



Town of Rimbe y Policy Manual

Title: Whistleblower

Policy No: 1128

Date Approved: January 28, 2020

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Purpose:

To provide a process for employees to report incidents of misconduct without fear of retribution.

Policy Statement

The Town of Rimbe y is committed to keeping with the highest standards of conduct and ethics. This policy provides a process for submitting and investigating whistleblowing allegations against the Chief Administrative Officer, Council and employees. Any whistleblowing allegation shall ensure that the Reporter and any persons involved in supporting the allegation are safeguarded against reprisals, and provide for procedural fairness for anyone accused of wrongdoing.

Definitions

Allegation: means a complaint submitted under the whistleblower policy alleging wrongdoing on the part of any employee, contractor or Member of Council or an allegation of wrongful reprisal under this policy.

Breach of Policy or Bylaws: means a breach of the Town of Rimbe y Policy Handbook or Town of Rimbe y Bylaws.

Chief Administrative Officer (CAO): means the person appointed to the position of Chief Administrative Officer by Council pursuant to the Municipal Government Act, or their delegate.

Contractor: means any person, corporation, or firm with whom the Town of Rimbe y has/had a contract for procurement of goods or services.

Council: means the Mayor and Councillors duly elected pursuant to the provisions of the Local Authorities Election Act.

Director: means a Director of a department within the Town of Rimbe y, and includes any establishment or organizational unit designated as a department.

Disciplinary Action: means any consequence imposed upon a person as a result of finding of wrongdoing which may include, but is not limited to, the following:

- a) Public or private apology;
- b) Educational training on ethical conduct;
- c) Removal of an employee from a position of responsibility within the municipality;
- d) Termination of employment;
- e) Termination of a contract; or
- f) Other disciplinary action deemed appropriate in the circumstances and allowable by law.

Employees: means all employees of the Town of Rimbey employed for wages or salary by the Municipality.

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 Town 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 Town-owned software;
- g) Any claim for reimbursement of expenses that are not made for the exclusive benefit of the Town;
- h) Any similar or related irregularity;

Improper Governmental Activity: means any improper or bad faith activity undertaken by the Town 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.

In Good Faith: means a sincere belief that is absent of malice.

Investigator: means the party assigned by this policy to investigate an allegation of wrongdoing.

Mayor: means the chief elected official of the Town of Rimbey.

Protected Disclosure: means any good faith communication that disclosed or demonstrates an intention to disclose information that may evidence either (1) Fraud or other Financial Irregularities, (2) Breach of Policy or Bylaws, (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.

Reporter: means the person who has knowledge of a wrongdoing and reports the activity in good faith.

Respondent: means the alleged wrongdoer.

Reprisals: means action taken against a Reporter or participant in the investigation of wrongdoing. Threats of, or verbal or written reprimand, suspension, termination, loss of advancement opportunities, and change in duties, reduction in pay, change in reporting structure, change in work location, harassment, threats, and coercion, or anything meant to dissuade an employee from reporting or participating in an investigation.

Whistleblowing: means confidential allegation received from employees regarding wrongdoing, including accounting, internal controls, auditing matters, bullying and/or harassment and contraventions of Town Policies or Directive and federal and provincial legislation.

Wrongdoing: can relate to an act or action and/or behavior that is in violation of Town of Rimbeu Policies, Procedures and Directives, wrongdoing will also include, but is not limited to the following:

- a) Questionable financial, internal accounting controls or auditing practices;
- b) Serious waste of resources;
- c) Mismanagement of public funds or a public asset;
- d) Misappropriation/misuse of funds, equipment or other assets;
- e) Falsification of Town Records
- f) Misuse of position in order to derive a personal benefit;
- g) Conflict of Interest
- h) Proprietary information theft
- i) Safety/security violations
- j) Malicious damage;
- k) Violation of regulatory issues;
- l) Trade compliance;
- m) Violations or circumventions of town policies, bylaws or provincial and federal legislation;
- n) Negligence;
- o) Theft or fraud;
- p) Substance abuse;
- q) Dangerous practices likely to cause physical harm or damage to any person or Town property;
- r) Dangers to employee or public health and safety;
- s) Unethical conduct;
- t) Workplace violence, harassment, and bullying; and/or
- u) Knowingly directing or counselling an employee to commit a wrongdoing as described above.

Roles and Responsibilities

The Chief Administrative Officer shall:

- a) Promote this policy by promoting a culture of ethical conduct within the Town administration and educating Town 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) Monitor 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 administration of this policy.

Department Directors shall:

- a) Be responsible for instituting and maintaining internal controls to provide reasonable assurance for the prevention and detection of Wrongdoing. Directors 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 Administrative Officer.
- d) Shall immediately inform the Chief Administrative Officer upon receipt of a Protected Disclosure from an Employee.

Mayor or Deputy Mayor shall:

- a) Refer a Reporter with a complaint of alleged wrongdoing by an employee, to the Chief Administrative Officer;
- b) Refer a Reporter with a complaint regarding the alleged wrongdoing of a member of Council to the Chief Administrative Officer;
- c) Bring to Council's attention, in a closed session, at a duly constituted council meeting or special council meeting, any matter brought to their attention regarding the conduct of the Chief Administrative Officer. If appropriate, employ the use of resources including, but not limited to, opinions from legal counsel, third party consulting and lawful authorities to assist with investigating the alleged incident or activity.
- d) Take appropriate action if investigations confirm wrongdoing by the Chief Administrative Officer or by a Council Member; and
- e) Receive an annual report on alleged complaints of wrongdoing, findings and action taken.

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 Director unless the Employee has reason to believe that that Director may be involved. In that case, the Employee shall immediately notify the Chief Administrative Officer.
- c) Where an Employee has reason to believe that the Chief Administrative Officer 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 officials(s) may be involved in Wrongdoing, make the Protected Disclosure to the Chief Administrative Officer, and through the Chief Administrative Officer, to the Mayor.

Guidelines**1. PROTECTED DISCLOSURE**

- 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 If any employee believes reasonably, and in good faith, that wrongdoing exists and wishes to report the allegation anonymously, the employee should immediately do so by reporting it in writing and submit it to the Chief Administrative Officer. The Reporter shall include the following information about the allegation in writing:
- a) A description of the wrongdoing;
 - b) The name/position of the individual alleged to having done the wrongdoing;
 - c) The timeframe[s] or date[s] the wrongdoing was done;
 - d) How the Reporter became aware of the wrongdoing;
 - e) If the Reporter is aware of any other Town employee who may also have knowledge of the alleged wrongdoing;
 - f) Any other information the Reporter may have; and
 - g) How the Reporter wishes to be contacted (such as Personal cell number; personal email address) in order to be interviewed as part of the investigation process.
- 1.3 Anonymous allegations will only be considered when one or more of the following criteria are met:
- a) There is significant imminent risk to the municipality;
 - b) There is evidence of past, present or imminent criminal activity involving the municipality; or
 - c) The allegation impacts the health, safety, or well-being of elected officials, employees or the general public.
- 1.4 If the Reporter requires temporary job re-assignment during the investigation because of whom the allegation is about and concerns the Reporter may have about coming forward about the person named in the allegation the Town will make every reasonable effort to accommodate.
- 1.5 An employee acting in good faith is entitled to protection under this policy.
- 1.6 A person is entitled to protection under this policy only if the wrongdoing is not the result of conduct by the individual seeking protection.
- 1.7 An Individual or individuals implicated by wrongdoing are granted due process.
- 1.8 When making a Protected Disclosure under this policy, and 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 behavior to be disclosed to breaches of legal requirements and/or ethical principles and believe that more harm than good to a number of parties will

- result;
- d) Understand the seriousness of their actions and be ready to assume accountability for a 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 Town nor any person acting on behalf of the Town shall:
- a) Dismiss or threaten to dismiss an employee,
 - b) Discipline or threaten to disincipline,
 - c) Impose any penalty upon an employee, or
 - d) Intimidate or coerce and employee.
- 2.2 It is strictly prohibited that a Respondent, or someone acting on behalf of a Respondent, or someone acting independently from a Respondent, perform any acts, whether verbal or physical, to punish or otherwise retaliate against a Reporter or anyone who has participated in the investigation of an allegation.
- 2.3 Any acts of reprisal will be investigated by the investigator and any person who has been found to have engaged in acts of reprisal will face progressive discipline up to and including termination.
- 2.4 Protection against reprisal cannot effectively be provided to those who choose to keep their identities anonymous.
- 2.5 If it is discovered that a person is facing reprisal, the investigator shall take action to stop the reprisal and the person found to be committing the acts of reprisal will face progressive discipline up to and including termination.

3. INVESTIGATIONS

- 3.1 The Chief Administrative Officer 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 Town of any party who might be or becomes involved in or becomes or is the subject of such an investigation.
- 3.3 The Chief Administrative Officer 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 Administrative Officer, in consultation with the Town's solicitors, will contact the RCMP.
- 3.5 All investigations will be conducted with a sense of urgency and time dependency.
- a) The allegation is received, and within one week (7 calendar days) of receipt an investigation shall commence.
 - b) The investigator will evaluate the allegation and will identify from the allegation, or from interviewing the Reporter, if other persons must be interviewed as part of the investigation.
 - c) The investigator shall provide the Respondent with a summary of the allegations. The Respondent shall provide a response to the allegations in writing. The Respondent shall be interviewed for clarification of their response. If additional persons are identified by the Respondent to have been involved in the allegation, the investigator may interview them.
 - d) In the event that an individual refuses to participate in an interview, they shall provide the investigator with the reasons for the refusal.
 - e) During the course of the investigation, the investigator may withhold the names of those involved in the allegation so to maintain confidentiality, to maintain the integrity of the investigation, and to prevent incidents of retaliation.
 - f) The investigator shall conclude their investigation within 30 days of the allegation having been received and will establish recommendations or actions to remedy the substance of the allegation.
- 3.6 All parties subject to this policy must fully co-operate with the investigation as may be required.
- 3.7 Employees who are Peace Officers and face allegations of wrongdoing may also be part of a formal investigation through the Solicitor General of Alberta.
- 3.8 All investigations are subject to the Freedom of Information and Protection of Privacy Act.
- 3.9 The Chief Administrative Officer 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 provide 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
- 3.10 If the Chief Administrative Officer 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.

- 3.11 Regardless of the form of investigation carried out, the Chief Administrative Officer 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.
- 3.12 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.
- 3.13 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 Administrative Officer shall consider imposing disciplinary action against an Employee as provided by this policy.
- 3.14 If an allegation is determined by the investigator to be substantiated, the Respondent will face progressive discipline up to and including termination.
- 3.15 The following actions may be implemented upon conclusion of their investigation and depending on the severity of the findings:
- a) Apology;
 - b) Training;
 - c) Referral to counseling;
 - d) Mediation
 - e) Reassignment;
 - f) Limiting access to certain areas or individuals within the organization;
 - g) Discipline;
 - h) Termination; or
 - i) Advising the local authorities of a potential criminal offense.
- 3.16 If an allegation is determined by the investigator to be unsubstantiated, the investigator will dismiss the allegation or will further determine if the Reporter was acting in good faith in submitting the allegation.
- 3.17 If an allegation is found to be unsubstantiated, the respondent shall be informed of such.
- 3.18 Investigations into allegations involve a great deal of time, resources, attention, and legal advice. If an allegation has been made by an employee who knows it to be untrue, or false, and/or who advances a misleading allegation in order to target another employee, that employee will be subject to progressive discipline up to and including termination.

4. Confidentiality

4.1 Every participant in this process is expected to maintain confidentiality throughout the process and thereafter. Only those who must be informed of the details will be involved in order to effectively address the situation.

4.2 To protect the interests of all parties involved, all information must remain confidential, subject to the rules listed below, and except where sharing of information is otherwise required by law or with respect to a possible violation of the Criminal Code.

4.3 Reporters, Respondents and witnesses will have access to their own statements.

4.4 Respondents and Reporters must have sufficient information about the allegations and response of the other parties to enable them to offer rebuttal.

4.5 A party that breaches confidentiality with respect to an investigation may be subjected to disciplinary or legal action, regardless of the impact of the outcome of the investigation.

4.6 Access to all or part of an Allegation, supporting interviews, or other identifiable information may be refused to the Respondent pursuant to Section 19 of the Freedom of Information and Protection of Privacy Act.

4.7 Wherever any determination in respect of an Allegation is made, the Chief Administrative Officer shall review the results of investigations and report the findings to the Employee who made the Allegation and to the appropriate Director, make recommendations to Directors concerned the measures to be taken to correct Wrongdoings and review reports on measures taken by the Directors in response to those recommendations.

4.8 The Town will pursue every reasonable effort, including court ordered restitution, to obtain recovery of the Town’s losses from the offender or other appropriate sources(s).

5. APPEALS

5.1 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.

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