

The Public Interest Disclosure (Whistleblower Protection) Act (PIDA) Assessing Gross Mismanagement

This tip sheet provides a brief overview of what is considered when looking at a disclosure or potential occurrence of gross mismanagement as a type of wrongdoing under PIDA.

Understanding Gross Mismanagement

Gross mismanagement must be mismanagement that is both significant and serious. Gross mismanagement occurs when a decision, act or omission results (or could result) in a serious and significant breach of public interest or risk to public safety. Gross mismanagement can also involve, but is not limited to, the misuse of public funds or public assets.

The level at which mismanagement becomes “gross” mismanagement is not specifically defined in the legislation. However, we view gross mismanagement as being more than an ordinary breach of a duty or policy. For mismanagement to be considered “gross,” the management act, decision, or omission must be a very marked departure from established standards.

Factors

Some of the factors we consider and guide us when assessing whether acts, decisions, or omissions are considered to constitute gross mismanagement are as follows:

- the seriousness and significance of the deviation from standards, policies or practices
- the functions and responsibilities of the public servant alleged to be responsible for the gross mismanagement

- the seriousness and willfulness of the acts, decisions or omissions in question
- the repetitive or systemic nature of the acts, decision or omissions
- the impact or potential impact of the mismanagement on the organization’s ability to carry out its mandate
- the impact or potential impact on the organization’s employees, clients and the public trust

To determine if an alleged act, decision, or omission may constitute “gross mismanagement,” we must assess where it falls in the spectrum of each of these factors.

Assessing

This is not a fixed checklist, but rather an approach to consider the multiple factors and circumstances of the alleged act, decision, or omission in order to assess its level of significance and seriousness. Not all factors are relevant to every case and each case is considered within its own particular context.

Designated officers and employees or other potential whistleblowers are encouraged to seek advice from Manitoba Ombudsman as needed.