

MUNICIPALITY OF THE COUNTY OF ANNAPOLIS <b>POLICY AND ADMINISTRATION MANUAL</b>	<b>AM - 2.4.3</b>
Section <b>STANDARDS OF PERFORMANCE</b>	Subject <b>Whistleblower Policy</b>

### 1.0 Purpose

The Municipality of the County of Annapolis (the Municipality) is committed to maintaining the highest standards of ethical conduct in all its activities. This is done by conducting all business of the Municipality with the utmost integrity, expecting full compliance with all applicable federal and provincial laws as well as the Municipality’s policies and procedures.

The Municipality expects all Employees, Volunteers and Elected Officials to observe high standards of business and personal ethics in the conduct of their duties. The primary purpose of the Whistleblower Policy (“the Policy”) is to aid in developing and maintaining a culture of compliance and accountability, and to outline and reinforce ethical conduct. This policy reflects the Municipality’s desired workplace values and behaviours.

The Municipality relies on individuals to report observances of inappropriate conduct or action so that it may take timely and appropriate corrective action. This policy provides the procedure for the “good faith” disclosure of wrongdoing without fear or threat of retaliation, and provides the procedure for investigating such disclosures.

### 2.0 Application / Scope

This Policy applies to all Employees, Volunteers, and Elected Officials of the Municipality. Everyone to whom this Policy applies is entitled to protection from retaliation. This policy is not intended to replace the Municipality’s other policies and procedures established to deal with discrimination or workplace harassment or violence. This policy should not be used to reconsider any matters which were previously investigated under such other policy. Complaints of discrimination, workplace harassment or violence reported under this policy will be referred to and dealt with under the appropriate policy and procedure, or through regulatory channels, which may also provide protection against retaliation. This policy is not intended to question financial or business decisions properly made by the Municipality.

### 3.0 Definitions

**3.1 Complainant** - Any individual that, in Good Faith, submits a complaint of Inappropriate Conduct or Action.

**3.2 Duties** - An Employee, Elected Official, or Volunteer’s work as defined within his or her respective employment agreement, job or volunteer description, and / or other tasks as authorized by the appropriate supervisor / manager, director, or officer.

**3.3 Elected Official** - Any individual who is an official by virtue of an election or acclamation, and for greater certainty includes all councillors.

**3.4 Employee** - Any individual who is employed with the Municipality, on either a full-time, part-time, permanent, or temporary basis, and for greater certainty includes supervisors, managers, directors, and officers.

**3.5 Good Faith** - The taking of any action honestly, openly, and without malice, vexation, ulterior motive, or wilful misconduct. In regards to a complaint, good faith is evident when the complaint is made without consideration of personal benefit and the Complainant has a reasonable basis to believe that the complaint is true. Good faith is lacking when a Complainant makes a complaint that is knowingly false, frivolous, malicious, or vexatious. However, a complaint does not have to be proven to be true to be made in good faith.

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**3.6 Gross Mismanagement** - Includes conduct motivated by an improper purpose, such as personal gain or an abuse of authority. Gross Mismanagement also includes conduct that, while not motivated by improper purpose, constitutes Gross Mismanagement when the following factors are considered:

- The seriousness of the conduct. Mere errors will not constitute Gross Mismanagement, but errors that are of a serious, egregious nature which result from reckless conduct or a wilful disregard of the Municipality’s policies and procedures would likely be considered Gross Mismanagement;
- The frequency or systemic nature of the conduct. Patterns of conduct are more likely to constitute Gross Mismanagement than are isolated incidents;
- The interests of the Municipality. Gross Mismanagement is more likely to exist if the conduct is something that would shock or concern a reasonable member of the public, or that violates the public’s trust; and
- The impact on the Municipality. Gross Mismanagement is more likely to exist if the conduct has significantly affected, or could significantly affect, the Municipality’s ability to carry out its mandate.

**3.7 Inappropriate Conduct or Action** - Involves any unlawful or illegal activity or ethical misconduct which affects the Municipality’s interests and can include:

- An act or omission constituting an offence under any federal or provincial laws or regulations that could result in fines or civil damages payable by the Municipality or that could otherwise significantly harm the Municipality’s reputation or public image;
- Breach of or failure to comply with any of the Municipality’s published policies and procedures or bylaws;
- An act or omission that creates a substantial and specific danger to the life, health, or safety of persons or to the environment while performing work for, or on behalf of, the Municipality;
- Deliberate damage to or misappropriation of the Municipality’s property;
- Gross Mismanagement of the Municipality’s affairs, assets, and/or personnel;
- Accounting, auditing, or other financial reporting fraud or misrepresentation that involves the Municipality’s financial interests – examples include: falsification or destruction of business or financial records; suppression of financial information; and non-compliance with the Municipality’s policies;
- Fraudulent activity while performing work for, or on behalf of, the Municipality – examples include: theft; misappropriation of funds; and unlawful or improper payments;
- Unethical business conduct while performing work for, or on behalf of, the Municipality – examples include: giving or receiving bribes or other improper benefits; and failure to excuse oneself from a conflict of interest;
- Abuse of power or authority for any unauthorized purpose; and
- Retaliation against a Complainant.

**3.8 Retaliation** - includes any adverse action taken against a Complainant for filing a complaint, supporting another individual’s complaint, or cooperating with an investigation of a complaint.

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**3.9 Volunteer** - Any individual, other than an Employee or Elected Official, who performs Duties for the Municipality on a volunteer basis. For greater certainty, a Volunteer includes citizen members of the Municipality’s advisory committees and boards.

**4. THE POLICY**

**4.1 Matters That Should be Reported**

Observed or suspected incidents of Inappropriate Conduct or Action should be reported in accordance with this Policy.

**4.2 Responsibilities**

**a. Chief Administrative Officer**

The Chief Administrative Officer (CAO) is responsible for ensuring that the Policy is established and reviewed as required. The CAO (or designate) is responsible for ensuring that all Employees, Elected Officials, and Volunteers are aware of and comply with this Policy. The CAO (or designate) is responsible for the oversight and management of investigations and the resolutions of complaints raised through this Policy.

**b. Supervisors / Managers**

Supervisors / managers are responsible for communicating this Policy to the Employees under their supervision. They are responsible for taking all appropriate steps to prevent or stop Inappropriate Conduct or Action in their areas of responsibility.

Supervisors / managers are responsible to inform the CAO (or designate) of any complaints of Inappropriate Conduct or Action that they receive. Supervisors / managers are responsible for investigating complaints received under this Policy in consultation with the CAO (or designate).

**c. Employees, Elected Officials, and Volunteers**

All Employees, Elected Officials, and Volunteers are responsible for acting with integrity and honesty in the completion of their Duties. They are responsible for reading and understanding this Policy, and for reporting Inappropriate Conduct or Action in accordance with this Policy.

**4.3 Reporting Procedure**

A Complainant who, in good faith, has reasonable grounds to believe that Inappropriate Conduct or Action has occurred is encouraged to make a complaint in accordance with this Policy. Such complaints should, whenever possible, be made within 30 days of the Inappropriate Conduct or Action coming to the attention of the Complainant. The Municipality’s ability to take prompt corrective action in these situations depends on such timely reporting.

Complaints must be made in writing using the Complaint Report Form attached to this Policy. Complaints should be factual, rather than speculative, and should include as much detail as possible to allow for a proper investigation. Appropriate details would include: dates; individuals and/or witnesses involved; and any supporting material or evidence that may be pertinent to the alleged Inappropriate Conduct or Action.

All relevant documentation, including Complaint Report Forms, reports, discussions, and supporting documentation shall remain in the custody and control of the CAO (or designate), unless otherwise authorized pursuant to a report issued following an investigation in accordance with this Policy.

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A Complainant may remain anonymous. However, in order to allow for a better investigation of a complaint, a Complainant should consider identifying themselves by giving his or her name and contact information.

#### **4.4 Reporting Channels**

Under normal circumstances an Employee or Volunteer bringing a complaint should submit the complaint to his or her immediate supervisor / manager. If an Employee is uncomfortable submitting the complaint directly to his or her immediate supervisor / manager, the complaint should be submitted to the CAO (or designate). An Elected Official should submit a complaint directly to the CAO.

An Employee or Volunteer is encouraged to follow the reporting channel through his or her immediate supervisor / manager first, unless he or she: has reason to believe the complaint pertains to his or her supervisor / manager; that he or she fears retaliation will be actioned by his or her supervisor / manager as a result of the complaint; that his or her supervisor / manager has failed to take appropriate actions following the receipt of his or her complaint; or that her or she is otherwise uncomfortable reporting the complaint to his or her supervisor / manager.

An Employee Elected Official, or Volunteer receiving a complaint from an external source, such as a member of the public, is required to advance a complaint in accordance with the reporting channels of this Policy.

Complaints should be sent to the appropriate individual, in writing, and be delivered either by email, or regular mail. Note that if a Complainant wishes to remain anonymous, he or she should not email the Complaint Report Form from an account that reveals his or her identity, such as a work email account.

#### **4.5 Investigation**

##### **a. Acknowledgement**

Once a complaint of Inappropriate Conduct or Action is received, the first step should be to report back to the Complainant to acknowledge receipt of the complaint and indicate that appropriate action will be taken.

The seriousness, complexity, and timeliness of disclosure of a complaint may impact the method, resources, and speed with which such disclosure is reviewed, investigated, and resolved. The Municipality endeavours to act in a timely manner to review complaints and ensure that appropriate steps are taken to investigate the complaint in accordance with this Policy.

##### **b. Investigative Steps**

A supervisor / manager in consultation with the CAO (or designate) should undertake the following after a complaint is received and acknowledged:

- Review of the complaint to complete an assessment of the nature and extent of the complaint;
  - Establish if there is substance to the complaint and whether an investigation should proceed or if the complaint should be dismissed;
  - Determine the appropriate investigative processes; and
  - Proceed with an investigation.
- Complaints which are determined by the CAO (or designate) to be outside the scope of this Policy will be referred to the appropriate policy or procedure of the Municipality.

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**c. Where Dismissal of Complaint is Warranted**

The CAO (or designate) may determine, with reasonable discretion, not to commence an investigation where the complaint contains only unspecified or broad allegations and lacks the appropriate factual support.

A complaint may be dismissed or postponed if at the time of disclosure a substantially similar complaint is currently under investigation. A complaint may be postponed until resolution of the pre-existing complaint has been addressed.

**d. Appointment of Investigator**

When an investigation is necessary, the CAO (or designate) will identify the investigator for a complaint. The investigator shall not have any personal or direct interest in the matter being investigated. If necessary, a third party investigator may be used to avoid a conflict of interest. The CAO (or designate) has the discretion to determine the suitability of an investigator. Due concern will be given for the principles of fairness, confidentiality, and expediency in selecting an investigator.

**e. Communication with Complainant**

The CAO (or designate) shall contact the complainant within a reasonable time period following the preliminary review to advise if the investigation will proceed. Contact with the Complainant following the preliminary review depends on the complexity and nature of the complaint. However, the Municipality is not obligated to provide updates on the status of an investigation to a Complainant. A Complainant is not entitled to, and will not receive a copy of the report prepared at the conclusion of the investigation.

**f. Communication with Individuals Under Investigation**

Any Employee, Elected Official, or Volunteer being formally investigated for Inappropriate Conduct or Action shall be informed of the investigation, so long as the communication does not impair a thorough and complete investigation.

**g. Conclusion and Report of Investigation**

Upon completion of the investigation a formal report will be completed and delivered to the CAO (or designate). The report should include the findings of the investigation and whether or not the alleged Improper Conduct or Action occurred. The report shall propose, where necessary, solutions to resolve the Improper Conduct or Action. Upon receipt of the report and its recommendations, the CAO (or designate) will decide what disciplinary or legal actions, if necessary, are appropriate and inform the affected Employees, Elected Officials, or Volunteers. Once the report is delivered, both the investigation and the complaint will be formally closed. The implementation of recommendations and/or any civil or criminal remedies to be pursued are distinct from the investigation and complaint process. The CAO (or designate) will retain records of a complaint and the report for a period of seven (7) years following receipt of the report.

**h. Confidentiality**

All persons involved in allegations of Inappropriate Conduct or Action will be treated fairly and impartially regardless of their position or the length of their involvement with the Municipality. All complaints of Inappropriate Conduct or Action made under this Policy and all investigations will be handled in a sensitive manner and will be treated as confidential to the extent permitted by law. All participants in the investigation process are required to maintain the confidentiality of the process and any information shared as part of the investigation to the extent permitted by law.

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**i. Retaliation**

No person shall be subjected to retaliation, intimidation, harassment, or other adverse action for reporting information, disclosing a complaint, or otherwise participating in the investigation process in accordance with this Policy. Any person who believes that he or she is the subject of any form of relation for such participation should immediately report the same as Inappropriate Conduct or Action in accordance with this Policy. Investigations of retaliation will be conducted in the same manner, and be guided by the same principles, as any other investigation conducted under this Policy.

Any Employee or Volunteer of the Municipality who retaliates against another individual may be subject to disciplinary action by the Municipality, up to and including termination of employment or an end of the volunteer relationship.

**j. Improper Disclosure / Bad Faith Disclosure**

This Policy assumes that Employees will act in Good Faith and will not make complaints of Inappropriate Conduct or Action which are false, frivolous, or vexatious. An Employee or Volunteer who knowingly or recklessly makes a false, frivolous, or vexatious complaint shall be subject to appropriate disciplinary action, up to and including termination of employment or an end of the volunteer relationship.

**5. AWARENESS OF POLICY**

The Municipality’s Employees, Elected Officials, and Volunteers will be made aware of this Policy through internal communications and training.

**6. PRECEDENT**

The protection offered by this Policy is in addition to, but does not replace or modify any individual rights guaranteed by law or contract.

Municipal Clerk’s Annotation for Official Policy Book	
I certify that this policy was adopted by Municipal Council as indicated below:	
<i>Seven (7) Day Notice</i> .....	<b><i>February 13, 2018</i></b>
<i>Council Approval</i> .....	<b><i>February 20, 2018</i></b>
_____	<b><u>February 20, 2018</u></b>
Municipal Clerk	Date
At <b><u>Annapolis Royal</u></b> Nova Scotia	

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**APPENDIX A - COMPLAINT FORM**

<b>Complainant Information</b>	
Name:	Department or Service Group:
Supervisor:	Position Title:
Email:	Telephone:
<b>Subject(s) Information:</b>	
Name(s), Department or Service Group, Position Title, Supervisor, Telephone, Email:	
<b>Witness(es) who can confirm the alleged Improper Conduct or Action</b>	
Name(s), Department or Service Group, Position Title, Supervisor, Telephone, Email:	
Briefly describe the information the witness(es) will be able to confirm. Use additional paper if necessary:	
<b>Complaint</b>	
Individual(s) suspected of the Inappropriate Action or Conduct:	
Briefly describe the Inappropriate Action or Conduct. Specify who, what, when, where, and how. Use additional paper if necessary:	
Date you became aware of the Inappropriate Action or Conduct:	
Inappropriate Action or Conduct is: ___ Ongoing ___ Completed ___ Unclear whether ongoing or completed	
How you became aware of the Inappropriate Action or Conduct:	
Describe steps, if any, you took prior to completing this Complaint Report Form (i.e. informed supervisor / manager; spoke with individual(s) involved):	