

Atlantic Pilotage Authority	
Policy: Public Servants Disclosure Protection Act Internal Policy	
Date Created: Feb 16, 2017	Management Approval Date: March 6, 2017
	Board Approval Date: March 7, 2017

Policy Statement:

The Public Servants Disclosure Protection Act (PSDPA) came into force on April 15, 2007, following the passing of the Federal Accountability Act in December 2006. The PSDPA requires all department and agencies to make an internal disclosure procedure available to their employees. As a Government of Canada Crown Corporation, the Atlantic Pilotage Authority (hereafter APA) fully supports the spirit of the mandate for the promotion of ethical practices and the creation of a positive environment for the disclosure of wrongdoings.

The following policy will utilize and quote language from the PSDPA to support our internal policy compliance.

For further information about the PSDPA visit: <https://www.canada.ca/en/treasury-board-secretariat/topics/values-ethics/disclosure-protection.html>

Scope:

The APA will establish an internal procedure to allow for and to encourage any employee to come forward to disclose information in confidence about suspected wrongdoing in the workplace. This fair and objective internal procedure will include a process for the disclosure of wrongdoings, outline the steps for investigation and reporting of complaints and disclosure(s) internally, and the guidelines for public disclosure of findings.

Additionally, the process will follow the process criteria as governed by the PSDPA, the Public-Sector Integrity Commissioner and the Public Servants Disclosure Protection Tribunal. All public service employees have the right to externally contact the Public-Sector Integrity Commissioner if required.

Definition of Wrongdoings:

The disclosure of a wrongdoing is the unveiling of any information by a public sector employee that could clearly demonstrate that wrongdoing has been committed; has potential to be committed; or that he or she has been asked to commit a wrongdoing.

An employee may make a “protected disclosure” when made in good faith and that is made within the guidelines of the PSDPA. The PSDPA applies in respect to one or more of the following wrongdoings in or relating to the public sector:

- (1) a breach of any Act of Parliament or of the legislature of a province, or of any regulations made under any such Act, other than a contravention of section 19 of the PSDPA;

- (2) a misuse of public funds or a public asset;
- (3) a gross mismanagement in the public sector;
- (4) 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 the duties or functions of a public servant;
- (5) a serious breach of a code of conduct established under section 5 or 6 of the Act; and
- (6) knowingly directing or counselling a person to commit a wrongdoing set out in the Act.

Responsibilities

Responsibility of the APA

The APA is obliged to communicate and provide access to information about the PSDPA and the internal procedure for enquiry and disclosure to all employees. Communication to all employees via internal intranet and employee accessed portions of the APA website will be utilized to provide this information.

Responsibility of the 'Responsible Authority'

The immediate manager or supervisor and appointed Senior Officer will ensure their direct reports have a good general understanding of the PSDPA, the APA confidential internal process for enquiry and disclosure, and ensure their protection from reprisal. They will openly communicate with the Senior Officer and make informed factual recommendations to the Senior Officer for matters involving wrongdoing.

Hereafter, all persons named as responsible authorities to receive a disclosure enquiry (namely, immediate manager or supervisor, Senior Officer, or Chairperson of the Board of Directors) shall be referred to as the 'responsible authority'.

Responsibility of Employees

Employees are encouraged to make themselves familiar with the main provisions of the PSDPA, namely the definition for what constitutes wrongdoing, the APA confidential internal process for enquiry and disclosure and their protection from reprisal.

Procedure:

Internal Procedure for Disclosure of Wrongdoing

An employee may seek more information or make a disclosure in good faith regarding a committed or possible wrongdoing to:

- an immediate manager or supervisor;
- the internally appointed Senior Officer – APA Chief Executive Officer;
- Or, if circumstances require, to the Chairman of the Board of Directors

Employee Enquiry of Disclosure of Wrongdoing

An employee may contact his or her immediate supervisor or manager or the appointed Senior Officer to seek information or advice about a potential wrongdoing before making a formal disclosure. In the circumstance where the enquiry is related to the immediate supervisor, the employee should directly advise the Senior Officer. In the event the enquiry involves the Senior Officer; the employee should contact the Chairperson of the Board of Directors.

Prior to any information being shared, it is the responsibility of the responsible authority to indicate to the employee that all enquires and disclosures are treated in the strictest of confidence. Additionally, if the matter is brought to the immediate supervisor, he/she should advise the employee that if the information is suggestive of potential wrongdoing, their information will be brought to the attention of the appointed Senior Officer. The appointed Senior Officer will then have right to contact the employee directly to discuss the disclosure further.

The employee has the right to be accompanied by a colleague or their union representative to seek information or to make a formal disclosure. If the information presented is, by PSDPA definition, a potential wrongdoing, the immediate supervisor or appointed Senior Officer should complete an "APA Intake Form". (Appendix A – Forms)

If the information sought or presented for disclosure by the employee is a human resource issue (e.g. a grievance, staffing compliant or harassment compliant), the immediate supervisor or appointed Senior Officer should recommend alternative internal mechanisms or resolution resources or to the employee.

Formal Disclosure

A formal disclosure may be made verbally or in writing to the appropriate responsible authority. It is strongly recommended that the employee and/or the employee in conjunction with the responsible authority, document the information being disclosed verbally, which will be used as supporting documentation.

Under the PSDPA, the responsible authority must complete a formal written form, "APA Disclosure Form" (see Appendix A - Forms). The disclosure form should include detailed information about the discloser and additional colleagues or representative present (if applicable); the nature and detailed description of the wrongdoing; name(s) of the person(s) alleged to be associated or to have committed the wrongdoing; date and location of the potential wrongdoing and any other applicable information. If the immediate supervisor completes the APA Disclosure Form, it must be taken to the appointed Senior Officer via a secure process (hand delivery or confidential email).

Disclosure Registry

It is the responsibility of the appointed Senior Officer to maintain a record of all enquiries and formal disclosures. Under the Personal Information Protection and Electronic Documents Act (PIPEDA), Access to Information Act (ATIA) and the Privacy Act (PA), the disclosure records are to be held in the strictest of confidence, protecting the employee's information, disclosed details, alleged persons involved in the wrongdoing and identities of potential witnesses at all times.

It is at the discretion of the Chief Executive Officer to allow the Chief Financial Officer and Human Resources Manager to be privy to the disclosure records.

Further, it is the responsibility of the Chairperson of the Board of Directors to maintain the enquiries and formal disclosures related to the Senior Officer.

Employee Protection from Reprisal

The APA will protect and ensure employees who present an enquiry or disclose information will be safe from reprisal as mandated in the PSDA. The Act defines reprisal as one or more of the following: disciplinary measure(s), demotion, termination of employment, measure(s) that adversely affect the employee's employment or working conditions; threats from the employer to act on any of the aforementioned forms of reprisal.

In the event of the threat of reprisal, immediate corrective action will be conducted by the Chief Executive Officer (and as required the Chairperson of the Board of Directors). If reprisal is not resolved, the Public Sector Integrity Commissioner can be contacted to investigate the complaint of reprisal.

Alternatively, the employee has the right to contact the Public Sector Integrity Commissioner. It is recommended that the employee seek advice from their immediate supervisor or internally appointed Senior Officer first, if the situation permits with enquiries prior to the disclosure either via internal or external mechanisms. Non-employees or members of the public should address concerns for potential disclosure to the Public Sector Integrity Commissioner directly.

Investigation of Disclosure

The Senior Officer may appoint members of the management team to assist in the internal fact verifying investigation of the disclosed information. All investigation supporting documentation should be held by the Senior Officer. All verbal factual statements during the investigation should be formally documented. Once the investigation is exhausted, a formal report with recommendations for corrective action from the investigation team should be presented to the Senior Officer for review. A sample outline of an investigation report can be found in Appendix A – Forms.

The Senior Officer must review the investigation report to determine if, under the PSDPA definition, an act of wrongdoing has occurred and the recommendations for corrective action(s).

Based on the management investigation team report, the Senior Officer must then formally document, in a separate report, the investigation facts and the suitable corrective actions (if applicable). The Senior Officer is to make recommendations based on informed consultation with appointed experts relevant to the nature of the disclosure within the APA organization (e.g. Chief Financial Officer, and/or Human Resources Manager) and with APA appointed Legal Counsel. The Senior Officer must then implement the approved corrective actions to right the situation as soon as possible.

If it is determined that no wrongdoing was committed, the Senior Officer will formally document the explanation and factual reason for no further corrective action being necessary. The Chairperson of the

Board of Directors will fulfill the role of the Senior Officer in the event that the circumstances involve the named Senior Officer.

If the investigation yields a potential breach of the Criminal Code, the Senior Officer or (Chairperson of the Board of Directors) should contact the appropriate local authorities for further investigation.

Public Disclosure of Wrongdoing

If the appointed Senior Officer (or Chairperson of the Board of Directors) factually determines that a wrongdoing has occurred, he/she must:

- (1) Provide public access to the information detailing the wrongdoing, the recommendations that resulted from the formal investigation, or a detailed explanation why no corrective action was taken. The information will be published on the APA website to satisfy this requirement.
- (2) Submit an annual report within 60 days of the end of the fiscal year to our APA Board of Directors and additionally to the Treasury Board which includes:
 1. The number of inquiries received related to the PSDPA definition of wrongdoing;
 2. The number of formal disclosures related to the PSDPA definition of wrongdoing and whether or not corrective action was taken;
 3. The number of investigations held;
 4. Detailed description of any systematic problems that were found that led to the wrongdoing;
 5. Any other information the Senior Officer deems as critical information to be disclosed.

Appendix A - Forms

Atlantic Pilotage Authority Intake Form	
Date:	Meeting Location:
Name Responsible Authority (Manager, Supervisor, Senior Officer or Chairperson)	
Signature:	

Prior to any information being shared, it is the responsibility of the responsible authority to indicate to the employee that all enquires and disclosures are treated in the strictest of confidence.

Additionally, immediate supervisor should advise the employee that if the information is suggestive of potential wrongdoing, their information will be brought to the attention of the appointed Senior Officer. The appointed Senior Officer will then have right to contact the employee directly to discuss the disclosure further.

Nature and details of the employee enquiry about potential wrongdoing as defined under PSDPA:

Analysis of details presented:

Conclusion: Does this constitute wrongdoing under the guidelines of the PSDPA?

If no, please describe corrective action or advice given to employee to assist resolution to the concern.

If yes, please provide date Intake Form was provided to Senior Officer

Date: _____

Atlantic Pilotage Authority Disclosure Form	
Date:	Meeting Location:
Name Responsible Authority :	
Signature:	

Discloser Information	
Name:	Job Title:
Telephone:	Email:
District:	
Additional Colleagues or Representatives Present (if applicable):	

Nature and Detailed Description of potential wrongdoing or witnessed wrongdoing:

Date and Location of potential wrongdoing:

Name(s) of the person(s) alleged to be associated or to have committed the wrongdoing:

Other applicable information:

Atlantic Pilotage Authority PSDPA Investigation Report	
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Date:	
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Senior Officer or Chairperson:	Investigation Team:
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Background Information:

(Brief summary of the events that occurred to launch the investigation)

Purpose of Investigation:

(To determine the factual circumstances surrounding...)

List of Persons Interviewed:

(Name, title, contact information)

Investigation:

(Chronologically listed evidence and testimony gathered)

Analysis:

(Critical analysis of the facts, evidence and testimony presented, identifying gaps, weakness, flaws or contradictions)

Observation:

(If applicable, the detailed description and identification of the non-compliance, the need to review, adjust or develop a policy)

Conclusion:

(Brief Statement. There should be a conclusion for each allegation or incident investigated.)