

**Annual Report of the
Civil Service Disclosure of Wrongdoing
Regulations and Policy**

2007–2008



Contents

Message from the Minister of Human Resources 1

Message from the Public Service Commissioner 2

Introduction 3

Activities in 2007-2008 4

Department and Office Reports 5

The Ombudsman’s Annual Report 6

Looking Ahead 9

Message from the Minister of Human Resources

It is my pleasure to present the 2007-08 Annual Report on the Civil Service Disclosure of Wrongdoing Regulations and Policy to the citizens of Nova Scotia.

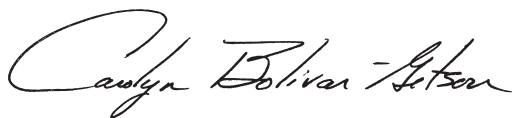
Each year, the Government of Nova Scotia reports on activities related to the Disclosure of Wrongdoing Regulations and Disclosure of Wrongdoing Policy which were introduced in September 2004.

The Government of Nova Scotia is committed to a public service that promotes the trust of the public by performing their duties in an ethical manner. A key part of that commitment is to ensure that public servants have and are aware of processes to disclose wrongdoing in an atmosphere free of fear of reprisal. The Disclosure of Wrongdoing Regulations and Policy were put in place to achieve that goal.

The government is committed to a public service that provides quality service and is rooted in values such as integrity, accountability and the public good.

I would like to thank the employees of the Office of the Ombudsman and the Public Service Commission for their commitment to this work.

Sincerely,



Carolyn Bolivar-Getson
Minister

Message from the Public Service Commissioner

It is my honour to present the 2007-08 Annual Report on the Civil Service Disclosure of Wrongdoing Regulations and Policy.

The Civil Service Disclosure of Wrongdoing Regulations and Policy are important elements in maintaining a public service that upholds the corporate values of respect, integrity, diversity, accountability and the public good.

This report outlines activities related to the regulations and policy that took place during the 2007-08 fiscal year.

The Public Service Commission undertook an evaluation of the Disclosure of Wrongdoing Policy this year and the Evaluation Report will provide valuable input into a comprehensive review of the regulations and policy that will take place in 2008-09.

During 2007-08, government deputy heads received no formal disclosure of wrongdoing. The Office of the Ombudsman received a number of inquiries and reported one disclosure which had been previously reported at the department level in 2006-07. The investigation of this disclosure resulted in a finding of wrongdoing. In addition the Ombudsman began an investigation into an issue raised during a disclosure investigation on his own motion under the authority of the Ombudsman's Act.

I would like to extend my thanks to all those who contribute to the ongoing work related to these important regulations and policy. By creating an environment where public servants feel confident that they can disclose wrongdoing without fear of reprisal and with trust that the matter will be handled in a fair and accountable way, we continue to support an ethical and professional public service.

Sincerely,



Rosalind Penfound
Public Service Commissioner

Introduction

The Government of Nova Scotia is committed to ensuring that Nova Scotians are served by a professional, ethical, accountable public service, worthy of the public's trust. Public trust in the integrity of our public servants is strengthened by creating an environment where public service employees feel that they can come forward with concerns about wrongdoing without fear of reprisal and with confidence that the matter will be dealt with fairly and effectively.

In September 2004, the Government of Nova Scotia developed the Civil Service Disclosure of Wrongdoing Regulations and the Disclosure of Wrongdoing Policy that outline a clear process for public servants to report any wrongdoing they perceive to be in their workplace, and to protect employees who follow the established process from reprisal action. The regulations are applicable to all civil servants. The policy is applicable to all direct employees of government, including highway workers, adult correction workers, civil servants, and casual employees.

The disclosure regulations and policy provide a definition of wrongdoing, a process for disclosing a potential wrongdoing, protection against reprisals and reporting and accountability requirements.

The Public Service Commissioner is responsible for submitting an annual report to the Minister of Human Resources. This report summarizes disclosure of wrongdoing related activity that is received at the deputy head and/or Ombudsman level. This annual report provides information that relates to disclosure activities during the period of April 1, 2007 to March 31, 2008.

To access the Disclosure of Wrongdoing Regulations and Policy as well as previous years' reports and other supporting documentation visit the Disclosure of Wrongdoing web site located on the Public Service Commission's internet site at:

<http://www.gov.ns.ca/psc/v2/about/overview/publicationsPolicies/disclosureWrongdoing/>

Activities in 2007–2008

This annual report summarizes activities of the Public Service Commission as well as drawing information from two other principle sources: deputy heads of government departments and offices, and the Office of the Ombudsman who have a regulatory requirement to inform the Public Service Commissioner of disclosure activity within their areas of responsibility.

As mentioned in last year's report, as part of the 2007 *How's Work Going?* Employee Survey, the Public Service Commission developed questions to determine the level of awareness, the level of comfort, and the level of importance to employees of the Disclosure of Wrongdoing policy and process. The results of the 2007 survey revealed:

- approximately 66% of respondents were aware of the Disclosure of Wrongdoing Policy
- approximately 50% of respondents knew who to contact to make a disclosure
- approximately 37% of respondents would feel comfortable using the reporting process set out in the policy

The Evaluation and Audit Division of the Public Service Commission began an evaluation of the Disclosure of Wrongdoing Policy during 2007–08. They drew upon the survey results, as well as other methodologies, in preparing their report to be completed in the summer of 2008.

In order to support managers who have a disclosure of wrongdoing brought to their attention, the Public Service Commission worked with the Office of the Ombudsman to develop a training course that deals with workplace investigations related to disclosure of wrongdoing as well as other situations. This course focuses on such areas as principles of investigation, interview techniques, principles of natural justice, and due diligence. This course will be offered in 2008–2009.

The Public Service Commission maintained the disclosure of wrongdoing web site. This web site provides easy access to several resources, such as contact information, including a dedicated e-mail address for general inquiries about the disclosure of wrongdoing, frequently asked questions, and a guide for conducting an assessment/investigation of a disclosure of wrongdoing.

In order to facilitate the development and implementation of similar processes and protections across the public sector, the Public Service Commission continued to play an advisory role to various government agencies.

The Public Service Commission is developing a Corporate Employee Orientation Policy which will ensure a consistent approach to orientation of employees in relation to corporate policies, including the Disclosure of Wrongdoing Policy.

Dialogue and information sharing with the Office of the Ombudsman is ongoing.

Department and Office Reports

In the Spring of 2008, the Public Service Commissioner contacted all government departments and offices to which the Disclosure of Wrongdoing Regulations and Policy apply, asking them to respond to the following two questions on behalf of their department/office:

- 1. Did your department/office deal with any formal disclosures during the 2007-2008 fiscal year? (With the request to forward copies of relevant correspondence if the answer is Yes).*
- 2. What specific actions, if any, were taken within your department/office to raise employee awareness of understanding of the Disclosure of Wrongdoing Regulations and Policy during this past year?*

In the 2007-2008 fiscal year, no deputy heads received formal disclosures of wrongdoing.

Over eighty per cent of the departments and offices reported awareness activities during 2007-2008. Activities included sharing information about the regulations and policy through orientation programs and at staff meetings, adding links to the Disclosure of Wrongdoing Regulations and Policy on departmental intranet sites and circulating the Public Service Commission's Disclosing Wrongdoing brochure.

The Ombudsman's Annual Report

The Ombudsman submitted his 2007–2008 report to the Public Service Commissioner. A summary of the highlights of that report follows:

The Ombudsman received 21 inquiries relating to the Disclosure of Wrongdoing Regulations and Policy.

Six of the inquiries were received through the Ombudsman Disclosure e-mail address. With the substantial increase in employee inquiries, the Office has adopted the role of providing advice and direction to civil servants who are considering making a disclosure.

There was one formal disclosure of wrongdoing received by the Ombudsman in 2007–2008. That disclosure had been originally made to the Deputy Head of the Department of Health in 2006–07 and was noted as such in the Public Service Commission's 2006–2007 Annual Report.

One investigation was commenced under the Civil Service Disclosure of Wrongdoing Regulations. That investigation was concluded and resulted in a finding of wrongdoing. One investigation was ongoing from the 2006–2007 fiscal year.

An outstanding issue related to a disclosure investigation for which there was no authority to go forward under the Civil Service Disclosure of Wrongdoing Regulations, resulted in the Ombudsman undertaking an "Own Motion" investigation under the Ombudsman Act.

The Office of the Ombudsman undertook a number of initiatives during 2007–2008 supporting the Civil Service Disclosure of Wrongdoing Regulations and the Disclosure of Wrongdoing Policy, which included:

- Developing internal policies and procedures related to disclosure investigations.
- Hiring a summer student to assist with education packages. These were distributed to employees who are making inquiries, to Deputy Heads and to other provincial and federal counterparts.
- Meeting with the Conflict of Interest Commissioner to discuss the greater role of the Office of the Ombudsman in providing advice. The Office will continue to provide advice as requested.
- Seeking legal advice around the role of the Office in relation to other government entities as to disclosure and it was determined that no authority exists for the Office to assume this role.
- The Ombudsman Representative for Disclosure took part in a 2 week training session with the Department of National Defence Canadian Forces Ombudsman Office.
- Distributing communications on disclosure of wrongdoing policy and process to all government employees in October 2007.
- Continuing to work with the Public Service Commission on training and awareness resources and support and in discussions related to review of policy and regulations.
- Undertaking preliminary discussions within government related to the possibility of a designated contact person in each department responsible for the general administration of disclosure of wrongdoing.
- Acquiring additional space and human resources dedicated to disclosure of wrongdoing in 2007–08.

Response to the Ombudsman's 2007–2008 Report

In the Ombudsman's 2007–2008 annual report, the Ombudsman made two recommendations pursuant to Section 16(f) of the Regulations. The recommendations were that the Civil Service Disclosure of Wrongdoing Regulations and Policy be amended to allow the Office of the Ombudsman to go forward with an investigation as an "Own Motion" and that the regulations and policy be amended to allow individuals of the public who are not members of the civil service to disclose wrongdoing.

The Ombudsman also acknowledged that the Public Service Commission has been working on a review of the regulations and policy and that the two recommendations that he had made in his 2006–2007 Report would be addressed as part of that review. The results of the comprehensive review that has been undertaken are expected in the Fall of 2008. Any recommended actions flowing from that review, in particular any change to the original intent and/or scope of the regulations and policy, would require Executive Council approval prior to implementation.

Looking Ahead

The Disclosure of Wrongdoing Regulations and Policy have been in place for over three years. Since the inception of the regulations and policy, there have been significant changes in the public service disclosure of wrongdoing landscape across Canada. The 2007 Employee Survey results point to areas related to awareness of and trust in the disclosure process that might be in need of improvement.

The timing is right to undertake a comprehensive review of the regulations and policy. A vital component of that review will be the information and analysis provided in the Evaluation Report. (Release date: Summer of 2008). The results of the comprehensive review are anticipated in the Fall of 2008. Any recommendations for substantive change in the intent or scope of the existing disclosure framework will be brought forward to Executive Council, following the completion of the review.

Other activities are also on the horizon. During this past year, Executive Council approved the Corporate HR Renewal Initiative. As the Public Service Commission rolls out this initiative, there will be opportunities to look at new ways to raise the awareness of the Disclosure of Wrongdoing Regulations and Policy as one avenue to promote a professional, ethical and accountable service. The investigation methods course for supervisors and managers will be offered in the 2008-09 training calendar.

Under its mandate to provide support and interpretation for all its corporate human resources policies and regulations, the Public Service Commission will continue to fulfill this role for the Disclosure of Wrongdoing Regulations and Policy.

The Public Service Commissioner will continue to monitor usage of the disclosure process and report annually to the Minister of Human Resources on the fiscal year's activities.

