

---

<b>Policy Title:</b>	Whistle-blower Policy
<b>Policy Number:</b>	CC026
<b>Report Number:</b>	AC2007-26
<b>Approved by:</b>	Council
<b>Effective Date:</b>	2007 May 28
<b>Business Unit:</b>	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. This policy reflects The City's ongoing effort to support open, ethical, accountable, and transparent local government.

## **APPLICABILITY**

This policy applies to all City employees, 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, contractor, supplier, or member of the public who has knowledge of The City's operational activities that he or she considers to be dishonest, unethical, wasteful, improper, a matter of public concern or illegal. Allegations directed at members of Council or council's staff are to be reported directly to the Integrity Commissioner.

---

## **DEFINITIONS**

### **Acting in Good Faith:**

A reporter is deemed to be acting in good faith when the report is based on reasonable belief/grounds, and not made with malicious intent, solely for self-interest and/or in support of a political agenda.

**Anonymous:** The identity of the reporter is not known.

**Confidential:** Communication of information relating to a report will be restricted and divulged only 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 person(s) against whom allegations are made.

**Reporter:** The person who has knowledge of an activity considered as waste or wrongdoing and reports the activity in good faith.

**Substantiated Report:** The investigation confirms the alleged activity as waste and/or wrongdoing is validated and supported by evidence.

**Unsubstantiated Report:** The evidence does not support the allegation as reported; or insufficient evidence exists to determine waste and/or wrongdoing.

**Waste:** Refers to the misuse, and/or inefficient use of The City's resources.

**Whistle-blower Program:** A program managed by the City Auditor's Office and supported by the City Manager to receive concerns reported by employees, 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 reported concerns received are appropriately reviewed and assessed.

**Wrongdoing:** For purposes of this policy, wrongdoing refers to harmful or inappropriate conduct. Wrongdoing includes, but is not limited to:

- Theft or fraudulent activity, including
  - Misappropriation/misuse of funds, equipment or other assets;
  - Claims for reimbursement of expenses that are not made for the exclusive benefit of The City.
- Breach of Code of Conduct (Administration Policy HR - LR 005);
- Malfeasance as defined by the Labour Relations Policy (Administration Policy HR-LR-002, Section 6.07)

## **POLICY**

### **General Policy Statements:**

City employees must report any suspected instance or allegation of waste and/or wrongdoing immediately to a supervisor, management, Human Resources or Corporate Security as required by the Labour Relations Policy (Administration Policy HR-LR-002, Section 6.07). Where an employee fears reprisal or where the nature of the allegation precludes reporting directly within Administration, the concern can be reported confidentially and/or anonymously via the Whistle-blower Program.

The City 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.

Employees (including 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.

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.

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.

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) deemed violating this policy will be subject to disciplinary action.

### **Reporter Protection Limitations**

An employee acting in good faith is entitled to reporter protection under this policy.

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.

Protection against reprisal cannot be effectively provided to non-employees or those who choose to keep their identity anonymous to the City Auditor.

### **Acting in Good Faith**

Any reporter raising a concern, should do so in good faith. Allegations that are determined to be reported not in good faith may be subject to disciplinary action, up to and including dismissal and/or legal action.

### **Protection for the Named Individual/Parties**

An individual or individuals implicated by allegations of waste and/or wrongdoing are granted due process.

During the investigation of a reported concern, the identity of the named individual(s) is kept confidential and disclosed only on a need-to-know basis necessary to conclude the investigation.

In cases where allegations are determined to be unsubstantiated and no corrective action is required, the named individual(s) may not be informed of the allegation or the investigation.

### **Disciplinary Action**

Unless exceptional circumstances exist, a person under investigation shall be given notice in writing of the nature of the allegation prior to conclusion of the substantiated concern and 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.

If a suspicion of waste and/or wrongdoing on the part of a City employee is substantiated by an investigation, the employee may 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) and the applicable provisions of any relevant collective agreement.

### **RESPONSIBILITIES**

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

#### **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 allegations made in good faith through the Whistle-blower Program, and not raised solely for self-interest or representing a political agenda, will be subject to a timely assessment, and investigation and resolution as appropriate.
- An effective investigative team is established to conduct timely investigations, which may in turn rely on additional available resources and processes within The City.
- 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, Administration Policies including HR-LR-002, Labour Relations; and
- Where applicable, include recommendations to mitigate future occurrences based the investigation's determination of underlying causes of procedural failure or control weakness.

### **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, supporting the investigation processes established and establishing sanctions for non-compliance.

### **All Employees and Contractors**

Any employee/contractor who has knowledge of an occurrence of waste and/or potential wrongdoing, 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 can 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, be alert for any indicators of such conduct, and encourage and facilitate the reporting 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 effectively facilitate the reporting of acts of waste and/or potential wrongdoing.

Employees are required to report criminal activity, breaches of security or administrative policy to their supervisor, general manager, Human Resources, Corporate Security, or as set out in administrative policies.

Where an employee fears reprisal or where the nature of the allegation precludes reporting within the Administration, the concern can be reported 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.

Concerns can be reported anonymously where the reporter is not required to provide their identity, however in these circumstances, where the reporter's identity remains unknown The City cannot provide the reporter protection against reprisal.

### **Investigations**

All reported allegations received in good faith, and not under review by other mechanisms, will be assessed and investigated as appropriate.

All City employees must support and cooperate fully with a whistle-blower investigation.

Reported allegations involving the following are not within the mandate of the Whistle-blower Program and, on receipt, will be redirected in a timely manner:

- Calgary Police Service
  - Reports involving sworn or civilian members, other than the Chief of Police, will be referred to the Chief of Police.
  - Reports involving the Chief of Police will be referred to the

Chair of the Calgary Police Commission.

- Members of Council, Council staff or Mayor
  - Reports involving any member of Council, Mayor or Council staff will be referred to the Integrity Commissioner.

### **Security of Evidence**

The City Auditor will take appropriate steps to prevent the theft, alteration, or destruction of relevant records, and will maintain custody of all whistle-blower investigation files.

### **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.

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

### **Communications and Reporting of Results**

The City Manager's Office will be apprised of all whistle-blower investigations initiated and concluded. All investigations will result in a confidential report of activities and findings. The City Auditor will review the details of substantiated allegations with the applicable General Manager.

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.

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, at least 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**

2013 May 27 – LGT2013-0477

PROPOSED AMENDMENT