

 <b>M O N C T O N</b>	<b>POLICY</b>	<b>Owner Department:</b> City Manager
	<b>Whistleblower Policy</b>	
<b>Effective Date:</b> November 21, 2022	<b>Last Reviewed Date:</b> N/A	<b>City Council Approval Dates:</b>
<b>Approving Authority:</b> Moncton City Council	<b>Replaces No.:</b> N/A	

## 1. Purpose Statement

The City of Moncton is committed to the highest level of transparency and accountability in its administrative, financial and management practices. The purpose of this Policy is to provide City of Moncton employees with a mechanism by which they can raise concerns related to serious misconduct, either directly to an appropriate City official or through a confidential third-party reporting program, defined herein as the CARE Program. While it is recognized that individuals retain the right to report any wrongdoing to legal authorities, the purpose of this Policy is to ensure all opportunities for individuals to come forward with allegations of wrongdoing so that appropriate action can be taken.

**Employees wishing to report a concern related to serious misconduct through the CARE Program may choose one of the following contact options:**

- **Phone toll free at 1-855-484-2273 (CARE)**
- **E-mail at [UseCARE@ca.gt.com](mailto:UseCARE@ca.gt.com)**
- **Online form via <https://www.GrantThorntonCARE.ca>**

The City Manager may revise this section of the Policy with updated contact information as required.

## 2. Application

This Policy applies to all City of Moncton employees. In the interest of maintaining the integrity and reputation of the City and all those who work to serve its citizens, all employees must cooperate with any investigation under this Policy.

This Policy does not apply to matters for which there are other established processes for reporting, investigating, or seeking redress, including but not limited to:

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- Grievances under an existing collective agreement;
- Complaints or concerns that are more appropriately addressed under the Respectful Workplace Policy, Code of Conduct for Elected Officials By-Law, or any other employment-related policy or directive of the City;
- Disputes between an employee and their supervisor for any matters related to the employee's employment or performance;
- Reports of safety hazards or refusals of unsafe work under WorkSafeNB regulations;
- Privacy breaches that must be reported under legislation or the City's Right to Information and Protection of Privacy Policy; or
- Litigation or other proceedings addressed through the courts or administrative bodies established by statute or by law.

### 3. Definitions

**CARE Program:** means the Confidential Anonymous Reporting for Employees program that serves as an independent whistleblower reporting program for the City, offering 24-hour anonymous and confidential reporting tools for employees through a toll-free telephone line, e-mail access, or a secure website submission form.

**City:** means City of Moncton.

**City Manager:** means the City Manager for the City of Moncton.

**City Solicitor:** means the General Manager of Legal and Legislative Services for the City of Moncton.

**Designated recipients:** means the persons to whom allegations of serious misconduct should be reported to, in good faith.

**Good faith:** means having reasonable and objective grounds, which can be verified or substantiated by a written statement, documented evidence, or other witnesses, for believing an allegation of serious misconduct is true.

**Retaliation:** means any of the following measures taken against an employee who has, in good faith, sought advice about reporting serious misconduct, reported serious misconduct, co-operated in an investigation under this Policy or declined to participate in suspected serious misconduct.

- A dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job, change of a job location, reduction in wages, change in hours of work, or reprimand;
- Any other measure that adversely affects the employee's employment or working conditions; and

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- A threat to take any of the above measures or any other punitive action, either directly or indirectly, that adversely affects the employment or working conditions of the employee.

**Serious misconduct:** includes, but is not limited to:

- Serious violations of City policies or applicable acts, regulations or by-laws;
- Gross misuse of City resources for any illegal, improper, or unethical purpose;
- Fraud, theft, embezzling funds, or accepting kickbacks or bribes;
- Misappropriating funds, misdirecting funds or assets, or misuse of corporate information;
- Manipulating City accounting or audit records or destroying any accounting or audit-related records except as permitted by the City's Records Management Policy and procedures;
- Failure to take reasonable steps to report and/or rectify actions that may impact negatively on the City's reputation resulting in the public losing confidence in the organization's ability to deliver services;
- Violations of the Protection Against Retaliation section of this Policy; or
- Deliberately concealing information related to any of the above.

**Whistleblower:** means an employee who reports serious misconduct, in good faith.

## 4. Policy

### Policy Statement

The objectives of this Policy are to establish guidelines for reporting and investigating allegations of serious misconduct and provide protection from retaliation to those who, in good faith, report serious misconduct.

### Process

Employees who, in good faith, are aware of serious misconduct are required to report such concerns. Individuals making reports are not required to prove their allegations, but they are required to demonstrate that they have sound reasons for their concerns. Local law enforcement agencies or other regulatory agencies may be authorized to review any complaint received.

Allegations of serious misconduct against any employee shall be made to the CARE Program, who will in turn advise the appropriate designated recipient of the report:

<b>If the subject of the alleged wrongdoing is:</b>	<b>Designated Recipient:</b>
Any City employee other than the City Manager or the City Solicitor	Jointly to the City Solicitor and the General Manager of Corporate Services
The City Solicitor	Jointly to the City Manager and the General Manager of Corporate Services
The City Manager	Jointly to the City Solicitor and the Mayor

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In addition, allegations of serious misconduct may also be made in writing, by telephone, or in person directly to the appropriate designated recipients described above. Once an allegation of serious misconduct has been reported, the designated recipients must follow the process outlined in this Policy.

At its discretion, the City may investigate anonymous allegations. In exercising this discretion, the City will consider the seriousness, credibility, and likelihood of other sources confirming the concerns that have been raised. The designated recipients receiving a report have the exclusive authority to determine if and when a report warrants an investigation under this Policy, and to select an investigator if one is required. Such an investigation may be conducted by an internal or external investigator, at the discretion of the designated recipients. If one or both designated recipients determine that an investigation is warranted, then the investigation will proceed. If both designated recipients agree that an investigation is not warranted, then the investigation will not proceed.

If the designated recipients determine that an investigation is warranted, they will first notify the Director of Human Resources in order to determine if the matter falls within the scope of this Policy or another established policy or process (e.g. WorkSafeNB complaints, Respectful Workplace Policy, collective agreement processes, etc.). If an allegation is made against a unionized employee, and the designated recipients determine that an investigation is warranted, the Director of Human Resources will take appropriate steps to ensure that all applicable collective agreement provisions are respected in the investigation process.

If an allegation is made against a member of City Council, it will be treated as a complaint under the Code of Conduct for Elected Officials By-Law, being By-Law #A-1218, and will be dealt with using the process established under that By-Law.

If an allegation is made against a City employee, the designated recipients are the City's point of contact for any investigator hired to investigate a report made under this Policy. The designated recipients may decline to investigate, or may stop an investigation, if they are of the opinion that:

- The allegation does not provide adequate details about the alleged serious misconduct, or does not disclose a wrongdoing;
- The allegation is frivolous or vexatious, or has not been made in good faith;
- The investigation into the allegation would serve no useful purpose or could not reasonably be conducted because the length of time that has elapsed between the date when the subject matter of the allegation arose and the date the report was made;
- The allegation relates solely to a public policy decision or to one of the matters identified under the Application section of this Policy as being excluded;
- The allegation is being, or has already been, appropriately investigated;
- Investigating the allegation may compromise another investigation;

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- The report is made on an anonymous basis and does not provide enough substance to undertake an investigation or if it cannot be determined that the report was made in good faith;
- The allegation is also being investigated for the possible prosecution of an offence;
- The alleged wrongdoing may constitute an offence under any enactment of New Brunswick or Canada; or,
- The issue would be more appropriately dealt with by local law enforcement agencies or another entity.

Those conducting an investigation will:

- Comply with any relevant legislation, policies, and agreements, including but not limited to all applicable collective agreements;
- Endeavor to ensure that the investigation is undertaken in a prompt and professional manner;
- Maintain adequate documentation to support any decisions made;
- Take all relevant facts into consideration having regard to the merits of each case; and
- Remove themselves from the investigation process if there is a conflict of interest.

If, at the conclusion of its investigation, the City finds that serious misconduct occurred, it will take appropriate remedial or disciplinary action commensurate with the severity of the offense. Consideration will also be given to potential policy or procedural changes that should be made to protect the City from similar wrongdoing in the future.

All employees have a duty to cooperate in the investigation process. Any employee who fails to cooperate in an investigation, or deliberately provides false information during an investigation, will be subject to disciplinary action, up to and including termination of employment.

An employee who makes a report respecting their own misconduct under this Policy is not exempt from disciplinary action; however, the self-reporting will be given consideration as a mitigating factor in determining the level of disciplinary action appropriate to the circumstance.

## Confidentiality

Serious misconduct is a grave matter and it is critical that the reputations of employees who report concerns and of individuals about whom concerns are reported are protected. Consequently, all allegations of wrongdoing are handled as confidentially as possible.

Individuals making a report under this Policy may be required to provide their name in confidence, which allows for follow-up questions, clarification and investigation where one is deemed appropriate. All information disclosed during the investigation will remain confidential, except as necessary to conduct the investigation and to take any remedial action, and to the extent permitted under law. Specifically, investigations will be carried out in a manner that limits disclosure of the report and

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allegations on a “need to know” basis. Information about a report of serious misconduct will only be disclosed to those responsible for investigating or addressing the report.

Individuals making a report, investigators, witnesses and individuals against who a report has been made are expected to maintain confidentiality. Breaches of confidentiality may be regarded as serious misconduct and will be treated accordingly.

Information collected during an investigation including but not limited to interview notes, reports and other records, will be managed in accordance with the *Right to Information and Protection of Privacy Act*. Confidential information may be subject to disclosure required by law, including during a court proceeding, arbitration or other legal proceeding, and in circumstances where affected persons have consented to be identified.

### **Protection Against Retaliation**

The City of Moncton strictly prohibits any retaliation against any employee who reports, or participates in an investigation related to, alleged wrongdoing or misconduct. Any allegations of retaliation shall be treated seriously, and a violation of this Protection Against Retaliation section shall be treated as serious misconduct under this Policy. Employees who believe they are being retaliated against should report these concerns to the designated recipients as outlined under the Process section of this Policy. Individuals who violate the Protection Against Retaliation section of this Policy will be subject to appropriate disciplinary action, up to and including termination of employment.

### **Bad Faith Allegations**

Employees who report allegations of serious misconduct without sound reasoning, who knowingly make false allegations, or make allegations with the intent to harm other individuals, will be subject to appropriate disciplinary action, up to and including termination of employment.

### **Annual Policy Review and Reporting**

This Policy shall be subject to annual review by the Internal Audit Committee.

The Internal Audit Committee shall receive, on an annual basis, a report summarizing all reported instances of serious misconduct, as well as the final disposition of each if such information is available. Due to the sensitive nature of these investigations, such reports will be treated as confidential and any identifying information of the individuals involved shall be removed.

## **5. Administration and Contact**

**City Clerk’s Office**

**655 Main Street, Moncton, NB E1C 1E8**

**Telephone: 506.853.3550**

**Email: [info.clerk@moncton.ca](mailto:info.clerk@moncton.ca)**