



Tables 1, 2, 3 and 5

Whistleblowing

What is our demand?

- The PSAC is proposing that the collective agreements with Treasury Board include protection for employees who blow the whistle on wrongdoing, such as an act that causes a significant waste of public money or a failure to act that causes public harm or environmental damage.

The proposal spells out that employees shall not be disciplined or penalized through demotion, suspension, dismissal, financial penalties, loss of seniority, advancement or opportunity in the public service, because they report wrongdoing.

Why have we proposed this demand?

Everyone talks about the need for governments to be accountable. Most people also expect that federal public sector workers have a responsibility to Canadians to report wrongdoing on the job. And, as an Environics Research Group opinion poll commissioned by the PSAC indicates, 89% of Canadians believe that there should be legislation protecting whistleblowers from reprisals.

The problem is that there's a lot of talk but little in the way of protection for employees who do blow the whistle. More often than not, employees who report wrongdoing are ostracized or harassed, find their promotional and training opportunities drying up and worse.

Shouldn't there be a law? Political parties support whistleblower protection legislation when they're in opposition – they want to expose any dirt they can find on the party in power – but tend to lose interest once they form a government. In 1993, the Liberals promised prompt action on legislation if they were elected. What they finally delivered in 2004 was described by Senator Noel Kinsella as a “sham”.

What about existing policies and procedures? In his 2002-2003 Report to Parliament, the Public Service Integrity Officer, Edward Keyserlingk, recognized that the current Treasury Board policy-based protections against job reprisals are unlikely to be effective. He also indicated that even effective legislation wouldn't provide enough protection.





The Auditor General of Canada, in her report on the fiasco at the Privacy Commission, reported that employees saw the current mechanisms for reporting wrongdoing as ineffective because they offered little or no protection against reprisals.

Not willing to take the Integrity Officer's word for it, the government set up a Working Group on Disclosure of Wrongdoing in late 2003. They too made recommendations to strengthen existing mechanisms to protect employees. The Minister responsible for the Public Service Human Resources Management Agency of Canada welcomed the report saying "...Public service employees should **never** have to fear reprisal when they come forward in good faith and raise concerns about wrongdoing".

Then why not put protection in the collective agreement? With all the recent evidence, you'd think the government wouldn't have a problem agreeing to include this protection in the collective agreement.

Putting such a clause in the collective agreement wouldn't interfere with the current role of the Integrity Officer to investigate and report on allegations of wrongdoing. It would simply allow adjudicators to deal with members' grievances in a comprehensive way and give members what they need – an effective and conclusive mechanism for dealing with reprisals for making allegations of wrongdoing.

What has been the employer's response to our demand?

Treasury Board negotiators have so far indicated that the government would rather rely on legislation, instead of collective agreement language, to protect whistleblowers. That legislation – Bill C-25, the *Public Servants Disclosure Protection Act*, was introduced in the House of Commons on March 22, 2004.

The Bill was referred to the Standing Committee on Government Operations and Estimates where the vast majority of witnesses, including the PSAC, identified serious flaws in the Bill. It died on the Order Paper when the election was called.

The current bargaining process represents a real opportunity to provide immediate, meaningful and enforceable protection from reprisals for whistleblowers.

