



Council Policy

POLICY NAME: WHISTLEBLOWER POLICY

CATEGORY: City Government – Effective Governance
APPROVED BY COUNCIL: [Date]
DEPARTMENT RESPONSIBLE: City Manager's Office

PURPOSE:

The City of Prince George is committed to the highest level of transparency and accountability in its administrative, financial and management practices. The purpose of this Policy is to provide City of Prince George Employees and elected officials with a mechanism by which they can raise concerns related to Serious Misconduct where there are no other adequate procedures in place for doing so, and provides protection from retaliation to those who report Serious Misconduct in Good Faith.

While it is recognized that individuals retain the right to report any wrongdoing to legal authorities, the purpose of this Policy is to ensure all opportunities for individuals to come forward with allegations of wrongdoing so that appropriate action can be taken.

SCOPE:

This policy applies to all Employees and members of City Council of the City of Prince George.

POLICY:

1.0 Definitions

“City Manager” means the person holding the chief administrative officer position for the City of Prince George pursuant to section 146 of the *Community Charter*.

“Corporate Officer” means the person holding the corporate officer position for the City of Prince George pursuant to section 146 of the *Community Charter*.

“Designated Recipients” are the persons to whom the misconduct must be reported to as set out in section 3.0 below.

“Director” means a current employee of the City of Prince George holding a job title at the Director level in the organizational structure.

“Employee” means a current employee (exempt, unionized, full-time, part-time, temporary, or probationary) working for the City of Prince George.

“Financial Officer” means the person holding the financial officer position for the City of Prince George pursuant to section 146 of the *Community Charter*.

“Good Faith” means having reasonable and objective grounds, which are capable of being verified or substantiated by a written statement, documented evidence or other witnesses, for believing an allegation of Serious Misconduct is true.

“Serious Misconduct” includes, but is not limited to:

- Serious violations of City policies or applicable acts, regulations or bylaws;
- Gross misuse of City resources for any illegal, improper, or unethical purpose;
- Fraud, theft, embezzling funds, or accepting kickbacks or bribes;
- Misappropriating funds, misdirecting funds or assets, or misuse of corporate information;
- Manipulating City accounting or audit records or destroying any accounting or audit-related records except as permitted by the City’s records management bylaw and procedures;
- Failure to take reasonable steps to report and/or rectify actions that may impact negatively on the City’s reputation resulting in the public losing confidence in the organization’s ability to deliver services;
- Violations of the Protection against Retaliation section (Section 5.0) of this policy; or
- Deliberately concealing information related to any of the above.

“Whistleblowing” means reporting Serious Misconduct in Good Faith.

2.0 Exclusions

2.1 This Policy does not apply to matters for which there are other established processes for reporting, investigating or seeking redress. Reports made under this policy may be redirected where other more appropriate procedures are applicable, which may include, but not are not limited to:

- a) Grievance procedures under an existing collective agreement;
- b) Harassment and human rights complaint procedures under human rights legislation and applicable City policies such as the Workplace Conduct Policy, Respectful Workplace Program, Employee Code of Conduct policy or any other employment-related policy or administrative procedure of the City;
- c) Procedures for disputes between an Employee and their supervisor for any matters related to the terms and conditions of an Employee’s employment;
- d) Procedures for reporting safety concerns in accordance with the *Workers Compensation Act* and the *Occupational Health and Safety Regulation*; or
- e) Procedures for reporting privacy breaches under applicable legislation, City bylaws, the Privacy Management Program, or other policy or administrative procedure of the City.

3.0 Process

- 3.1 Employees who, in Good Faith, are aware of Serious Misconduct are required to report such concerns. Employees making reports are not required to prove their allegations but they are required to demonstrate that they have sound reasons for their concerns.
- 3.2 Employees are to report Serious Misconduct in writing, providing a detailed account of the alleged serious misconduct, including:
- a) the date and location of the alleged serious misconduct;
 - b) the identity of persons and witnesses involved;
 - c) a description of the specific actions or omissions that constitute the alleged serious misconduct;
 - d) how the reporting Employee became aware of the alleged serious misconduct;
 - e) any steps taken by the reporting Employee to date in respect of the alleged serious misconduct; and
 - f) any materials or documents relevant to support or evidence the allegations.
- 3.3 Employees must submit a report of alleged Serious Misconduct as follows:

If the subject of the alleged wrongdoing is:	Then it must be reported to (Designated Recipients):
A City Employee other than a Director or the City Manager	Jointly to the department Director and the City Manager
A Director	Jointly to the City Manager and the Corporate Officer
The Corporate Officer	Jointly to the City Manager and the Financial Officer
The City Manager	Jointly to the Corporate Officer and City Council
A member of City Council (an elected official)	Jointly to the City Manager and the Corporate Officer

- 3.4 Within fifteen working days of a report of alleged Serious Misconduct being received, the Designated Recipients will respond in writing to the Employee submitting the report acknowledging that the allegation of Serious Misconduct has been received.
- 3.5 At their discretion, the Designated Recipients may investigate written allegations of Serious Misconduct reported by an Employee anonymously. In exercising this discretion, the Designated Recipients will take into account the seriousness, credibility, and likelihood of other sources confirming the concerns that have been raised. Investigation may not be possible unless the source of the information is identifiable. Further, if an Employee making a report remains anonymous, and does not provide sufficient detail regarding the alleged Serious Misconduct, the investigator may not be able to initiate or complete a comprehensive investigation of the allegations.

- 3.6 The Designated Recipients receiving a report of Serious Misconduct have the exclusive authority to determine if and when a report warrants an investigation under this Policy, and to select an investigator if one is required. Such an investigation may be conducted by an internal or external investigator, at the discretion of the Designated Recipients. If one or both of the Designated Recipients determine that an investigation is warranted, then the investigation will proceed. If both of the Designated Recipients agree that an investigation is not warranted, then the investigation will not proceed.
- 3.7 If an allegation of Serious Misconduct is made against the City Manager, the matter will be dealt with in-camera by City Council who will in conjunction with the Corporate Officer determine and assign responsibility for the investigation and disposition of the matter to an independent third-party investigator.
- 3.8 If an allegation of Serious Misconduct is made against a member of City Council, the Designated Recipients will forward the complaint to independent legal counsel for assessment of whether an investigation is warranted. If it is determined that an investigation should proceed, legal counsel will engage an appropriate external investigator to conduct the investigation and will serve as the primary point of contact for the investigator.
- 3.9 If an allegation of Serious Misconduct is made against an Employee, the Designated Recipients are the City's point of contact for any investigator hired to investigate a report of Serious Misconduct made under this Policy.
- 3.10 In circumstances where it appears that a criminal act may have occurred, the Designated Recipients may report the matter to the appropriate police agency. In circumstances where it appears that there may have been violations of other laws, the Designated Recipients may advise the appropriate enforcement agency.
- 3.11 The Designated Recipients may decline to investigate, or may stop an investigation, if they are of the opinion that:
- a) The allegation does not provide adequate details about the alleged Serious Misconduct, or does not disclose a wrongdoing;
 - b) The allegation is frivolous or vexatious, or has not been made in Good Faith;
 - c) The investigation into the allegation would serve no useful purpose or could not reasonably be conducted because the length of time that has elapsed between the date when the subject matter of the allegation arose and the date the report was made;
 - d) The allegation relates solely to a public policy decision or to one of the matters identified under the Scope section of this Policy as being excluded;
 - e) The allegation is being, or has already been, appropriately investigated;
 - f) Investigating the allegation may compromise another investigation;
 - g) The report is made on an anonymous basis and does not provide enough substance to undertake an investigation or if it cannot be determined that the report was made in Good Faith;

- h) The allegation is also being investigated for the possible prosecution of an offence;
- i) The alleged wrongdoing may constitute an offence under any enactment of British Columbia or Canada; or,
- j) The issue would be more appropriately dealt with by local law enforcement agencies or another entity.

3.12 Those conducting an investigation will:

- a) Comply with any relevant legislation, policies, and agreements;
- b) Endeavor to ensure that the investigation is undertaken in a prompt and professional manner;
- c) Maintain adequate documentation to support any decisions made;
- d) Take all relevant facts into consideration having regard to the particular merits of each case; and
- e) Remove themselves from the investigation process if there is a conflict of interest.

3.13 Updates concerning progress of the investigation and the investigator's report will be provided to the Designated Recipients.

3.14 All Employees and elected officials have a duty to cooperate in the investigation process. Any Employee who fails to cooperate in an investigation, or deliberately provides false information during an investigation, will be subject to disciplinary action, up to and including termination of employment.

3.15 Where Employees come forward to report their own Serious Misconduct under this policy, they will not be exempt from discipline appropriate to the Serious Misconduct; however, such reporting will be given appropriate consideration as a mitigating factor and these instances will be dealt with on an individual basis in accordance with this policy.

3.16 If an investigation determines that Serious Misconduct has occurred, the City will take appropriate remedial or disciplinary action commensurate with the severity of the wrongdoing. Consideration will also be given to potential policy or procedural changes that should be made to protect the City from similar wrongdoing in the future.

4.0 Confidentiality

4.1 Serious Misconduct is a grave matter and it is critical that the reputations of Employees who report concerns and Employees about whom concerns are reported are protected. Consequently, all allegations of Serious Misconduct are handled as confidentially as possible.

4.2 All information disclosed during the course of the investigation will remain confidential, except as necessary to conduct the investigation and to take any remedial action, and to the extent permitted under law. Specifically, investigations will be carried out in a manner that limits disclosure of the report and allegations on a "need to know" basis. Information about a report

of Serious Misconduct will only be disclosed to those responsible for investigating or addressing the report.

- 4.3 Confidentiality extends to all records relating to reports, including but not limited to notes of meetings and interviews, and investigation results. Such records and personal information, including the identity of the person reporting the alleged serious misconduct, will be protected in accordance with the *Freedom of Information and Protection of Privacy Act*. Individuals making a report, investigators, witnesses and individuals against whom a report has been made are expected to maintain confidentiality. Breaches of confidentiality, including making public statements or disclosing information covered by this policy to the media or on social media, may be regarded as Serious Misconduct and will be treated accordingly. For clarity, sharing information about a report of Serious Misconduct in a manner permitted or required by this policy will not be considered a breach of confidentiality.
- 4.4 Information collected and retained under this policy may be required to be released by law, including release required in court proceedings, arbitrations or other legal proceedings.

5.0 Protection against Retaliation

- 5.1 The City of Prince George strictly prohibits any discrimination, retaliation, threats or harassment against any Employee who reports, or participates in an investigation related to, alleged wrongdoing or misconduct. Any form of retaliation against an Employee (including dismissal, demotion, transfer, suspension, intimidation, harassment, or any other form of discipline or discrimination that adversely affects the Employee's employment or working conditions, and any threat to take any of the previously listed measures) by any person or group, directly or indirectly, because that Employee reported Serious Misconduct in Good Faith or because that Employee acted as a witness or otherwise participated in an investigation in good faith will be considered a serious violation of this policy. Individuals who violate this section of this Policy will be subject to appropriate disciplinary action, up to and including termination of employment.
- 5.2 An Employee who believes they are being retaliated against should report these concerns to the Designated Recipients as outlined under "Section 3.0 – Process" of this Policy.

6.0 Bad Faith Allegations

Employees who report allegations of Serious Misconduct without sound reasons, or who knowingly make false allegations, or who make allegations maliciously or with the intent to harm other individuals, will be subject to appropriate disciplinary action, up to and including termination of employment.

7.0 Federal or Provincial Legislation

If any portion of this policy is inconsistent with federal or provincial legislation, that portion and only that portion of this policy will have no application to the extent of that inconsistency. All other portions of this policy will continue in full force and effect.