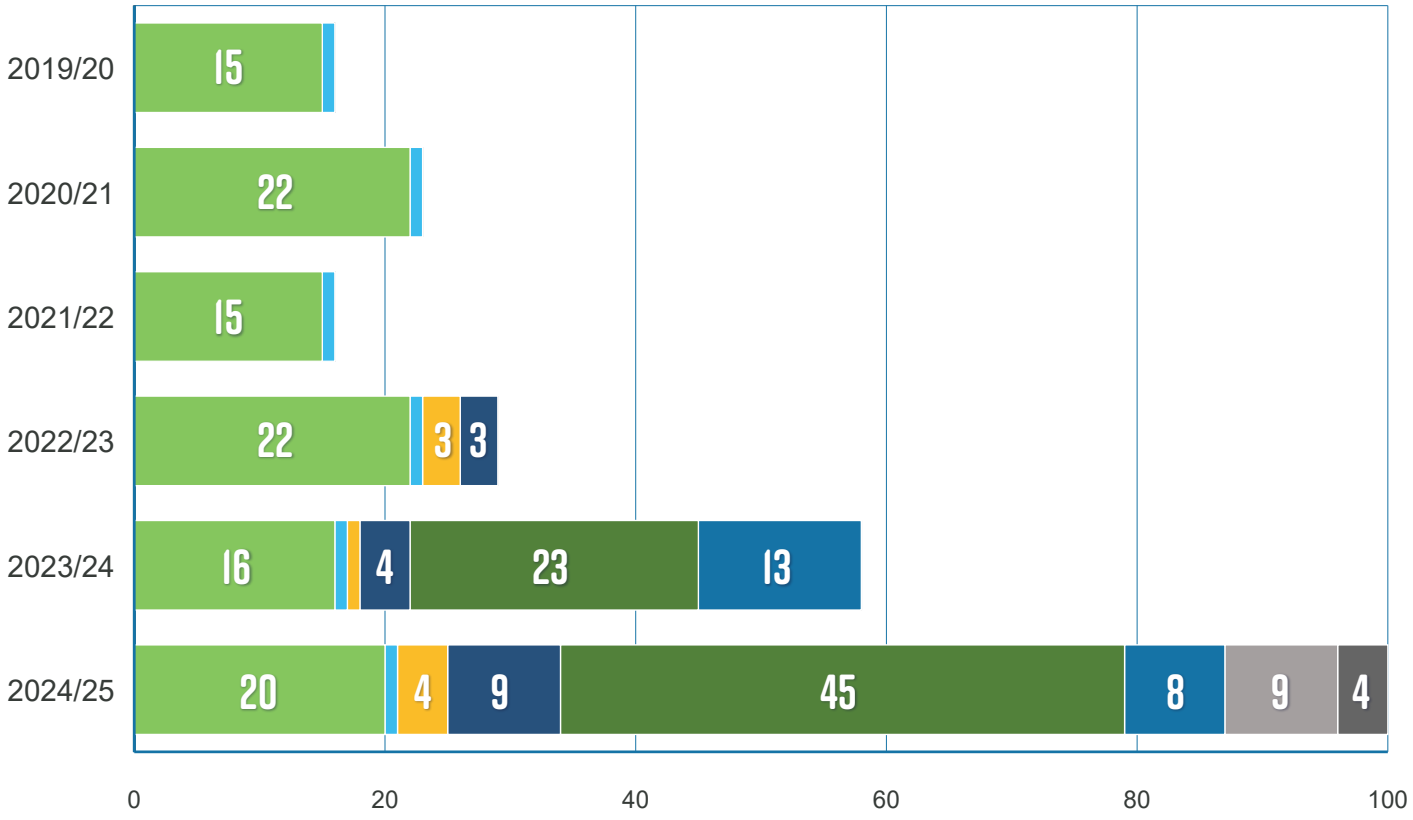
Disclosures received by sector



Disclosures by sector over time

As more sectors came under PIDA, the number of disclosures we received increased. We often saw a noticeable spike in disclosures when a new sector came under the Act – for example, following the December 2019 inclusion of ministries in 2019/20 and with health authorities in 2023/24. In some cases, such as with health authorities, we continued to observe a steady increase over time.

Disclosures by sector over time



*We received one disclosure in the category of independent offices of the Legislature each year, and one disclosure in the category of Agencies, boards, commissions, and tribunals in 2023/24. This data is represented in the chart above without the associated numbers.

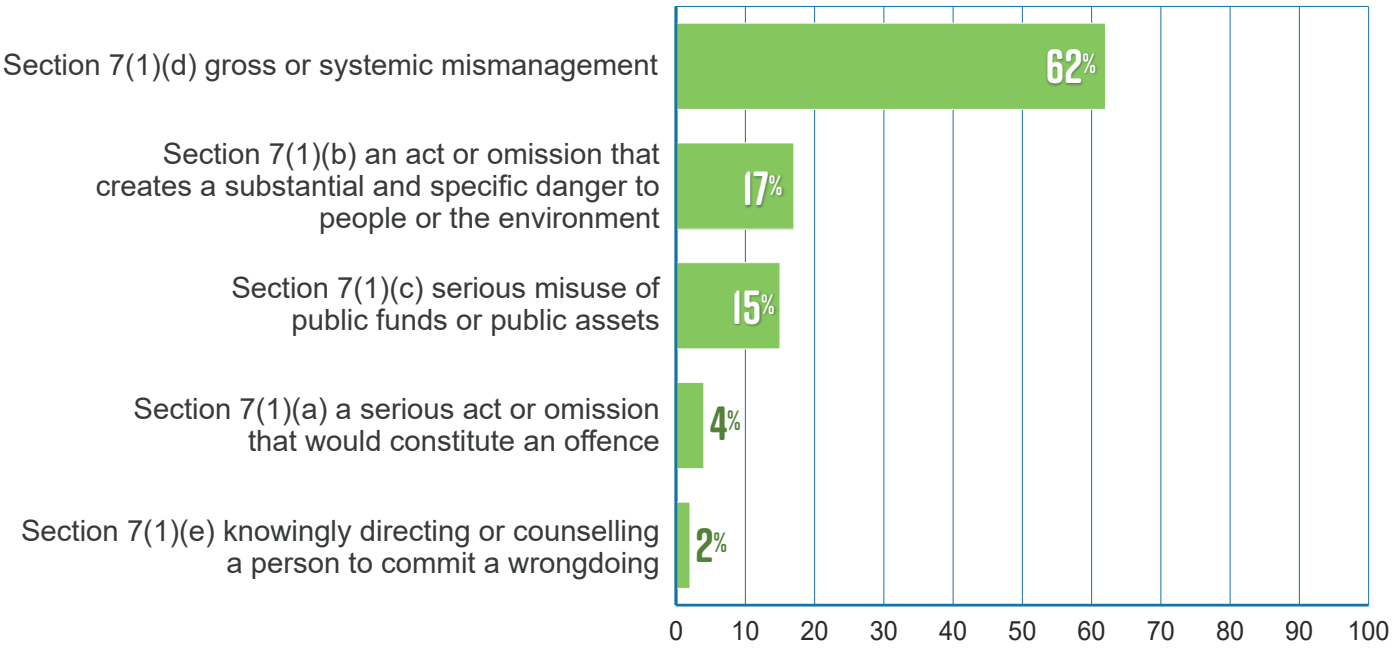
- Ministries (December 1, 2019)
- Independent offices of the Legislature (December 1, 2019)
- Agencies, boards, commissions, tribunals (April 1, 2022)
- Crown corporations (December 1, 2022)
- Health authorities (June 1, 2023)
- School districts (December 1, 2023)
- Colleges (June 1, 2024)
- Universities (December 1, 2024)

What the numbers tell us about wrongdoing

What is being reported: Common allegations under PIDA

The most common issue raised in disclosures was gross or systemic mismanagement, alleged in 62% of disclosures. We note that often this wrongdoing allegation was made alongside another type of allegation.

Disclosures* by type of wrongdoing

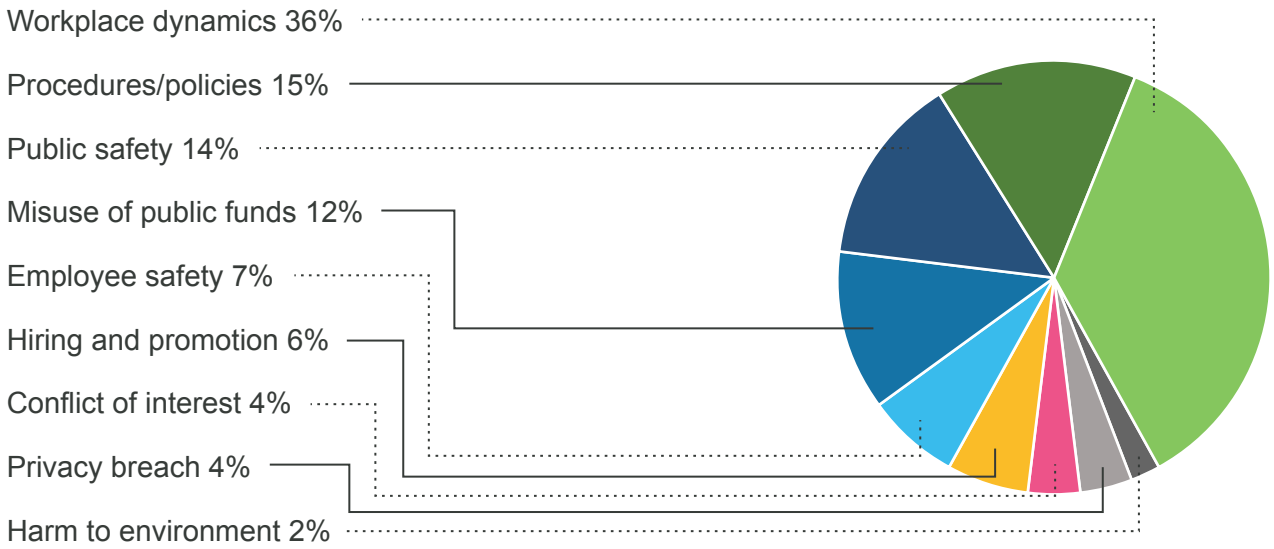


*We did not include disclosures that are still under assessment.

What the concerns are about: Emerging themes from disclosures

The most common theme across disclosures was workplace dynamics, present in 36% of cases. Other frequently cited themes included procedures/policies (15%), followed by public safety (14%) and misuse of public funds (12%).

Disclosure themes



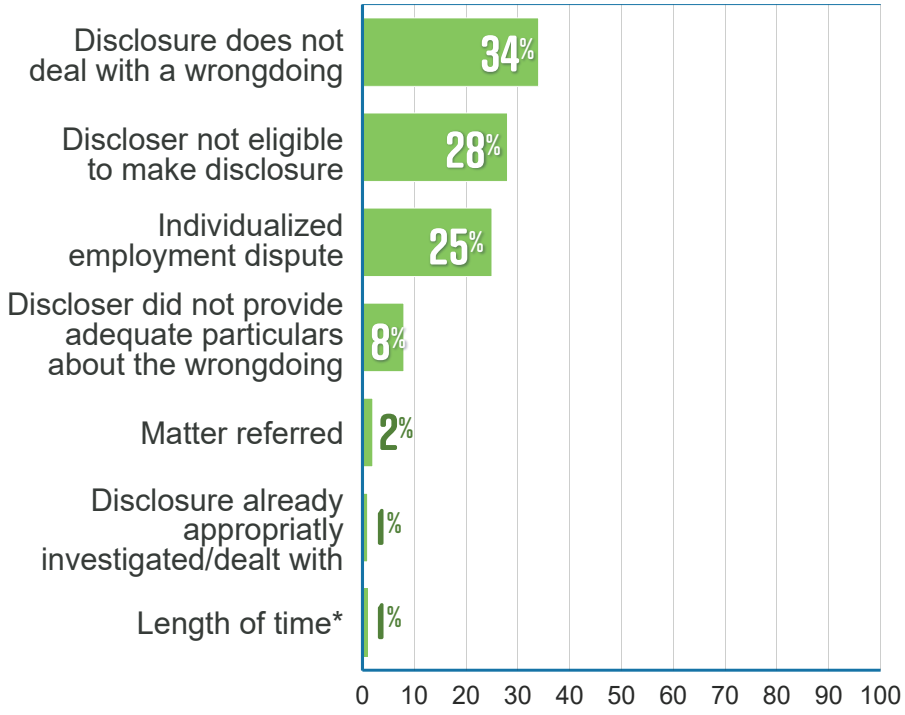
Why we did not investigate: Top reasons for declining to investigate

The three most common reasons for declining to investigate a disclosure about a jurisdictional public body were:

- **Section 22(2)(b)(iv):** The issue did not involve a wrongdoing under PIDA (34% of declined files)
- **Section 22(2)(b)(iii):** The discloser was not eligible to make a disclosure under the Act (28%)
- **Section 22(1)(a):** The issue was an individualized employment dispute (25%)

Where a discloser made more than one related disclosure that was declined, the category is based on the primary allegation.

Breakdown of files by closure status

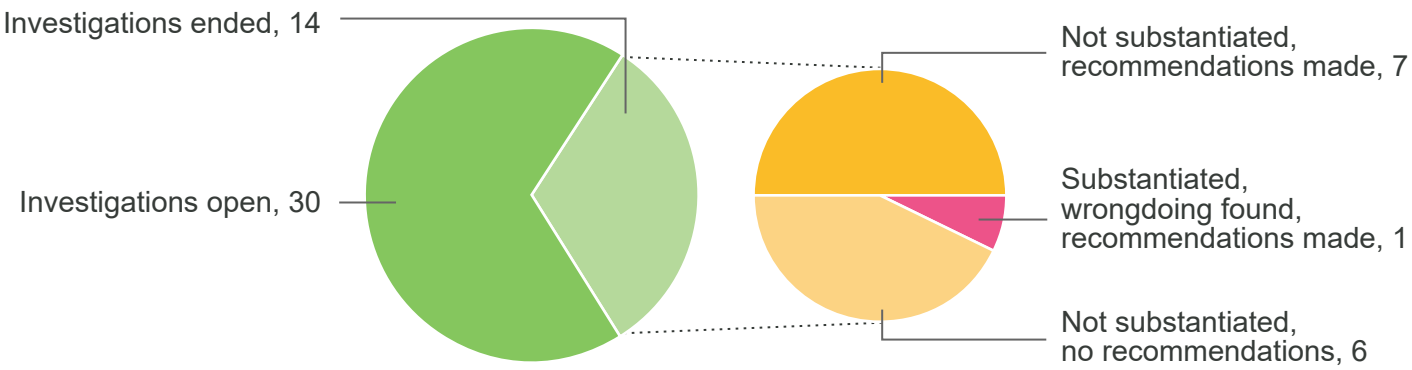


**Length of time – can not be reasonably investigated due to length of time that has passed*

What happens after a disclosure: Investigations and outcomes

Since PIDA came into force, we have conducted 44 disclosure investigations. Of these, 30 are, as of the time of this report, open and ongoing. Among the 14 investigations concluded, eight resulted in recommendations from the Ombudsperson to address an identified issue.

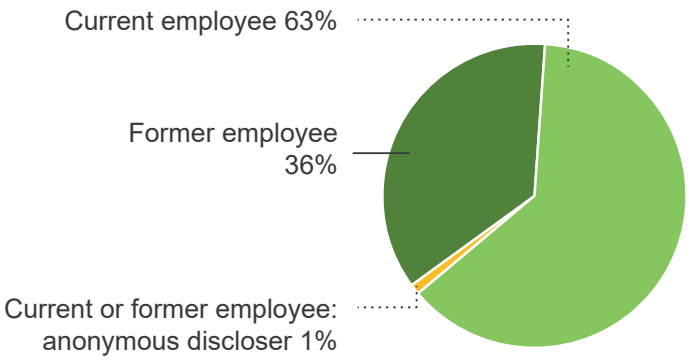
Investigation outcomes to date



Disclosure profiles: Who comes forward and when

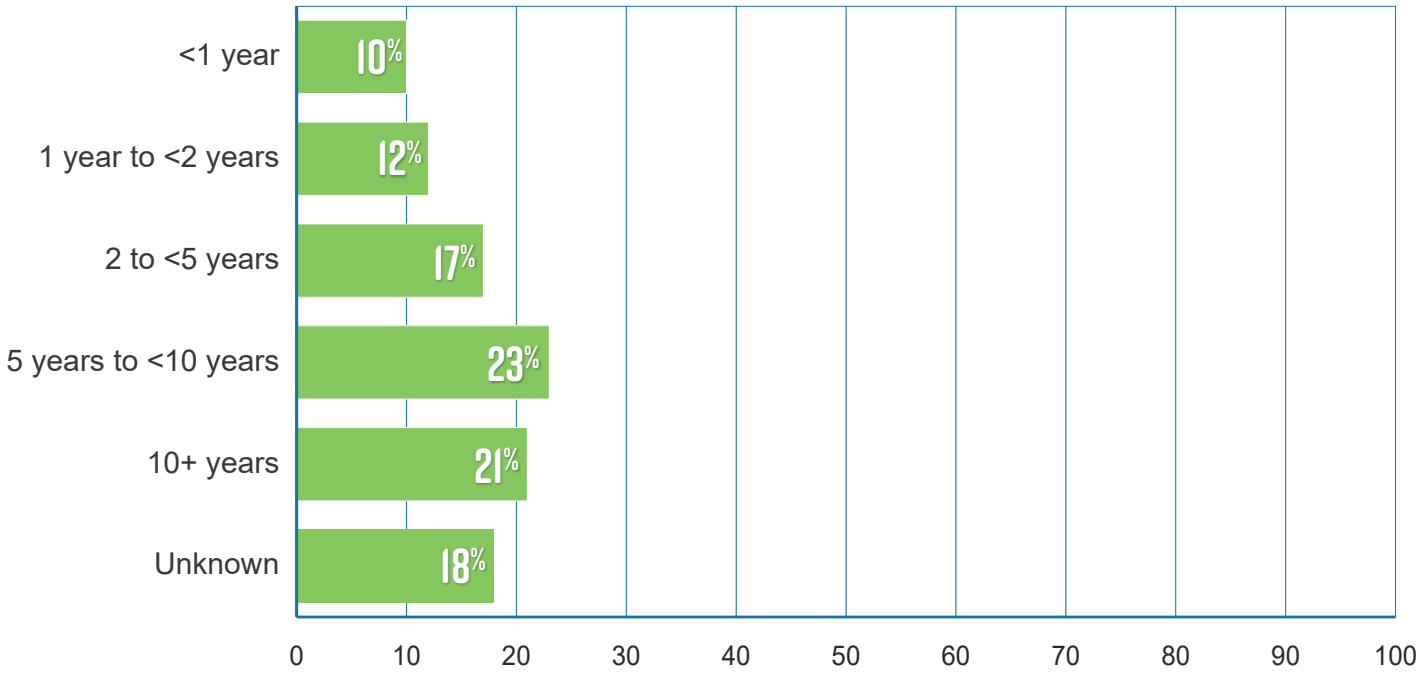
The majority of disclosers (63%) were current employees of the public body they made a disclosure about, while 36% were former employees, including a small number who were retired at the time. The remaining 1% of disclosers were anonymous and while we determined that their information demonstrated employment with the public body we could not determine whether they were a current or former employee.

Employment status of discloser



Among those who disclosed, 39% had worked at the public body for less than 5 years, and 44% for more than 5 years at the time of their disclosure.

Disclosures by length of employment



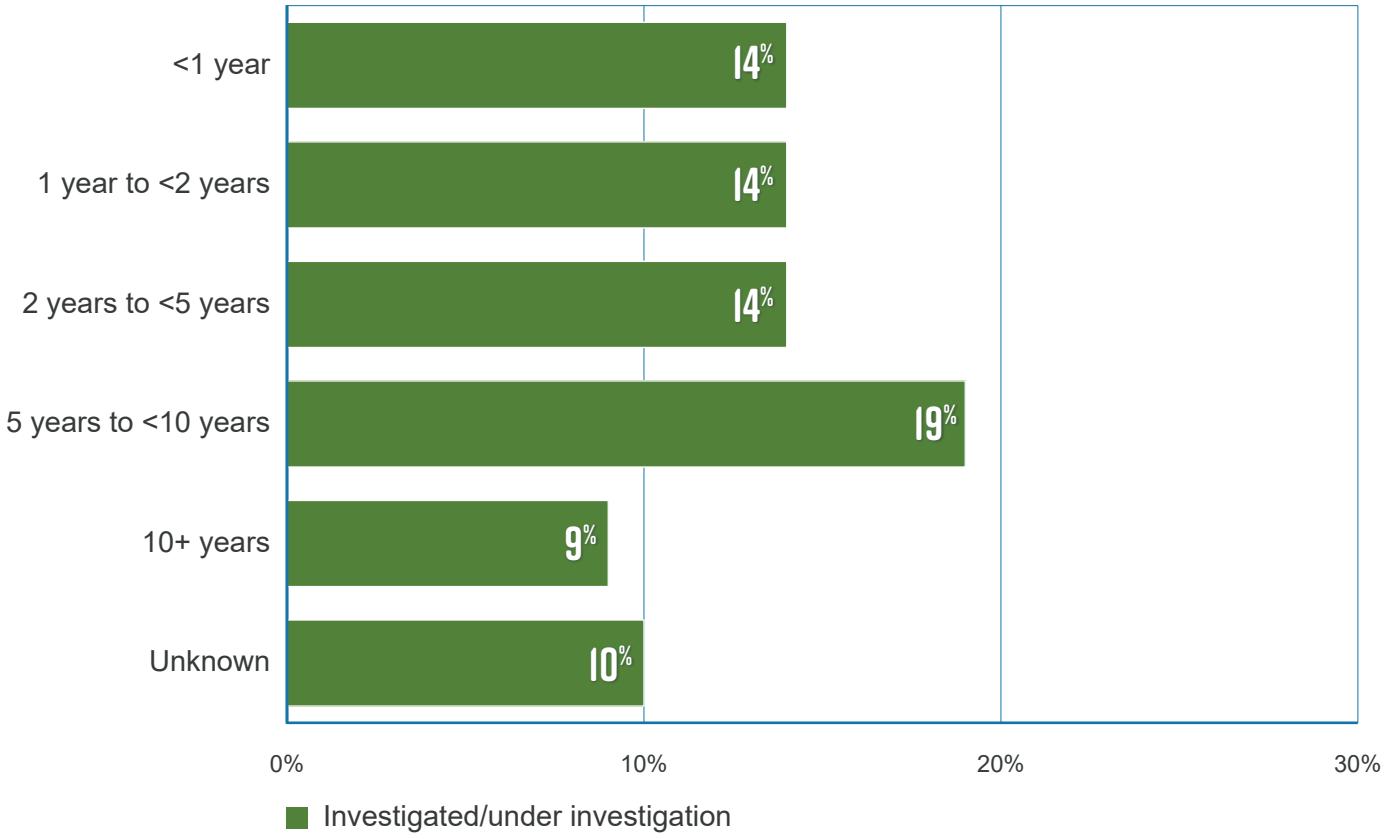
We explored whether a discloser's length of employment had any relationship to the types of concerns they raised. Employees with 5 to less than 10 years of tenure disclosed most frequently about hiring and promotion (44%) and conflicts of interest (43%), while employees with less than 2 years of tenure disclosed most often about procedures/policies (59%) and privacy breaches (29%). Those employees with unknown lengths of employment (often anonymous) most frequently raised concerns about harm to the environment (67%).

Disclosure themes by length of employment (percentage)

THEMES	<1 year	1 year to <2 years	2 years to <5 years	5 years to <10 years	10+ years	Unknown
Employee safety	8	17	17	17	8	33
Workplace dynamics	2	14	22	22	25	15
Misuse of public funds	11	16	21	11	11	32
Hiring and promotion	11	11	-	44	22	11
Public safety	17	13	17	22	17	13
Conflict of interest	14	14	-	43	-	29
Procedures/policies	17	42	17	4	-	21
Harm to environment	-	-	-	-	33	67
Privacy breach	-	29	29	-	-	43

We also looked at whether the length of time disclosers were employed impacted if their disclosure was investigated. Those employed between 5 years to less than 10 years were more likely to have their disclosure investigated (19%) compared to the other groups. The second highest group was disclosers employed between 2 years to less than 5 years at time of disclosure.

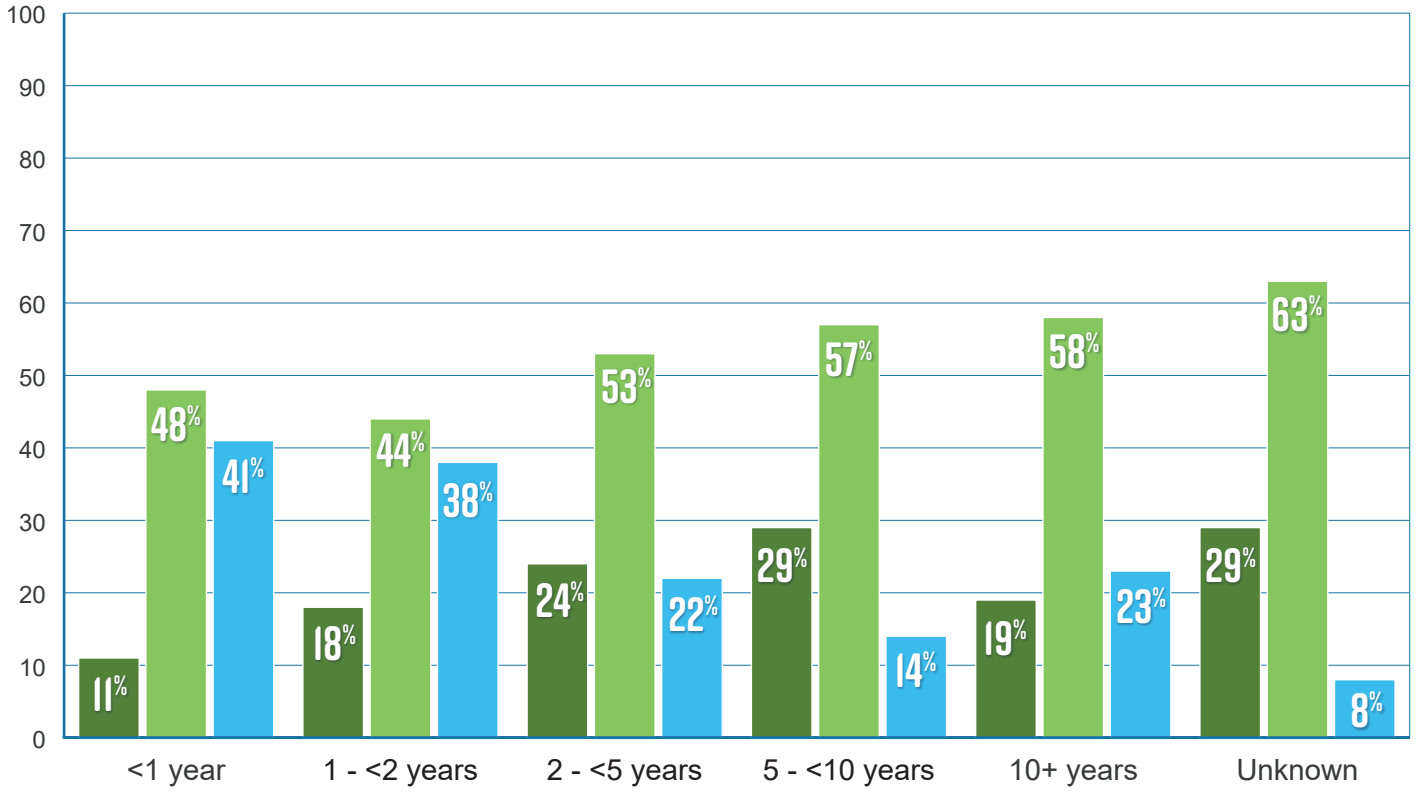
Investigations by employment duration



Fear of reprisal by length of employment

Overall, employees consistently expressed fear of reprisal regardless of duration of employment. Disclosers who had been with a public body for 5 years to less than 10 years were slightly more likely to express fear of reprisal, with 29% of individuals in this group reporting concern.

Fear of reprisal by length of employment



**data self-reported at time of disclosure across all sectors covered by PIDA*

- Fear of reprisal/retaliation
- No fear
- Maybe/unclear

Types of matters dealt with by the Ombudsperson

Statistics regarding the different types of cases the Ombudsperson manages are provided below.

	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	**TOTALS** Dec.1, 2019 – March 31, 2025
Months PIDA was in force during fiscal year	4 months	12 months	12 months	12 months	12 months	12 months	**64 months**
Employees covered by end of reported period[12]	**36,500**	**36,500**	**36,500**	**59,200**	**263,200**	**325,200**	**N/A**
Annual increase in employees		**0%**	**0%**	**55%**	**370%**	**23%**	**792%**
Total public bodies covered	**30**	**30**	**30**	**99**	**170**	**197**	**N/A**
Consultation with a public body regarding its PIDA investigation or referral	0	6	3	8	12*	28	**57**
General inquiries	18	37	21	31	70	35	**212**
Advice	17	25	21	29	69	74	**235**
Disclosures received, both jurisdictional and non-jurisdictional	22	46	31	49	75	159	**382**
Reprisal complaints	0	10	6	2	13	7	**38**
TOTAL MATTERS	**57**	**124**	**82**	**119**	**239**	**303**	**924**

**Mistakenly reported as 2 in the office's 2023/24 Annual Report*

[12] Employee numbers in each public sector are approximate and were determined by our office using the best publicly available data as of January 2022.

How public bodies are reporting on PIDA: Compliance with sections 38 and 39

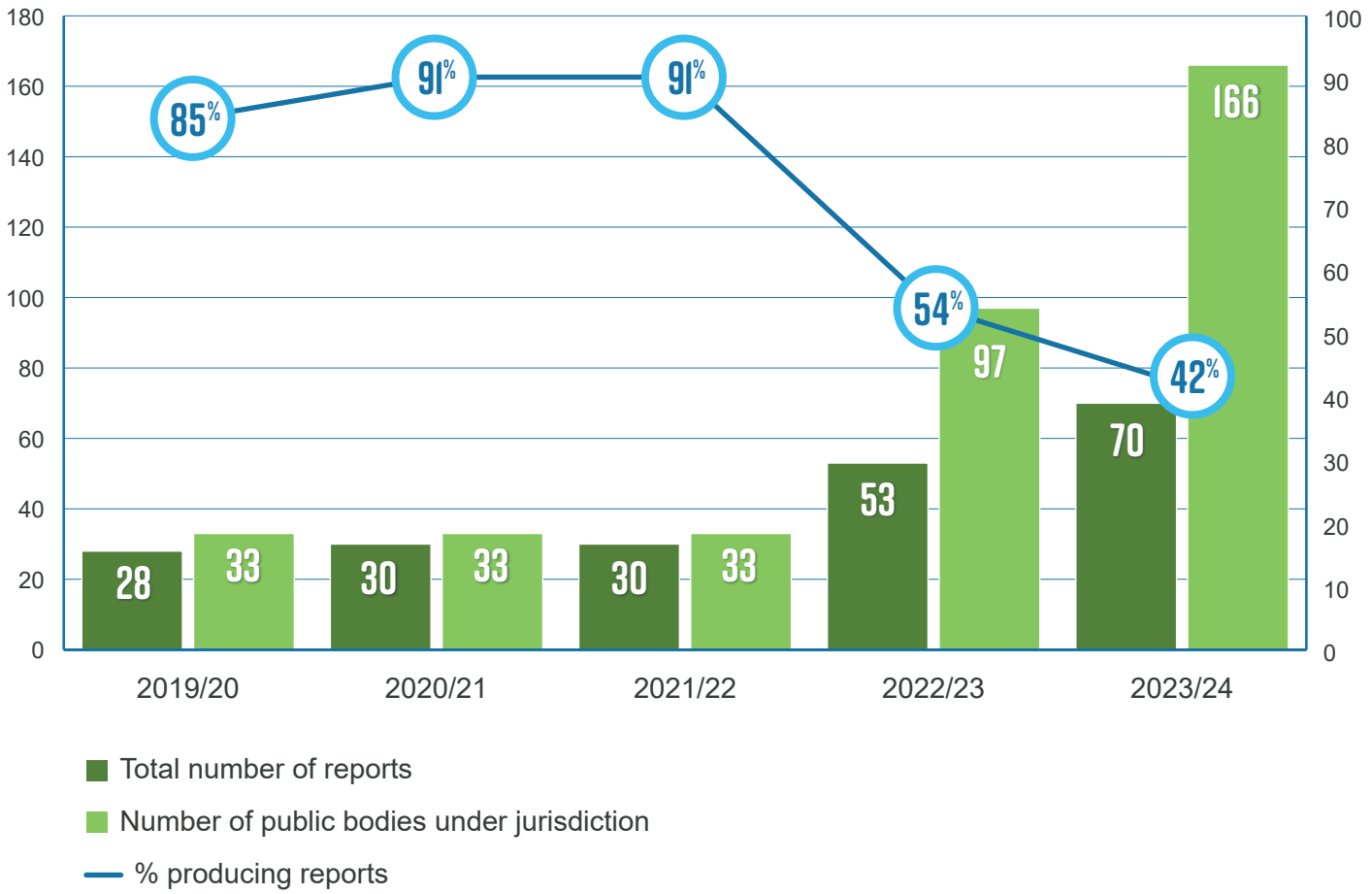
Section 38 of PIDA requires chief executives to prepare an annual report of all disclosures made within their organization and all investigations initiated for that year. Section 39 then requires the public body to make the report available on its website.

Our review of public body websites found the following trends in compliance:

- 2019/20: 85% of public bodies (ministries and independent offices of the Legislature) posted their reports online[13]
- 2020/21 to 2021/22: 91% compliance
- 2022/23: A significant drop, with only 54% of public bodies publishing their reports
- 2023/24: Compliance decreased further to 42%

We did not assess 2024/25 figures, as some public bodies are still in the process of finalizing and publishing their reports.

Section 38 reports produced



[13] The Public Service Agency acts a hub for all ministries and publishes one section 38 annual report for ministries on its website.

Among the public bodies that made their annual reports available, very few reported receiving internal disclosures (61 in total) or launching internal investigations (23 in total).

This suggests that, for those public bodies that are producing the required annual reports, relatively few are reporting internal activity under PIDA.

From 2019/20 through 2022/23, ministries reported the highest number of internal disclosures.

In 2023/24, the first year health authorities were covered under PIDA, they reported the most internal disclosures and investigations among all public bodies.

Internal public body reports	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25*	TOTAL
Government ministries							
Disclosures	4	9	3	5	8	-	**29**
Investigations	0	2	1	0	2	-	**5**
Independent offices of the Legislature							
Disclosures	0	1	1	0	0	-	**2**
Investigations	0	0	2	0	0	-	**2**
Agencies, boards, commissions, and tribunals							
Disclosures	NA	NA	NA	0	0	-	**0**
Investigations	NA	NA	NA	0	0	-	**0**
Crown corporations							
Disclosures	NA	NA	NA	0	2	-	**2**
Investigations	NA	NA	NA	0	1	-	**1**
Health authorities							
Disclosures	NA	NA	NA	NA	27	-	**27**
Investigations	NA	NA	NA	NA	14	-	**14**
School districts							
Disclosures	NA	NA	NA	NA	1	-	**1**
Investigations	NA	NA	NA	NA	1	-	**1**
Colleges							
Disclosures	NA	NA	NA	NA	NA	-	**0**
Investigations	NA	NA	NA	NA	NA	-	**0**
Universities							
Disclosures	NA	NA	NA	NA	NA	-	**0**
Investigations	NA	NA	NA	NA	NA	-	**0**
TOTAL							
Disclosures	**4**	**10**	**4**	**5**	**38**	**-**	**61**
Investigations	**0**	**2**	**3**	**0**	**18**	**-**	**23**

**2024/25 results not available at time of report*

PART 3

Overview of Ombudsperson process

Case summaries

Our office is the external option for employees to seek advice about making a disclosure, or to make a disclosure of wrongdoing. We are the only option available to employees to make a complaint of reprisal under PIDA. We have developed robust procedures for the management of these responsibilities.

OVERVIEW OF OMBUDSPERSON PROCESS

Disclosure

Assessment — NO → The concern does not meet the requirements for a disclosure under PIDA. **The matter is closed.**

YES

Bars to investigation — YES → There are bars to an investigation. **The matter is closed.**

NO

Discretionary refusals — YES → The Ombudsperson exercised discretion in declining to investigate. **The matter is closed.**

NO

Referral — YES → The disclosure would be more effectively investigated elsewhere. We notified the discloser, referred them to the appropriate resource to address their concern, and **closed the matter.**

NO

Investigation

Substantiated, recommendations made	Not substantiated, recommendations made	Not substantiated, no recommendations
We found wrongdoing occurred and made recommendations to address the issue(s).	**We found no wrongdoing but identified areas for improvement. We made recommendations to address these.**	We found no wrongdoing and made no recommendations. **The matter is closed.**

Public report

Monitor implementation of recommendations

Ombudsperson process: Overview

Our staff promptly respond to all requests for advice. We provide the employee with detailed information about the PIDA framework – its requirements, protections, and processes.

When a written disclosure or reprisal complaint is received, we contact the discloser within two business days for further information and clarity regarding their concerns. Upon receipt of their information, we conduct a thorough assessment to determine if we can, or should, investigate the matter(s) alleged. We provide them with a written investigation decision.

If we investigate, we notify the chief executive of the organization before we collect relevant records, interview witnesses and those with required expert knowledge, and provide the alleged wrongdoer with a full opportunity to respond to the allegations.

At the conclusion of the investigation, we draft an investigation report for the chief executive with the findings from the investigation and any recommendations to address identified issues. Summaries of the report are provided to the discloser and the alleged wrongdoer.

The Ombudsperson then determines whether the matter warrants a public report.

Seeking advice

Employees and former employees of eligible public bodies can seek advice about making a disclosure. Advice can be sought in person or in writing from:

- the employee's union representative or employee association representative
- a lawyer
- the employee's supervisor
- the designated officer of the public body of the employee
- the Ombudsperson

Advice is not about recommending the employee take a particular course of action. Advice is intended to fully inform the employee about the framework of PIDA – its protections, expectations and requirements – and the process of assessing, and possibly investigating, their potential disclosure.

Making a disclosure

Employees and former employees of eligible public bodies can make a disclosure if they believe wrongdoing has occurred. Disclosures must be made in writing, either internally (to a supervisor or designated officer) or externally to the Ombudsperson.

Assessing the disclosure

When our office receives a disclosure, we assess whether:

- the discloser is an eligible current or former employee of a public body covered by PIDA
- the allegations relate to a public body covered by PIDA
- the allegations, if proven, would meet the definition of wrongdoing under the Act
- any bars to investigation apply
- there is a discretionary reason to decline an investigation

Bars to investigation

Certain matters are not eligible for investigation under PIDA. PIDA provides that the following types of disclosures cannot be investigated:

- employment-related disputes between an employee and their employer
- law enforcement matters involving police services
- matters involving the prosecution of an offence
- matters related to the adjudicative process, deliberation, or decision of a court, tribunal or other statutory decision maker

Discretionary refusals

Under PIDA, the Ombudsperson may decline to investigate for reasons including:

- The length of time which has passed means investigation would serve no useful purpose or could not be reasonably conducted.
- The disclosure is frivolous or vexatious.
- The disclosure does not rise to the level of a wrongdoing.
- The disclosure has already been appropriately investigated or addressed.
- The disclosure lacks enough specific information to support an investigation.
- The disclosure has been referred to another more appropriate investigative body (discussed further below).
- The matter is solely a public policy decision.

If a disclosure meets the necessary criteria, we open an investigation. If not, we close the matter and notify the discloser of our decision.

Referrals

Following a thorough assessment, and discussion with the discloser, we may determine that a disclosure could be more effectively investigated by the public body's designated officer, or by another independent office of the Legislature under its statutory mandate.

If we make that determination, following consultation with the prospective recipient, we will refer the disclosure to either the designated officer of the applicable public body or the appropriate independent office.

If we determine that the disclosure allegation constitutes a potential criminal offence, we will refer the matter to the appropriate police service.

We will notify the discloser of the referral decision once it is made.

Conducting the investigation

When an investigation begins, we notify the chief executive of the public body and provide instructions to protect the investigation's integrity and support staff throughout the process.

Our investigations may include:

- interviews with witnesses
- review of relevant documents
- engagement of subject-matter experts as needed

Where there are specific individuals alleged to have committed wrongdoing, we ensure they have a fair opportunity to respond to the allegations. Before finalizing any report, we provide alleged wrongdoers with a draft to allow for further response. After considering those responses, we finalize the report and share it with:

- the chief executive (full report)
- the discloser and any alleged wrongdoers (summary reports)

Reprisal complaints

Employees or former employees are protected from reprisal for seeking advice about making a disclosure, making a disclosure or cooperating with a PIDA investigation. The Act prohibits taking any action that could be considered to adversely affect the employee's employment or working conditions by reason that the employee did any one of these three protected acts.

Only the Ombudsperson is able to assess and investigate complaints of reprisal.

Our assessment of whether to investigate a reprisal complaint includes consideration, in the absence of evidence to the contrary, of whether all of the following apply:

- the person is a current or former employee
- they undertook a protected act
- they experienced an adverse measure
- the adverse measure was by reason of the protected act

The investigation of reprisal complaints follows much the same process as for a disclosure.

Reporting and follow-up

If it is in the public interest, the Ombudsperson may issue a public report. All reports include factual findings and, where appropriate, recommendations to address concerns, whether or not wrongdoing is found.

We monitor how public bodies respond to and implement our recommendations to ensure meaningful follow-through.

CASE SUMMARIES

The following section includes summaries of disclosure investigations completed by the Ombudsperson that resulted in recommendations to address identified concerns. Under PIDA, the Ombudsperson may make recommendations following an investigation regardless of whether wrongdoing was found.

This is important because concerns raised through PIDA may highlight serious issues that fall short of the legal threshold for wrongdoing, but still warrant corrective action. The ability to make recommendations in these situations ensures the disclosure process remains meaningful and systemic issues can be addressed before they escalate.

Case summary 1: Contracts in legal cases

The alleged wrongdoing

We received a disclosure under PIDA alleging that the Ministry of Children and Family Development (MCFD) misused public funds when engaging in legal proceedings under the *Child, Family and Community Services Act* and the *Family Law Act.* The discloser alleged that MCFD acted contrary to government financial directives by:

- establishing contracts for expert witness and court transcript services without obtaining required approval from the Ministry of Attorney General (MAG)
- coding the invoices and payments for these transactions improperly
- paying excessive witness fees higher than the amount allowed by MAG

Our investigation focused on whether MCFD seriously misused public funds under section 7(1)(c) of PIDA.

The investigation

Establishing contracts for expert witness fees and court transcripts without approval

Our investigation found that MCFD was authorized to establish contracts for court transcripts under the *Child, Family and Community Services Act* and the service level agreement between MCFD and MAG that was in place at the relevant time.

However, we also found that in family law cases, MCFD did not have authority to establish contracts for more than $700 without prior MAG approval. In 2019, MAG reiterated to MCFD that all contracts should go through MAG.

In this case, MCFD had contracted with outside legal counsel rather than using the legal counsel normally supplied by MAG. This outside legal counsel, who was involved in engaging the witnesses and obtaining transcripts, did not follow the appropriate procedures established by MAG because they were not familiar with them.

Coding for the invoices and payments improperly

Our investigation found that financial coding practices within MCFD allowed staff discretion, and there was no single correct set of coding practices for most transactions. MCFD's cost-management practices directed staff to code transactions as closely as possible to the description of the actual activity the transactions represented.

MCFD confirmed that its staff, who have delegated expense authority, are permitted discretion to spend budget dollars in their areas of responsibility. MCFD further maintained that variation in financial coding practices between different staff had no meaningful impact on its overall financial reporting because the different expenditures would be added to the same financial reporting line.

Paying excessive witness fees

We also found that the expert witness fees in one family court process exceeded the amounts allowed under the applicable MAG policy by approximately $6,000. The MAG policy in question stated that charging a higher rate was prohibited.

MCFD's records did not show consideration or discussion of the fee amounts and the records we reviewed showed that MAG staff:

- received a specific witness fee estimate in advance of the witness's testimony
- reviewed the invoices after the testimony in question
- requested additional information, and an opportunity to review before payment
- did not receive further information
- did not pay anything because MAG was not provided with an invoice at the proper rates for approval

Was it wrongdoing?

We consider an act to be a serious misuse of public funds under PIDA if the use of public funds was irregular or outside of what is normally expected in the circumstances, and that irregular use was serious in terms of the amount, the frequency, or because the misuse was in bad faith.

We found that there was no serious misuse in relation to either the court transcripts or the expert witness fees and therefore, no wrongdoing.

We determined there was no misuse of public funds in the direct contracting for court transcripts because the specific transactions in question were approved by a MCFD executive within the scope of their authority under the *Child, Family and Community Services Act*, and the funds were used as intended. The evidence also supported that the financial coding of the invoices in question was within the range of accepted practice and aligned with MCFD's agreement with MAG on appropriate coding.

Similarly, our investigation found that the transactions for payment of witness fees did not involve a serious misuse of public funds. While the direct contracting with expert witnesses was not authorized, and the fee amounts did not comply with the applicable MAG policy, the evidence indicated the contracted legal counsel was not familiar with the correct procedure. Our investigation identified that the contracting practices in this case reflected errors by MCFD staff and outside counsel, and perhaps a lack of oversight by MAG personnel. However, this was not a serious misuse of funds as would be required by PIDA for a finding of wrongdoing.

It was evident that these transactions arose in the context of complex and contentious proceedings. Furthermore, while we recognized the dollar value of the amount paid to the expert witness was excessive compared to MAG guide rates, it was within the range of similar service contracts. The use of expert witnesses in proceedings is part of MCFD's usual practice in fulfilling its mandate. Therefore, the evidence did not support a finding of serious misuse of public funds. However, we did find the applicable MAG policy should be reviewed and updated to provide clearer guidance.

The Ombudsperson's recommendations

Despite our determination that the ministries' actions related to direct contracts and witness fees were not wrongdoing under PIDA, we considered it appropriate to make recommendations under section 27(2)(c) of PIDA to ensure MCFD and MAG addressed the issues we identified.

Recommendation 1: MAG update the 2010 Billing and Reporting Guide to expressly address the question of what is to be done when outside counsel retain expert witnesses at amounts in excess of the guide without government approval. We recommended that this update be completed in consultation with the Office of the Comptroller General and other BC government ministries including MCFD.

Recommendation 2: MCFD train relevant staff on the guide and the resulting ministry procedures once the guide referred to in Recommendation 1 was updated.

Follow-up on the recommendations

MAG and MCFD both accepted our recommendations and we worked with each to ensure the recommendations were fully implemented. As of the date of this report, we understand that the following work has taken place:

Status of Recommendation 1: The Ministry of Attorney General Billing and Reporting Guide was updated, in consultation with the Office of the Comptroller General, in February 2022.

Status of Recommendation 2: Following the update to the guide, MCFD's intranet was updated to provide information in line with the guide. The intranet states all contracts with ad hoc counsel or expert witnesses for case-specific purposes must go through the Legal Services Branch and MCFD staff should not initiate ad hoc contracts with legal counsel or expert witnesses.

The Ombudsperson considers the recommendations fully implemented.

Case summary 2: Safe activities

The alleged wrongdoing

We received a disclosure under PIDA alleging that a small public body failed to fulfill its mandate to ensure the safety and integrity of certain activities involving members of the public. Our investigation focused on whether there was gross or systemic mismanagement in relation to the public body's mandate, contrary to section 7(1)(d) of PIDA.

The investigation

Section 40(6) of PIDA requires that we exclude from a public report any information that would:

(a) unreasonably invade a person's privacy

(b) reveal the identity of a discloser, or

(c) reveal the identity of an individual who was the subject of an investigation

Given this provision and considering the nature of the allegation and the small size of the public body, we cannot publicly release the details of this investigation.

Providing details about the nature of the disclosure or the investigation would reveal the identify of the individual who was the subject of the investigation and may reveal the identity of the discloser.

Was it wrongdoing?

Our investigation resulted in no finding of wrongdoing.

The Ombudsperson's recommendations

While we did not find any wrongdoing, based on the evidence gathered during the investigation, the Ombudsperson recommended the public body make changes to its policy and establish an appropriate system to ensure that the activities it oversees are properly monitored and safe for those involved.

Follow-up on the recommendations

The public body agreed to the recommendations. It redeveloped its policy and established a system to undertake the necessary monitoring of the activities in question.

The Ombudsperson determined the public body has fully implemented the recommendations.

Case summary 3: Use of a government vehicle

The alleged wrongdoing

We received a disclosure under PIDA alleging that a former Commercial Vehicle Safety and Enforcement (CVSE) officer used their assigned patrol vehicle for extensive personal use.

CVSE is a branch of what is now known as the Ministry of Transportation and Transit (MOTT) and promotes compliance with safety regulations for heavy trucks and other commercial transport to increase road safety and protect public health, transportation infrastructure, and the environment.[14]

Personal use of a CVSE vehicle could undermine trust in a public institution, result in additional wear or damage to a public asset, and cause public safety issues if the vehicle is mistaken for being involved in enforcement activities.

We investigated whether this conduct was a serious misuse of a public asset under section 7(1)(c) of PIDA.

The investigation

Authorized use of the patrol vehicle

Our investigation determined that the officer was hired to work in a stationary position at a specific commercial vehicle scale and was only permitted to use their patrol vehicle to travel to and from the scale, and to and from pre-authorized training or meetings. We also learned that, due to organizational changes and the remote location of the officer's posting, the officer's supervisor informally assigned the officer increased enforcement activities and permitted use of the vehicle for that purpose.

However, we received conflicting accounts from CVSE management regarding the nature of the approved enforcement activities, including whether the officer was allowed to conduct mobile enforcement and inspection, and allowed to work alone while doing so. Our investigation determined that the informal expansion of the officer's role caused confusion for the officer, their supervisors, and other CVSE staff.

Unauthorized work use

Our investigation also showed that the officer did not inform their supervisor when they were working alone and undertaking patrol activities. In addition, contrary to CVSE procedures, the officer had travelled outside of the province without first receiving their supervisor's permission. We could not determine whether the officer's travel outside of the province was solely related to their work. However, this only occurred once. We found that the officer's supervisor was not always aware of the officer's location even when working in the province and did not address this with the officer. This put the officer and the public at risk because CVSE would not have been able to provide backup or assistance when the officer was alone and in remote areas without cell service.

Personal use

The records we reviewed showed that the officer did not consistently inform their supervisor of their travel plans when working. Further, the supervisor did not request additional information from the officer to ensure accurate reporting and compliance with CVSE procedures. Based on the limited information available, we could not determine how much of the officer's vehicle mileage was due to authorized work activities, unauthorized activities, or for personal use.

Was it wrongdoing?

We consider several factors in determining whether conduct constitutes a serious misuse of public assets under PIDA:

- Was the asset public?
- Was the asset misused?
- Was the misuse serious?

[14] Province of British Columbia, Commercial Vehicle Safety and Enforcement, "Key Facts".

In this case, we confirmed the patrol vehicle was a public asset and it was used in an unauthorized way – the officer did not consistently follow CVSE procedures for working alone or travelling out of the province.

However, we could not conclude that the misuse was serious. This was because we could not determine whether any unauthorized use was due to the officer's failure to follow procedures for working alone, the lack of clear direction from their supervisor, or a result of the supervisor's failure to address the unique work situation of the employee. Most of the instances of possible misuse were work-related.

In addition, the informal expansion of the officer's role contributed to confusion for other CVSE staff regarding the officer's use of the patrol vehicle and enforcement activities. For these reasons, we determined that the officer's unauthorized use of their patrol vehicle was not serious misuse of a public asset and therefore, there was no wrongdoing.

The Ombudsperson's recommendations

Despite finding the use of the vehicle was not wrongdoing under PIDA, we considered it appropriate to make recommendations under section 27(2)(c) of PIDA to ensure MOTT addressed the issues we identified.

Recommendation 1: Through the SafetyAware application, or by other means, MOTT consider tracking and monitoring CVSE officer use of its vehicle fleet while off-duty.

Since this case, CVSE had started using a GPS application called SafetyAware to track officer locations. However, SafetyAware only works when officers use it. We were concerned that officers may still use patrol vehicles off duty or for personal use without engaging the SafetyAware application. Therefore, we recommended that MOTT track and monitor CVSE officer vehicle use while off duty through SafetyAware, or other means.

Recommendation 2: MOTT improve tracking of CVSE officer training and communicate training to new supervisors to support officer transitions.

This case highlighted concerns with CVSE's practices for assigning new supervisors and tracking officer training and experience. In this case, the gap may have led to the officer conducting enforcement activities beyond their training or experience. Therefore, we recommended that MOTT improve its tracking and communication of CVSE officer training.

Follow-up on the recommendations

MOTT accepted both recommendations and we are continuing to work with it to ensure our recommendations are fully implemented. As of the date of this report, we understand that the following work has been completed:

Status of Recommendation 1: MOTT does not currently have a GPS tracking program in place. The provincial government's existing fleet management services contract expires January 31, 2026. We have been informed that staff at the Ministry of Citizens' Services are tendering documents for a new contract that will include provisions for GPS tracking for fleet management.

Meanwhile, CVSE officers continue to be required to follow the government's core policy and procedures when operating government vehicles, in addition to CVSE's vehicle usage policy.

Status of Recommendation 2:
MOTT is developing a Learning Management System to house and facilitate CVSE training. While being developed, CVSE has used monthly management and supervisor meetings to discuss officer course requirements and completions, refresher training, and where more support may be needed.

CVSE is also working with the BC Public Service Agency to enter all CVSE-specific training completed by officers into its MyLearning system to ensure supervisors can easily view all training completed by staff.

Case summary 4: Culvert engineering

The alleged wrongdoing

We received a disclosure alleging the Ministry of Transportation and Transit (MOTT) routinely failed to ensure that large culvert replacements met the requirements of the *Water Sustainability Act* and the *Water Sustainability Regulation* (the Regulation).

Culverts are large pipes often installed under roads to prevent flooding, to channel water past an obstacle, or to provide for effective drainage. As part of its highway infrastructure, MOTT constructs culverts to allow for streams to cross under roads.

The disclosure alleged that on three creeks where culverts were installed, MOTT did not follow these legal requirements:

- culverts must allow fish to swim through unimpeded
- large culverts (2 meters to 2.9 meters in diameter) must be designed by an engineer

A failure to properly construct these large culverts could endanger public safety or result in damage to private property.

This allegation raised concerns of wrongdoing under PIDA that could be:

- 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 an employee's duties or functions
- gross or systemic mismanagement

The investigation

For the first creek, based on MOTT's records and interviews with staff, we were unable to conclude whether the culvert allowed fish passage. However, the culvert was 1.8 meters in diameter and was not required to be designed by an engineer.

For the second creek, the evidence showed that the culvert would enable fish passage and the structural design documents were also stamped by an engineer. However, we were unable to determine whether engineers conducted a site-specific assessment of the creek in support of the culvert's design. As such, we could not conclude that MOTT met the legal requirement to involve an engineer in designing the culvert.

For the third creek, MOTT's records showed it had paid special attention to enabling fish passage during the culvert installation. However, there was no evidence that an engineer was involved in an assessment of the drainage basin, the site-specific conditions of the stream channel, or in determining whether the culvert had sufficient hydraulic capacity for the flow of the stream. Therefore, we found that MOTT did not meet the legal requirement to involve an engineer in designing the culvert.

Was it wrongdoing?

PIDA considers conduct a wrongdoing if an act or omission 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 an employee's duties or functions.

The culverts at issue did not present either a substantial or specific danger to life, health or safety. Even though MOTT did not involve an engineer in the design of the third creek, the location of the culvert and the evidence received did not support a conclusion that there was a substantial danger of harm from potential failure of the culvert. Further, MOTT involved the appropriate environmental consultants during the culvert projects and representatives from MOTT's environmental management branch weighed relevant factors to determine what action would be best for the aquatic environment during culvert installation.

We consider conduct to be gross or systemic mismanagement under PIDA if the mismanagement was of a public resource, and that mismanagement was serious, longstanding or widespread. While in one case, MOTT's failure to involve an engineer in the culvert's design was contrary to the Regulation, staff attempted to ensure the appropriate operation of the culvert in the stream. We did not have evidence of any existing negative impact resulting from the violation. Therefore, we concluded that MOTT's actions did not reach the threshold to be considered gross or systemic mismanagement under PIDA.

The Ombudsperson's recommendations

While we did not find that the conduct of staff represented a wrongdoing, the failure to involve an engineer as required remained a significant concern. For this reason, we made two recommendations under section 27(2)(c) of PIDA to ensure MOTT addressed the issues we identified.

Recommendation 1: MOTT employ an engineer to assess the culvert installation on the third creek to ensure it was appropriate.

We made this recommendation to mitigate the potential for future harm caused by the culvert by having it examined in accordance with the regulatory requirements.

Recommendation 2: MOTT ensure that the installation of all culverts with a diameter of 2 metres and larger follow the design of an engineering professional.

We made this recommendation to align MOTT's practices with the Regulation and to ensure MOTT's climate change adaptation commitments are met. MOTT acknowledged that culverts between 2 metres and 2.9 meters carry significant amounts of water and deficiencies in these culverts can have disastrous consequences for the aquatic environment, private property and for those downstream relying on the stream for clean water.

Follow-up on the recommendations

MOTT accepted both recommendations. We worked with staff to monitor its progress and ensure the recommendations were fully completed.

Status of Recommendation 1: MOTT retained an external engineering firm to undertake the inspection necessary to assess the culvert installation and capacity. The engineer's report confirmed that the culvert is appropriately sized for the channel.

Status of Recommendation 2: MOTT created a new position, Water Permitting and Authorizations, to assist ministry operations, project delivery and engineering staff with water matters, including the *Water Sustainability Act* and the Regulation, as well as with drainage related issues in connection with MOTT's infrastructure. The position is intended to add additional skilled resources to MOTT's operations. Its goal is to bring an additional layer of oversight, skill, knowledge and expertise in the conduct of these operations.

The Water Permitting and Authorizations team have been carrying out training sessions for MOTT staff on when to engage professionals regarding work conducted in and about water bodies.

MOTT is updating the Standard Specifications for Highway Construction document to provide greater clarity on the document's purpose as a construction guide. In particular, the updates are anticipated to provide guidance for when professionals are to be hired to provide design requirements. It is expected that appropriate communications and training of staff will coincide with, or follow the updating of this guide.

MOTT's chief engineer led the development and implementation of a guidance document regarding culvert requirements, which will be published once review processes are complete.

MOTT is also preparing a best practices guide to clarify for operations staff what would constitute an emergency culvert replacement.

The Ombudsperson considers the recommendations fully implemented.

Case summary 5: *Hire Power* (ministerial assistant hiring)

The alleged wrongdoing

We received a disclosure alleging the wrongful hiring of two ministerial assistants into roles with the Ministry of Social Development and Poverty Reduction (MSDPR) immediately following their time as ministerial assistants to the minister. The discloser alleged the ministerial assistants were hired by MSDPR at the request of the minister without following the applicable processes, and once hired, they received preferential treatment during internal promotion opportunities.

We investigated the disclosure to determine whether gross or systemic mismanagement occurred in or relating to MSDPR.

During our investigation, we reviewed evidence that showed the BC Public Service Agency (the PSA) was not correctly applying the relevant hiring policy to ministerial assistants who are Order in Council (OIC) appointees. We expanded the investigation by looking into whether the PSA's process for managing OIC appointees applying to competitions which they were not eligible for could constitute systemic mismanagement in or relating to the PSA.

Specifically, we investigated whether there was a failure by the PSA to ensure compliance with section 9.1 of the Terms and Conditions for Excluded Employees, which prohibits OIC appointees from applying to internal temporary assignment competitions.

The investigation

MSDPR investigation

Based on records and interviews with MSDPR and PSA staff, we found that MSDPR followed public service-wide practice regarding eligibility of ministerial assistants, or political staff, to public service assignments. But the public service-wide practice was inconsistent with written government policy.

One of the ministerial assistants was hired through a competitive process. The other ministerial assistant's hiring and subsequent promotion complied with the *Public Service Act.*

The evidence did not suggest any ministerial interference in the hiring of the two ministerial assistants at issue or preference towards either employee.

Rather, the evidence raised questions about the PSA-endorsed public service-wide application of section 9.1 of the Terms and Conditions for Excluded Employees. Contrary to the Terms and Conditions, OIC appointees across the public service were accessing and competing for internal temporary assignment opportunities – positions they were not eligible to apply for and which were reserved for regular public servants only. The Terms and Conditions are the PSA's policy and the PSA's responsibility to administer, amend and enforce as required. As such, we pursued this issue directly with the PSA.

PSA investigation

The evidence provided by the PSA revealed a regular and long-standing issue regarding OIC appointees applying for internal temporary assignments. The data showed that over 10 years, at least 64 eligible public servant applicants were not offered positions because they came in second to an OIC appointee. There was no mechanism for ineligible applicants to be identified and removed from the competition. OIC appointees were not informed of section 9.1 at the time of their appointments.

The evidence showed that, rather than excluding identified OIC appointees from internal temporary assignment competitions, the PSA had developed a regular informal process to manage competitions when OIC appointees were successful. If OIC appointees were successful in an internal temporary assignment competition, the PSA expected them to resign from their appointments and accept their temporary assignment on an auxiliary basis.

Was it wrongdoing?

Our assessment of MSDPR's conduct

Gross mismanagement is serious and requires conduct that is negligent, an abuse of authority, unlawful, in bad faith, or dishonest. In this case, to make such a finding, we would need evidence that there was improper and biased processes which resulted in specific ministerial assistants being appointed to their positions within MSDPR. With respect to ministerial interference, we would need evidence that the minister directly meddled in the hiring decisions made.

The evidence we found did not support the discloser's allegations or a finding of wrongdoing under PIDA in or relating to MSDPR's hiring of the specific ministerial assistants.

Our assessment of the PSA's conduct

Systemic mismanagement is broad, longstanding, or organizational in nature. It is typically recurrent, involves or impacts a broad number of people and is often known of and accepted by those with a high level of responsibility.

The evidence we found supported a finding of systemic mismanagement, a wrongdoing under PIDA.

While a small percentage of public service employees were affected by the alternative process, for those who were, the inappropriate loss of a development opportunity was a serious matter. There is the loss of the direct benefit (such as a likely increased salary) but also the long-term impact of missing out on a developmental opportunity. The latter can have an impact on the trajectory of an entire career. Missing out on developmental opportunities awarded to ineligible employees is unfair and contrary to the public service hiring principles. The PSA increased the seriousness of the wrongdoing by developing and using an alternative informal process to circumvent policy.

The alternative process demonstrated broad acceptance of regular contravention of the PSA's own policy. Rather than seeking to mitigate the practical challenges the policy posed, the PSA created an alternative and informal process, that contravened the wording and intention of the policy. The PSA allowed OIC appointees to hold positions they were not intended to be eligible for at the expense of current public sector employees. Broad acceptance of a known issue is a common feature of systemic mismanagement.

An applicant's loss of an employment opportunity to which they were otherwise entitled, due to a systemic acceptance of a policy breach, is a serious concern that damages the PSA's record of ensuring the public service is a fair and principled employer. This constitutes systemic mismanagement.

The Ombudsperson's recommendations

As a result of our determination of wrongdoing, we made the following recommendations under section 27(2)(c) of PIDA to ensure the PSA addressed the issues we identified.

Recommendation 1: The PSA update its practices to be consistent with section 9.1 of the Terms and Conditions for Excluded Employees by amending:

- existing hiring procedures and materials, including systems changes if practicable, to assist in identifying and screening out OIC appointees from a competition
- onboarding templates for OIC appointees to clearly communicate section 9.1 and the expectations for OIC appointees that flow from the policy

Recommendation 2: The PSA communicate section 9.1 to deputy ministers in writing and ensure the information was also provided to ministers' offices.

Recommendation 3: Where OIC appointees are identified as having applied for a temporary assignment, to advise the appointee that they are in breach of section 9.1 and on a second occurrence their supervisor will be advised for the purpose of follow-up with the employee.

Recommendation 4: The PSA report to the Merit Commissioner annually for the next three years, its compliance with these recommendations, in a manner the Merit Commissioner considers appropriate. The PSA may return to the Ombudsperson's office to review this recommendation if the PSA believes the manner set out by the Merit Commissioner is unreasonable.

As the independent office of the Legislature tasked with auditing and reviewing hiring competitions under the *Public Service Act*, the Merit Commissioner's expertise is well suited to monitor the PSA's progress on the recommendations.

We issued a special report in June 2024 on our investigation into this matter. *Hire Power: The appointment of ineligible candidates to temporary assignments in the public service* is published on our website.

Follow-up on the recommendations

The PSA accepted our recommendations and the Merit Commissioner will be receiving progress updates. The PSA first reported to the Merit Commissioner on its progress in implementing the recommendation in May 2025, with additional reports expected in May 2026 and 2027.

The PSA has informed us that the following work will take place:

Status of Recommendation 1: The PSA will update its recruitment system questionnaire to identify and screen out applicants who are OIC appointees, and update its offer letters to clarify the temporary assignment restriction.

Status of Recommendation 2: The PSA will send a further reminder letter out to all deputy ministers and ensure the information is also provided to ministers' offices.

Status of Recommendation 3: The PSA will exercise due diligence to notify OIC applicants that they cannot apply for temporary assignments and that if identified, their application must be withdrawn. If the PSA becomes aware of multiple applications by an OIC for temporary assignments, it will notify their supervisor.

Status of Recommendation 4: The PSA will report its compliance with these recommendations and will continue to do so until 2027.

Case summary 6: Employment standards decisions

The alleged wrongdoing

Our office received a disclosure under PIDA alleging that the Employment Standards Branch (the ESB) of the Ministry of Labour undermined the independent decision-making of its Industrial Relations Officers (IROs). The concerns had previously been raised internally and included allegations that the ESB had been improperly deleting records that would be necessary if a judicial review application was filed contesting a decision. We investigated the disclosure to determine whether wrongdoing occurred in or relating to the ESB. Specifically, whether there was gross or systemic mismanagement as contemplated by section 7(1)(d) of PIDA.

The ESB's mandate is to promote and uphold the BC *Employment Standards Act,* which protects employees and sets minimum requirements for employers. Its IROs are responsible for mediating and adjudicating workplace complaints. If either party (employer or worker) disagrees with an IRO's decision they may appeal to the Employment Standards Tribunal, and then make an application for judicial review to the BC Supreme Court.

We assessed the disclosure and determined that the allegations, if proven, could constitute wrongdoing under PIDA. As a result, we decided to investigate the matter. Our investigation focused on whether the ESB had a practice of improperly fettering, or limiting, the discretion of its IROs.

Specifically, we looked at:

1. whether an ESB program advisor, through a "read-and-review" process, repeatedly and substantially fettered the discretion of IROs' determinations under the *Employment Standards Act* and the *Temporary Foreign Worker Protection Act*. If true, the ESB's actions would be contrary to the rules of natural justice.
2. whether the ESB had a practice of deleting records related to the "read-and-review" process that is contrary to government records requirements.

The investigation

Fettering discretion

Our investigation began by looking into the "read-and-review" process the ESB used whereby program advisors reviewed, and could change, the determinations of IROs. Early in our investigation, we learned that a lawyer from the Ministry of Attorney General's Legal Services Branch (the LSB) had already reviewed the fettering allegations. Records from a committee – comprised of Ministry of Attorney General (MAG) and Public Service Agency (PSA) executives – coordinating the response to these allegations suggested that an investigation was undertaken, findings were made, and the committee considered whether any further action was required.

Given the overlap between our investigation of the fettering allegations and the LSB lawyer's review, we attempted several times to obtain evidence to clarify the lawyer's findings, the committee's consideration of the review, and/or any subsequent steps taken. This was necessary to determine whether the matter had already been appropriately investigated. However, the substantive aspects of the records were redacted or otherwise withheld from our office by MAG, citing solicitor-client privilege.

Without more specifics about the fettering review done by LSB or the committee, we needed to interview several current and former senior executives within the PSA and Ministry of Labour, and to pursue additional documentation to help us clarify matters.

As a result, we were able to determine that the IROs' discretion could not be fettered because they do not have independent decision-making

authority; they are delegates of the ESB director. However, we received evidence that suggested the fettering review may have ended prematurely.

Without the redacted and withheld information, we were unable to determine whether the review was appropriately completed.

Deleting records

Our investigation found that the ESB had deleted records – primarily created in the "read-and-review" process – which it viewed as transitory or not needed as evidence of the decision. This is permitted under the applicable legislation. The question of whether it was correct to characterize such records as transitory was less clear. The ESB said it had a legal opinion to support its perspective but the PSA and the Corporate Information and Records Management Office (CIRMO) interpreted the opinion differently. However, the PSA and CIRMO stated they were unable to definitively determine whether those records were transitory because they were not experts in the ESB's work.

The CIRMO report on the matter raised the prospect that the records were not transitory and could not be deleted because they could be considered relevant to a litigation discovery process. However, CIRMO's assessment, analysis, and conclusions were redacted from the report and they refused to share them with us, citing solicitor-client privilege.

Again, without access to the privileged information, we were required to interview several additional executives to better assess whether the ESB inappropriately deleted records.

In response to our inquiries, an executive at the ESB reviewed its processes and confirmed there was "little, if any, indication that the ESB is not in compliance with appropriate policies." In addition, after re-reviewing CIRMO's report on the matter, the ESB updated its policy and communicated to staff about the classification of records and its obligations.

As with the discretion issue, we were unable to determine with certainty whether the matter had been appropriately reviewed. We had outstanding questions about whether certain records were authorized to be deleted while legal processes related to the relevant files were underway.

Was it wrongdoing?

We consider a variety of factors in determining whether conduct constitutes gross mismanagement under PIDA, including whether it involves a person in a position with a high level of authority or responsibility, whether the conduct is recklessly negligent, deliberate, for an improper purpose or personal gain, or an abuse of authority. Systemic mismanagement is mismanagement that is wide spread, long standing or a part of the organization's culture or practice.

Fettering discretion

We determined that no wrongdoing occurred related to this allegation.

Our investigation supported that the IROs are not independent statutory decision makers and the ESB's "read-and-review" procedure was a quality assurance process to ensure staff made decisions in line with its policies, precedent, and applicable laws. Therefore, we found that on a balance of probabilities, the ESB did not improperly fetter the IROs' discretion. However, without the complete record, we had outstanding investigative questions about the process used in reviewing this matter.

Deleting records

We determined that no wrongdoing occurred related to this matter.

Our investigation found the ESB acted proactively to define its records policies and ensure compliance with records requirements. The evidence we reviewed indicated the ESB's process was to only delete internal, operational records, and not external records that are considered public record. Therefore, we found that on a balance of probabilities the ESB's current

process complied with government records requirements. Again, however, the lack of access to privileged information left outstanding questions about whether prior practice was appropriate and whether the matter had been properly investigated or dealt with.

The Ombudsperson's recommendation

Since 1991, our office has had an agreement with MAG that it will provide us with information which may be subject to solicitor-client privilege related to investigations under the *Ombudsperson Act.* We do not consider the sharing to be a waiver of privilege, and we always maintain the confidentiality of that information. As a primary oversight body of government, we use this information to thoroughly and accurately assess how government has handled matters of concern to determine whether conduct was appropriate or reasonable. Our office has managed receipt of this information for almost 35 years. Regrettably, MAG refused to provide us with the same information when requested for investigations under PIDA.

Due to MAG's refusal to provide several pieces of information requested, we were unable to make more conclusive determinations whether what occurred was appropriate. While we were able to determine no wrongdoing occurred, we were not able to definitively clear the Ministry of Labour of all possible misdeeds. Further, this refusal required us to speak to significantly more people, including some no longer working for government, to pull several senior executives away from their core work, and to conduct a lengthier investigation overall to make our conclusions. This meant informing significantly more people of the allegations against the Ministry of Labour and specific senior executives – knowledge they would not otherwise have had. This casts an unnecessary cloud over the ministry and the individuals involved.

PIDA requires us to conduct investigations confidentially and in an expeditious, fair and proportionate manner as appropriate in the circumstances. The refusal to share privileged information frustrates these requirements and creates a process that unnecessarily involves more people and is neither expedient nor proportionate in the circumstances.

Recommendation 1: Despite our finding of no wrongdoing, we considered it appropriate to make a recommendation, under section 27(2)(c) of PIDA, that the MAG provide us with information that may be subject to solicitor-client privilege related to PIDA investigations. We believe the sharing of this information is not a waiver of privilege and ensures the appropriate operation of PIDA.

Follow-up on the recommendation

MAG did not accept our recommendation. It plans to continue its current practice of assessing our requests for information that could be subject to solicitor-client privilege on a case-by-case basis. We note that, with respect to PIDA investigations, none of the requests made to date have been approved.

Case summary 7: Tuition fees

The alleged wrongdoing

We received a disclosure alleging that a person in a senior management position at the Ministry of Health (the ministry) had shown favouritism towards a particular employee and inappropriately reimbursed, through the Pacific Leaders Scholarship Program (PLSP), all fees associated with the employee's graduate degree program.

If true, this allegation raised concerns of a serious misuse of public funds under section 7(1)(c) of PIDA.

We investigated the disclosure to determine whether wrongdoing occurred in or relating to the ministry. We focused on three aspects of the allegation:

1. whether the reimbursement to the employee was outside guidelines, and if so, the reason for reimbursement
2. whether there were appropriate conditions attached to the reimbursement per the PLSP guidelines
3. whether there was any favouritism toward the employee

The investigation

Allegation of reimbursement outside guidelines

Based on our review of the evidence, we determined that the employee applied for and received full reimbursement for tuition fees through both PLSP (in the maximum amount of $7,500) and the ministry's employee training and course fees budget expense category. This was done despite an agreement between all ministries and the Deputy Ministers' Council (DMC) that limited tuition fee reimbursement beyond the PLSP's maximum. In accordance with this agreement, a ministry's training budget should not be used to top up funding beyond PLSP maximums.

However, limited information about the terms of the DMC agreement and the lack of clear communication from the DMC to ministries created ambiguity about the PLSP reimbursement limits. Further, in this case, the ministry provided a reasonable justification for why the employee received a full reimbursement for the program.

Considering these factors, we could not conclude that the reimbursements were clearly made outside of the DMC's guidelines.

Conditions attached to approval of the reimbursement

The employee signed an agreement with the ministry to maintain adequate grades and remain working in the public service for a specified amount of time after completing the degree, or the employee would repay the reimbursement. This agreement aligned with PLSP guidelines.

We determined that the allegation was unsubstantiated – there were in fact appropriate conditions attached to the employee's program as required by PLSP guidelines, and the employee did later repay the full $7,500 to the ministry.

Allegations of favouritism

Our review of the ministry's records and interviews with the discloser and other witnesses did not present any other specific instances of favourable treatment of the employee. In addition, the ministry had authorized full reimbursement to a second member of staff for enrollment in a similar degree program for similar reasons. Therefore, we determined that there was no favouritism evident in this case.

Was it wrongdoing?

We consider an act as a serious misuse of public funds under PIDA if the funds are public, and their use was irregular or outside of what is normally expected in the circumstances.

In this case, the ministry provided legitimate reasons connecting the full reimbursement of the degree to the employee's role. Moreover, the DMC had not provided clear direction to government

ministries that the PLSP, and its funding limits, were expressly intended to replace a work unit's training budget.

We found that the use was not clearly irregular and therefore there was no serious misuse of public funds under PIDA.

The Ombudsperson's recommendations

While we did not find wrongdoing related to the allegations, our investigation identified issues with respect to the PLSP and its communication of the program. We made the following recommendations under section 27(2)(c) of PIDA to remedy these matters:

Recommendation 1: The Ministry of Health seek clear direction from the DMC about the role of the PLSP in funding training requests for university programs. If the PLSP is intended to be the only method for reimbursing university training, then expressly state this restriction.

Recommendation 2: The PSA clearly communicate the result of any DMC direction to ministries through a memorandum, policy note or other written instrument that establishes any relevant parameters for reimbursing university programs, as well as the scope of any discretion to reimburse beyond the amounts stipulated by the PLSP.

Our investigation revealed ambiguity surrounding the DMC's agreement that ministries will not "top up" applications beyond the prescribed level of funding, and the administration of training. To ensure consistency across the public service, more clarity needed to be provided to ministries.

Follow-up on the recommendations

The Ministry of Health and the PSA accepted the recommendations.

Status of Recommendation 1 and Recommendation 2: The PSA is working to clearly communicate the role of the PLSP and the scope of any discretion to reimburse beyond the amounts stipulated by the PLSP.

We continue to monitor the recommendations.

APPENDIX

Public body responses to case summaries

APPENDIX – PUBLIC BODY RESPONSES TO CASE SUMMARIES

The *Public Interest Disclosure Act* allows the Ombudsperson to issue special reports or public reports.[15] When the Ombudsperson makes an investigation report public, the Act requires that any response from the public body be included if it is received at least 15 days prior to the report's publication.[16]

Below are the substantive responses we received from public bodies regarding the case summaries shared earlier in this report. The public bodies associated with case summaries 1, 2, 3, and 4 provided a short confirmation of receipt via email but raised no concerns or comments regarding the case summaries. As such, their responses are not included below.

[15] PIDA, section 30(1).

[16] PIDA, section 30(2).

Response case summary 5: Ministry of Social Development and Poverty Reduction

From: Bond, Allison [redacted]
Sent: June 5, 2025 12:07 PM
To: Keira Morgan [redacted]
Cc: McKinnon, Adam D [redacted] House, Heather [redacted]
Subject: RE: Correspondence from Ombudsperson Jay Chalke [redacted]
Sensitivity: Confidential

Good day,

Thank you for your message and for the opportunity to respond.

The ministry is committed to meritorious, transparent, and inclusive hiring practices, and to following the corporate guidance and policies set by the BC Public Service Agency.

While the ministry was not found to have committed wrongdoing, we thank the Office of the Ombudsperson for their review into this matter.

We have no further comments at this time.

Thank you,

Allison Bond

Deputy Minister

Response to case summary 5: Public Service Agency

BRITISH COLUMBIA
BC Public Service

Where ideas work

June 11, 2025 [redacted]

Jay Chalke
Ombudsperson
PO Box 9039 Stn Prov Govt
Victoria BC V8W 9A5

Dear Jay Chalke:

Thank you for your letter of June 3, 2025, and a copy of the Public Interest Disclosure Act (PIDA) Investigation Summary Report on hiring Order in Council (OIC) appointees into temporary appointments (TAs) in the BC Public Service.

I am providing you with the following response from the Public Service Agency (PSA) to be included with the summary report for the speaker and the special committee of the legislature.

The PSA has acted on all the recommendations in your 2024 report and recently completed the first of the three years of annual reporting to the Merit Commissioner on OIC movements into TAs in the public service. During fiscal year 2024 / 2025 (April 1, 2024, to March 31, 2025), no OIC appointees have moved into internal TAs or resigned to accept a temporary opportunity in the public service.

I am pleased to note that the steps the PSA has taken to provide greater awareness and ensure consistent application of policy have been successful in addressing the concerns raised in your report.

Yours sincerely,

Deb Godfrey
Deputy Minister

pc: Melissa Thickens, ADM, Leadership, Learning and Culture
Alison Spilsbury, A/ADM, HR Services
Angela Weltz, Executive Director, Leadership, Learning and Culture

BC Public Service Agency Office of the Deputy Minister
Mailing Address:
PO Box 9404 Stn Prov Govt
Victoria BC V8W 9V1
Telephone: 250 886-5062
Facsimile: 250 356-7074

Response to case summary 6: Ministry of the Attorney General

BRITISH COLUMBIA

VIA EMAIL

June 13, 2025

Jay Chalke, KC
Ombudsperson
Office of the Ombudsperson
947 Fort Street – PO Box 9039 Stn Prov Govt
Victoria, BC V8W 9A5
[redacted]

Attention: Jay Chalke, KC, Ombudsperson

Re: Response to Summary Report on Investigation of Disclosure of Wrongdoing under the *Public Interest Disclosure Act* (PIDA)

Thank you for sharing a summary report of your office's investigation regarding a disclosure of wrongdoing under PIDA. I appreciate the work that your office performs in investigating disclosures of wrongdoing and complaints of reprisal under PIDA.

I acknowledge the importance of working collaboratively with your office to support the objectives of PIDA, as well as the public interest in conducting investigations confidentially and in an expeditious, fair, and proportionate manner. The issue of disclosure of solicitor-client privileged materials for a PIDA investigation raises important public interest considerations.

Having carefully considered your summary report, recommendation, and follow-up on the recommendation, our Ministry will continue supporting the objectives of PIDA through assessing requests for privileged information on a case-by-case basis. Our Ministry remains open to monitoring the appropriateness of this approach over time and re-evaluating as appropriate.

Thank you for the opportunity to review and respond to your summary report.

Sincerely,

Barbara Carmichael, KC
Deputy Attorney General

Ministry of Attorney General
Office of the Deputy Attorney General
Mailing Address: PO Box 9290 Stn Prov Govt Victoria BC V8W 9J7
Telephone: 250-356-0149
Facsimile: 250-387-6224
Website: www.gov.bc.ca/justice

Response to case summary 7: Ministry of Health

June 5, 2025

Jay Chalke
Ombudsman
Province of British Columbia
PO Box 9039 Stn Prov Govt
Victoria, BC V8W 9A5

Dear Jay,

Thank you for your letter dated May 28, 2025, regarding investigation File No. [redacted] that your office concluded under the Public Interest Disclosure Act (PIDA).

Upon receipt of your draft investigation report in the fall of 2023, our ministry was in contact with the Public Service Agency on this matter and to seek direction from the Deputy Ministers' Council. We look forward to receiving that direction.

If you have any additional questions regarding this matter, please feel free to contact the Chief Human Resources Officer for the Ministry of Health, Jordan Will, directly at [redacted]

I appreciate the opportunity to respond.

Sincerely,

Cynthia Johansen
Deputy Minister

Ministry of Health Office of the Deputy Minister PO Box 9639 STN PROV GOV
Victoria BC V8W 9P1

Office of the Ombudsperson
PO Box 9039 Stn Prov Govt
Victoria BC V8W 9A5

General Inquiries:
1 800 567-3247
Fax: 250 387-0198

www.bcombudsperson.ca

OMBUDSPERSON
BRITISH COLUMBIA