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<b><u>EXECUTIVE SPONSORSHIP</u></b> Vice President, Employee Experience	<b><u>INITIALLY RELEASED DATE:</u></b> May 1, 2023	<b><u>VERSION DATE:</u></b> May 1, 2023

## **PURPOSE**

The purpose of this policy is to outline key steps in Fraser Health’s application of the [Public Interest Disclosure Act](#) (PIDA), (also referred to as 'the Act') which allows current and former [employees](#) of Fraser Health to report, or seek advice about reporting, serious [wrongdoing](#) occurring within Fraser Health<sup>1</sup>. Reports of such wrongdoing are referred to as [disclosures](#). The PIDA process maintains strict confidentiality and allows employees to make anonymous reports and provides protection against retaliation for employees who choose to disclose their identity.

For more detail on the process, see [Public Interest Disclosure Act - Procedures](#).

## **POLICY**

### **Scope**

This policy applies to:

- All current and former employees;
- All Fraser Health operations, programs and services; and
- Programs delivered through contracted service providers where there is a substantial connection between the wrongdoing and Fraser Health.

### **Exceptions**

This policy applies exclusively to reports and requests for advice about wrongdoing as defined below. Matters that *do not* fall under PIDA may be covered through other established processes, such as:

- Collective agreement violations, which follow the grievance process;
- Reports on safety hazards and unsafe conditions made in accordance with WorkSafe B.C.’s *Occupational Health and Safety Regulations* (see [Workplace Health and Safety - Corporate Policy](#));
- Discrimination or harassment based on prohibited grounds identified in B.C.’s *Human Rights Code and Regulations* (see [Respectful Workplace - Corporate Policy](#));
- Privacy breaches (see [Managing Privacy Breaches - Corporate Policy](#));
- Patient safety or quality of care issues covered by Fraser Health’s Patient Care Quality Office (see [Complaints Management and the Role of the Patient Care Quality Office - Corporate Policy](#));
- Reports of wrongdoing by members of the public, and conduct that does not meet the definition of wrongdoing set out in PIDA (see [Whistleblower Protection - Corporate Policy](#)).

Please note the above may be accessed via the external [Fraser Health](#) site. If unavailable externally, contact your supervisor or [designated officer](#).

### **Roles and Responsibilities**

- **President and chief executive officer**
  - Ensures all employees are made aware of PIDA;
  - Promotes a work environment that encourages employees to report wrongdoing;
  - Assigns the role of designated officer under PIDA;
  - Ensures Fraser Health establishes procedures as required under PIDA.
  - Ensures breaches of this policy are dealt with in a timely manner, and takes appropriate action based upon the facts and circumstances.

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- **Management and supervisors**
  - Provide employees with information about PIDA;
  - Promote a work environment that encourages employees to report wrongdoing;
  - Respond to requests for advice from employees who are considering making a disclosure;
  - Document requests for advice confidentially;
  - Forward any disclosures promptly to the designated officer for assessment; and
  - Maintain the confidentiality of employees who request advice or report a wrongdoing.
  
- **Designated officer**

The designated officer is responsible for receiving requests for advice and receiving and investigating disclosures under PIDA and may delegate certain aspects of their authority to staff or a contractor to:

  - Provide advice to employees about making a disclosure;
  - Receive disclosures from supervisors and employees and collect information about the disclosure in writing;
  - Maintain confidentiality to the fullest extent possible;
  - Assess the risk of [reprisal](#) on an ongoing basis;
  - Assess and investigate the disclosure in a timely manner;
  - Prepare investigation reports; and
  - Report on the number of disclosures, disposition, outcomes and other relevant measures.
  
- **Employees**
  - Make disclosures in good faith and in accordance with established procedures;
  - Maintain confidentiality and cooperate with investigations;
  - Connect with their supervisor, manager or designated officer, when they are uncertain about any aspect of this policy;
  - Cooperate with the ombudsperson in the handling of a disclosure or information under the Act;

## **DEFINITIONS**

**Designated officer:** the senior officer(s) designated by the Fraser Health president and chief executive officer for receiving requests for advice, disclosures and investigating disclosures under PIDA, including any staff or contractor delegated by the designated officer in their discretion to receive and investigate disclosures. The executive director, Internal Audit Services, is the designated officer for Fraser Health. The designated officer may delegate in writing specific tasks associated with their role to staff or a contractor.

**Disclosure:** a report of wrongdoing made by an employee in accordance with this policy.

**Employee:** current and former employees, and for the purposes of this policy, also includes members of the board of directors and medical staff.

**Medical Staff:** Physicians, residents, dentists, midwives, and nurse practitioners and fellows working in, or providing services through, any health authority-run site, regardless of the nature of their working relationship with the health authority, and regardless of their hospital privileges (i.e., it does not matter if they are employees, sessional, on a service contract, fee-for-service, or if they are privileged at a hospital, as long as they provide services through the health authority).

**Ombudsperson:** B.C. Office of the Ombudsperson that is responsible under PIDA to provide advice and investigate allegations of wrongdoing from public sector employees.

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**Procedural fairness:** ensures that public bodies use a fair process in making decisions that affect the people they serve<sup>3</sup>.

**Respondent:** a person alleged or found to have committed wrongdoing.

**Reprisal:** an adverse measure taken against an employee that can include a disciplinary measure, suspension, demotion, termination of employment, or any measure that adversely affects the employee's employment or working conditions, or the threat of taking any of these measures. Reprisal also includes subtler measures like bullying, ostracizing or a workplace transfer. No person can take a reprisal against an employee, including supervisors, co-workers, executive or alleged wrongdoers.

**Wrongdoing:**

- a serious act or omission that, if proven, would constitute an offence under an enactment of B.C. or Canada;
- 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;
- a serious misuse of public funds or public assets;
- gross or systemic mismanagement; or
- knowingly directing or counselling a person to commit a wrongdoing.

**PROCEDURE**<sup>2</sup>

For detailed procedural information, refer to [Public Interest Disclosure Act - Procedures](#).

**Requests for Advice**

- **Why request advice**
  - Seeking advice may help an employee decide how best to address their concern or provide an opportunity to ask questions about the PIDA process.
- **Where to seek advice**
  - An employee who is considering making a disclosure under PIDA may seek advice about doing so from
    - their union or employee association representative;
    - a lawyer (at their own expense);
    - their supervisor;
    - the designated officer; or
    - the ombudsperson.
  - Employees who wish to request advice from the designated officer, may use one of the following contact options:
    - Email: [pida@fraserhealth.ca](mailto:pida@fraserhealth.ca)
    - Phone: 604-930-5406 extension: 768451
  - Employees also have the option to request advice from the [B.C. Ombudsperson](#).
  - The supervisor or designated officer may require the employee to make the request for advice in writing. Supervisors and the designated officer will document all requests for advice received under PIDA, and maintain a written record of the advice provided.
  - Employees may wish to specify that they are requesting advice under PIDA. Supervisors and the designated officer are to clarify that a request for advice is being made under PIDA in cases where this is unclear.

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- **Employee protection**

- Employees who seek advice from those listed above in the [Where to seek advice](#) section, are protected from [reprisal](#). No person can adversely affect a person's employment or working conditions because the employee sought advice about making a disclosure. This protection applies whether or not the employee decides to make a disclosure.
- Steps will be taken to ensure the confidentiality of information collected throughout the process and that personal information is protected.

**Reporting Wrongdoing**

- **Where to report wrongdoing**

- Employees can report allegations of wrongdoing under PIDA by making a disclosure to their supervisor, the designated officer or the ombudsperson.

- **What to report as wrongdoing**

- Employees can make disclosures of wrongdoing as previously defined. Disclosures that *do not* meet the definition of wrongdoing as defined above may be directed to a more appropriate mechanism (see [Related Policies](#)).
- Employees can make disclosures, in good faith, about wrongdoings that they reasonably believe have occurred or are about to occur. Employees can make disclosures about wrongdoings that occurred before PIDA was in force, as long as the wrongdoing occurred or the employee learned of the wrongdoing during their employment.

- **How to report wrongdoing**

- Employees who wish to make a disclosure must do so in writing and are to use the [Disclosure of Wrongdoing - Form](#). Once completed, an employee is to provide the Disclosure of Wrongdoing - Form, either to their supervisor, or the designated officer.
- If an employee makes a disclosure to their supervisor, the supervisor must forward it to the designated officer as soon as possible. If the designated officer is the subject of the allegations, the supervisor should suggest the disclosure be submitted to the ombudsperson.
- Employees can make a disclosure directly to the designated officer (see contact information in [Where to seek advice](#)).
- Employees who choose to, can make a disclosure directly to the [B.C. Ombudsperson](#).
- If an initial disclosure is not made in writing, the supervisor or the designated officer will assist the employee to document their disclosure using the Disclosure of Wrongdoing - Form.

- **Anonymous reporting of wrongdoing**

- Employees who wish to report wrongdoing may also do so anonymously. For example, an anonymous disclosure can be made by completing the Disclosure of Wrongdoing - Form and submitting it to the designated officer (see contact information in [Where to seek advice](#)). However, an anonymous disclosure cannot be considered if the designated officer cannot determine whether the discloser is an employee (or former employee) of Fraser Health.
- Anonymous employees should ensure that they have provided adequate particulars about the allegations to allow the designated officer to assess whether the allegations fit within the scope of PIDA. Anonymous employees should consider providing contact information so that the designated officer can follow up to obtain more information about the disclosure as needed.
- If the designated officer is unable to establish that an employee or former employee made the disclosure, after attempting to gather this information, the designated officer will close the file.

## Public Disclosures

An employee may make a public disclosure where they reasonably believe that a matter constitutes an imminent risk of a substantial and specific danger to the life, health or safety of persons, or to the environment.

An employee must take the following steps prior to making an urgent public disclosure:

- Consult the relevant protection official, as follows:
  - in respect of a health-related matter, the provincial health officer;
  - In respect of an environmental matter, Emergency Management B.C.;
  - In any other case, the appropriate police force.
- Receive direction from the protection official about whether to make the public disclosure, and if so, on what conditions; and
- Where the protection official approves the public disclosure, make the public disclosure in accordance with any conditions the protection official imposes.

There are a number of limits on the kind of information that an employee can share when making a public disclosure. Employees must not share information that is subject to a restriction under an enactment of B.C. or Canada. This means employees must *not* share information that they are prohibited from sharing under a statutory oath or any statute or other regulation. In addition, PIDA *does not* authorize the release of information in a public disclosure that is:

- protected by solicitor-client privilege,
- protected by any common law rule of privilege, or
- subject to public interest immunity, including cabinet privilege.

If the protection official directs the employee to refrain from making the disclosure public, the employee must *not* make it public.

If the employee makes a public disclosure, after adhering to the [steps](#) above, the employee must advise their supervisor or the designated officer about the public disclosure immediately after making the disclosure public and then report the disclosure to their supervisor, designated officer, or the ombudsperson through the regular reporting process set out in this policy.

## Reprisal

Reprisal is prohibited under PIDA. Employees are protected from [reprisal](#) when they do any of the following acts:

- seek advice about making a disclosure;
- make a disclosure;
- cooperate with a PIDA investigation.
- **Reprisal complaint process**
  - If an employee believes that a reprisal has been taken against them, they may contact the ombudsperson's office to make a complaint.
  - The ombudsperson is responsible for investigating complaints of reprisal from public bodies under PIDA's jurisdiction.
- **Reprisal risk assessment**
  - The designated officer will conduct a reprisal risk assessment when they receive a disclosure. The reprisal risk assessment is intended to ensure any risks of reprisal are identified and managed to the extent possible.

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### Assessing the Report of Wrongdoing

Where the designated officer determines that if the allegation is proven, it would meet the threshold of wrongdoing, the designated officer will also decide whether there is a reasonable basis to support an investigation, within 45 days of receipt of the disclosure.

Where it is determined that an investigation will not be undertaken, the designated officer will notify the employee who made the disclosure of a decision not to investigate, and will provide reasons for their decision in writing.

Where it is determined that an investigation will be undertaken, the process under [investigations](#) will be followed.

### Referral to the Ombudsperson

Where the designated officer determines that the disclosure is eligible for investigation under PIDA, the designated officer will consider whether the disclosure, in whole or in part, would be more appropriately investigated by the ombudsperson. The designated officer will always refer disclosures involving members of the executive team or board of directors, to the ombudsperson.

### Investigations

If the designated officer decides a disclosure warrants investigation under PIDA, the designated officer will investigate in accordance with the following procedures.

#### • Notifying parties

- The designated officer will notify the employee of the decision to investigate. The notification may be brief and may be provided orally or in writing. If only part of the disclosure will be investigated, the designated officer will provide the employee reasons for their decision not to investigate the remaining portions of the disclosure.
- An investigation under PIDA would take precedence over a whistleblower investigation if the same concern was also reported under the [Whistleblower Protection - Corporate Policy](#), and parallel investigations would not be warranted.
- The designated officer will determine the appropriate time to notify any [respondents](#) that their conduct is the subject of an investigation, taking into account the need to protect the integrity of the investigation and the respondents' rights to [procedural fairness](#). Respondents will in all cases receive notice of the allegations prior to being interviewed.

#### • Maintaining confidentiality

- The designated officer and supervisors may collect, use and disclose personal information for the purpose of PIDA where the personal information is included in a disclosure or is for the purpose of an investigation or report.
- Information about the identity of the employee who submitted the disclosure is confidential. No person may share personal information about an employee that could enable the identification of the employee as the person who made the disclosure, unless:
  - the provision or use of the information is for the purposes of the Act, including as necessary to effectively manage the disclosure in accordance with PIDA and the principles of natural justice and procedural fairness;
  - the provision or use of the information is in connection with another lawful purpose;
  - the employee has given express consent, in writing, to the release or use of the personal information; or
  - the personal information has previously been lawfully published.

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- Information and documents obtained in the disclosure process will be stored in a safe and secure manner and must be protected from unauthorized access, use and disclosure.
- **Conducting interviews**
  - Interviews of employees, respondents and witnesses will be conducted in the order and format (e.g., in-person, telephone or video) appropriate for the circumstances. Interviewees will be provided notice of an interview date, time and place along with the general nature of the interview.
  - Respondents must be afforded procedural fairness. They must be provided notice that they are under investigation and the opportunity to respond to the allegations against them. If documents will be discussed in an interview with the respondent, the designated officer will consider providing advance opportunity for the respondent to review the documents unless they have reason to believe that doing so could compromise the investigation.
  - Interviewees are permitted to have a union representative or support person present during the interview, such as a family member or friend.
- **Reporting of outcomes**
  - Upon conclusion of the investigation, the designated officer will prepare a draft report. The report will include the allegations, applicable laws and policies, evidence, analysis, findings and any recommendations to address findings of wrongdoing, as applicable.
  - In accordance with the principles of procedural fairness, the designated officer will provide all those who may be adversely affected by any findings or recommendations in the investigation report with the opportunity to provide responses before it is finalized. Responses may be provided orally or in writing.
  - The final investigation report will be provided to the president and chief executive officer, vice president Integrated Commercial Services and chief financial officer, and the senior executive responsible for the investigated area. The report will also be provided to the chair of the Finance and Audit Committee.
  - The designated officer will provide a summary of the investigation report to the employee who submitted the disclosure. Where practicable, the designated officer will also provide a summary of the report to any person alleged or found to be responsible for wrongdoing. The kind of information and level of detail contained in the summary will be decided by the designated officer on a case-by-case basis.

### **Annual Reporting**

The designated officer will report annually on all disclosures of wrongdoing received and investigated with respect to Fraser Health. The annual report will include:

- the number of disclosures received, including referrals of disclosures, and the number acted on and not acted on;
- the number of investigations commenced as a result of a disclosure;
- in the case of an investigation that results in a finding of wrongdoing, a description of the wrongdoing, any recommendations, including those made by the ombudsperson, and any corrective action taken in relation to the wrongdoing, or the reasons why no corrective action was taken;
- any other information prescribed by law.

The annual report must not include any information that would

- identify the employee that made a disclosure;
- identify a respondent; or
- unreasonably invade a person's privacy.

The annual report will be publicly available on Fraser Health's website.

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**RELATED POLICIES**

- [Complaints Management and the Role of the Patient Care Quality Office - Corporate Policy](#)
- [Conflict of Interest - Corporate Policy](#)
- [Managing Privacy Breaches - Corporate Policy](#)
- [Respectful Workplace - Corporate Policy](#)
- [Standards of Conduct - Corporate Policy](#)
- [Theft, Fraud and Corruption - Board Policy](#)
- [Whistleblower Protection - Corporate Policy](#)
- [Workplace Health and Safety - Corporate Policy](#)

Also available via the external [Fraser Health](#) site.

**REFERENCES**

1. *Public Interest Disclosure Act* [SBC1998] Chapter 22.  
<https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/18022>
2. Ombudsperson British Columbia. (2021). Sample Section 9 Procedures - For Public Interest Disclosure Act Investigations (Draft).  
[https://bcOmbudsperson.ca/assets/media/Sample\\_s9\\_procedures\\_WEB-1.pdf](https://bcOmbudsperson.ca/assets/media/Sample_s9_procedures_WEB-1.pdf)
3. Ombudsperson British Columbia. Fairness in Practice Guide: A Guide to Administrative Fairness in the Public Sector. [Internet]. 2018. <https://bcombudsperson.ca/assets/media/OMB-FairnessInPractice-ForWEB-Feb18.pdf>

**DATE(S) REVISED / REVIEWED SUMMARY**

<b>Version</b>	<b>Date</b>	<b>Comments / Changes</b>
1.0	May 1, 2023	Initial policy released