

# RECOGNIZING WRONGDOING

Employees can report concerns about wrongdoing under the *Public Interest Disclosure Act* (PIDA).

Public servants have an important role to play in protecting the public interest by reporting their concerns of wrongdoing. This guide will help you understand if you have identified a possible wrongdoing.

## WHAT IS WRONGDOING?

In broad terms, wrongdoing is any unethical act that diverges significantly from generally accepted behaviour. However, only certain types of wrongdoing qualify under PIDA.

To be considered wrongdoing under PIDA, the conduct must have both of these elements:

- 1 Occur “in or relating to” a ministry or independent office of the legislature; and,
- 2 Meet the criteria for at least one type of wrongdoing as outlined in section 7(1) of PIDA (described below)

## WHAT DOES “IN OR RELATING TO” MEAN?

Under PIDA, wrongdoing can take place directly within a ministry or office<sup>1</sup>. The wrongdoing must be related to a ministry or office.

To be considered “related to” a ministry or office, there must be a **real and substantial connection between the wrongdoing and the ministry or office**.

An assessment of whether there is a real and substantial connection will depend on the specific context and facts.

## TYPES OF WRONGDOING

### A) Offences

PIDA definition: 7(1)(a) *a serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada;*

- What it means: A serious action or failure to act that is also a crime or an offence.

<sup>1</sup> Under PIDA, “office” means the offices of the Auditor General, the BC Ombudsperson, Chief Electoral Officer, Information and Privacy Commissioner, Merit Commissioner, Police Complaint Commissioner, Representative for Children and Youth, Human Rights Commissioner, and the Registrar appointed under the *Lobbyists Registration Act*.

## B) Danger to people or the environment

PIDA definition: 7(1)(b) *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;*

- What it means: An action or failure to act that is dangerous to a person's health or safety or to the environment. The danger will be considered substantial if it is serious and likely to result in real harm. The danger will be considered specific if the actual threat can be identified as well as when it is likely to occur.
- Exception: Danger that is a typical part of someone's job.

## C) Misuse of public funds

PIDA definition: 7(1)(c) *a serious misuse of public funds or public assets;*

- What it means: Government money or resources are not being used for their intended purpose, are being wasted, or are used in a way which is not normally expected or required. The misuse must be serious. Serious misuse may include misuse that is recurrent, systemic, deliberate, undertaken by a person at a senior level, or involving a high dollar value.

## D) Mismanagement

PIDA definition: 7(1)(d) *gross or systemic mismanagement;*

- What it means: Gross mismanagement means management of a government resource (example: staff, contract, project) that is highly inappropriate, irresponsible, reckless, deliberate, involving a significant resource, etc. Systemic mismanagement means mismanagement that is broad, longstanding, recurrent or inherent to the organization's culture.

## E) Directing wrongdoing

PIDA definition: 7(1)(e) *knowingly directing or counselling a person to commit a wrongdoing described in paragraphs (a) to (d).*

- What it means: Telling someone else to do one of the acts or omissions listed above in A,B,C or D. It does not matter whether the individual acts on the instructions.

## WHO CAN REPORT WRONGDOING?

You must be a current or former employee of a ministry or office of the legislature to report wrongdoing. You can report wrongdoing that happened in the past, current wrongdoing or wrongdoing that may happen in the future. PIDA does not have any time limits.

## NOT SURE IF SOMETHING IS WRONGDOING?

Speak up! It's better to be safe than sorry.

You can report wrongdoing even if you are not sure that it meets the definition of wrongdoing under PIDA. There is no penalty if your report doesn't qualify as wrongdoing. You are protected from reprisal even if your allegations are not investigated or proven during an investigation.