

Council Policy

Policy Title: Whistle-blower Policy
Policy Number: CC026
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Policy Owner: City Auditor

1. POLICY STATEMENT

The Corporation of The City of Calgary ("The City") is committed to protecting its revenue, property, information, and other assets from any acts of wrongdoing by members of the public, third parties performing services or providing goods under contract to The City, or its own employees.

In 2007, The City established a Whistle-blower Program that provides overarching guidance to augment existing corporate policies and establishes additional mechanisms to ensure consistent, systematic, corporate-wide processes are in place for the prevention, detection, reporting and investigation of any suspected act of wrongdoing.

2. PURPOSE

The purpose of this policy is to establish specific program procedures and responsibilities regarding the reporting, handling, and/or independent investigation of allegations of wrongdoing within The City of Calgary. This policy reflects The City's ongoing effort to support open, ethical, accountable, and transparent local government.

3. DEFINITIONS

Allegation: A clearly articulated claim or assertion that an event has occurred in violation of City policy which has not yet been proven as true.

Anonymous: The identity of the reporter is not disclosed.

Confidential: All information relating to a report will be confidential and restricted to a "need to know" basis or as required by law. This may include the identity of the named individual(s), any information gathered as part of an investigation, and in certain circumstances the identity of the reporter.

Good Faith: A report is submitted in good faith when it is genuine and based on reasonable belief/grounds and not made with malicious intent, solely for self-interest, and/or in support of a personal or political agenda.

Named Individual(s): The person(s) against whom allegations are made.

Report: Information provided to the Whistle-blower Program by a reporter, in good faith, describing with as much information as possible an allegation, or multiple allegations, of suspected wrongdoing.

Reporter: The person who has knowledge of an activity believed to be wrongdoing and reports the activity in good faith.

Reprisal: A negative action or threat made by a City employee in direct association with either: a report submitted to the Whistle-blower Program by a reporter, or information provided to the Whistle-blower Program by a witness.

Substantiated Report: Investigation confirms an allegation is validated and sufficient evidence exists to determine a violation of City policy.

Unsubstantiated Report: Evidence is determined to not support the allegation as reported, or insufficient evidence exists to determine a violation of City policy has occurred.

Whistle-blower Program: A reporting program established under the oversight of the Audit Committee, independently managed by the City Auditor, and supported by the City Manager to receive allegations of suspected wrongdoing involving employees and/or operations of Administration.

Witness: For purposes of this policy, a witness is a City employee or other individual dutifully cooperating with the Whistle-blower Program by responding to inquiries made in support of the investigation of an allegation.

Wrongdoing: For purposes of this policy, wrongdoing refers to conduct that may be considered dishonest, unethical, wasteful, improper, fraudulent, or illegal. Wrongdoing includes, but is not limited to:

- Serious violations of City policy or procedure
- Misappropriation or gross misuse of City funds, equipment or other assets, information, or resources for any illegal, improper, or unethical purpose
- Malfeasance as defined by the Labour Relations Policy

4. APPLICABILITY

This policy applies to all City employees, third parties performing services or providing goods under contract to The City, and committees and commissions over which Council has the authority to require that general Administration and/or Council policies be followed. Exclusions are listed in Schedule A.

5. PROCEDURE

5.1 Reporting

City employees are expected to report any suspected instance or allegation of wrongdoing immediately to a supervisor or manager, Human Resources or Corporate Security as required by the Labour Relations Policy. Where an employee fears reprisal, or where the nature of the allegation precludes reporting directly within Administration, the report can be submitted confidentially and/or anonymously via the Whistle-blower Program.

Non-employees may report a concern directly to the Whistle-blower Program by accessing the reporting channels established by the City Auditor.

5.2 Assessment

All reports will be assessed in an objective manner and a decision to investigate will be made without regard to the position, title, length of service, or relationship to The City of any named individual.

Assessment of a report will determine whether sufficient detail and merit to the allegation(s) exists to support formal investigation. All reports assessed will result in one of the following actions:

- a. Investigation of at least one allegation reported
- b. Referral to Administration subject matters not meriting formal investigation, or as excepted by this policy, for consideration of non-investigative action
- c. Closure with no further action taken with reports excluded by this policy, or reports not meeting minimum reporting criteria outlined in Schedule B.

5.3 Investigation of Allegations

As with any City investigation, employees must cooperate fully in a whistle-blower investigation. No City employee or person acting on behalf of The City shall take any action in reprisal against a witness who dutifully cooperates with a whistle-blower investigation.

Named individual(s) are granted due process during an investigation and the identity of the named individual(s) will be kept confidential and disclosed only on a need-to-know basis necessary to conclude on the allegations.

In cases where the allegation under investigation does not support further investigation and is unlikely to be substantiated by available information or evidence, the investigation may be concluded as unsubstantiated without

informing the named individual(s).

Where the results of the investigation find reasonable grounds to indicate that a fraud or other criminal act may have occurred, the City Auditor will determine the need to refer the matter to the Calgary Police Service, and cooperate fully in any subsequent police investigation.

5.3.1 Concluding on Allegations

Investigation may determine an allegation only as substantiated wrongdoing or unsubstantiated.

5.3.2 Confidentiality

All employees who have knowledge of, or are participants in, a whistle-blower investigation shall keep the details and results of the investigation confidential. Discussions of the investigation shall occur only with the authority of members of the investigation team, the City Auditor, or as required by law.

5.3.3 Disciplinary Action

Employees may be subject to disciplinary action, up to and including dismissal, as determined appropriate by Administration, in the following circumstances:

- If a suspicion of wrongdoing on the part of a City employee is substantiated by an investigation.
- If a report is determined to have not been reported in good faith
- If an employee is found to have breached confidentiality of a whistle-blower investigation.

5.4 Reporter and Witness Protection and Limitations

Any City employee defined by this policy as either a reporter or witness is extended reporter protection in the areas of:

Confidentiality Every reasonable effort will be made to maintain the confidentiality of the reporter or witness, however, their identity may be disclosed, on a need-to-know basis, to ensure that a thorough investigation is conducted, where the safety and well-being of the reporter is at risk, or as required by law.

Reprisal No City employee or person acting on behalf of The City shall take any action in reprisal, oral or written, against a reporter submitting a report in good faith, or against a witness cooperating with a whistle-blower investigation.

A reporter or a witness who believes they have been subjected to retaliation should contact the City Auditor, who will investigate. Where the investigation substantiates the allegations of reprisals, the City Manager will be informed, and the employee(s) deemed violating this policy will be subject to disciplinary action by Administration.

Protection against reprisal cannot be effectively provided to non-employees, or to reporters who choose to remain anonymous.

Employees may not seek protection from reprisal for:

- a. Conduct unrelated to the submission of a report.
- b. Substantiated activity which is determined to be a result of conduct of the employee seeking protection.

5.5 Communications and Reporting of Results

All investigations will result in a confidential investigation report of activities and findings to be retained by the City Auditor in accordance with official records retention policies of the City Auditor's Office.

The City Manager's Office will be apprised of all whistle-blower investigations initiated and concluded. The City Auditor will review the details of substantiated allegations with the applicable department or business unit leader.

Where the results of the investigation are expected to be of public interest, the City Auditor and the City Manager will jointly develop a communications strategy and will inform Audit Committee of the investigation in a manner they deem appropriate to the circumstances.

Any employee contacted by the media with respect to a whistle-blower investigation shall refer the media to Customer Service & Communications. The results of the investigation shall not be discussed with the media by any person other than through the Director, Customer Service & Communications or designate, in consultation with the City Auditor.

The City Auditor will report, at least on an annual basis, information related to reports received and investigations conducted during the year to Council through the Audit Committee.

The City Auditor will coordinate the reporting of information relating to investigations conducted under this policy to The City's external auditors where appropriate.

5.6 Responsibilities

The City Auditor and the City Manager will develop, implement, and maintain an effective Whistle-blower Program.

5.6.1 City Auditor

The City Auditor is responsible for ensuring that procedures are established for receiving, assessing, appropriately investigating, and reporting the outcome of all allegations and reports received under the Whistle-blower Program and may delegate operational activities to the Manager, Whistle-blower Program. The City Auditor shall ensure that:

- Channels, including an anonymous hotline, are functioning, and maintained to facilitate the reporting of suspicions of wrongdoing under this policy.
- All allegations reported in good faith are provided timely assessment, and where investigation is merited, timely resolution.
- An effective investigative team is established to conduct timely investigations, which may in turn rely on additional available resources, such as subject matter experts, and/or processes within Administration.
- Appropriate steps are taken to prevent the theft, alteration, or destruction of relevant records, and will maintain custody of all whistle-blower investigation files.
- The results of all investigations are reported to the responsible General Manager and/or City Manager for action as appropriate, in accordance with the Code of Conduct and Administration policies.
- Where applicable, investigation results will include recommendations to mitigate future occurrences based on the investigation's determination of underlying causes of procedural failure or control weakness.
- Where investigation determines significant loss to The City, consultation with the City Solicitor will occur to determine appropriate options for recovery

5.6.2 City Manager

The City Manager ensures appropriate Administration policies are in place and maintained to define the behaviours and conduct expected of City employees, in alignment with The City's various legislative obligations. This includes the reporting of wrongdoing, supporting investigative processes, and establishing appropriate sanctions, including those established in this policy.

5.6.3 Employees and other Reporters

The Whistle-blower Program relies on the receipt of verifiable information supporting suspected acts of wrongdoing by individuals who have an employment or contractual obligation to report such activities. Reporters fulfil an important role in the successful resolution of allegations raised to the Whistle-blower Program by:

- Providing wholesome and complete information regarding a specific concern in a timely manner which supports a reasonable opportunity to investigate.
- Remaining involved and available to respond to questions from investigators.
- Maintaining the confidentiality of the process.

Anonymity is available to employees who fear reprisal, however, certain matters, such as those where allegations of disrespectful behaviour are made against the reporter, require disclosure of the identify of all involved parties in support of a fair and thorough investigation.

Reporting suspected wrongdoing to the Whistle-blower Program does not authorize an employee or other reporter to access, collect, or distribute any City record to which they would not have an operational need to access or possess as part of their employment function. Employees determined to have breached confidentiality or privacy in the submission of a report may result in a separate investigation and corrective action which may include disciplinary action as determined appropriate by Labour Relations.

5.7 Personal Information and Privacy

All whistle-blower investigations are subject to existing *Freedom of Information and Protection of Privacy (FOIP)* legislation.

6. SCHEDULES

6.1 Schedule A – Exceptions

The Whistle-blower Program may receive reports involving the groups listed below, but will refer such reports, without assessment, as indicated:

Group	Required Action
Calgary Police Service (sworn or civilian members)	Referral to the office of the Chief of Police.
Calgary Police Service (Chief of Police)	Referral to the Chair, Calgary Police Commission.
Mayor, Members of Council, ward staff	Referral to the Integrity Commissioner.

The City has relationships with many organizations for which control may lie outside of Council. These include:

- Societies
- Wholly Owned Subsidiaries
- Minority Owned Subsidiaries
- Non-profits
- Civic Partners (legislated bodies or independent external organizations)
- Business Improvement Areas (BIAs)

Many of these organizations, as identified in the City of Calgary Annual Financial Report, operate independently from The City and may maintain their own protocols for reporting wrongdoing. Except where reports are assessed as activity involving The City directly, reports received involving these organizations may be referred to the respective board chair or equivalent without further action by the Whistle-blower Program.

6.2 Schedule B – Report Ineligibility

The City Auditor has sole discretion regarding the disposition of any allegation received and at their discretion may refer or close a report without further action being considered, for any reasonable purpose including, but not limited to the following circumstances:

- Reports involving matters to which this policy is not applicable.
- Reports containing insufficient information and/or untimely allegations to which no reasonable expectation exists for successful investigation.

- Reports deemed to have not been submitted in good faith.
- Matters as reported are before, or have resulted in a decision by a court, a board, a tribunal, or other decision-making body, and/or for which appeal processes are available.
- Matters regarding the appropriateness of municipal taxation or user fees.
- Matters as reported are being dealt with or have previously been addressed through another process within Administration and are absent of new information.
- Matters which have resulted in documented disciplinary action taken by Administration.
- Reports involving routine employment or labour matters that can be, or have been, formally grieved.
- Routine operational activities or personnel matters more appropriately addressed by Administration.
- Matters relating to Council or Committee decisions, or operational actions taken by Administration in support of Council or Committee decisions.
- Matters relating to harassment or discrimination against specific areas protected by the Alberta Human Rights Act, as outlined in Administration Policy Respectful Workplace Policy, which require reporting to the Respectful Workplace Office.

7. **AMENDMENT(S)**

Date of Council Decision	Report/By-Law	Description
2022 November 17	AC2022-1244	Adopted proposed amendments made to reflect current operational practices and to align with new policy template format.
2016 December 19	LGT2016-0926	Adopted proposed amendments to align with the new role of the Integrity Commissioner and the current practice in the Whistle-Blower Program.
2013 October 21	Bylaw 40M2011	Discontinue the use of the title "Alderman" in favour of the title "Councillor"
2013 May 27	LGT2013-0477	Adopted amendments to policy except for the proposed policy title name change
2013 April 22	PFC2013-0368	Adopted amendments to include the proposed language around disciplinary processes for Members of Council as part of updating Council's Whistle-Blower Policy
2007 May 28	AC2007-26	Adopted Policy CC026