



<b>Title: WHISTLEBLOWER POLICY</b>		<b>Number: 8046</b>	
<b>Reference:</b> Administrative Committee - March 20, 2024 Administrative Committee - June 19, 2024	<b>Adopted by City Council:</b> July 2, 2024		<b>Supersedes:</b>  8041
	City Clerk	City Manager	
<b>Administered by: PEOPLE SERVICES DEPARTMENT</b>			

## STATEMENT

THE CITY OF MEDICINE HAT ("CITY") IS COMMITTED TO PROVIDING A SAFE, TRANSPARENT AND ACCOUNTABLE WORK ENVIRONMENT, WHERE EMPLOYEES WILL REPORT MISCONDUCT WITHOUT FEAR OF REPRISAL. THE CITY WILL BE FAIR AND OBJECTIVE WHEN TAKING ACTION IN ADDRESSING ANY IMPROPRIETIES AT THE CITY.

## PURPOSE

The purpose of this policy is to address the commitment of the City to the ethical behavior of its Employees by providing an environment where City Employees are empowered to report misconduct without fear of reprisal or retaliation. Ensuring the integrity of the operations of the City is paramount and this policy will safeguard procedural fairness and natural justice.

This policy will also discourage and expose wrongdoing at the City that would alter the finances, reputation, and validity of the City, while strengthening the working environment for the Employees of the City.

This policy will establish how: (i) Employees will report Misconduct, (ii) Employees who in good faith report Misconduct will be protected from Reprisal, (iii) Responsible Investigators will investigate Complaints about Misconduct, and (iv) Employees found to have committed Misconduct may be subject to discipline.

## APPLICATION

This policy applies to all City Employees and does not apply to any City Council members. For rules relating to the conduct of City Council members, please see applicable sections of the *Municipal Government Act* and its regulations, including Part 5 of the *Municipal Government Act*, as well as the Council Code of Conduct Bylaw.

This policy only applies to Misconduct, as defined below, and does not apply to matters related to job performance, terms of employment, or any other regular or day to day issues within the workplace that are not considered Misconduct, and which are managed through other City policies and procedures.

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Specifically, while all Complaints about Misconduct may be submitted as set out in the procedures to this policy, the City's Fraud Policy and Respectful Workplace Policy will govern the investigation of Complaints involving allegations of Fraud and alleged breaches of the Respectful Workplace Policy, respectively.

Nothing herein shall be interpreted to lessen any duties, obligations, powers, procedures, or remedies expressly set forth in any other applicable policy, bylaw, agreement, statute, or other law in respect of Misconduct, including the making of Complaints about Misconduct, or the investigation of such Complaints.

## ROLE OF COUNCIL

1. To receive, review and adopt this policy and any recommended amendments thereto. To advise persons contacting Members of Council in relation to matters described herein to contact the City Manager about their inquiry.
2. To appoint or select an external investigator for Complaints where the Complainant or Respondent is the City Manager.

## ROLE OF ADMINISTRATIVE COMMITTEE

To receive, review and adopt any recommended amendments to the procedure of this policy.

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## 1. DEFINITIONS

- 1.01 City means the municipal corporation of the City of Medicine Hat.
- 1.02 Complainant means an Employee who submits a Complaint in accordance with this policy.
- 1.03 Complaint means a detailed written allegation submitted by a Complainant to the Responsible Investigator stating that another Employee has engaged in Misconduct or stating that a specific violation of this or any related policy has occurred, together with all details and circumstances known to the Complainant in respect thereof.
- 1.04 Director of People Services – means the Director of the City of Medicine Hat's People Services Department and includes any delegate of the Director or any person appointed to act in place of the Director.
- 1.05 Decision means a signed and dated written decision, issued by a Responsible Investigator, in respect of a Complaint, which identifies the reasons for the decision.
- 1.06 Employee includes any permanent, temporary, full time, part time, or casual Employee of the City and includes volunteers utilized by the City, and, for greater certainty, also includes all City Employees under any union or association jurisdiction as well as City Employees who are out of the scope of any union or association but does not include Members of Council.
- 1.07 Good Faith is evident when a genuine Complaint is made without malice or consideration of personal benefit and there is reasonable belief that the report is true.
- 1.08 Misconduct means illegal or inappropriate conduct of an Employee, which includes, but is not limited to:
  - a crime or suspected criminal activity.
  - an act or omission which is considered an offence under any applicable law or regulation.
  - gross mismanagement of public funds or City assets.
  - unethical behavior or practices.
  - a violation of this policy including the carrying out any Reprisal, authorizing or encouraging any Reprisal to be carried out, providing information to a Responsible Investigator that is known to be false by the person providing such information, destroying evidence for the purpose of frustrating an investigation, or making a Complaint in bad faith.
  - a violation of any other applicable statute that may harm the City or its reputation.
  - a violation of any other City policy, procedure, or bylaw that may harm the City or its reputation.
  - any other act or omission of an Employee that may harm:

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- the safety of persons or property; or
- the environment; or
- an Employee knowingly directing or counselling another Employee to commit any of the above.

1.09 Reprisal means any measure taken or directed against an Employee or external investigator which would affect the working conditions of that Employee or third-party investigator with the aim of punishing them for submitting a Complaint in good faith, acting as a Responsible Investigator, or otherwise carrying out the Employee's or third party's duties pursuant to this policy including, without limitation:

- any oral or written reprimand;
- demotion or transfer;
- discontinuation or elimination of the Employee's role;
- change in work hours;
- suspension;
- termination;
- loss of employment advancement opportunities.
- change in work duties;
- reduction in pay;
- change in reporting structure or work location;
- violence;
- harassment;
- any other threats, coercion, or interference or intimidation; or
- a threat to take any of the measures above.

However, constructive feedback, assignment of work, progressive discipline, corrections, and other directions and decisions administered in good faith in respect of an Employee shall not constitute Reprisal for the purposes of this policy.

1.10 Respondent means an Employee who is alleged, in a Complaint, to have committed Misconduct.

1.11 Responsible Investigator means the individual responsible for managing and investigating a Complaint and issuing a Decision. The Responsible Investigator will be determined based on the Complainant and Respondent of the relevant complaint, in accordance with Table 1 on the following page, except where:

- the Complaint involves allegations of Fraud as defined in the Fraud Policy in which case the Fraud Policy shall govern with respect to the Complaint; or
- the Complaint involves allegations of a breach of the Respectful Workplace Policy in which case the Respectful Workplace Policy shall govern with respect to the Complaint.

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Table 1

	<b>Complainant/Respondent</b>	<b>Responsible Investigator</b>
1.	City Manager (Complainant or Respondent)	External investigator as appointed by City Council
2.	City Solicitor (Respondent)	External investigator as appointed by City Manager, except where the City Manager is the Complainant (see Row 1)
3.	City Solicitor (Complainant)	External investigator as appointed by City Manager, except where the City Manager is the Respondent (see Row 1)
4.	Managing Director (Respondent)	External investigator as appointed by City Solicitor, except where the City Manager or the City Solicitor is the Complainant (see Rows 1 & 3)
5.	Managing Director (Complainant)	Determined based on the Respondent
6.	Director, People Services (Respondent)	External investigator as appointed by City Solicitor, except where the City Manager or the City Solicitor is the Complainant (see Rows 1 & 3)
7.	Director, People Services (Complainant)	External investigator as appointed by City Solicitor, except where the City Manager or the City Solicitor is the Respondent (see Rows 1 & 2)
8.	People Services Staff (Respondent)	External investigator as appointed by City Solicitor, except where the City Manager or the City Solicitor is the Complainant (see Rows 1 & 3)
9.	People Services Staff (Complainant)	External investigator as appointed by City Solicitor, except where the City Manager or the City Solicitor is the Respondent (see Rows 1 & 2)
10.	All Other Staff (Respondent)	Director of People Services or an external investigator appointed by the Director of People Services, except where the Complainant is the City Manager, City Solicitor, Director of People Services, or a member of People Services Staff (see Rows 1, 3, 7, & 9)
11.	All Other Staff (Complainant)	Determined based on the Respondent

1.12 Supervisor means the Employee to whom an Employee directly reports, and in the case of the City Manager, the Supervisor is Council.

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## 2. RESPONSIBILITIES

### 2.01 City Manager & Managing Directors

- (a) Through the Administrative Committee, receive and approve appropriate procedures in respect of this policy.
- (b) Actively and openly discourage Misconduct. Actively and openly encourage Employees to submit Complaints in circumstances where Misconduct is reasonably believed by an Employee, in good faith, to have occurred.
- (c) In co-operation with the Responsible Investigator, ensure an investigation can be completed and a Decision issued in respect of a Complaint in a competent manner, and ensure appropriate action is taken to prevent and rectify any violations of this policy.
- (d) Assist Responsible Investigator managing Complaints as required, through the provision of support and budgetary resources.

### 2.02 Responsible Investigator

- (a) Investigate Complaints, and issue Decisions in a competent, fair, timely and impartial manner in accordance with this policy.
- (b) Communicate Decisions with respect to a Complaint to affected Supervisors and Employees.

### 2.03 Director of People Services

- (a) Inform Employees about the contents of this policy, including protections against Reprisal under this policy, and related Employee supports, including Employee Assistance Programs.
- (b) Allocate resources to cover the cost of any external support reasonably required by the Responsible Investigator, if applicable, including any external counsel engaged by the City to carry out a function in accordance with this policy.
- (c) Upon request or otherwise as appropriate, assist Employees with the interpretation and application of this policy.
- (d) Assist Responsible Investigator in the investigation of Complaints and the determination of Decisions, when requested and appropriate in accordance with Table 1 above, through the provision of support and budgetary resources; and
- (e) Make recommendations to the Administrative Committee regarding proposed amendments to the procedures and recommendations to Council regarding the policy.

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- (f) Prepare an annual report summarizing Complaints, investigations, and Decisions for the Executive Leadership Team and City of Medicine Hat Audit Committee.

#### 2.04 Supervisors

- (a) Actively and openly promote awareness about this policy and about the duty of Employees reporting through the Responsible Investigator to avoid Misconduct, and encourage Employees reporting through the Responsible Investigator to submit Complaints in circumstances where Misconduct is reasonably believed by an Employee, in good faith, to have occurred; and
- (b) Prevent, as far as reasonably practicable, violations of this policy among Employees.
- (c) Monitor compliance with this policy, maintain records about Complaints, and Decisions, and provide reports regarding same to the City Manager, as requested.

#### 2.05 Employees

- (a) Read and comply with this policy.
- (b) Understand and adhere to all applicable laws and regulations, policies, procedures, processes that are applicable to their role and responsibilities.
- (c) Have a proactive mindset to prevent and identify any Misconduct.
- (d) Avoid any conduct or circumstance that would constitute Misconduct.
- (e) Report Misconduct where the Employee believes in good faith that Misconduct has occurred.
- (f) Fully cooperate with the Responsible Investigator in respect of any Complaint or investigation related thereto; and
- (g) Take all necessary action to prevent the alteration or destruction of documents or other evidence that may be relevant to any Complaint or investigation related thereto.

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### 3. REPORTING AND INVESTIGATION PROCESSES

#### 3.01 Complaints

- (a) If an Employee experiences, witnesses or otherwise, in good faith, reasonably believes that Misconduct has occurred, the Employee should submit a Complaint, together with all relevant details and circumstances known to the Employee, to the Responsible Investigator in respect of such Complaint.
- (b) If the Employee is unsure who is the Responsible Investigator with respect to the Complaint, the Employee shall submit the Complaint to the Director of People Services, or the City Solicitor, where the Director of People Services is the Complainant or Respondent, who shall in turn submit the Complaint to the Responsible Investigator.
- (c) As part of the implementation of this policy, the City Manager will designate a third-party reporting system which Employees may use to submit Complaints for referral to the appropriate Responsible Investigator.
- (d) Employees will not suffer Reprisal for any Complaint submitted in good faith even if, upon investigation, the Responsible Investigator dismisses the Complaint as unfounded.
- (e) The Responsible Investigator will not suffer Reprisal.

#### 3.02 Investigation

- (a) The Responsible Investigator in receipt of a formal Complaint will in writing acknowledge receipt of same within 5 business days.
- (b) The Responsible Investigator will make a determination within 20 business days of receiving the complaint to investigate or appoint a delegate to carry out the investigation.
- (c) The Responsible Investigator will provide updates to the Complainant/Respondent at least once every 2 weeks until the investigation is completed.
- (d) The Responsible Investigator will complete the investigation within 90 business days of receiving the complaint.
- (e) The Responsible Investigator may conduct interviews with the Complainant, Respondent and any witnesses of the alleged Misconduct or Reprisal that is the subject of the Complaint.
- (f) The Respondent will be afforded the opportunity to respond to the Complaint including, but not limited to, the right to know the specific allegations contained in the Complaint.



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- (g) Any investigation may involve external and internal sources to assist in determining whether an inappropriate activity has occurred.
- (h) The Responsible Investigator may request advice from external legal sources with respect to any complaint or investigation.
- (i) The Responsible Investigator may ask for an extension up to 30 business days, in writing, to the City Manager, or where the City Manager is the Complainant or Respondent, to Council.

### 3.03 Reassignment and Administrative Leave

- (a) A Complainant may be temporarily reassigned to other duties during the investigation if such reassignment is appropriate and such reassignment is not a Reprisal, or, the Respondent may be placed on administrative leave for the duration of the Investigation.

### 3.04 Findings of the Investigation

- (a) Following their receipt of a Complaint and the subsequent investigation and analysis, the Responsible Investigator shall prepare and issue a Decision. The Responsible Investigator shall provide a copy of such Decision to each of the Complainant, Respondent, as well as the Director of People Services, and the Supervisor of the Complainant/Respondent. The Decision may also be provided to the Supervisor's Supervisor as deemed appropriate by the Responsible Investigator.
- (b) Upon receipt of a Decision stating that Misconduct has occurred, the Director of People Services, or the City Manager, where the Director of People Services was the Complainant or Respondent to the Complaint, will recommend a course of action to the Respondent's Supervisor. The Respondent will be given notice in writing by their Supervisor of the particulars and findings of the Decision. This requirement is subject to any collective agreement provisions respecting the rights of Employees during disciplinary proceedings, and to the City's Progressive Discipline Policy #8029.
- (c) If the Responsible Investigator determines at any time that a criminal offense may have occurred in connection with a Complaint, the Responsible Investigator will immediately inform the City Manager or their delegate. Upon the prompt review of City Manager or their delegate, if it is determined that a criminal offence may have occurred in connection with the Complaint, then the City Manager or their delegate will refer the matter to appropriate Police agencies, as appropriate.

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### 3.05 Discipline

- (a) A Respondent who is found to have engaged in Misconduct may be subject to disciplinary action, up to and including dismissal, subject to any collective agreement provisions respecting the rights of Employees during disciplinary proceedings and to the City's Progressive Discipline Policy #8029.

### 3.06 Bad Faith Complaints

- (a) An Employee who knowingly makes a mischievous, false, or bad faith Complaint or who knowingly makes a false or misleading statement to a Responsible Investigator carrying out an investigation may be subject to disciplinary action, up to and including dismissal, subject to any collective agreement provisions respecting the rights of Employees during disciplinary proceedings and to the City's Progressive Discipline Policy #8029.

### 3.07 Confidentiality

- (a) Where feasible, reasonable efforts will be made to keep the identities of Employees involved in an investigation anonymous, provided that such identities may be revealed directly or indirectly through the course of the investigation, as necessary or appropriate.
- (b) Employees who have knowledge of or who are participants in an investigation must treat all related information as confidential. Such information must not be discussed with anyone other than the Responsible Investigator and police, or other regulatory investigators, as applicable.
- (c) Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know, as determined by the Responsible Investigator.
- (d) Where results are expected to be of public interest, the Responsible Investigator may develop a communications strategy in consultation with the Director of Corporate Communications, City Solicitor and the Director of People Services, provided that the Responsible Investigator shall not consult with any individual who is the Complainant or Respondent to the Complaint. Any media inquiries regarding actual or alleged Misconduct, a Complaint, Decision, or investigation in respect thereof, shall be referred to the City Manager or to Council, where the City Manager is the Complainant or Respondent to a Complaint.

## 4. ADDITIONAL RESOURCES

- Respectful Workplace Policy (8047)
- Fraud Policy (8042)