

POLICY TITLE	Whistleblower Policy
CATEGORY	Council
POLICY NUMBER	COUN-010 (formerly ADMIN-002)
POLICY OWNER	Auditor General
ACCESS	Public

PURPOSE

The purpose of this policy is to set out guidelines for the reporting and investigation of allegations of serious wrongdoing, and to provide protection from retaliation to those who report serious wrongdoing in good faith. Reporting serious wrongdoing in good faith is also referred to as whistleblowing.

This policy does not address matters that are dealt with through existing procedures, established through collective agreements or other employee policies such as but not limited to, health and safety, respectful and harassment free workplace, misconduct (that does not constitute serious wrongdoing as defined in this policy), and discrimination on grounds protected under the Human Rights Code.

Nothing in this policy is meant to conflict with the City's obligation to its employees under its various collective agreements, employment contracts, or other City policies.

SCOPE

All City and Vancouver Board of Parks and Recreation employees.

This policy applies to City contractors, consultants and volunteers to the extent that it addresses how they may be investigated for serious wrongdoing.

This policy does not apply to allegations regarding the Mayor or City Councilors, which are to be referred to the Integrity Commissioner.

DEFINITIONS

Employee: Anyone employed by the City, including full-time, part-time, temporary, auxiliary or casual employees, unionized or exempt.

Fraud: Deception intended to result in financial or personal gain, including but not limited to, bribes, misappropriating funds, breach of trust, theft, misdirecting or misuse of funds or assets, manipulating City accounting or audit records or destroying accounting or audit-related records except as otherwise permitted by the City policy.

Good faith: Based on reasonable belief/grounds, and not made with malicious intent, self-interest and/or in support of a political agenda.

Retaliation: Any action or threat of action directed at a person that does or would adversely affect them because they are or might be involved in a report or complaint under this policy. Retaliation also includes directing or counselling someone to commit a retaliatory act.

Waste: Mismanagement of City resources or assets in a willful, intentional or negligent manner, including mismanagement of City resources or assets contrary to a City policy or direction by Council.

Whistleblower Program: A program managed by the Auditor General’s office and supported by the City Manager to receive concerns reported by City employees or members of the public regarding serious wrongdoing.

Serious Wrongdoing:

- Financial act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada;
- Serious misuse or mismanagement of public funds or assets, including but not limited to fraud or waste;
- A conflict of interest that results or is likely to result, directly or indirectly, in profit, payment or compensation to the employee(s);
- Instructing or encouraging another employee to commit serious wrongdoing; and
- Deliberately concealing information relating to any of the above.

POLICY STATEMENTS

1. GENERAL

- 1.1 The City of Vancouver (“**the City**”) is committed to the principles of integrity, accountability, responsibility, leadership, respect, and openness.
- 1.2 Employees are to act in a way that enhances public confidence in the City and to fulfill their duty to act honestly and exercise reasonable care and diligence.
- 1.3 Employees and members of the public are encouraged to report serious wrongdoing.
- 1.4 Protection for reporting in good faith of serious wrongdoing applies in all cases regardless of the City policy or process under which the report was made.
- 1.5 In the event that any portion of this policy is inconsistent with a binding City collective agreement or federal or provincial legislation, that portion and only that portion of the policy will have no application to the extent of that inconsistency. All other portions of the policy will continue in full force and effect.
- 1.6 Any future amendments to this policy proposed to Council by either the Auditor General or the City Manager must be approved by both the Auditor General and City Manager.

2. ROLES & RESPONSIBILITIES

Auditor General: The Auditor General is responsible for:

- Establishing the Whistleblower Program to facilitate the reporting of serious wrongdoing;

- The preliminary assessment of all reports received including a determination of whether or not the alleged conduct could, on its face, constitute serious wrongdoing;
- Where required by law, or where the Auditor General considers it appropriate to do so, referring reports of allegations that do not, on their face, constitute serious wrongdoing to the City Manager for investigation and appropriate action;
- Informing persons who report allegations that do not, on their face, constitute serious wrongdoing of the appropriate City department to whom the allegations should be reported;
- Informing the City Manager of reports of serious wrongdoing in a timely manner;
- Investigating reports of serious wrongdoing alleged to have been committed by a City employee, in accordance with the process guide established for such investigations in agreement with the City Manager and Chief Human Resources Officer, or delegating such investigations to the City Manager;
- Investigating serious wrongdoing alleged to have been committed by anyone other than a City employee (such as a City contractor, consultant, or volunteer), or delegating such investigations to the City Manager;
- Maintaining oversight of procedural fairness of any investigations conducted into serious wrongdoing as per this policy;
- Where the serious wrongdoing alleged could materially affect the financial position of the City or the integrity of the City's system of internal controls, advising the City Manager and the Chief Financial Officer immediately;
- Where the serious wrongdoing alleged could constitute a criminal offence, where applicable, reporting the matter to the appropriate police agency; and
- In circumstances where it appears there may have been violations of other municipal, provincial or federal laws, advising the appropriate enforcement agency.

City Manager: The City Manager is responsible for:

- Taking reasonable steps to encourage employees and members of the public to report serious wrongdoing;
- Investigating, or designating responsibility to investigate, reports of serious wrongdoing as referred by the Auditor General, in accordance with the process guide established for such investigations in agreement with the City Manager and Chief Human Resources Officer;
- Reporting the results of investigations of serious wrongdoing to the Auditor General; and
- Reviewing and assessing any recommendations for corrective action made by the Auditor General and ensuring appropriate action is taken.

Director of Legal Services and City Solicitor: In the event an allegation of serious wrongdoing, breached confidentiality, or retaliation or reprisal, involves the Auditor General, the City Manager, a member of the Auditor General's staff, or a staff member of the City Manager's Office, the allegation will be brought forward to City Council, in-camera, by the Director of Legal Services. City Council will assign responsibility for the investigation and disposition of the matter, in consultation with the Director of Legal Services.

General Managers/ Department Heads/ Managers/ Supervisors: Any level of manager or supervisor receiving a report of serious wrongdoing from an employee or member of the public is to promptly forward it in a confidential manner to the Auditor General.

City employees:

- Reporting serious wrongdoing in good faith to their supervisor, manager, General Manager or through the Whistleblower Program; and
- Participating in investigations in good faith.

3. REPORTING SERIOUS WRONGDOING

- 3.1 City employees have a responsibility to report instances of serious wrongdoing in good faith.
- 3.2 Members of the public are encouraged to report instances of serious wrongdoing and may do so through the Whistleblower Program.
- 3.3 Anyone reporting serious wrongdoing may remain anonymous. However, in some cases, an investigation may not be possible unless the source of the information is identifiable. The Auditor General will make a preliminary determination as to whether a report made on an anonymous basis can be properly investigated. In doing so, they will consider all of the circumstances, including the seriousness of the issues raised, the credibility of the concern and the likelihood of confirming the allegation from other sources.
- 3.4 Employees who knowingly make false reports or make allegations of serious wrongdoing other than in good faith, may be subject to discipline up to and including dismissal as determined by the City Manager in consultation with the Chief Human Resources Officer.

4. WHISTLEBLOWER PROTECTION AGAINST RETALIATION

- 4.1 It is a violation of this policy to retaliate against another person for:
 - making a report in good faith;
 - participating in an investigation;
 - supporting someone to make a report; or
 - carrying out their responsibilities under this policy.
- 4.2 Anyone who experiences retaliation as set out above can make a report under this policy by submitting a written report to the Auditor General who will refer the allegation to the City Manager or designate for investigation.
- 4.3 Anyone who reports serious wrongdoing in good faith, participates in an investigation, supports someone to make a report, or carries out responsibilities under this policy, is entitled to protection against retaliation. However, protection against retaliation cannot be effectively provided by the City to members of the public or employees who choose to keep their identity anonymous when making a report.
- 4.4 Where the City Manager or designate determines that retaliation occurred, appropriate corrective action and/or disciplinary action may be taken. Any acts of retaliation by an employee may result in discipline up to and including termination of employment.

5. CONFIDENTIALITY

- 5.1 Confidentiality in investigations is critical to maintaining their integrity. Confidentiality, as described below, extends to all information provided orally or in writing, meetings, interviews, and investigation results/reports.
- 5.2 Persons who make reports of serious wrongdoing, those who are the subject of investigations, and persons who may be a witness in an investigation process are expected to keep confidential the subject matter of the report, the identities of other persons involved in the report, and any information they learn through the investigation process. However, this does not prevent them from obtaining advice or support from Union representatives and professional advisors (lawyers, doctors, counsellors, etc.).
- 5.3 The persons involved in or responsible for performing investigations into serious wrongdoing, are also expected to keep confidential all information collected in the course of an investigation and will limit disclosure of such information to that which is necessary to investigate the reports, and report out on the results of such investigations as well as any corrective recommendations or actions required.
- 5.4 There are limits to confidentiality within an investigation process. Disclosure of investigation-related information within the investigation process will be restricted to what must be disclosed to ensure a thorough, effective and complete investigation, or as otherwise required by law.
- 5.5 Breaches of confidentiality may be subject to legal action and/or, with respect to employees, disciplinary action up to and including termination of employment.

6. INVESTIGATIONS

- 6.1 All reports of serious wrongdoing made in good faith will be assessed and investigated in accordance with the process guide established for such investigations by the Auditor General, the City Manager and Chief Human Resources Officer. However, allegations that are plainly without merit, or, where the circumstances are such that a meaningful investigation will not be possible, may not be investigated, at the discretion of the Auditor General.
- 6.2 Where an investigation is conducted, any person alleged to have engaged in serious wrongdoing will be advised of the allegations, and provided an opportunity to respond to the allegations made against them. Exceptions may be made where the person responsible for the investigation determines that such disclosure would be harmful to the person against whom the allegations are made.

7. DOCUMENT RETENTION AND REPORTING RESULTS

- 7.1 Information collected and retained in the course of an investigation into serious

wrongdoing shall be kept by the Auditor General in a confidential file separate from any employee’s personnel file. Documentation which outlines disciplinary action shall be placed on an employee’s personnel file by Human Resources.

- 7.2 Information collected in the course of an investigation into alleged serious wrongdoing may be disclosed if required by law, including release required in court proceedings, arbitration or other legal proceedings.
- 7.3 All investigations and reports are subject to applicable privacy legislation. Personal information shall be protected in accordance with the *Freedom of Information and Protection of Privacy Act*.
- 7.4 The report and supporting documents of any investigations into serious wrongdoing referred by the Auditor General and conducted by the City Manager or designate will be provided to the Auditor General for filing and retention.
- 7.5 If an investigation performed by the Auditor General determines that serious wrongdoing has occurred, the Auditor General will provide the investigation report to the City Manager, including recommendations for corrective action (excluding employee discipline).
- 7.6 If an investigation performed by the City Manager or designate determines that serious wrongdoing has occurred, the City Manager will provide the investigation report to the Auditor General and seek recommendations for corrective action (excluding employee discipline).
- 7.7 The City Manager will inform the Auditor General of all corrective action taken with respect to substantiated serious wrongdoing (excluding employee discipline).
- 7.8 On an annual basis, the Auditor General will submit a summary of reports of serious wrongdoing made under this policy and outcomes of subsequent investigations to City Council.

REFERENCES AND RELATED POLICIES

[ADMIN - 050](#) Respect in the Workplace Policy
[AE - 028 - 01](#) Code of Conduct

APPROVAL AND REVIEW HISTORY

Version 1 approved by:	Departmental General Manager	5/15/2008
	Council	5/15/2008
Version 2 approved by:	Departmental General Manager	10/5/2017
	Council	10/31/2017
Version 3 approved by:	Auditor General	9/14/2023
	Council	Approved 10/17/2023 - policy V3 activation date Jan. 1, 2024

Next review date: 1/1/2025