



# Town of Milk River Policy Manual

## Section: Administration

### **Policy Description: Whistleblower Policy**

**Department: Administration and Council**

**Approved: September 10, 2018**

**Effective: September 11, 2018**

**Reviewed:**

### **PURPOSE**

The Town is committed to creating and maintaining a working environment in which employees and the public can, in good faith, report acts of wrongdoings that may be, but are not limited to, unlawful or illegal behaviour within the organization of the Town of Milk River without fear of retaliation.

This policy will establish a process for whistleblowers to make allegations of wrongdoing by municipal employees, for such allegations to be screened for legitimacy and investigated, and for appropriate discipline be imposed when an allegation is substantiated.

Also, this policy will establish a process for whistleblowers to make allegations of wrongdoing by elected officials, for such allegations to be screened for legitimacy and investigated, and for Council to receive investigation reports involving elected officials and decide upon disciplinary measures.

### **POLICY STATEMENTS**

- 1) This policy applies to elected officials and all Town employees.
- 2) Every employee has a responsibility to report, in a confidential manner, any wrongdoing which he or she may have knowledge of.
- 3) While employees and members of the public are encouraged to identify themselves in making a report of wrongdoing, they may do so on an anonymous basis. The Town will ensure, to the extent permitted by law and in accordance with this policy, that all reports of wrongdoing are treated in a confidential manner. However, anonymity cannot be guaranteed in all cases. Further, an anonymous report may limit the ability to conduct an investigation.
- 4) This policy is not intended to supersede in any manner:
  - a. The right of management to investigate and impose discipline upon an employee for a wrongful act in the context of the employment relationship;
  - b. Other Council policies or administrative procedures that set out behavioral expectations of employees or prescribe methods of employee discipline; or
  - c. The rights of an employee.
- 5) Wrongdoing means an act or omission that constitutes one or more of the following:
  - a. A contravention of federal or provincial legislation or regulations;
  - b. Crime or suspected criminal activity;
  - c. Breach of the code of conduct;
  - d. Misuse or gross mismanagement of municipal funds or assets, theft or fraud;



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- e. An act or omission that creates a substantial and specific danger to the life, health or safety of any person, or to the environment, other than a danger inherent in performance of a person's duties as an employee or vendor;
  - f. A serious breach of the Town's Code of Conduct; or
  - g. Advising or encouraging any person to do anything set out in the above statements.
- 6) This policy will protect any employee who makes a disclosure or raises a concern under this policy provided the employee:
- a. Discloses information in good faith;
  - b. Believes it to be substantially true;
  - c. Does not act maliciously or make false allegations; and
  - d. Does not seek any personal or financial gain.
- 7) All allegations of wrongdoings may be in writing and should include:
- a. The name of the whistleblower;
  - b. The date of the allegation;
  - c. The position of the whistleblower (if applicable);
  - d. The name and the position of each employee or elected official against whom the allegation is made;
  - e. The specific nature and date(s) of the alleged wrongdoing or retaliation;
  - f. A statement as to the information or evidence upon which the allegation is based; and
  - g. Any other information of evidence that the whistleblower believes may be relevant or material to an investigation.
- 8) If a whistleblower does not identify themselves, the allegations will be less easily proven.
- 9) Allegations must be made within one (1) year of the date of the wrongdoing, except in the case of an allegation of criminal activity to which no time limit applies.
- 10) An allegation made on suspicion alone with no corroborating evidence is NOT made in good faith, regardless of the whistleblowers subjective belief that the allegation is true.
- 11) If an employee files a report of wrongdoing maliciously, in bad faith or with an ulterior motive, he or she may be subject to disciplinary actions, up to and including termination, as outlined in the Town Personnel Policy.
- 12) If any member of the public files a report of wrongdoing maliciously, in bad faith or with an ulterior motive, he or she may be subject to civil or other legal remedies available to the Town or the aggrieved party.
- 13) The Town will utilize an external third-party service provider for all allegations. This provider shall assess the information and advise the CAO of the potential threat and suggested responses. The CAO shall follow the process outlined in this policy. The third-party service provider will be:
- Mercer Wilde Group  
1-866-427-6100
- 14) Prior to bringing an allegation to the third-party service provider, an employee is encouraged to bring the complaint to the attention of the employee's immediate supervisor or the CAO. The whistleblower process is



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intended as a method of last resort. The whistleblower process is intended for providing information to the organization where the person believes they may be subject to retaliation as a result of their disclosure.

### RESPONSIBILITIES

#### 1) Council

- a. Ensure financial resources, through the yearly operating budget, are allocated to support all investigations.
- b. Review allegations of wrongdoing made against an elected official or the CAO that are referred to Council by the CAO or the third-party service provider.
- c. Decide as to whether the wrongdoing by an elected official or the CAO has occurred.
- d. Determine if and when the results of an investigation of alleged wrongdoing by an elected official will be publicly disclosed.
- e. Take disciplinary action against the CAO or an elected official who are found to have committed an act of wrongdoing following an investigation.

#### 2) CAO

- a. Ensure adequate resources are made available to support all investigations.
- b. Receive allegations from the third-party service provider and determine which allegations are serious to warrant an investigation under this policy.
- c. When warranted, act as the internal investigator and prepare an investigation report for any allegation made against an employee.
- d. When warranted, carry out the appropriate follow up action as per Town policy or Provincial or Federal legislation.
- e. When warranted, make decisions with respect to the correction or remediation of underlying causes, procedural failures, or other areas needing improvement that are revealed through the investigation process.
- f. Advise Council of any allegations that, if true, may involve significant imminent risk to the Town or may involve past, present or imminent criminal activity.
- g. In cases where the CAO believes that an independent investigation is required, engage a professional external investigator, with no personal affiliation of the allegation, for allegations made against an elected official.
- h. Submit annual reports to Council on the Whistleblower Policy.

### INTAKE, RESPONSE, AND INVESTIGATION PROCEDURES OF ALLEGATIONS

- 1) The third-party service provider will receive the incoming allegations and will screen the incoming allegation based on this policy and exercise professional judgement to determine which allegations warrant investigation or other follow up actions.
- 2) The third-party service provider will refer allegations deemed to warrant investigation or other follow up actions based on the following criteria:
  - a. Allegations against an elected official and all employees will be referred to the CAO; and
  - b. Allegations against the CAO will be referred to Council, via the Mayor.
- 3) All allegations against the CAO and elected officials made under this policy will be reported to Council at the next Council meeting in an in-camera meeting, unless it is deemed a Special Council meeting is warranted.



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- 4) Within 7 business days of receiving the allegation, the CAO shall determine whether to initiate an investigation to an allegation and provide written notification to the whistleblower with the determination.
- 5) If an investigation is merited, there may be a recommendation to temporarily reassign the employee during the investigation for the whistleblower's well-being or own protection. Reassignment in such circumstances is not seen as retaliation.
- 6) If an investigation is not merited, the decision will be documented, the whistleblower informed of the decision and the file will be closed.
- 7) An investigation shall be completed as expeditiously as possible in accordance with the principles of procedural fairness and natural justice.
- 8) Unless exceptional circumstances exist, such as alleged criminal activity, the CAO will give notice to the person under investigation in writing of the essentials. Where such notice is provided to the employee or elected official, that individual may provide a written explanation no later than 7 business days after the notice is received, and if an explanation is submitted it shall be included in the Investigation Report.
- 9) If the investigation reveals evidence of criminal activity, the Investigator must immediately advise the RCMP and provide all information related to the investigation to the RCMP. Further, this information will be held in strict confidence until such a time as advised by the RCMP.
- 10) When an investigation report is prepared in respect of an allegation against an elected official, a copy of the report will be provided to Council during an in-camera portion of the next Council meeting, together with any explanation provided by the elected official.
- 11) After reviewing the report together with any explanation provided by the employee in question and any recommendation provided, the CAO (or the Council in the case of an allegation involving the CAO) may impose such disciplinary action as is deemed appropriate according to Town policies and bylaws.
- 12) After reviewing an investigation report with any explanation provided by the elected official and any recommendation provided, Council may dismiss the allegation, make a finding of wrongdoing or ask for more information.
- 13) If Council concurs that an elected official has committed a wrongdoing, Council may take disciplinary action that is consistent with the Council Code of Conduct and the *Municipal Government Act*.
- 14) Within 7 business days of the completion of the investigation, a written response will be provided to the whistleblower outlining the findings of the investigation, in accordance with Municipal, Provincial and Federal legislation and specifically the *Freedom of Information and Protection of Privacy Act*.