

# Public Interest Disclosure (Whistleblower Protection) Act

Information Session

# Session Overview

- Safe Disclosure Policy
- Public Interest Disclosure (Whistleblower Protection) Act (“PIDA”)
- University Public Interest Disclosure Framework
- Reprisals
- Disclosure Process
- Investigations
- Outcomes
- Conflict of Interest
- Confidentiality
- Offences and Penalties
- Resources

# Safe Disclosure Policy

- 2009 Safe Disclosure Policy implemented
  - 2013 PIDA introduced therefore required existing Policy update to align with Act and associated framework developed
  - Revised policy approved in September 2013
- 2013 Code of Conduct Policy Guide introduced
  - Includes a Safe Disclosure section
  - The Guide serves as a summary of key policies that govern our behavior and reflect our commitment to a culture of integrity

# PIDA Purpose

- Proclaimed into force on June 1, 2013
- To promote transparency and public confidence in the administration of the University
- Facilitates the disclosure/reporting and investigation of Wrongdoing in the public sector
- Protects from reprisal those employees who make Disclosures in good faith

# PIDA Framework

- University developed framework
- Roles, responsibilities and obligations
- Procedures relating to making, receiving and reviewing Disclosures
- Investigations
- Reporting on investigations, making recommendations and taking corrective action
- Key Principles

# Scope and Application

- PIDA applies to public sector entities, including Post-Secondary Academic Institutions
- Framework Scope:
  - Applies to Disclosures made by **employees** of the University
  - Applies to allegations of **wrongdoings**

# Wrongdoings

- **Illegal Acts:** *if the violation is not merely technical or of a minimal nature.*
- **Threats to health, safety or the environment:** *a risk of serious injury, illness, peril, or loss, to which the exposure of the public is a gross deviation from the standard of care or competence which a reasonable person would observe in the same situation.*
- **Gross mismanagement of public funds:** *the exercise of management responsibilities in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation. Not necessarily on a quantitative monetary value.*
- **Counseling a person to do any of the above**

# Reprisals

***Any adverse employment action taken against an employee because the employee has, in good faith, sought advice about making a Disclosure, made a Disclosure, cooperated in an investigation under PIDA, declined to participate in a Wrongdoing or done anything in accordance with PIDA.***

- Can take many forms – may involve dismissal, reduction in wages, adverse impact on working conditions
- Difference between valid performance management actions and reprisals
- Response to reprisals



# Key Roles

1. MacEwan University Chief Officer
  - David Atkinson, President
2. MacEwan University Designated Officer
  - Michelle Plouffe, Vice President and General Counsel
3. Alberta Public Interest Commissioner
  - Peter Hourihan

# Internal Procedures

## Elements:

- Reporting Allegations of Wrongdoing
- Analysis of Disclosures
- Investigations
- Outcomes and Corrective Actions
- Time Limits

# Making a Disclosure

- Report to Designated Officer
- Must be in writing
- Email: [safedisclosure@macewan.ca](mailto:safedisclosure@macewan.ca)
- Public Interest Disclosure Report Form – Office of General Counsel web page
- Can seek advice before making Disclosure
- PIDA is a two-stage disclosure process – exhaust University’s internal disclosure process first

# Content of Disclosure

A Disclosure must include, at a minimum:

- Confirmation of employee status
- Description of alleged wrongdoing
- Names of individuals involved
- Dates
- Information on related disclosures
- Evidence or documentation

# Anonymous Disclosures

- Made to either Designated Officer or Public Interest Commissioner
- Anonymity protected throughout process
- Potential issues:
  - Lack of detail to enable investigation
  - Inability to clarify or obtain further information
  - Inability to keep employee informed

# Disclosures to Commissioner

- Disclose to Commissioner when:
  - Employee is unsatisfied with the outcome of the internal process
  - Matter has not been resolved within the time periods under the procedures
  - Employee reasonably believes a **Reprisal** will be taken or has been taken (use the “Complaint of Reprisal Form” on PIC website and in Schedule 3 of the Regulations)
  - Matter involves the Chief Officer or the Designated Officer
  - Wrongdoing involves an imminent risk of danger to a person or to the environment

# Receipt and Analysis of Disclosure

- Supervisors/Managers must forward Disclosures from employees to Designated Officer
- Designated Officer determines if form and content of Disclosure meet criteria and scope and if matter should be investigated
- Reporter informed of investigation decision
- Disclosure assessed for level of reprisal risk

# Investigation

An investigation will not be conducted if:

- Disclosure was made in bad faith
- Disclosure does not deal with a Wrongdoing
- Disclosure is frivolous or vexatious
- Disclosure does not provide sufficient information
- More than two years have passed since the Wrongdoing was discovered



# Conduct of Investigations

## Objectives:

- compile information relating to the Disclosure as quickly as possible
- consider the information collected and draw conclusions objectively and impartially
- maintain confidentiality wherever possible
- maintain procedural fairness in the treatment of all involved parties
- make recommendations concerning corrective action

# Recommendations and Corrective Action

## Recommendations:

- Made within final investigation report
- Approved by Chief Officer and Designated Officer

## Corrective Actions:

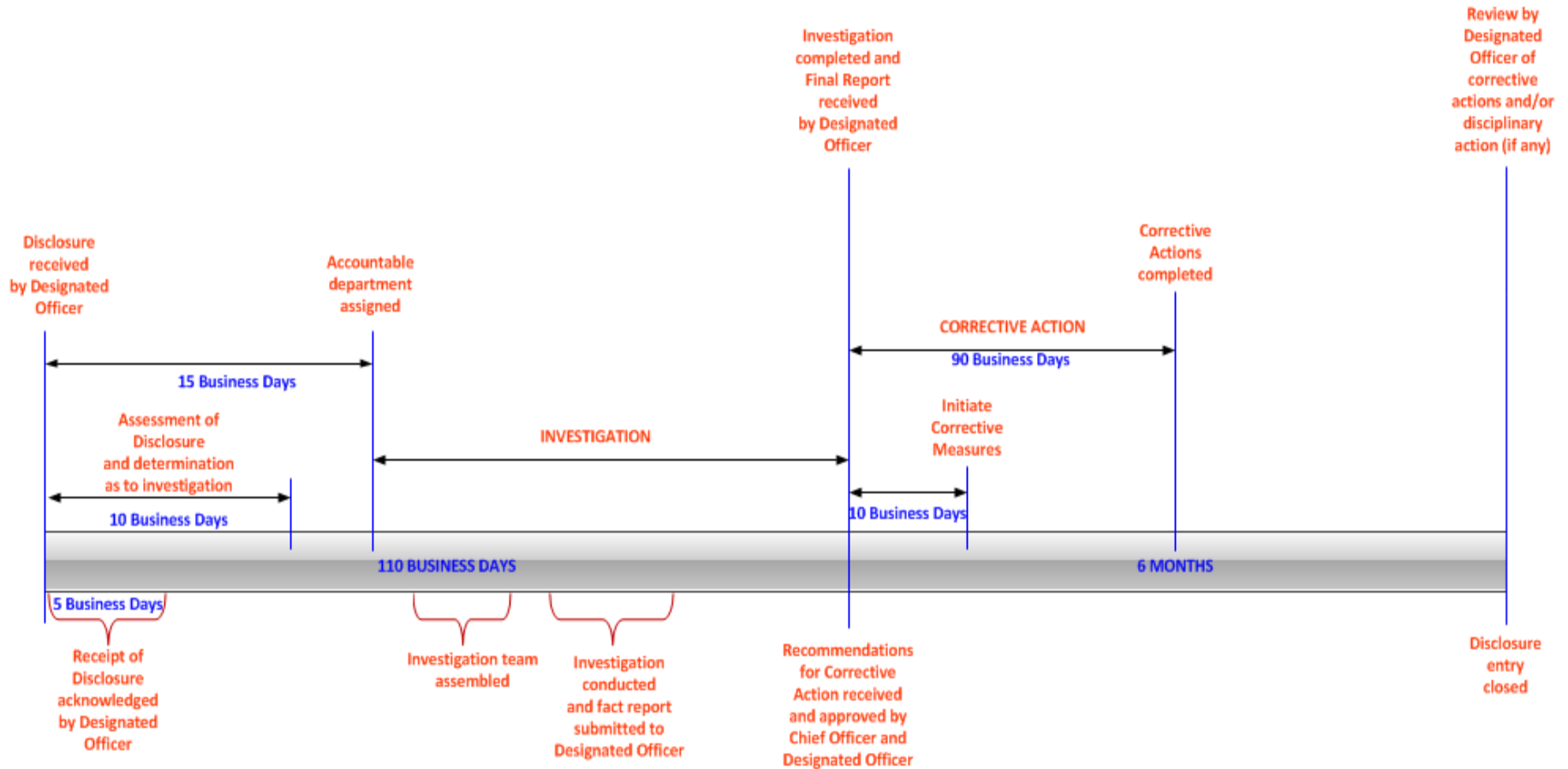
- Must be completed within 90 business days
- Designated Officer will monitor compliance with corrective actions
- If insufficient actions taken, matter escalated to Chief Officer

# Outcomes

May include:

- an explanation and/or apology
- admission of fault
- change in decision or change to policy, procedure, practice or relevant law
- correction of misleading records
- financial compensation, including a refund of fees
- remission of a penalty
- disciplinary action

# Time Limits



# Roles and Responsibilities Summary

1. Supervisors
2. Employee making an allegation of wrongdoing
3. Employee who is the subject of a Disclosure
4. Accountable Department / Program Lead
5. Investigation Team

# Supervisors

## Key responsibilities:

- Maintaining employee awareness of PIDA and the University's procedures relating to PIDA
- Receiving information relating to possible Wrongdoing from Employees and treating such information as a Disclosure under the Act
- Reporting any Disclosure received to the Designated Officer
- Participates as needed in investigations into Disclosures
- Assisting Accountable Department to make recommendations and implement corrective actions
- Supporting Employees throughout the investigative process

# Employee Making Allegation

## Key responsibilities:

- Contacts the Designated Officer for advice before making a Disclosure
- Completes the Public Interest Disclosure Report Form and forwards it to the Designated Officer
- Assists in maintaining confidentiality
- Contacts the Designated Officer for information relating to the process and/or status of the Disclosure
- Contacts Supervisor/Manager for support as required

# Employee Subject of Disclosure

Key responsibilities:

- Cooperates with the investigation and ensures all relevant information is provided in response to the allegation
- Assists in maintaining confidentiality
- Contacts Supervisor/Manager for support as required



# Accountable Department / Program Lead

## Key responsibilities:

- Advise Designated Officer
- Appoint investigation team and assign responsibilities
- Oversee investigation
- Report on investigation and recommendations
- Implement corrective actions

# Investigation Team

Are appointed on a case by case basis depending upon the nature of the Disclosure

Key responsibilities:

- Take direction from Accountable Department/Program Lead
- Conduct investigations in accordance with the University's procedures
- Identify and coordinate key individuals from Accountable Department and assign tasks as required
- Prepare final investigation report including recommendations and submit to Accountable Department/Program Lead

# Conflict of Interest

- Conflicts will be avoided throughout the process
- Handling and management of Disclosures
- Appointment of investigation team
- Conduct of investigations

# Confidentiality

- Confidentiality of information and persons is protected
- A minimum number of people to handle Disclosures
- Reporting employees must maintain confidentiality of alleged wrongdoing outside of process
- Participants in investigation must not disclose:
  - identity of other participants
  - evidence/information collected
  - results of investigation
- Information management
- When confidentiality cannot be maintained

# Offences/Penalties

- Offences include:
  - Reprisals taken in response to making a disclosure
  - Making false statements
  - Obstructing an investigation
  - Destroying records
  - Counseling a person to do any of the above
- Penalties as a result of prosecution range from \$25,000 - \$100,000
- Disciplinary action

# Public Reporting

- Disclosure information within University's annual report
- Report to Audit Committee of the Board of Governors

# Resources

- PIDA and Regulation on Alberta Queen's Printer Website: [www.qp.alberta.ca](http://www.qp.alberta.ca)
- MacEwan University Public Interest Disclosure (Whistleblower Protection) Framework
- Public Interest Disclosure Report Form
- MacEwan University Policy D7020 - Safe Disclosure
- Public Interest Commissioner (PIC) Website: [www.pic.alberta.ca](http://www.pic.alberta.ca)

Questions?