

GOV-002-024

Strathcona County
Municipal Policy Handbook

Public Interest Disclosure & Protection from Reprisal

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Lead Role: Chief Commissioner

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Administrative Responsibility: Chief Commissioner

Policy Statement

Strathcona County enjoys a culture of trust and ethical behaviour and is committed to the highest standards of openness, honesty and accountability. Recognizing, however, that Wrongdoing may occur, Strathcona County is committed to fully investigate any *bona fide* allegations of Improper Governmental Activity, Breach of Policy, or Fraud or other Financial Irregularity and to protect employees from retaliation arising from any such allegation.

This policy sets out specific guidelines and responsibilities regarding the disclosure of inappropriate activities, the processes that must be followed for the investigation of irregularities and the protection from retaliation of those who disclose any such irregularities.

This policy applies to all employees of Strathcona County and to employees of all Boards and Committees over which Council has authority to require general policies to be followed.

Definitions

“Allegation” means an allegation of Wrongdoing or an allegation of wrongful reprisal under this policy.

“Breach of Policy” means a breach of Strathcona County’s Municipal Policy Handbook and, without limiting the generality of the foregoing, includes Policy HUM-001-001: Employee Conduct and Code of Ethics, Policy SER-014-001: Purchasing Policy, Policy HUM-001-025: Harassment/Discrimination Policy, and Policy HUM-001-032: Respectful Workplace Policy.

“Chief Commissioner” means the Chief Commissioner of Strathcona County.

“Employee” means all employees of Strathcona County and employees of all Boards and Committees over which Council has authority to require general policies to be followed, and includes volunteers.

“Fraud or other Financial Irregularity” includes, but is not limited to:

- (a) forgery or alteration of cheques, drafts, promissory notes and securities;
- (b) any misappropriation of funds, securities, supplies or any other asset;
- (c) any irregularity in the handling or reporting of money transactions;
- (d) misappropriation of furniture, fixtures, supplies, tools, vehicles and equipment;
- (e) unauthorized use or misuse of County property, supplies, tools, vehicles, equipment, materials or records;
- (f) any computer related activity involving the alteration, destruction, forgery or manipulation of data for fraudulent purposes or misappropriation of County-owned software;
- (g) any claim for reimbursement of expenses that are not made for the exclusive benefit of the County;
- (h) any similar or related irregularity.

“Improper Governmental Activity” means any improper or bad faith activity undertaken by the County or by an employee that is undertaken in the performance of the employee’s official duties, whether or not that action is within the scope of his or her employment, including, but not limited to, willful omission to perform duty, actions which are grossly economically wasteful, or which involve gross misconduct, gross incompetence, or gross inefficiency.

“Manager” means a Manager of a department within Strathcona County, and includes any establishment or organizational unit designated as a department by the County.

“Mayor” means the chief elected official of Strathcona County.

“Protected Disclosure” means any good faith communication that discloses or demonstrates an intention to disclose information that may evidence either (1) Fraud or other Financial Irregularities, (2) Breach of Policy, (3) Improper Governmental Activity or (4) any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition.

“Wrongdoing” includes Fraud or other Financial Irregularity, Breach of Policy and Improper Governmental Activity.

Roles & Responsibilities

1. The Chief Commissioner shall:
 - (a) Promote this policy by promoting a culture of ethical conduct within the County administration and educating County staff as to their rights and obligations under this policy.
 - (b) Ensure that any Protected Disclosure is dealt with immediately, sensitively and confidentially.
 - (c) Develop procedures to ensure the effective implementation of the policy, the investigation of Allegations and to protect the confidentiality of a Protected Disclosure.
 - (d) Monitoring compliance with and the effectiveness of the requirements of this policy and make recommendations to Council regarding proposed changes.
 - (e) Provide Council with semi-annual reports respecting the administration of this policy.
2. Department Managers shall:
 - (a) Be responsible for instituting and maintaining internal controls to provide reasonable assurance for the prevention and detection of Wrongdoing. Managers should be familiar with the types of Wrongdoing that might occur in their area and be alert to any indication that Wrongdoing is or was in existence in their operational areas.
 - (b) Ensure that all staff within their department are familiar with and have access to this policy and that procedures are in place within their department to facilitate the making of a Protected Disclosure.
 - (c) Not attempt to investigate the suspected Wrongdoing or any condition that may significantly threaten the health or safety of employees or the public or discuss the matter with anyone other than the Chief Commissioner.

- (d) Shall immediately inform the Chief Commissioner upon receipt of a Protected Disclosure from an Employee or supervisor, or if the Manager determines to make a Protected Disclosure.
3. Employees who, in good faith, determine to make a Protected Disclosure shall:
- (a) Not discuss the subject matter of a Protected Disclosure with anyone other than those individuals identified under this Policy.
 - (b) Immediately notify his/her supervisor unless the Employee has reason to believe that that Supervisor may be involved. In that case, the Employee shall immediately notify the Manager or, if the Employee has reason to believe that the Manager may be involved, the Chief Commissioner.
 - (c) Where an Employee has reason to believe that the Chief Commissioner may be involved in Wrongdoing, make the Protected Disclosure to the Mayor.
 - (d) Where an Employee has reason to believe that an elected official or official(s) may be involved in Wrongdoing, make the Protected Disclosure to the Chief Commissioner, and through the Chief Commissioner, to the Mayor.

Any violation of this Policy may result in discipline up to and including dismissal.

Guidelines

1. PROTECTED DISCLOSURES

- 1.1 Where the Wrongdoing to be complained of is dealt with under another Council-approved policy or procedure, that process should be exhausted before a Protected Disclosure is made under this policy.
- 1.2 When making a Protected Disclosure under this Policy, an Employee must:
 - (a) Determine that the improper conduct is a seriously harmful one that has or will cause demonstrably harmful effects;
 - (b) Thoroughly review the situation and be confident of the facts as he or she understands them;
 - (c) Be able to link the behaviour to be disclosed to breaches of legal requirements and/or ethical principals and believe that more good than harm to a number of parties will result;
 - (d) Understand the seriousness of their actions and be ready to assume accountability for them;
 - (e) Not engage in reckless or malicious accusations of wrongdoing.

2. PROTECTION FROM REPRISAL

- 2.1 Where an Employee has acted in accordance with the requirements of this policy, neither the County nor any person acting on behalf of the County shall:
 - (a) dismiss or threaten to dismiss an employee,
 - (b) discipline or threaten to discipline,
 - (c) impose any penalty upon an employee, or

- (d) intimidate or coerce an employee.

3. INVESTIGATIONS

- 3.1 The Chief Commissioner shall establish processes and procedures to ensure the objective and impartial investigations of:
 - (a) the allegations contained within a Protected Disclosure, and
 - (b) allegations of retaliation against an Employee.
- 3.2 An objective and impartial investigation will be conducted regardless of the position, title, length of service or relationship with the County of any party who might be or becomes involved in or becomes or is the subject of such an investigation.
- 3.3 The Chief Commissioner has the primary responsibility for the investigation of all activity as defined in this policy and shall, in his or her sole discretion, determine whether an Allegation merits an investigation, and, if so, the manner in which the investigation is to be conducted.
- 3.4 In all circumstances where there appears to be reasonable grounds for suspecting that a Fraud or other Financial Irregularity has taken place, the Chief Commissioner, in consultation with the County's solicitors, will contact the RCMP.
- 3.5 The Chief Commissioner may refuse to deal with an Allegation or cease an investigation if he or she is of the opinion that:
 - (a) the subject matter of the Allegation is one that could more appropriately be dealt with, initially or completely, according to another procedure provided for by another policy or Act of the Province of Alberta or the Dominion of Canada;
 - (b) the subject matter of the Allegation is not made in good faith;
 - (c) the length of time that has elapsed between the date of the when the subject matter of the Allegation arose and the date when the Allegation was made is such that dealing with the Allegation would serve no useful purpose;
 - (d) the Allegation relates to a matter that results from a balanced and informed decision-making process on a public policy issue; or
 - (e) there is a valid reason for not dealing with the Allegation.
- 3.5 If the Chief Commissioner determines an Allegation does not merit an investigation under this policy, he or she must inform the person who made the Allegation and provide the reasons why.
- 3.6 Regardless of the form of investigation carried out, the Chief Commissioner shall ensure that the investigation is conducted in accordance with a duty to act fairly, including that:
 - (a) reasonable notice of the investigation is given to the parties concerned;
 - (b) the person is entitled to have someone present to provide advice and assistance (i.e. legal counsel, union representative, colleague);
 - (c) the person affected has the right to know the case against him or her, and must be given an opportunity to reply to it; and

- (d) the person is entitled to a decision from an unbiased decision-maker and is entitled to the reasons for that decision.
- 3.7 An investigation may result in any of the following decisions:
- (a) that on a balance of probabilities, an Allegation is founded,
 - (b) that an Allegation is reckless or malicious, or
 - (c) that while an Allegation is not reckless or malicious, the Allegation is unfounded.
- 3.8 If, as a result of an investigation, it is determined that an Allegation is upheld or that an Allegation is reckless or malicious, the Chief Commissioner shall consider imposing disciplinary action against an Employee as provided by Policy HUM-001-021: Classified Staff Suspension, Termination, Demotion and Reassignment and, if applicable, any Collective Agreement in effect in the County at that time.
- 3.9 Wherever any determination in respect of an Allegation is made, the Chief Commissioner shall review the results of investigations and report the findings to the Employee who made the Allegation and to the appropriate Manager, make recommendations to Managers concerned the measures to be taken to correct Wrongdoings and review reports on measures taken by Managers in response to those recommendations.
- 3.10 The County will pursue every reasonable effort, including court ordered restitution, to obtain recovery of the County's losses from the offender or other appropriate source(s).

4. APPEALS

- 4.1 Nothing in this Policy shall prevent an Employee who has been the subject of an investigation from pursuing any administrative procedure normally open to an Employee or from seeking relief through the courts or under any law in existence at the time.