



# I am part of an investigation.

## What happens now?



June 2021



The Public Service Commission of Canada investigates appointment processes or allegations of improper political activities when there are sufficient grounds to investigate.

## What happens now?

An investigator reviews the information and gathers any relevant or missing information. The investigator then proceeds with the investigation, using one or a combination of the following methods: individual or group interviews, fact-finding meetings or written submissions. Interviews and fact-finding meetings may be conducted in person, on-site, by teleconference or by videoconference.

## When will I be contacted?

Once the investigator has determined who will be interviewed, a case management officer will contact the persons involved in the investigation to schedule an interview or fact-finding meeting with the investigator. Depending on the order and number of interviews required, it may take some time before you are contacted by the case management officer. The case management officer will ask you to indicate your preferred official language for the interview and whether you require any accommodation measures during the interview.

You will receive a written confirmation of the date, time and place of the meeting and any other relevant instructions. Once scheduled, the date and time of the meeting will only be changed in exceptional circumstances. It is possible that the investigator decides that your testimony is not required, in which case you will not be contacted by the case management officer.

The investigator will contact you directly in cases where it has been decided to proceed by written submission. They will ask in what official language you would like to proceed and whether you require any accommodation measures.

## What should I expect during the meeting with the investigator?

### Official language

You have the right to participate in the investigation in the official language of your choice (English or French). Your preferred official language will be confirmed before your interview and, if applicable, before you are provided any documentation relating to the investigation. Please note that you may choose different official languages for the interview and the documentation to be received.

### Accommodation

During an investigation conducted by the Public Service Commission, you have the right to request and obtain the accommodation you require to participate in the investigations process. The investigator or case management officer will ask you if you need accommodation. Once you have submitted your accommodation requirements, an accommodation plan for the investigation will be developed. Please note that requests for accommodation measures will be implemented unless the integrity of the investigation is at stake. Examples of accommodation measures include:

- having access to the questions in writing during the interview
- having breaks throughout the interview
- writing answers instead of providing them orally
- receiving documents in accessible format

## Documentation

Relevant documents and questions are normally not provided in advance to allow for a spontaneous and truthful account of the events. During the interview, witnesses will have the opportunity to review documents relevant to the investigation. If you intend to refer to documents, please bring an additional copy for the investigator.

## Protecting the integrity of the investigation

### Recording the proceedings

All interviews and fact-finding meetings are recorded by the investigator. No other recordings will be permitted in order to protect the integrity of the investigation.

## Confidentiality

The Public Service Commission asks that you not discuss the investigation with anyone other than the person accompanying or representing you. Any questions, comments or concerns should be raised directly with the investigator.

## Explaining the investigation process

The investigator will outline the purpose of the investigation and provide information regarding the investigation process.

## Oath or solemn affirmation

All testimonies are given under oath or solemn affirmation. Should you wish to testify under oath, please bring a copy of your preferred holy book or an artefact to the interview.

# Can I be represented or accompanied during the investigation?

Interviews or fact-finding meetings are not open to the general public.

Being part of an investigation can be a difficult experience. Please note that you have the right to be represented or accompanied by a person of your choice (e.g., a lawyer, union representative, spouse or friend) throughout the investigation. This person must not be a potential witness in the matter under investigation. In advance of your meeting with the investigator, you will be asked to provide the name and contact information of that person to the case management officer.

If you choose to be represented, your attendance is still required for any interview or fact-finding meeting deemed necessary by the investigator.

Please note that your representative can advise you but cannot testify on your behalf.

## When can I provide comments or submissions?

If you have been identified as a person involved in the investigation, you could be asked to provide written submissions, testimony or comments on the evidence gathered. This information may be communicated to persons involved in the investigation in a factual report.

Persons and the organization affected by the conclusion of an investigation into a founded concern or allegation will be asked to provide comments and submissions on the investigation report and the proposed corrective action.

## What happens to the information shared with the investigator?

Information gathered during the investigation may be included in a factual report, which may be distributed to persons involved in the investigation. Information gathered may also be included in the investigation report distributed to the deputy head of the organization affected and to persons affected by the investigation or the ordered corrective action.

Information provided in the context of the investigation is subject to the [Access to Information Act](#) and the [Privacy Act](#). The Public Service Commission recognizes that being involved in an investigation can impact one's personal and professional life. To learn more about the collection of personal information, please visit our web page "[What are my rights?](#)"

Any information related to an investigation could become a matter of public record if the Commission's final decision is contested at the Federal Court.

## Information collected (Privacy Notice)

Personal information gathered by the Investigations Directorate is used to:

- establish whether an investigation is required
- conduct an investigation
- ensure compliance with corrective action

This collection is described in the personal information bank for Investigations, Mediation and Conciliation, as published in the Public Service Commission's annual [Info Source](#) chapter. This information could be shared with other individuals or federal institutions involved in the investigation, Canadian law enforcement agencies, other oversight bodies, or private or public-sector organizations. If the Public Service Commission decides to disclose your personal information, you might be contacted and consulted on the proposed disclosure.

You may request access or correction to your personal information held by the Public Service Commission by contacting its Access to Information and Privacy Office:

- Telephone: 819-420-6561
- Facsimile: 819-420-6552
- Email: [cfp.aijrp-atip-psc@cfp.psc.gc.ca](mailto:cfp.aijrp-atip-psc@cfp.psc.gc.ca)

If you feel that your privacy is not being properly managed, you may file a complaint to the [Office of the Privacy Commissioner of Canada](#)

## Factual report

During the investigation, a factual report may be drafted and disclosed, partially or in its entirety, to persons involved in the investigation for comments and submissions. This factual report contains all relevant evidence gathered during the investigation. After receiving comments and submissions, the investigator will then proceed with the analysis and conclusion.

## Investigation report

The investigator prepares an investigation report, which includes the analysis and conclusion, and shares it with the organization and persons directly affected by the investigation's findings.

Negative or adverse findings may be made by the investigator against persons involved in the matter being investigated. Please note that information gathered in an investigation could sometimes lead to another investigation under the Public Service Commission's mandate. In such event, if you are involved, you will be informed and provided with an opportunity to be heard.

## Who will receive the investigation report?

The investigation report is shared with the organization and persons directly affected by the investigator's conclusions.

In cases where the investigation of an internal appointment process was requested by a deputy head under [subsection 67 \(2\) of the \*Public Service Employment Act\*](#), the investigation report is sent to that deputy head for approval. The deputy head is responsible for sending the report to affected persons, as deemed appropriate.

## What happens after the investigation report?

If the allegation or concern raised is unfounded, the file is closed.

If the allegation or concern raised is founded, the Commission considers whether to order corrective action. In cases of fraud in an appointment process, the Commission may also decide to provide a copy of the investigation report and any relevant information to the Royal Canadian Mounted Police, pursuant to [section 133 of the \*Public Service Employment Act\*](#).

In cases where the investigation of an internal appointment process was requested by a deputy head under [subsection 67 \(2\) of the \*Public Service Employment Act\*](#), the deputy head is responsible for approving the investigation report and determining appropriate corrective action.

## Corrective action

The Commission can take any corrective action that it considers appropriate in founded allegations or concerns. Corrective action is determined on a case-by-case basis. Organizations and persons affected will be consulted on the investigation report and the proposed corrective action before a final decision is made.

The Public Service Commission monitors all ordered corrective action.

To ensure that the corrective action is respected and implemented within the prescribed period, the Public Service Commission provides organizations and persons affected with detailed information on the implementation of corrective action.

Similarly, deputy heads may take any corrective action that they consider appropriate in investigations conducted pursuant to [subsection 67 \(2\) of the \*Public Service Employment Act\*](#) where the concerns raised are founded. The Commission may recommend corrective action to deputy heads.

## Contesting a decision

Persons affected and not satisfied with a decision made by the Public Service Commission may contest the decision by filing an application for judicial review with the [Federal Court of Canada](#), in accordance with [section 18.1 of the \*Federal Courts Act\*](#).

## Publication of an investigation summary

The Public Service Commission may publish an anonymous summary of an investigation or a summary containing [personal information](#). It can also share personal information with another oversight organization such as the RCMP or with other public or private-sector organizations if it determines that the public interest outweighs privacy interests. Individuals may be contacted and consulted before their personal information is disclosed.

## File closure

The Public Service Commission closes the investigation file and notifies the organization and the person affected when it is satisfied that the corrective action has been implemented, or at the end of the prescribed monitoring period.

## How long does the investigation usually take?

Investigations are conducted as informally and quickly as possible and in respect of [procedural fairness and privacy](#) requirements. While each investigation is unique, the Public Service Commission strives to complete its cases at the investigation phase within 175 calendar days. Several variables can influence the length of the investigation. These include:

- whether there is an admission at the onset of the investigation
- volume of investigations at a given time
- complexity of the investigation
- availability of resources (subject-matter experts)
- number of persons involved in the investigation and their availability

The investigation phase starts the day the decision to investigate is made, and it ends once the Commission renders a decision on the conclusion of the Investigation Report and proposed correction action.

## What if I don't want to participate?

Public Service Commission investigators have all the powers under [Part II of the \*Inquiries Act\*](#). This means that they may compel witnesses to testify or to produce documents.

## What if I still have questions?

For enquiries about Public Service Commission investigations, contact [cfp.de-id.psc@cfp-psc.gc.ca](mailto:cfp.de-id.psc@cfp-psc.gc.ca)

## Other information (definitions)

### Person affected:

A "person affected" is someone:

- whose status may be affected by the investigation (appointee, proposed appointee, candidate in the appointment process)
- whose character may be questioned (credibility, integrity or reputation)
- whose position regarding the concerns/allegations under investigation may be challenged
- who is the subject of an investigation of allegation of improper political activity
- against whom the Commission may order corrective action

When the investigation is related to a person's appointment, proposed appointment or a person's alleged improper political activity, that person is always a "person affected."

In every investigation, the deputy head of the organization concerned, or their representative, is always a "person affected."

### Witness (Person involved)

A person involved is someone identified by the investigator as possibly having knowledge of facts under investigation.

A person involved may become a person affected during the investigation.

### Improper conduct

In the context of its investigations, the Public Service Commission defines improper conduct as unsuitable behaviour, whether by action or inaction, in relation to an appointment process.

Examples of improper conduct:

- failing to disclose a relationship between a board member and a candidate
- tailoring qualifications or the process to a specific individual (experience, education, linguistic profile)
- changing or designing the assessment strategy to benefit a candidate

A series of errors or omissions and the magnitude of an error can also amount to improper conduct.



## Fraud

Any dishonest action that could have compromised the appointment process may be considered fraud. The following are examples of fraud that have been investigated by the Public Service Commission:

- falsifying documentation, such as proof of education and second language evaluation results
- misrepresenting qualifications, such as education and work experience
- unauthorized access to assessment material
- sharing assessment material obtained without authorization with other candidates

## Political activity

Definition under the *Public Service Employment Act*:

- carrying on any activity in support of, within or in opposition to a political party
- carrying on any activity in support of, or in opposition to, a candidate before or during an election period
- seeking nomination as, or being a candidate, in an election before or during the election period

The Public Service Commission can conduct investigations related to:

- candidacy in a federal, provincial, territorial, or municipal election
- political activities in support of, within or in opposition to a political party
- political activities in support of, or in opposition to, a candidate before or during an election period
- a deputy head who engaged in any political activity other than voting in an election