



Review of Public Interest Disclosure of Wrongdoing Act

What We Heard

February 2024

A decorative graphic at the bottom of the page consists of several overlapping, wavy lines in shades of teal, yellow, green, and purple, creating a sense of movement and depth.

Background

The [Public Interest Disclosure of Wrongdoing Act](#) provides a process for public entity employees to follow if they believe a wrongdoing has been committed or is about to be committed, or if they believe they have been unfairly treated in the process of raising concerns about a wrongdoing.

The Act is intended to deal with significant and serious matters that a public entity employee believes may be unlawful, dangerous to the public or injurious to the public interest. The Act is not intended to deal with routine operational matters, individual grievances, or workplace conflicts. Under the Act, it is prohibited for someone to take a reprisal against an employee who in good faith sought advice about or made a disclosure, co-operated in an investigation under the Act, or declined to participate in a wrongdoing.

Public entities that the Act currently applies to are:

- Government of Yukon departments, directorates, secretariats, or other similar executive agencies,
- Workers' Safety and Compensation Board, Yukon Development Corporation, Yukon Energy Corporation, Yukon Hospital Corporation, Yukon Housing Corporation, and Yukon Liquor Corporation, and
- other specified public entities, which are Yukon University, the Legislative Assembly Office, Office of the Child and Youth Advocate, and Office of the Chief Electoral Officer.

Section 55 of the Act requires that a review commence within five years of the Act coming into force. The Public Service Commission began this review in spring 2020 and has approached the review in two phases including a public engagement to ensure sufficient capacity and ample opportunity for stakeholder participation.

Engagement process

The Government of Yukon's Public Service Commission led the public engagement, and it was open from November 1 to December 15, 2023, for Yukon residents.

On November 1, 2023, the Government of Yukon issued a [news release](#) to announce the beginning of the engagement period. Letters were sent to stakeholders notifying them and social media advertisement occurred for two weeks. Yukon residents and stakeholders were able to complete a short online survey and/or submit written input based off the [discussion paper](#).

The online survey and discussion paper were available on the Government of Yukon's public engagement website. The engagement sought input to help determine if the Act could be improved or if it could be expanded to include other workplaces beyond what is currently covered.

The discussion paper included:

1. an outline of background information and progress to date in reviewing the Act,
2. identification of key policy issues related to the Act, based on feedback from stakeholders, observations from comparable legislation in other Canadian jurisdictions, and other international best practices, and
3. questions for consideration based on the policy issues identified.

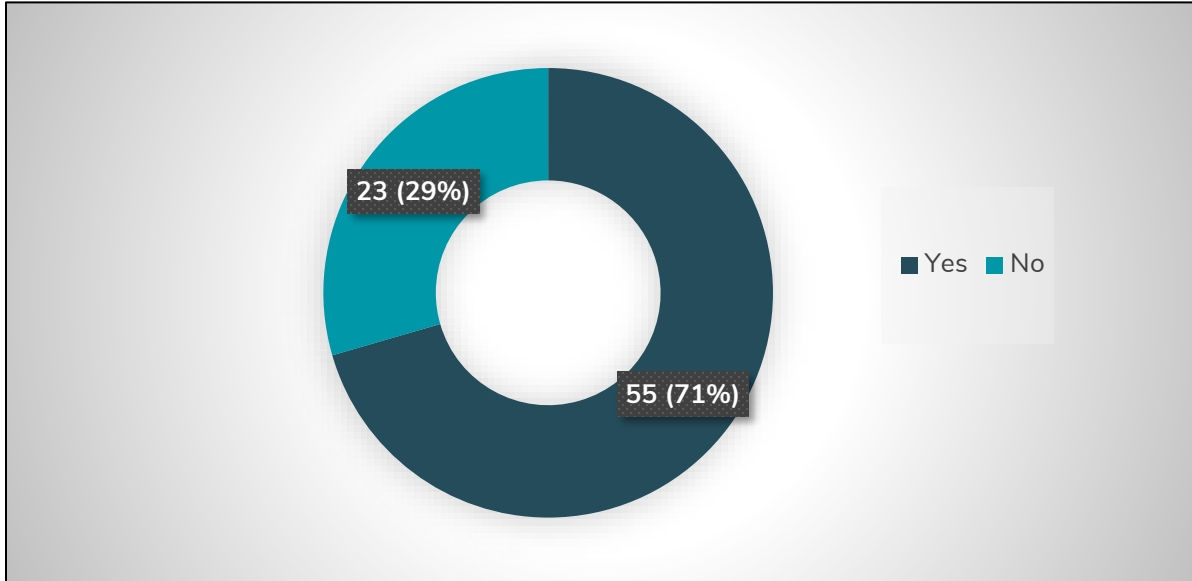
The online survey specifically sought input on if the Act could be expanded to cover other workplaces. 78 Yukon residents participated in the online survey. Two written submissions were received and are reflected in the online survey results.

What we heard

Asked: Could the Act be expanded to cover other organizations or groups?

Heard: 55 respondents (71 per cent) indicated yes to expanding the Act to cover other organizations or groups. 23 respondents (29 per cent) indicated no.

Figure 1



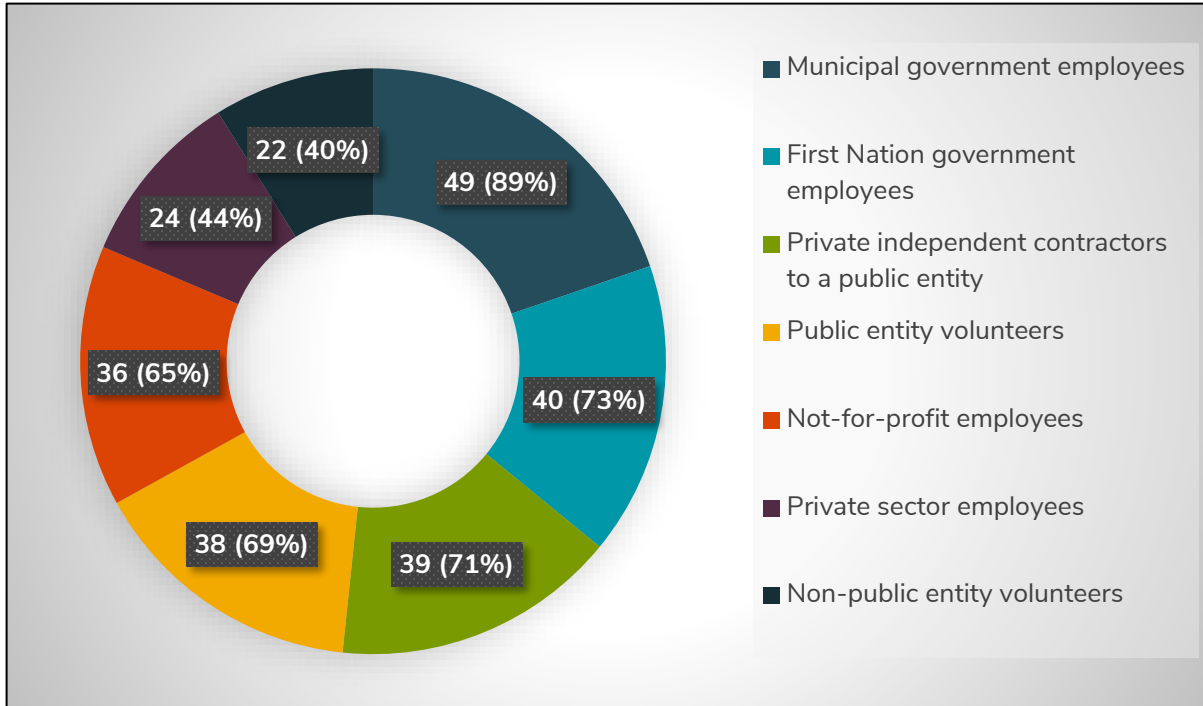
Asked: If yes was selected from the above question. Survey participants were asked to please select from the following that you believe could be covered by the Act. Multiple selections were permitted. Note that the below responses are based off the 55 respondents (71 per cent) who indicated yes to expanding the Act to cover other organizations or groups.

Heard: Options for selection, and responses are:

- 49 respondents (89 per cent) indicated covering municipal government employees.
- 40 respondents (73 per cent) indicated covering First Nation government employees.
- 39 respondents (71 per cent) indicated covering private independent contractors to a public entity.
- 38 respondents (69 per cent) indicated covering public entity volunteers.
- 36 respondents (65 per cent) indicated covering not-for-profit employees.
- 24 respondents (44 per cent) indicated covering private sector employees.
- 22 respondents (40 per cent) indicated covering non-public entity volunteers.



Figure 2

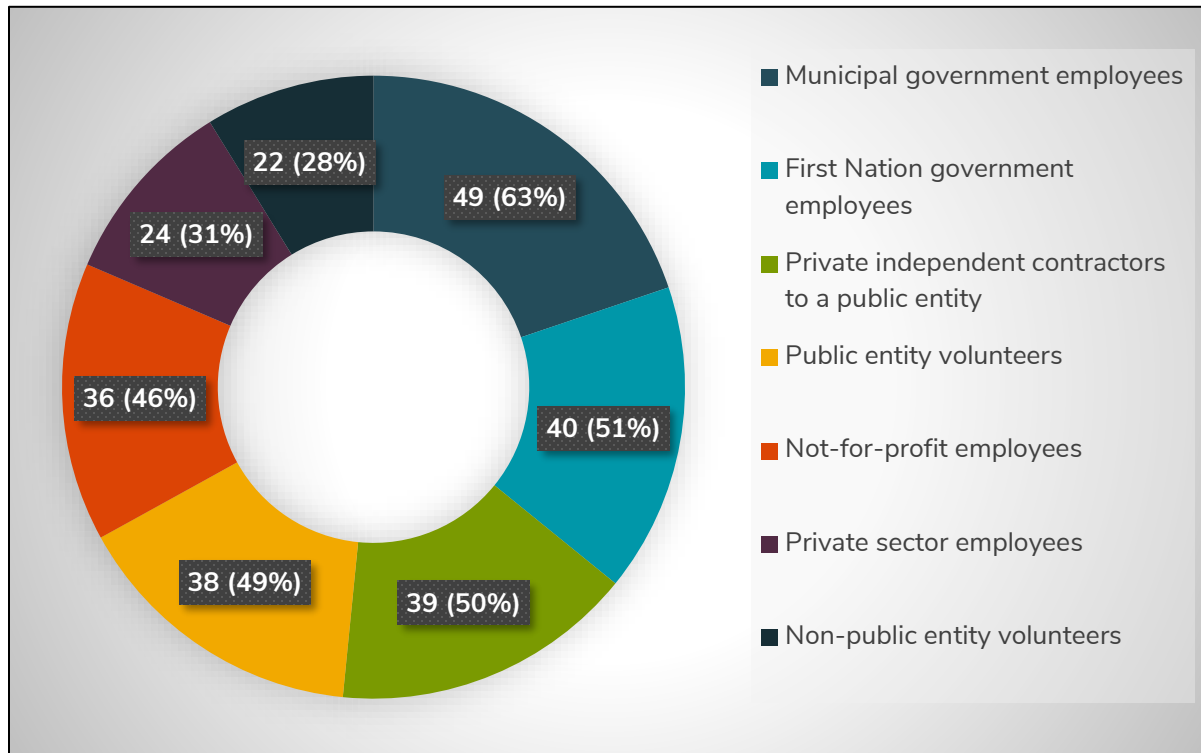


Response: The following responses are based off the total amount of survey respondents, 78.

- 49 respondents (63 per cent) indicated covering municipal government employees.
- 40 respondents (51 per cent) indicated covering First Nation government employees.
- 39 respondents (50 per cent) indicated covering private independent contractors to a public entity.
- 38 respondents (49 per cent) indicated covering public entity volunteers.
- 36 respondents (46 per cent) indicated covering not-for-profit employees.
- 24 respondents (31 per cent) indicated covering private sector employees.
- 22 respondents (28 per cent) indicated covering non-public entity volunteers.



Figure 3



Asked: Please describe how you believe the Act could cover your selection(s) from the previous question. For example, the Act could cover municipalities or not-for-profits that receive a certain percentage of funding from the Government of Yukon. Or for example, the Act could cover only public entity volunteers.

Heard: A variety of key themes emerged in comments left by respondents:

- “All employees and volunteers of organizations that receive any amount of funding from the Government of Yukon including First Nations governments, municipal governments, and not-for-profit organizations.”
- “All Yukon territory people regardless of their position, affiliation, or funding source.”
- “Any organization that has a duty of care to anyone.”
- “Any employee, contractor or volunteer that interacts with a public entity or government.”
- “Any not-for-profit or charity organization that works closely with the Government of Yukon in an advisory or advocacy capacity.”
- “If a single private independent contractor is contracted by the Government of Yukon, then the Act will apply. If the private independent contractor is an

organization, then a portion of funding (50 per cent plus) should be requirement for the Act to apply.”

- “Not-for-profit organizations that receive more than 50 per cent of funding from public funds.”
- “Any organization that receives a minimum 25 per cent of funding from the Government of Yukon.”
- “Any agency that recovers more than 20 per cent of total annual revenues.”
- “Establish coverage similar to the *Access to Information and Protection of Privacy Act (ATIPPA)* for disclosures.”

Asked: Please describe any rationale or reasoning that you believe why the Act could be expanded to cover your selection(s).

Heard: A variety of key themes emerged in comments left by respondents:

- “Such a small jurisdiction that there often is not any other recourse for employees.”
- “Many smaller entities such as municipal governments do not have capacity to develop and implement something similar.”
- “Municipalities are not subject to ATIPPA. Consequently, clients of municipal services might struggle to identify wrongdoings. Also, if there is greater scrutiny by employees of the administration of services and enforcement activities there is a greater onus to speak out, therefore enhancing transparency.”
- “Many First Nation governments do not have the capacity to investigate disclosures of wrongdoing or reprisal and are in a conflict to do so.”
- “Employees that deal with public funds should be able to disclose wrongdoings.”
- “All governments should have whistleblower protections, as they all operate for citizens and the public. Not-for-profits have a similar mandate to serve and so the same rationale applies.”
- “Prevent and address fraud and corruption in not-for-profits.”
- “Anyone involved with the government or receiving taxpayer’s money, should be covered by this Act.”
- “Hold private independent contractors to a public entity accountable.”
- “Breaking the law in a serious manner should not be tolerated in any area of public work including First Nation governments, contractors, volunteers, not-for-profits receiving government money or anyone else.”

Asked: Please describe any rationale or reasoning that you believe why the Act could not be expanded to go beyond the public entities listed.

Heard: A variety of key themes emerged in comments left by respondents:

- “If new requirements are imposed on the private sector, it should be in separate legislation.”
- “May create precedent setting for the application of other pieces of legislation to third parties. There are other mechanisms that could be used, should the funder the Government of Yukon be aware of any wrongdoing.”
- “Governments should regulate their own workspaces but get involved in private workspaces as little as possible beyond regulating issues of physical safety.”
- “The Act in its current form is sufficient.”

What’s next?

Input obtained from this public engagement will help the Government of Yukon determine if the Act could be expanded and if any other improvements can be made.

