

# CITY OF PORT MOODY

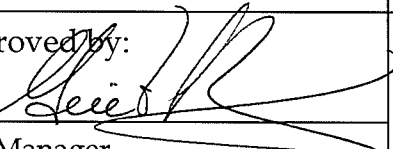
## ADMINISTRATION POLICY MANUAL

|              |   |      |
|--------------|---|------|
| Section:     | Human Resources   | 7    |
| Sub-Section: | General   | 2510 |
| Title:       | Serious Complaints Policy - Reporting, Investigation and Protection | 2    |

### RELATED POLICIES

| Number   | Title  |
|----------|--|
| 1-2640-1 | Health & Safety Policy   |
| 4-1490-1 | Confidential Records Policy  |
| 7-2510-1 | Workplace Harassment Policy  |
| 7-2680-1 | Discipline Policy  |
| BL2741-C | City of Port Moody Records Retention and Scheduling Bylaw No. 2741 |

### APPROVALS

| POLICY APPROVAL   | AMENDMENT APPROVAL                     | SECTION AMENDED |
|---|--|-----------------|
| Approved by: <br>City Manager<br><br>JAN 24, 2011<br>Date: | Amendment Approved by:<br><br><br>Date |                 |

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#### **POLICY**

The City of Port Moody is committed to maintaining a work environment that encourages a high level of business and personal ethics. The City expects that staff will fulfill responsibilities and duties with honesty and integrity as well as comply with all laws and regulations. The purpose of this policy is to provide a process for employees to report any conduct that is not consistent with City policies and bylaws without fear of retaliation or penalization.

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#### **APPLICATION**

This policy applies to all employees of the City of Port Moody, including:

- Bargaining Unit Employees,
- Excluded Staff, and
- Management

All employees have a responsibility to report serious violations of City policies or procedures as well as any other misconduct which may be seriously detrimental to the City's interests, or which amount to serious misconduct in itself. Examples of serious misconduct are set out in Schedule A to this policy.

This policy is not intended to override or replace existing reporting processes provided for under City policies, collective agreements or legislation and does not create an independent reporting requirement where other reporting processes exist. Reports made under this policy may be redirected where other more appropriate procedures are applicable.

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#### **PROCEDURES**

##### **General**

- 1.1 The City is committed to the principles of integrity, accountability, responsibility, leadership, respect, and openness.
- 1.2 Staff 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 Staff have a responsibility to report instances of serious misconduct.

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#### Roles & Responsibilities

2.1 *City Manager:*

The City Manager is responsible for overseeing this policy. The City Manager is to appoint the Manager of Human Resources as the Designate responsible for the day-to-day administration and stewardship of the policy. The City Manager will report serious misconduct issues to Council as appropriate. The City Manager will execute the roles and responsibilities of the Designate should alleged serious misconduct involve the Designate.

2.2 *Designate:*

The Manager of Human Resources receives in confidence all reports of alleged serious misconduct unless the City Manager or Manager of Human Resources as Designate is alleged to be involved. The Designate is responsible for overseeing the investigation of allegations of serious misconduct and/or retaliation for the reporting of serious misconduct. The Designate is responsible for assigning investigations to the most appropriate party, notifying the appropriate parties of investigations and outcomes, reporting to the City Manager, and ensuring the confidential retention of investigation documentation in accordance with Port Moody's Confidential Records Policy, Port Moody's Records Retention and Scheduling Bylaw No. 2818 and the requirements of the *Freedom of Information and Protection of Privacy Act*.

2.3 *City Council:*

In the event an allegation of serious misconduct involves the City Manager, the matter will be dealt with in-camera by City Council who will determine and assign responsibility for the investigation and disposition of the matter.

2.4 *Directors/Managers/Supervisors:*

Any level of manager or supervisor receiving a report of alleged serious misconduct from an employee is to promptly forward it in an impartial and strictly confidential manner to the Designate with a copy to the Director whose area of responsibility is involved unless the alleged misconduct may involve or has been condoned by the Director/Manager/Supervisor.

2.5 *Staff:*

Staff members are to report alleged instances of serious misconduct in good faith and in a timely manner to their Supervisor, Manager, Director, or directly to the Designate. Should the alleged serious misconduct involve the Designate, staff should report the misconduct to the City Manager, or should the alleged serious misconduct involve the City Manager, staff should report the misconduct to the City Clerk for referral to City Council as outlined in section 2.3 above.

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#### **Reporting of Serious Misconduct**

##### **3.1 Acting in Good Faith:**

Reports of serious misconduct are a serious matter. Staff members reporting alleged serious misconduct are to act in good faith and have reasonable grounds for believing the report to be true. Where staff comes forward to report their own serious misconduct under this policy, they will not be exempt from discipline appropriate to the serious misconduct; however, such reporting will be given appropriate consideration as a mitigating factor and these instances will be dealt with on an individual basis in accordance with this policy.

##### **3.2 False or Frivolous Reports:**

Knowingly making false allegations or making allegations in a malicious manner will be viewed as serious misconduct. Reports that are found to be frivolous, false, malicious or in bad faith will be dealt with in accordance with this policy.

##### **3.3 Process for Reporting Serious Misconduct:**

- a) Staff aware of serious misconduct have a responsibility to report it either to their Supervisor, Manager, Director or directly to the Designate.
- b) Should the alleged serious misconduct involve the Designate, staff should report the misconduct to the City Manager, or should the alleged serious misconduct involve the City Manager, staff should report the misconduct to the City Clerk.
- c) Where an employee reports serious misconduct to his or her supervisor/manager verbally, the supervisor/manager receiving the report must document the discussion, confirm its accuracy with the employee and promptly forward the report in an impartial and strictly confidential manner to the Designate with a copy to the Director whose area of responsibility is involved unless the alleged misconduct involves the Director.
- d) If an employee feels that their report has not been effectively addressed after being raised internally with the Designate, then the employee may refer their report to the City Manager, or to Council through the City Clerk.

#### **Confidentiality**

- 4.1 The Designate will make every reasonable effort to provide confidentiality to those reporting serious misconduct. Staff making a report under this policy are encouraged to provide their name in confidence when doing so which permits for follow-up questions and clarification if necessary. Investigation may not be possible unless the source of the information is identifiable. The Designate may investigate a report made on an anonymous basis and will determine whether to do so in light of all of the circumstances, including the seriousness of the issue raised, the credibility of the concern and the likelihood of confirming the allegation from other sources.

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- 4.2 Investigations will be carried out in a manner that limits disclosure of the report and allegations on a “need to know” basis. Information about a report of serious misconduct will only be disclosed to those responsible for investigating and/or addressing the report.
- 4.3 Confidentiality extends to all records relating to reports, including but not limited to meetings, interviews and investigation results. Personal information, including the identity of the person reporting the alleged serious misconduct, will be protected in accordance with the *Freedom of Information and Protection of Privacy Act*. Individuals making a report, investigators, witnesses and individuals against whom a report has been made are expected to maintain confidentiality. Breaches of confidentiality may be regarded as serious misconduct and will be treated accordingly.
- 4.4 Although the Designate will take all reasonable steps to protect the identity of the individual reporting the serious misconduct, information collected and retained may be required to be released by law including release required in court proceedings, arbitration or other legal proceedings.

#### Protection against Retaliation

- 5.1 Forms of Retaliation:  
Any form of retaliation, discrimination or reprisal against an employee because that person reported serious misconduct in good faith or because that person acted as a witness or otherwise participated in an investigation in good faith will be considered a serious violation of this policy. Such retaliatory actions are themselves serious misconduct and may result in discipline up to and including dismissal.
- 5.2 Reporting Retaliation:  
If an employee believes that they have been subjected to retaliation as set out above, that person may submit a written report to the Designate, the City Manager or the City Clerk who will ensure the allegation is appropriately investigated.

#### Investigations

- 6.1 Investigation Process: The Designate has primary responsibility for investigating allegations of serious misconduct.
  - a) The Designate will review and assess the seriousness of all reports promptly and determine the manner in which the report will be investigated. This determination will not be influenced by the position or length of service of the employee(s) accused of serious misconduct.
  - b) At the Designate’s discretion an investigation may be carried out by the Designate directly, assigned to management in the area affected, assigned to an investigative team, assigned to an independent third-party or re-directed to a more appropriate existing process.

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- c) Where the City Manager or the City Clerk in conjunction with City Council is executing the roles and responsibilities of the Designate, they will determine, based on the circumstances, the appropriate party to investigate the allegation of serious misconduct which may include the City Clerk, an independent third-party or other appropriate party.
- 6.2 **Material Financial Concerns:** If upon initial assessment it appears that the concern raised could materially affect the financial position of the City or the integrity of the City's system of internal controls, the Designate will advise the City Manager and Director of Corporate Services. The Designate will notify the Director of Corporate Services of the amount of any potential loss for insurance purposes. The City will make every reasonable effort to pursue the recovery of City losses from the offender or other appropriate sources.
- 6.3 **Criminal Activity and Other Illegal Conduct:** In circumstances where it appears that an illegal act may have occurred, the Designate may report the matter to the appropriate enforcement agency.
- 6.4 **Acknowledging Reports:** Within ten working days of a report being received, the Designate (or City Manager) will respond in writing to the employee making the report acknowledging that the allegation of serious misconduct has been received. Subject to legal constraints, the Designate will also inform the employee making the report at the conclusion of any investigation. The Designate may not be able to disclose the precise action being taken where doing so would be contrary to *Freedom of Information and Protection of Privacy Act* or other requirements for confidentiality.
- 6.5 **Opportunity to Respond to Allegations:** In all but exceptional circumstances, individuals accused of serious misconduct will be given an opportunity to know and respond to the allegations made.
- 6.6 **Consequences of Serious Misconduct:** Consequences for employees found guilty of serious misconduct may include discipline up to and including dismissal. It is understood that union staff may grieve any disciplinary action under their applicable collective agreement.

#### Retention and Documentation of Investigations

The Designate will document the results of each investigation in a confidential report. If an investigation determines that serious misconduct has occurred, the Designate will immediately report the details and any action taken to the City Manager. A summary of reports made under this policy and outcomes of subsequent investigations will be submitted annually to the City Manager and to City Council.

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#### **Mitigation of Further Risk**

The City Manager will conduct a review of each investigation report where serious misconduct was found to have occurred and will assign responsibility to ensure steps are taken to address underlying causes and to then take appropriate actions to mitigate the risk of further occurrences.

#### **Media**

Concerns regarding serious misconduct may have a significant impact on the City's legitimate interests. Staff members have a responsibility to use the internal serious complaints reporting process when they have such concerns. Matters covered by this policy are considered confidential and breaches of that confidentiality, including making public statements or disclosing information to the media, will be dealt with in accordance with this policy.

#### **Communication with Staff**

A copy of this Policy will be provided during new employee orientation session, included in the City's bi-annual policy sign-off and posted on the City's website. The City will also make known to staff the process for reporting complaints on a confidential basis on an ongoing basis. This information will make it clear that no staff member will be penalized for making a good-faith report of a complaint, nor will the City tolerate retaliation against an employee who makes a good-faith report of the complaint.

#### **Federal or Provincial Legislation**

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.

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#### **Schedule A: Examples of Serious Misconduct**

The following are examples of serious misconduct that should be reported pursuant to this policy:

- a) Serious violations of the City policies;
- b) Manipulation of City resources for any illegal, improper or unethical purpose including fraud, theft, embezzling funds, or accepting kickbacks or bribes;
- c) Misappropriating funds, misdirecting or misuse of funds, assets or corporate information;
- d) Manipulating City accounting or audit records or destroying any accounting or audit-related records except as otherwise permitted by Port Moody's Confidential Records Policy and Port Moody's Records Retention and Scheduling Bylaw No. 2818
- e) Actions likely to cause serious harm to persons, public safety, property or the environment;
- f) Actions resulting in the City being exposed to liability or financial loss;
- g) 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;
- h) Any action that contravenes City policies, bylaws, applicable government laws, rules or regulations, including but not limited to health and safety violations.
- i) Deliberately concealing information relating to any of the above.

It should be noted that the above are examples only and are not an exhaustive list of what amounts to serious misconduct.