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COUNCIL POLICY

Policy Title:	Whistle-blower Policy
Policy Number:	CC026
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Business Unit:	City Auditor's Office

BACKGROUND

The Corporation of The City of Calgary ("The City") is committed to protecting its revenue, property, information and other assets from any acts of waste and/or wrongdoing by members of the public, contractors, sub-contractors, agents, intermediaries, 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 waste and/or wrongdoing.

PURPOSE

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

APPLICABILITY

This policy applies to Members of Council and Council Staff, all City employees, managers, contractors, suppliers, agencies, and commissions over which Council has the authority to require that general policies be followed.

Reports or allegations of waste, wrongdoing, or matters of public concern may be made by any employee, manager, contractor, supplier, or member of the public who has knowledge of City of Calgary operational activities that he or she considers to be dishonest, unethical, wasteful, improper, a matter of public concern or illegal.



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DEFINITIONS

Anonymous: The identity of the reporter is not known.

Confidential: Communication of information relating to a report will be restricted and only divulged on a “need to know” basis. This includes the identity of the reporter, the named individual/parties, or any information gathered as part of an investigation.

Matters of Public Concern: A danger to public health or safety; Abuse of authority.

Named Individual/Parties: The subject or target of the Waste and/or Wrongdoing report.

Reporter: a person who has knowledge of an activity that she/he considers to be dishonest, unethical, wasteful, improper, a matter of public concern or illegal and reports the activity in good faith.

Substantiated Report: The investigation of the allegation confirms that the allegation is valid and supported by evidence.

Unsubstantiated Report: The evidence does not support the allegation as reported; or insufficient evidence exists to confirm or deny the allegation.

Waste: Refers to the inefficient use of City of Calgary resources. Specifically, waste refers to any operation, process, or activity where taxpayer funds may be spent without due regard for value for money and/or where opportunities may exist to save money.

Whistle-blower Program: A program managed by the City Auditor’s Office and supported by the City Manager to accept reports from employees, managers, contractors, suppliers, or members of the public, regarding activities that may be considered dishonest, unethical, wasteful, improper, or a matter of public concern or illegal. The Whistle-blower Program ensures all reports received are appropriately reviewed.



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Wrongdoing: For purposes of this policy, wrongdoing is used to refer collectively to illegal or inappropriate conduct. Wrongdoing includes, but is not limited to:

- Crime or suspected criminal activity;
- Fraud as defined in the Criminal Code of Canada (R.S., 1985, c. C-46);
- Breach of Code of Conduct (Administration Policy HR - LR 005) or any other Council or Administration Policy;
- Malfeasance as defined by the Labour Relations Policy (Administration Policy HR-LR-002, Section 6.07)
 - The wrongful or unauthorized acquisition, use, appropriation, or disposal of City assets including monies, information, data, materials, labour or equipment;
 - The violation of public trust or duty;
 - The misuse of position for personal gain;
- Other irregularities, including but not limited to:
 - Forgery or alteration of cheques, drafts, promissory notes and securities;
 - Any misappropriation of funds, securities, supplies or other assets;
 - Any irregularity in the handling or reporting of money transactions;
 - Misappropriation of furniture, fixtures and equipment;
 - Unauthorized use or misuse of City property, equipment, materials or records; and
 - Any claim for reimbursement of expenses that are not made for the exclusive benefit of The City.

POLICY

General Policy Statements:

City employees must report any suspected instance or allegation of waste and/or wrongdoing immediately to a supervisor, management, or Corporate Security as required by the Labour Relations Policy (Administration Policy HR-LR-002, Section 6.07). Where the employee fears reprisals or where the nature of the allegation precludes reporting within the administration, the employee may report their concerns to the City Auditor under the Whistle-blower Program.

The City of Calgary will fully investigate any suspected acts or allegations of waste and/or wrongdoing. An appropriate, objective, and impartial investigation will be conducted regardless of the Named Individual's position, title, and length of service or the relationship with The City of any party who might be involved in such an investigation.



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Employees and managers must cooperate fully in any City investigations or reviews arising from reports of waste and/or wrongdoing.

Where the results of the investigation find reasonable grounds to indicate that a fraud or criminal act may have occurred, the file will be turned over to The Calgary Police Service. The City will cooperate fully in any subsequent police investigation.

The City will make every reasonable effort, including court-ordered restitution, to pursue the recovery of City losses from the offender or other appropriate source(s).

The Whistle-blower Program is designed to address reports and allegations of waste and/or wrongdoing. It will not accept items that are considered to be activism and/or challenges to the appropriateness of Council policy decisions.

Reporter Protection

Reporter protection is extended to any City employee who meets the requirements of the definition of "Reporter" as defined in this policy. Reporter protection is provided in two areas: confidentiality and retaliation.

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 Whistle-blower report in good faith, including:

- Dismissal or threaten to dismiss an employee;
- Discipline, suspend, or threaten to discipline or suspend an employee;
- Subject the employee to any form of harassment or abuse;
- Impose any penalty, directly or indirectly, including career limitations, change in work conditions or assignment; and
- Intimidate or coerce the reporter.

Where management is informed or becomes aware of possible reprisals against an individual as a result of a report under this policy, the manager must inform the City Auditor. A Reporter who believes he/she is being retaliated against should contact the City Auditor's Office. The allegations of reprisals will be the subject of immediate investigation. Where the investigation substantiates the allegations of reprisals, the City Manager will be informed and the employee(s) involved will be subject to disciplinary action.



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Every reasonable effort will be made to maintain the confidentiality of the reporter. However, the reporter's identity may be disclosed to ensure that a thorough investigation is conducted. The identity may be disclosed to parties on a need-to-know basis, including as required by law.

Reporter Protection Limitations

A person is not entitled to Reporter Protection under this policy unless he or she reasonably believes that the information reported indicates waste and/or wrongdoing, and reports the information in good faith.

A person is entitled to protection under this policy only if the waste and/or wrongdoing is not the result of conduct by the individual seeking protection.

Retaliation

No employee shall be adversely affected because they refuse to carry out a directive which violates corporate code of conduct, or that violates the law.

Acting in Good Faith

Anyone filing a report must be acting in good faith and have reasonable grounds for believing the information disclosed indicates waste and/or wrongdoing. Any allegations that prove to be unsubstantiated and which prove to have been made maliciously or knowingly to be false will be subject to disciplinary and/or legal action.

Protection for the Named Individual/Parties

An individual or individuals accused of waste and/or wrongdoing are granted due process and protection from unmerited professional and personal harm.

During the investigation of a report, the Named Individual may not be informed of the allegation or the investigation. The identity of the Named Individual will be confidential and only made known on a need-to-know basis to conclude the investigation.

In cases where the report is found to be baseless, unmerited, unsubstantiated, or made in bad faith, the Named Individual will not be:

- Dismissed or threatened with dismissal;
- Disciplined, suspended, or threatened with discipline or suspension;
- Subjected to any form of harassment or abuse; and
- Imposed any penalty, directly or indirectly, including career limitations, change in work conditions or assignment.



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Disciplinary Action

If a suspicion of waste and/or wrongdoing on the part of a City employee is substantiated by an investigation, the employee will be subject to disciplinary action, up to and including dismissal.

All disciplinary action shall be taken by management in conformance with Section 4 (Counselling, Discipline and Suspensions Pending Investigations) of the Labour Relations Policy (Administration Policy HR-LR-002).

Unless exceptional circumstances exist, a person under investigation shall be given notice in writing of the essential particulars of the allegations following the conclusion of the investigation and prior to referral for disciplinary action. Where notice is given, the person against whom allegations are being made may submit a written explanation no later than seven calendar days after the notice is received. This requirement is subject to any collective agreement provisions respecting the rights of employees during disciplinary proceedings.

All substantiated violations and reports relating to a Member of Council made through the Whistle-blower Program shall be reported by the City Auditor to Council in an in-camera meeting at Council. A decision to apply one or more of the disciplinary actions requires a Council resolution. The possible courses of action that are available to Council include, but are not limited to:

- a) Apology by the Member of Council to the impacted individual(s);**
- b) Removal of the Member from Council Committees other than Standing Policy Committees or other representative bodies;**
- c) Dismissal of the Member from a position of Deputy Mayor or Chairperson of a Committee;**
- d) Educational training on ethical conduct provided by a third party at the expense of the Member of Council's office budget; and**
- e) Any action taken by Council should include a time frame and what remedial action is expected.**

All substantiated violations relating to a Council Staff Member will be reported to the Member of Council to whom the individual reports. All disciplinary action shall be taken by the Member of Council and the disposition shall be reported to the City Auditor for Whistle-blower Annual Reporting purposes.

RESPONSIBILITIES

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



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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 shall ensure that:

- Channels, including an anonymous hotline, are functioning and maintained to facilitate the reporting of suspicions of waste and/or wrongdoing under this policy.
- All reports and allegations received through the Whistle-blower Program are subject to an appropriate investigation and resolution. The City Auditor will establish an investigative team to conduct investigations, including the effective use of available resources and processes within The City. Where appropriate, reports/allegations will be referred to the City Manager to address through established administrative processes (for example: 311, collective agreement, grievance procedures, Human Resources or management practices);
- The results of the investigation will be forwarded to the City Manager for action, if appropriate, in accordance with the Code of Conduct, Administration Policies including HR-LR-002, Labour Relations; and
- Where applicable, the underlying causes of procedural failure or control weakness are determined; and recommendations are made to correct the situation and prevent further occurrences.

City Manager

The City Manager is responsible for ensuring that appropriate administrative policies are in place and maintained to clearly define the behaviour and conduct expected of City employees. This responsibility includes encouraging the reporting of waste and/or wrongdoing, and establishing sanctions for non-compliance.

The City Manager is also responsible for ensuring that the City Auditor is informed of the actions taken to address:

- Substantiated City Auditor investigations;
- Reports forwarded to the Administration for review; and
- Retaliation against a reporter or Named Individual;

so that a summary of the results and actions taken may be included in the Annual Report to Council, through the Audit Committee.



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All Employees and Contractors

Any employee/contractor who has knowledge of an occurrence of waste and/or wrongdoing, or has reason to suspect that waste and/or wrongdoing have occurred, shall make a report as required by Administration Policy HR-LR-002. Where the employee fears reprisals as a result of making a report or the nature of the allegation precludes reporting within the administration, the employee may report his/her concerns to the City Auditor under the Whistle-blower Program.

Management

Management teams are responsible for establishing and maintaining a system of internal control to provide reasonable assurance of the efficiency of their operations, including the prevention and detection of wrongdoing, waste and other irregularities. Management should be familiar with the types of wrongdoing and misconduct that might occur within their area of responsibility and be alert for any indicators of such conduct.

Upon notification from any City employee or contractor of suspected waste and/or wrongdoing, or if a manager has reason to suspect that such an act has occurred, the manager shall immediately make a report as required under Administration Policy HR-LR-002 or report his/her concerns to the City Auditor under the Whistle-blower Program.

PROCEDURES

Reporting Waste and/or Wrongdoing

The City Auditor will establish and maintain sufficient and appropriate channels to facilitate the reporting of suspected waste and/or wrongdoing.

Employees are required to report allegations of criminal activity, breaches of security or administrative policy to their supervisor, general manager, Human Resources, Corporate Security, or as set out in administrative policies. Employees may report their concerns directly to the Whistle-blower Program where there is a fear of reprisals.

Other individuals may make a report directly to the Whistle-blower Program using any of the available reporting channels established by the City Auditor.

Reports or allegations can be made on an anonymous basis, where the individual is not required to provide their identity.



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Investigations

All reports and allegations received through the Whistle-blower Program will be appropriately investigated regardless of the basis of submission unless insufficient information is provided on an anonymous basis for the investigation to proceed.

All City employees and managers must cooperate fully with the City Auditor's investigation team.

The City Auditor will forward all reports regarding the Calgary Police Service immediately on receipt and without investigation as follows:

- Reports with respect to Sworn and Civilian Police Service members, other than the Chief of Police, to the Chief of Police.
- Reports with respect to the Chief of Police to the Chair of the Calgary Police Commission.

All investigations will be conducted in accordance with FOIP legislation.

Security of Evidence

The City Auditor will take appropriate steps to prevent the theft, alteration, or destruction of relevant records where there is a threat to the security of evidence.

Confidentiality

All employees who have knowledge of, or are participants in, an investigation under the Waste and Wrongdoing Program shall keep the details and results of the investigation confidential. The matter shall not be discussed with anyone other than the City Auditor, or members of the investigative team as required by law.

Communications and Reporting of Results

At the conclusion of an investigation, the lead investigator will document the results in a confidential report. The City Auditor will distribute the report to the City Manager for information or action as necessary.

Where the results of the investigation are expected to be of public interest, such as when criminal charges are laid, the City Auditor and the City Manager will jointly develop a communications strategy and will inform Council of the investigation in a manner they deem appropriate to the circumstances, unless the Calgary Police Service directs otherwise.



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Any person contacted by the media with respect to an 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 coordinate the reporting of information relating to investigations conducted under this policy to The City's external auditors.

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

Additional Procedures and Guidelines

The City Auditor and the City Manager may jointly issue additional detailed procedures for the effective implementation of this policy. These procedures will be part of the Corporate Administration Policy Library.

For Further Information:

- Council Policy Library
- Administration Policy Library
- Freedom of Information and Protection of Privacy (FOIP)

AMENDMENTS

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