



# District of Lantzville

Incorporated June 2003

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**Policy No.: 3000-11**

**Date of Implementation: October 23, 2017**

**Council Resolutions: C17-139**

## *Whistle Blower Protection Policy*

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### **1. PURPOSE AND STATEMENT OF POLICY**

- 1.1 The District of Lantzville Council is committed to conducting its business in compliance with all laws and regulations applicable to a local government operating in the Province of British Columbia.
- 1.2 This policy sets out guidelines for the reporting and investigation of serious misconduct where there are no procedures in place for doing so, and provides protection from retaliation to those who report serious misconduct in good faith. Reporting serious misconduct in good faith is also referred to as whistle blowing. This policy applies to all employees, officers and elected officials of the District of Lantzville.
- 1.3 This policy does not cover reporting procedures in situations where persons seek to report in good faith serious misconduct of both senior management and Council members with respect to the same issue. In such a situation, other rights of reporting to authorities such as the Royal Canadian Mounted Police or the Information and Privacy Commissioner of British Columbia are available. Despite the fact that this policy does not address the reporting procedures for such reports of serious misconduct, whistle blowers who report serious misconduct only in good faith will still be afforded the protections in part 6 of this policy.
- 1.4 In the event that any portion of this policy is inconsistent with a binding 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.

### **2. DEFINITIONS:**

- 2.1 “Whistle Blowing” means reporting serious misconduct in good faith.

2.2 “Good Faith” means having reasonable and objective grounds, capable of being verified or substantiated by a written statement, documented evidence or other witnesses, for believing an allegation of serious misconduct is true.

2.3 “Serious Misconduct” includes but is not limited to:

- (a) Serious violations of District policies or violations of applicable acts, regulations or bylaws;
- (b) Manipulation of District 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 District accounting or audit records or destroying any accounting or audit-related records except as otherwise permitted;
- (e) Actions likely to cause serious harm to persons, public safety, property or the environment;
- (f) Actions resulting in the District 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 District’s reputation resulting in the public losing confidence in the organization’s ability to deliver services; or,
- (h) Deliberately concealing information relating to any of the above.

The above are examples only and are not an exhaustive list of what amounts to serious misconduct.

### 3. REPORTING SERIOUS MISCONDUCT

3.1 Persons who, in good faith, are aware of serious misconduct have a responsibility to report it in accordance with this policy.

3.2 Reports of alleged serious misconduct should be reported in the following manner:

	<b>If the subject of the alleged serious misconduct involves:</b>	<b>Then it should be reported to:</b>
(a)	a colleague	the complainant’s supervisor
(b)	a supervisor	the supervisor’s manager
(c)	a manager	the Chief Administrative Officer
(d)	the Chief Administrative Officer	the Mayor
(e)	If the Chief Administrative Officer has a complaint, he or she may report it to a Councillor or the Mayor, or to another officer of the District.	
(f)	If an elected official has a complaint, he or she may report it to the Mayor or the Chief Administrative Officer.	

- 3.3 Persons are required to report alleged serious misconduct, and a report of alleged serious misconduct must be in writing. A person may be permitted to report alleged serious misconduct verbally if the person to whom they are reporting makes a written record of the complaint and confirms its accuracy with the complainant.
- 3.4 If it is proven (by the Chief Administrative Officer, other manager or Councillor or the Mayor if the Chief Administrative Officer is involved in the allegation) that a violation of this policy has occurred, that an unsubstantiated complaint was not bona fide, was frivolous or was filed for inappropriate or malicious purposes, the Chief Administrative Officer may initiate appropriate disciplinary action against the Complainant up to and including termination of employment and/or repayment of all costs incurred by the District to investigate the complaint. The District will take any such misuse of this policy very seriously.

#### **4. CONFIDENTIALITY**

- 4.1 Every effort will be made to ensure confidentiality to those reporting serious misconduct. Persons making a report under this policy are required to provide their name in confidence, which allows for follow-up questions, clarification and investigation where necessary. Reports made anonymously may not be investigated unless the truth of their contents and whether they were made in good faith can be ascertained.
- 4.2 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* of BC. Persons 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.
- 4.3 Disclosure of records relating to reports made under this policy to any other person, and in particular any third party, will require the prior approval of the District's solicitor to ensure that privilege of such documentation is properly maintained.
- 4.4 Confidentiality may be subject to legal disclosure requirements during a court proceeding, arbitration or other legal proceedings, and to circumstances where affected persons have consented to be identified.
- 4.5 The person who reported the alleged serious misconduct should not, outside of regular work hours, contact the subject of the report or attempt to investigate the allegations further for any reason. The person who reported the serious misconduct must treat all aspects of the report and the incident generally as strictly confidential and must not discuss it with anyone except the person to whom the report has been made, legal advisors or police investigators.

## **5. INVESTIGATION**

- 5.1 Persons identified in Section 3.2 who receive a report of alleged serious misconduct are required to conduct a preliminary investigation and report to their immediate supervisor within 10 working days. If the person does not have an immediate supervisor, the District's solicitor should be consulted.
- 5.2 Within 10 working days of receiving a report under Section 5.1, the allegation of serious misconduct must be reported to the CAO who will have the authority to determine the appropriate level of detailed investigation and response. Where the alleged serious misconduct is proven, a response may include disciplinary measures appropriate to the degree of misconduct and terms of employment, and would be consistent with any terms of a collective agreement, if applicable.
- 5.3 Persons identified in Section 3.2 who receive a report of alleged serious misconduct must confirm in writing to the complainant that their complaint has been received and will be investigated in accordance with this policy. This receipt of complaint must be delivered to the complainant not more than 10 working days after the report has been received.

## **6. PROTECTION AGAINST RETALIATION**

Any form of retaliation, discrimination or reprisal against a staff member 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, including dismissal.

## **7. EXCEPTIONS**

Where persons come 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.