

 <p>TOWN OF TABER</p>	<h1>Whistleblower</h1>
Procedure No.: ADM-6	Council Resolution No.: N/A
Department: Administrative	Authority: CAO
Effective Date: May 25, 2015	Revision Date: March 28, 2022
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Supersedes: N/A	
Related Policy No.: ADM-6	
Related Policy Name: Whistleblower	

1.0 PURPOSE

1.1 This procedure provides guidance for submissions under the Whistleblower Policy establishing an accessible process for employees and the general public to report wrongdoing that is contrary to public interest, raising legitimate concerns about wrongdoing in a safe and secure manner, as well as instruction regarding the process for dealing with those reports.

2.0 OPERATING GUIDELINES

2.1 Scope:
 2.1.1 This procedure applies to Employees and Contractors. Allegations of Wrongdoing or Retaliation may be made by an Employee, Contractor, or by any member of the public.

3.0 DEFINITIONS

- 3.1 “Allegation” means a complaint submitted by an Employee, Contractor, or a member of the public, under the Whistleblower Policy, alleging Wrongdoing on the part of any Employee or Contractor, or alleging that any person has been a victim of Retaliation.
- 3.2 “Chief Administrative Officer (CAO)” has the meaning given to it in the *MGA*.
- 3.3 “Contractor” means any person, corporation or firm with whom the Municipality has a contract for procurement of goods or services.
- 3.4 “Designated Service Provider” means the external party responsible for administering the intake, categorization, and evaluation of Allegations received through designated reporting channels and forwarding these to the Procedure Administrator. The current Designated Service Provider is MNP LLP.



- 3.5 “Employee” means any person directly employed by the Municipality, including the CAO.
- 3.6 “External Investigator” means a qualified, impartial professional who is not an Employee and has no personal affiliation with any Employee or Contractor, hired at the direction of the CAO or the Procedure Administrator to investigate an Allegation of Wrongdoing.
- 3.7 “FOIPP” means the *Freedom of Information and Protection of Privacy Act*, RSA 2000, C. F-25, as amended.
- 3.8 “Internal Investigator” means the Administrative Services Manager, or any person appointed as a designate to investigate an Allegation.
- 3.9 “Investigator” means an Internal or External Investigator.
- 3.10 “Investigation Report” means a report created by an Investigator after an investigation of an Allegation, which contains findings of fact and the reasons for those findings. The Investigation Report may contain recommendations if the Investigator is asked by the Procedure Administrator to include recommendations.
- 3.11 “MGA” means the *Municipal Government Act*, RSA 2000, C. M-26, as amended.
- 3.12 “Procedure Administrator” means the Administrative Services Manager or another individual(s) assigned responsibility for receiving and responding to the Allegation of Wrongdoing.
- 3.13 “Retaliation” means any action in reprisal against a person who has made an Allegation of Wrongdoing, or who has sought advice or information about making an Allegation of Wrongdoing, or who participated in the investigation of such an Allegation, and includes but is not limited to:
- 3.13.1 Dismissal from employment or threats to dismiss from employment;
 - 3.13.2 Discipline or suspension, or threats to discipline or suspend;
 - 3.13.3 Harassment or abuse;
 - 3.13.4 Imposition of any penalty or sanction, directly or indirectly; and,
 - 3.13.5 Intimidation or coercion or attempts to intimidate or coerce; but does not include Disciplinary Action defined in Section 9 of this Procedure.
 - 3.13.6 “Whistleblower” means a person who makes an Allegation.
- 3.14 “Wrongdoing” means an act or omission that constitutes one or more of the following, in relation to the Town of Taber:
- 3.14.1 crime or suspected criminal activity;



- 3.14.2 any actual or suspected violation of any federal, provincial or municipal act, regulation or bylaw;
- 3.14.3 any actual or suspected violation of any Town policies and procedures;
- 3.14.4 the misuse of position for personal gain;
- 3.14.5 any claim for reimbursement of expenses that are not made for the exclusive benefit of the Town;
- 3.14.6 unauthorized use of Town property, equipment, materials or records;
- 3.14.7 any misappropriation of funds, securities, supplies or other assets;
- 3.14.8 dangerous practices likely to cause physical harm or damage to any person or property;
- 3.14.9 failure to rectify or take reasonable steps to report a matter likely to give rise to a significant and avoidable cost or loss to the Town; or,
- 3.14.10 improper or fraudulent accounting or auditing practices.

4.0 PROCEDURES AND RESPONSIBILITIES

4.1 Council:

- 4.1.1 Review Allegations of Wrongdoing made against the CAO and any applicable Investigation Reports which are referred to Council by the Designated Service Provider, if required; and,
- 4.1.2 Take Disciplinary Action against the CAO who is found to have committed acts of Wrongdoing.

4.2 CAO:

- 4.2.1 Ensure that adequate resources are made available to support all investigations;
- 4.2.2 Advise Council of any Allegations that, if substantiated, may involve significant imminent risk to the Municipality, or may involve past, present or imminent criminal activity that would affect the Municipality;
- 4.2.3 In consultation with the Procedure Administrator, provide the authority to the Procedure Administrator to act as deemed necessary which may affect any internal processes throughout the departments of the Town;
- 4.2.4 Act as Procedure Administrator for any Allegation made against the Administrative Services Manager;
- 4.2.5 Consults with the Administrative Services Manager in accordance with Section 4.3.13 and 4.3.14 below.



- 4.3 Administrative Services Manager:
- 4.3.1 Receive Allegations screened by the Designated Service Provider and determine which Allegations are sufficiently serious to warrant investigation under this Procedure;
 - 4.3.2 Determine whether or not an Allegation is sufficiently substantiated or serious to warrant investigation under this Procedure, and take action which may include disciplinary measures under other administrative procedures or through other internal processes;
 - 4.3.3 Determine whether to initiate an investigation into any Allegation;
 - 4.3.3.1 Within 7 working days of receiving the Allegation, if the Whistleblower reveals his or her identity; or,
 - 4.3.3.2 Within such time as deemed appropriate, if the Whistleblower is anonymous.
 - 4.3.4 When an investigation under this Procedure is determined to be appropriate, carry out the investigation internally or appoint an External Investigator;
 - 4.3.5 Before beginning an investigation of mismanagement in relation to Employees, must be satisfied that all applicable mechanisms, including any human resource processes to address, bullying, harassment or intimidation, have been used or considered;
 - 4.3.6 Maintain confidentiality of the identity of all Whistleblowers unless a Whistleblower consents in writing to waive confidentiality in order to assist the investigation;
 - 4.3.7 Ensure that an Investigator has the required resources to conduct a thorough investigation;
 - 4.3.8 Forward completed Investigation Reports to the CAO and Director responsible for the Department from which the Allegation arose, together with recommendations for disciplinary measures or other actions.
 - 4.3.9 Advise the CAO of any Allegations that, if true, may involve significant imminent risk to the Municipality or may involve past, present or imminent criminal activity;
 - 4.3.10 Make recommendations to the CAO to reassign an Employee who alleges Retaliation, if necessary;
 - 4.3.11 If the identity of a Whistleblower is known, advise the Whistleblower of the outcome of the Allegation, consistent with the principle that details of disciplinary measures against an Employee are not publicly disclosed;



- 4.3.12 Make recommendations to the CAO, where applicable, with respect to correction or remediation of underlying causes, procedural failures, or other areas needing improvement that are revealed through the investigation process;
 - 4.3.13 Act as the general Administrator of the Whistleblower Policy and of this Administrative Procedure, in consultation with the CAO;
 - 4.3.14 Act as Procedure Administrator for any Allegation made against an Employee, in consultation with the CAO; and,
 - 4.3.15 Review quarterly reports provided by the Designated Service Provider to continuously refine the Whistleblower procedures and to ensure proper use of resources.
- 4.4 Investigators:
- 4.4.1 Investigate Allegations, including whether the Allegations are a breach of the *MGA* , or any successor enactment, or other enactment in which the municipality operates; and,
 - 4.4.2 Prepare Investigation Reports and submits them to the CAO.
- 4.5 Designated Service Provider:
- 4.5.1 Establish and maintain an intake process to facilitate Allegations being received, including, at a minimum, a secure e-mail address and a dedicated telephone line to allow Whistleblowers the assurance that their identity will be kept confidential and will only be disclosed to a Procedure Administrator upon the written consent of the Whistleblower to such disclosure;
 - 4.5.2 Receive and classify all Allegations received, to ensure that all Allegations are forwarded promptly to the appropriate Procedure Administrator; and,
 - 4.5.3 Submit quarterly reports to the Procedure Administrator, summarizing the number and nature of Allegations received, and how many Allegations were forwarded to the Procedure Administrator.
- 4.6 Directors, Senior Managers, manager, and Supervisors:
- 4.6.1 Be familiar with the types of Wrongdoing that may occur;
 - 4.6.2 Exercise due diligence to prevent, detect and report Wrongdoing;
 - 4.6.3 Support and promote the Whistleblower Policy and this Procedure; and,
 - 4.6.4 Cooperate with any investigation of Wrongdoing, and ensure all required resources are made available for the investigation.
- 4.7 Employees:
- 4.7.1 Support the purpose and objective of the Whistleblower Policy and this Procedure;



4.7.2 Report any occurrence of Wrongdoing; and,

4.7.3 Cooperate with investigations.

5.0 MAKING AN ALLEGATION

5.1 Burden of Proof:

5.1.1 The burden of proof associated with an Allegation of Wrongdoing lies with the individual(s) who make the Allegation.

5.2 Submission:

5.2.1 All Allegations must be submitted in writing and include:

5.2.1.1 The name of the Whistleblower;

5.2.1.2 The position of the Whistleblower with the Municipality (if applicable);

5.2.1.3 the name and position of each Employee or Contractor against whom an Allegation is made;

5.2.1.4 the specific nature of the alleged Wrongdoing;

5.2.1.5 the specific date or dates of the alleged Wrongdoing;

5.2.1.6 a statement as to the information or evidence upon which the Allegation is based; and,

5.2.1.7 any other information or evidence that the Whistleblower believes may be relevant or material to an investigation of the Allegation.

5.3 Anonymous Allegations:

5.3.1 Anonymous Allegations will only be considered when one or more of the following criteria are met:

5.3.1.1 there is significant imminent risk to the Municipality;

5.3.1.2 there is evidence of past, present or imminent criminal activity involving the Municipality;

5.3.1.3 the Allegation impacts the health, safety or wellbeing of Elected Officials, Employees or the general public; or,

5.3.1.4 the Allegation is of such a serious nature and relates to the operation of the Municipality such that it cannot, in good faith, be overlooked.

5.4 Time limit on making an Allegation:

5.4.1 Allegations must be made within 6 months of the date of the Wrongdoing or within 6 months of the date on which the Whistleblower learned of facts tending to support an Allegation, except in the case of an Allegation of criminal activity to which no time limit applies.



6.0 INITIAL INTAKE OF ALLEGATIONS

- 6.1 Anyone with a complaint or concern of a wrongdoing by an Employee or Contractor shall contact the Designated Service Provider, MNPs Ethics Alert Hotline (1-866-529-9589). MNP LLP will assess the information and advise the Procedure Administrator of the potential threat and suggested responses.
- 6.2 The Procedure Administrator will assess the information and advise the Chief Administrative Officer (CAO) of the potential threat and suggested responses. Assuming that an investigation is warranted, the Procedure Administrator shall follow the process outlined below.
- 6.3 In the event that the Procedure Administrator is the subject of the complaint, the Designated Service Provider shall assess the information and advise the Chief Administrative Officer (CAO) of the potential threat and suggested responses instead of the Procedure Administrator.
- 6.4 The Designated Service Provider will maintain the identity of a Whistleblower in strictest confidence, disclosing it only to a Procedure Administrator if the Whistleblower so consents in writing.
- 6.5 In the event that a Council member is the subject of the complaint, the complainant shall be referred to the Town of Taber Council Code of Conduct Bylaw for reporting when contacting MNP's Ethics Alert Hotline (1-866-529-9589). This is the legislated routing in accordance with the *Municipal Government Act*.
- 6.6 In the event that the Chief of Police is the subject of the complaint, the complainant shall be referred to the Chair of the Taber Municipal Police Commission for reporting when contacting MNP's Ethics Alert Hotline (1-866-529-9589). This is the legislated routing in accordance with the *Police Act*.
- 6.7 In the event that a member of the Taber Police Service is the subject of the complaint, the complainant shall be referred to the Chief of Police for reporting when contacting MNP's Ethics Alert Hotline (1-866-529-9589). This is the legislated routing in accordance with the *Police Act*.

7.0 INITIAL RESPONSE TO AN ALLEGATION

- 7.1 The Procedure Administrator has the discretion to determine whether to initiate an investigation into any Allegation in accordance with Section 4.3.3.
- 7.2 The Procedure Administrator shall inform a Whistleblower who reveals their identity as to whether the Allegation has been determined to merit an investigation and shall offer the Whistleblower the option of waiving confidentiality, if necessary or desirable to assist in an investigation.
- 7.3 If the Procedure Administrator determines that an investigation is merited, the Procedure Administrator shall advise the CAO of the general nature of the Allegation and shall conduct the Internal investigation or appoint an External Investigator.



- 7.4 If an investigation is merited, the Procedure Administrator may concurrently, or at any time thereafter, recommend to the CAO that the Whistleblower be temporarily reassigned during the Investigation, if deemed appropriate or desirable for the Whistleblower's own protection or well-being. Reassignment in such circumstances is not Retaliation.
- 7.5 In cases where the Procedure Administrator determines that an investigation is not merited, the Procedure Administrator will document this decision and close the file.

8.0 INVESTIGATION

- 8.1 An Investigator shall investigate all Allegations as expeditiously as possible in accordance with the principles of procedural fairness and natural justice.
- 8.2 The Investigator will determine the appropriate resources required to undertake a full and impartial investigation, and if the Investigator is an External Investigator, the Procedure Administrator may be consulted on the best use of resources.
- 8.3 The Investigator shall provide an Investigation Report to the Procedure Administrator upon completion of the investigation.
- 8.4 In the event that a Designated Service Provider or MNP LLP undertakes the investigation, the MNP investigator shall report the findings of the investigation to the CAO; except that if the CAO is the subject of the complaint, the MNP investigator shall report directly to Town Council in a Closed Session meeting of Council.
- 8.5 A person under investigation will be given notice by the Procedure Administrator, in writing, of the particulars of the Allegation, unless exceptional circumstances exist. Where such notice is given, the Employee or Contractor against whom the Allegation is made may submit a written explanation no later than 7 days after the notice is received, and if an explanation is submitted, it shall be included in the Investigation Report.
- 8.6 If the investigation reveals evidence of criminal activity, the Investigator must immediately advise the Procedure Administrator and the Taber Police Service must forthwith be advised of all information related to the Investigation.

9.0 DISCIPLINARY ACTION AGAINST EMPLOYEES OR CONTRACTORS

- 9.1 After reviewing an Investigation Report, together with any explanation provided by the Employee or Contractor in question and any recommendations provided by the Procedure Administrator, and the suspicion of wrongdoing on the part of a Town Employee is substantiated by the Investigation, the Employee will be subject to disciplinary action.
- 9.2 If the suspicion of wrongdoing on the part of the Contractor is substantiated by the Investigation, the Contractor will be subject to appropriate sanctions, up to and including the termination of the contract.



- 9.3 The CAO and the Director of the department from which the Allegation arose (or Council in the case of an Allegation and investigation involving the CAO) may impose such Disciplinary Action as is deemed appropriate in the circumstances up to and including dismissal, after consulting with the Human Resources Department if the Disciplinary Action involves an Employee.
- 9.4 The final and binding decision in regard to the investigation and disciplinary action of an Employee and Contractor will lie with the Chief Administrative Officer (CAO).
- 9.5 In the event that the Chief Administrative Officer (CAO) was the subject of the investigation, the final and binding decision will lie with Town Council and be communicated to the CAO by the Mayor or Deputy Mayor in a Closed Session meeting of Council at the next opportunity.

10.0 SPECIAL CASES

- 10.1 If the person alleged to have committed an act of Wrongdoing is a person who has specific responsibilities under this Procedure, then the CAO has the discretion to:
- 10.1.1 Temporarily excuse that person from those responsibilities until the Allegation is fully and finally dealt with; and,
- 10.1.2 Make any changes to the process under this Procedure that the CAO deems appropriate to facilitate fair and expeditious investigation and resolution of the Allegation.

11.0 CONFIDENTIALITY

- 11.1 All investigations will be done as expeditiously as possible. All Employees and Contractors who are aware, or become aware, of an investigation shall keep confidential and not disclose any knowledge they have or obtain concerning the details or results of an investigation, except to an Investigator.
- 11.2 Subject to Section 11.4 below, disclosure of the fact that an investigation is underway, or any details of the investigation, may only be made to persons who in the Investigator deems to have a legitimate need to know, and such disclosure will be limited to only what is necessary to ensure a thorough, effective, and complete investigation.
- 11.3 An Employee or Contractor who breaches confidentiality with respect to an investigation may be subject to Disciplinary Action or other remedies, regardless of the impact of the disclosure on the investigation.
- 11.4 Publication of Investigation:
- 11.4.1 Subject to Section 11.5, the CAO may, only in very extraordinary circumstances and where disclosure may be warranted due to a public interest or public safety purposes, decide to make all or any part of an Investigation Report related to the Employee or Contractor public, unless,
- 11.4.1.1 the disclosure of such findings might be an unreasonable invasion of the privacy of the Employee or the Contractor accused of committing the Wrongdoing or any other individual(s) involved, impacted or implicated in the investigation, including but not



limited to the Whistleblower, as determined by Section 17(1) of the *FOIPP Act*; or,

11.4.1.2 the disclosure of such findings may impact an ongoing criminal investigation being undertaken by the Taber Police Service or other law enforcement agency.

11.5 In considering whether to make such a decision regarding disclosure pursuant to Section 11.4, the following process shall be followed by the CAO before any information is released to the public:

11.5.1 The CAO shall submit the Investigation Report and recommended disclosure, on a confidential basis, to the FOIPP Co-Ordinator for their recommendations on disclosure and any redactions in accordance with the *FOIPP Act*;

11.5.2 The CAO shall consult with the Municipality's legal counsel regarding the application of the *FOIPP Act*; and,

11.5.3 A communication strategy shall be developed by the Communications and Project Coordinator, and Stakeholders, and reviewed by the CAO, the Human Resources Manager and legal counsel for compliance with any applicable legislation, including the *FOIPP Act*.

11.6 Nothing in this Procedure affects the application of the *FOIPP Act*

12.0 IMMEDIATE RISK OR CRIMINAL ACTIVITY

12.1 If the Procedure Administrator and the CAO, after consultation, are of the view that an Allegation has disclosed information suggesting an imminent risk of substantial danger to the life, health or safety of any person, or a risk to the environment, the matter must be immediately disclosed to the Taber Police Service or the appropriate regulatory authority.

12.2 If the investigation of an Allegation reveals past, present or imminent criminal activity, the findings of the investigation must be immediately disclosed to the Taber Police Service.

12.3 Allegations of imminent risk or criminal activity must be reported to the CAO. Allegations of criminal activity must be held in confidence until otherwise advised by the Taber Police Service.

13.0 COOPERATION

13.1 All Employees and Contractors shall cooperate fully with any investigation.

13.2 All departments and all directors, senior managers, managers, and supervisors shall cooperate with any investigation by ensuring all required resources are made available to the Investigator.

13.3 No Employee, or Contractor will destroy or alter evidence, give false evidence, or withhold evidence (hereinafter referred to as "Obstruction") nor will an Employee



