



**MANITOBA
OMBUDSMAN**

Information for Witnesses Being Interviewed for Manitoba Ombudsman Investigations Under the Public Interest Disclosure (Whistleblower Protection) Act (PIDA)ⁱ

The Manitoba Ombudsman is an Officer of the Legislative Assembly who is statutorily independent from the Government of Manitoba. Under The Public Interest Disclosure (Whistleblower Protection) Act (PIDA), the Ombudsman may investigate allegations of wrongdoing or reprisal made by an employee of a public body. Each department, office, or agency of the Government of Manitoba as defined in PIDA or the regulationⁱⁱ is considered a public body for the purposes of the act.

The Ombudsman is not a court or a public inquiry commissioner. As an Officer of the Legislative Assembly, the Ombudsman conducts investigations privately and confidentially in accordance with PIDA. At the conclusion of an investigation, the Ombudsman will issue a report to the public body on the findings and, where appropriate, make recommendations.

Investigators may interview witnesses with relevant knowledge, and these interviews are conducted privately and confidentially. Witnesses must provide truthful, complete answers and may be asked to provide supporting documents. It is acceptable to say when you may not have clear or detailed information in your response to specific questions. Your participation helps ensure fairness, accountability, and integrity in Manitoba's public service.

Why have I been asked to attend an interview?

Interviews allow us to gather relevant facts and information regarding our investigation. If you've been asked to attend an interview, it means we believe you have knowledge/information that may be relevant to our investigation.

Can I bring someone with me to an interview?

Interviews are limited to only the witness and investigators.

We are required to investigate in privateⁱⁱⁱ, maintain secrecy^{iv}, and take reasonable steps to protect the identity of witnesses.^v

Allowing third parties to attend an interview increases the risk that evidence or our questions will be shared or disclosed outside our investigation, which would conflict with our obligations and damage the integrity of our investigations.

Our investigations are also not legal proceedings. The purpose of our investigations is to investigate allegations to determine whether wrongdoing occurred, and if so, bring the wrongdoing to the attention of the appropriate public body and recommend corrective measures.

We are only interested in facts, what a witness saw and what they know.

Public body employees who take part in the PIDA process also have reprisal protection^{vi}, and their employer cannot punish them for taking part in an investigation. If you have concerns about reprisal, please let us know.

Am I required to come to the interview or provide information?

Public body employees are required to cooperate in an investigation. The Ombudsman can require anyone to provide any information or documents that relate to a matter under investigation.^{vii} If necessary, the Ombudsman will summon anyone who has information the Ombudsman believes relates to an investigation.

Under PIDA it is an offence to mislead, obstruct, hinder or resist the Ombudsman or refuse to comply with any lawful requirement of the Ombudsman.^{viii}

Scheduling the interview

We will do our best to schedule your interview so that it is the least disruptive to your schedule. We will make reasonable efforts to confirm a date and time convenient for you. If you have concerns about scheduling your interview, let us know.

Where will the interview be held?

Interviews are usually held at our office. At the discretion of the investigator, they may be done at another location or by way of video or phone call.

What can I expect during an interview?

Interviews are conducted by the investigator assigned to your file. The investigator will provide you with some introductory information and will discuss the need for

confidentiality with you, as well as PIDA reprisal protections. You will have the opportunity to ask questions about the process.

The investigator will try to provide you with enough context and information so that you can properly answer our questions. You should answer questions as clearly and with as much detail as possible. Please let us know if you need time to think over your response, whether on the spot or over a short break. If we ask you about events that happened a long time ago, you are welcome to refer to your own documents and other records during the interview to refresh your memory.

Do I have to answer all the questions?

Yes, all questions must be answered truthfully and as completely as possible. As noted earlier in this document, it is an offence to make a false statement or obstruct the Ombudsman in their duties.

How do I prepare for a video call or phone call?

If you are scheduled to participate in an interview over a video or phone call, try to find a private, quiet setting where you can talk. You must be alone for the interview. Please ensure no one can overhear your conversation. If you have difficulty finding an appropriate space, let us know as soon as possible.

Before the interview begins, set up your audio and video equipment, check that your microphone and camera are working properly, and test your connection to avoid interruptions. A brief system check can help ensure everything runs smoothly.

Will the interview be recorded?

Yes, we record all interviews to ensure we have an accurate record of what was said. We will store this recording securely. To ensure confidentiality, and preserve the integrity of the investigation, recordings will not be provided to you.

We do not allow witnesses to audio or video record interviews due to the risk of accidental or intentional disclosure of details of our investigation, including:

- the questions we ask,
- a witness's answers, or
- other evidence discussed during an interview.

Allowing witnesses to record interviews would also prevent us from ensuring confidentiality.

Will any of the information I've given be shared with anyone else?

Information provided to the Ombudsman may be used to:

- further the investigation,
- establish grounds for the Ombudsman's findings and recommendations in the investigation report, or
- to prosecute an offence under PIDA.

All reasonable efforts are made to protect the identity of persons involved in the investigation. If the public body does not follow up on any issued recommendations, or does not co-operate, the Ombudsman may report on the matter to any minister who is responsible for the public body, the chair of the public bodies' board, or another entity identified under the legislation.^{ix} The Ombudsman may also publish a special report relating to an investigation where it is in the public interest to do so.

Our legislation limits evidence from our investigation being used in other proceedings and we cannot be called as witnesses. The information we obtain will only be used for the purpose of PIDA.

Why do I have to provide evidence?

Records may provide additional detail or help us to verify information provided in the interview. If we believe you might be in possession of records relevant to the investigation, we will ask you to provide them in advance so that we can review them before your interview. We may also require you to provide us additional documents during or after your interview.

Will I have access to my employer's records or records from other witnesses to prepare for my interview?

We may provide or refer to records that we believe will help you prepare for questions related to your role, responsibilities, observations or involvement. This will be determined on a case-by-case basis in accordance with the Ombudsman's legal confidentiality requirements.

Any documents that we provide you are subject to terms and conditions designed to:

- maintain the confidentiality of the documents,
- preserve the integrity of our investigation, and

- ensure that the documents are only used for the purpose of your participation in this investigation.

If there are records you believe may help you answer our questions, please let us know.

I am a former public sector employee. Can you provide me with access to all my former emails or records?

As mentioned above, we will determine on a case-by-case basis what records to share with you. We do not act as a channel for documents between public bodies and another party. If there are records you believe may help you answer our questions, please let us know.

Can I disclose confidential or privileged information?

Every person is required to give evidence during an investigation, even if a provision in another Act or regulation restricts disclosure of information.^x This requirement is subject only to very specific and limited exceptions.^{xi} Should you have questions please contact the assigned investigator.

I'm concerned about facing reprisal for participating in an investigation with the Ombudsman. How am I protected?

PIDA provides reprisal protection for employees who cooperate in investigations.^{xii} If you believe you have faced reprisal as a result of your cooperation, please let us know immediately.

Procedural Fairness

The Ombudsman is required to respect the right to procedural fairness and natural justice for all persons involved in an investigation, including witnesses.^{xiii} This means we need to remain neutral, consider all relevant information and provide those affected by the allegations or information we collect an opportunity to respond. If you have questions regarding our process, please speak to the assigned investigator.

What happens after the interview?

You will be reminded to not discuss the interview with anyone else, including other witnesses or potential witnesses. This is to protect the integrity of the investigation as well as to protect your identity as cooperating in a PIDA investigation.

If we require any additional information after your interview has concluded, we will contact you. We may ask you to attend another interview to answer additional questions. We may also require you to provide additional records/documents.

When the Ombudsman completes an investigation, we are required to prepare a report and provide it to the chief executive.^{xiv} We must also inform the employee who made the disclosure of the results of the investigation in the manner we consider appropriate.^{xv}

The purpose of a PIDA investigation is to identify if any wrongdoing has occurred and if it has, to bring the wrongdoing to the attention of the appropriate public body and recommend corrective measures that should be taken.

The Ombudsman publicly reports anonymized summaries of some investigations on our website or in our annual report. The Ombudsman will make this determination on a case-by-case basis. Confidentiality and protection of whistleblowers, witnesses and respondents is prioritized, and no identities are revealed in annual report summaries.

Additional information:

- [Manitoba Ombudsman - Whistleblowing](https://www.ombudsman.mb.ca/whistleblowing/)
(<https://www.ombudsman.mb.ca/whistleblowing/>)
- [Manitoba Government PIDA Information](https://www.gov.mb.ca/csc/whistle/index.html)
(<https://www.gov.mb.ca/csc/whistle/index.html>)
- [The Public Interest Disclosure \(Whistleblower Protection\) Act](https://web2.gov.mb.ca/laws/statutes/ccsm/p217.php?lang=en) (<https://web2.gov.mb.ca/laws/statutes/ccsm/p217.php?lang=en>)
and [Regulations](https://web2.gov.mb.ca/laws/regs/current/064-2007.php?lang=en) (<https://web2.gov.mb.ca/laws/regs/current/064-2007.php?lang=en>)
- [The Ombudsman Act](https://web2.gov.mb.ca/laws/statutes/ccsm/o045.php#30)
(<https://web2.gov.mb.ca/laws/statutes/ccsm/o045.php#30>)

Endnotes

ⁱ This document was developed using guidance created by the British Columbia and Yukon Ombudsman offices. The Manitoba Ombudsman thanks them for generously sharing their knowledge and expertise with our office.

ⁱⁱ Public Interest Disclosure (Whistleblower Protection) Regulation, M.R. 64/2007

ⁱⁱⁱ Section 22(3) of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217; Section 26 of The Ombudsman Act, C.C.S.M. c. O45

^{iv} Section 22(3) of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217; Section 12 of The Ombudsman Act, C.C.S.M. c. O45

^v Section 22(3) of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217

^{vi} Section 27(c) of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217

^{vii} Sections 22(6), 30(1), 30(2), 33(2) of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217; Section 30(1) of The Ombudsman Act, C.C.S.M. c. O45

^{viii} Section 33(4) of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217

^{ix} Section 25(2) of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217

^x Section 15 of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217

^{xi} Section 16 of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217

^{xii} Section 27 of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217

^{xiii} Section 22(2) of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217

^{xiv} Section 24(1) of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217

^{xv} Section 24(4) of The Public Interest Disclosure (Whistleblower Protection) Act, C.C.S.M. c. P217

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This information is available in alternate formats on request.

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