

Corporate Policy and Procedure



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TAB: CORPORATE ADMINISTRATION

SECTION: ACCOUNTABILITY AND TRANSPARENCY

SUBJECT: WHISTLEBLOWER PROGRAM

POLICY STATEMENT The City of Mississauga is committed to the principles of corporate accountability, transparency and honesty.

PURPOSE The purpose of this policy is to establish procedures for employees for the anonymous reporting and investigating of allegations of Waste and/or Wrongdoing within the City of Mississauga when there is fear of reprisal when using established channels.

SCOPE The Whistleblower Program may be utilized by all City of Mississauga staff.

Complaints involving elected officials will be forwarded to the Integrity Commissioner, appointed under the *Council Code of Conduct*, who will conduct the investigation in accordance with the *Council Code of Conduct Complaint Protocol*, if appropriate.

Available Reporting Options Several existing Corporate Policies and Procedures outline the actions the City will take in the event of accusations or findings of staff misconduct. Staff should review these policies and consider using established channels of reporting allegations of Waste and/or Wrongdoing in accordance with the applicable policy:

- Access to and Acceptable Use of Information Technology Resources
- Employee Complaints Review Procedure
- Fraud and Theft
- Respectful Workplace
- Workplace Violence

Unionized employees also have access to the grievance procedure outlined in their collective agreements as a channel to report

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Waste and/or Wrong doing.

Otherwise, Employees who fear reprisal may anonymously report suspicions of Waste and/or Wrongdoing through the Whistleblower Program.

Excluded Complaints Complaints regarding Council decisions or City policies and by-laws are outside of the scope of this policy.

LEGISLATIVE AUTHORITY

Disclosure of information is subject to the *Municipal Freedom and Protection of Privacy Act* (MFIPPA). For additional information on MFIPPA refer to Corporate Policy and Procedure - Corporate Administration - Freedom of Information and Protection of Privacy. This does not affect the anonymity of the Whistleblower.

DEFINITIONS

Employee

For the purposes of this policy:

“Employee” means, for simplification of the language in this policy, all union and non-union employees.

Subject Party

“Subject Party” means the person(s) identified in a Whistleblower complaint.

Waste

“Waste” means the gross mismanagement/abuse of City resources in a willful, intentional or negligent manner.

Whistleblower

“Whistleblower” means an Employee who has knowledge or suspicion of an activity and chooses to submit a complaint through the Whistleblower Program.

Whistleblower Program

“Whistleblower Program” means the processes and mechanisms for the confidential and anonymous reporting of Waste and/or Wrongdoing where fear of reprisal exists, and the subsequent investigation and outcome of each complaint.

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Wrongdoing

“Wrongdoing” means any illegal or inappropriate conduct, including but not limited to:

- crime or suspected criminal activity;
- fraud and theft;
- the wrongful or unauthorized acquisition, use, appropriation or disposal of City assets, including monies, information, data, materials, labour or equipment, including furniture and fixtures;
- falsification, alteration, or manipulation of the Corporation’s documents, records or computer files;
- the violation of public trust or duty;
- danger to public health or safety;
- the misuse of position for personal gain;
- financial irregularities, including but not limited to: forgery or alteration of cheques, drafts, promissory notes and securities; any misappropriation or mishandling of funds or securities; and/or
- any fraudulent claim for reimbursement of expenses by the City.

ADMINISTRATION

The Whistleblower Program is managed by an independent third party service provider.

Complaints are submitted through the third party service provider’s external, anonymous reporting system and investigated by professionals employed by a third party service provider, or another independent investigator, or by appropriate City staff.

The Legal Services Division, City Manager’s Office, acts as the contract manager for the third party service provider and, when required, the point of contact for other independent investigators or City staff, such as Human Resources, assigned to an investigation resulting from a Whistleblower complaint.

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ACCOUNTABILITY

City Manager

The City Manager is accountable for:

- ensuring the City retains a Whistleblower Program provider whose services include procedures for receiving, assessing, appropriately investigating and reporting the outcome of allegations and complaints received under the Whistleblower Program;
- ensuring staff cooperate with Whistleblower Program investigations as required;
- where applicable, ensuring the underlying causes are determined and that recommendations are made to correct the situation and prevent further occurrences; and
- where appropriate to the circumstances, inform Council of Whistleblower Program investigations and/or outcomes.

Departmental Directors

All departmental directors are accountable for:

- ensuring all applicable managers/supervisors are aware of this policy and of any subsequent revisions;
- ensuring compliance with this policy; and
- cooperating with Whistleblower Program investigations as required.

Managers/Supervisors

Managers/supervisors are accountable for:

- ensuring staff in their respective work units are aware of this policy and any subsequent revisions;
- ensuring staff comply with this policy; and
- cooperating with Whistleblower Program investigations as required.

All Employees

All Employees are accountable for:

- complying with this policy;
- reporting any occurrence or indication of Waste and/or Wrongdoing that they are aware of to their manager/supervisor or other management staff through established channels or, where fear of reprisal exists, through the

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Whistleblower Program; and

- cooperating with Whistleblower Program investigations as required.

PROCESS

All Employees have a responsibility to report serious violations or breaches of City policies, procedures and by-laws; allegations of criminal activity; and any other Employee misconduct which may be detrimental to the City's interests. Employees are encouraged to report such matters to their supervisor using established channels, but may report them anonymously through the Whistleblower Program when they fear reprisal.

An independent, objective and impartial investigation of any suspected acts or allegations of Waste and/or Wrongdoing will be conducted, regardless of the Subject Party's position, title or length of service, or the relationship with the City of any party who might be involved in such an investigation.

Reporting Mechanism

The reporting system, accessible 24 hours a day, 7 days a week by email or online through a secure website submission form, is operated by an independent third-party service provider to ensure strict Employee confidentiality and anonymity. Information on how to access the reporting system is available on Inside Mississauga.

Whistleblowers are not required to provide their name or any other personal information when submitting a complaint of suspected Waste and/or Wrongdoing by a Subject Party(s). However, in some cases, investigation may not be possible unless the source of the information is identifiable and/or if insufficient information has been provided.

Reporting Process

An anonymous report is submitted through the third-party service provider and assigned a confidential code. The Whistleblower should include as much information as possible, including the nature of the Waste and/or Wrongdoing; which Employees are

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alleged to be involved; specific dates, times and locations; and any relevant evidence.

The Whistleblower should access the complaint on a regular basis, using their assigned code, in order to check the progress of the complaint and to determine if the independent provider has requested additional information.

Investigation

Complaints will be investigated by employees of the independent service provider, another independent investigator, or by City staff, when appropriate. Legal Services, in consultation with appropriate City staff, will make this determination. In all cases, an appropriate, qualified independent team will be assigned and an objective investigation will be conducted.

Anonymous two-way communication is facilitated if more information is needed with respect to the complaint. If additional information is requested during the investigation and the Whistleblower chooses not to participate/respond, the investigator may decide not to investigate further and the report will be updated accordingly. All Employees are expected to cooperate fully with any investigation.

Conclusion

At the conclusion of each investigation, the independent service provider or staff investigator will document the results in a confidential report and provide the report to the City Manager. The City will make every reasonable effort to pursue the recovery of City losses from the Subject Party(s) or other appropriate source(s).

PROTECTION FROM REPRISALS

Unsubstantiated complaints made in good faith will not result in any reprisal against the Whistleblower or the Subject Party, including:

- dismissal or threat of dismissal;
- discipline or suspension, or the threat of discipline or

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suspension;

- subjecting the Employee to any form of harassment or abuse; or
- imposing any penalty, directly or indirectly, including career limitations or change in work conditions/ assignment.

The City Manager must be informed if a Whistleblower believes he/she is being retaliated against, or any Employee is informed of or becomes aware of possible reprisals against an individual as the result of a complaint under the Whistleblower Program.

The City Manager will assign complaints of retaliation by City staff to an independent reviewer, who will investigate and report the outcome to the City Manager and the City employee. Where the investigation substantiates the allegations of reprisals, staff involved in the reprisal will be subject to the appropriate disciplinary action, in accordance with this policy.

CONFIDENTIALITY

Confidentiality of the Subject Party

A Subject Party(s) accused of Waste and/or Wrongdoing is innocent until proven guilty and entitled to due process. The decision to inform the Subject Party(s) of the allegation or the investigation will be at the discretion of the investigator(s) and will be determined on a case-by-case basis. The identity of the Subject Party(s) will be confidential and only made known on a need-to-know basis in order to conclude the investigation.

Confidentiality During Investigation

Whistleblowers, witnesses, the Subject Party(s), investigators and Employees interviewed as part of an investigation must maintain confidentiality of all information related to an investigation. Breaches of confidentiality may be regarded as serious misconduct and will be subject to disciplinary action, in accordance with this policy.

DISCIPLINARY ACTION

Employees who knowingly make a false or misleading statement;

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seek reprisal against an individual as the result of a complaint; do not cooperate during the course of an investigation or complaint of retaliation; or against whom acts of Waste and/or Wrongdoing are substantiated will be subject to disciplinary action, up to and including dismissal.

REPORTS

The City Manager will provide a high-level summary of the complaints received and investigations conducted in an annual report to Council, through the Audit Committee.

REFERENCE:

GC-0353 -2014 – 2014 07 02
LT – 2015 01 22 – admin correction to Scope.

LAST REVIEW DATE:

CONTACT:

For additional information contact Legal Services, City Manager's Office.