



# Procedure- **DRAFT**

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POL.COR.25.XX

## Appendix A- Employee Code of Conduct Complaint and Investigation Procedure

**Policy Type:** Corporate Procedure (Approved by Council)  
**Date Approved:** Month 00, 20XX  
**Department:** Administration  
**Staff Report:** FAF.25.XXX  
**By-Law No.:** N/A

### Purpose

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The Town of The Blue Mountains (the Town) is committed to providing a work environment that promotes and protects values and behaviours exemplifying fairness and respect for everyone.

All complaints of a breach of the Town's Employee Code of Conduct Policy (the Code) are taken seriously and will be appropriately investigated and resolved according to this Employee Code of Conduct Complaint and Investigation Procedure (the Procedure).

### Application

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This Procedure applies to all Employees and volunteers of the Town and includes:

- All full-time and part-time employees, unionized and non-union employees
- All permanent, contract, seasonal, student and temporary employees
- All volunteers and Paid Per Call Firefighters (Board & Committee Volunteers must abide by their respective Code of Conduct).

This Procedure shall be applied in conjunction with all collective agreements, contracts, legislative requirements, and/or standards identified by an employee's professional affiliation.

### Definitions

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**Allegations in Bad Faith:** Refers to purposely making a false allegation.

**Complainant:** Refers to an Employee who is filing the formal complaint.

**Employee / Staff:** Includes the following:

- All full-time and part-time, unionized and non-union employees
- All permanent, contract, seasonal, students and temporary employees
- All volunteers and Paid Per Call Firefighters (Board & Committee Volunteers must abide by their respective Code of Conduct).

**Formal Complaint:** Refers to when an Employee files a complaint regarding a breach of the Code by completing a complaint form.

**Formal Investigation:** Refers to when Human Resources or a third-party Investigator commences an investigation under this Procedure.

**Investigation Report:** Refers to the compilation of all evidence from the Formal Investigation and the determination of whether or not a breach of the Code occurred.

**Investigator:** Refers to a person conducting a Formal Investigation in accordance with this Procedure.

**Respondent:** Refers to the Employee against whom the complaint is being filed.

## Procedures

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### 1. Filing a Complaint / Reporting Misconduct

- a) Employees who have reasonable grounds to believe a violation of the Code of Conduct has occurred should report such activity or behaviour, in writing, to their Supervisor, Manager, Director, Manager of Human Resources, or Chief Administrative Officer, as appropriate.
- b) If a complaint is regarding the CAO, it should be submitted to the Mayor or Designate. If the complaint is regarding the Manager of HR, it should be submitted to the CAO.
- c) Any Employee who files a complaint regarding a breach of the Code must complete a complaint form. The key components of the complaint form that must be completed when making a Formal Complaint include:
  - (i) The Complainant's information.
  - (ii) The name(s) of the alleged individual(s) to have committed the Code breach.
  - (iii) The name(s) of any other individual(s) who may have additional information or who have witnessed the Code breach.
  - (iv) A description of the complaint:
    - Dates and times of the incidents.
    - What happened and where?
    - What specific aspect(s) of the policy was breached?
  - (v) Additional evidence or documentation to assist in reviewing the allegation, such as:

- Emails, letters or documents.
  - (vi) Whether the Complainant has brought forward the issue(s) before.
    - If so, when and to whom?
  - (vii) The Complainant's preferred resolution to the investigation.
- d) Human Resources will review the Formal Complaint, in consultation with the Director and/or CAO and complete an initial assessment to determine if a Formal Investigation is warranted. If the matter involves a Formal Complaint against the CAO, Human Resources will consult with legal counsel and engage with the Mayor/Council. If the matter involves a Formal Complaint against Human Resources, the CAO will assess the complaint.
- e) Where warranted, a Formal Investigation will be initiated.
- f) If the evidence does not substantiate a potential breach of the Code, then Human Resources will support the affected Employees through an informal resolution path. Informal resolutions can include mediation, counselling, coaching, facilitation, training, or referrals.

Examples of what would not be a breach of the Code include:

- Enforcing the rules of business.
- Disciplinary actions.
- Performance management.
- Interpersonal conflict between people.

## **2. The Formal Investigation**

- a) The Town will endeavour to commence an investigation process within five (5) business days or as soon as possible after receiving a Formal Complaint. The investigation will be conducted by a member of Human Resources or, at the Town's discretion, an external investigator.
- b) Depending on the nature of the incident, the Town may elect to appoint a qualified third-party investigator to conduct the Formal Investigation. This will typically occur when:
- the allegation(s) is/are of a highly serious nature;
  - when the Complainant or Respondent is a member of senior-level management (CAO, Senior Management Team member);
  - if there is a potential or actual conflict of interest should Human Resources conduct the investigation; or
  - when the police are involved.
- c) The Formal Investigation may include, but is not limited to:

- Interviewing the Complainant and Respondent to ascertain all of the facts and circumstances relevant to the Formal Complaint, including dates and locations.
  - Interviewing witnesses identified by the Complainant and Respondent, if any, or as necessary to conduct a thorough investigation.
  - Reminding the Complainant, Respondent, and any witnesses, of the confidentiality requirements under this Procedure.
  - Collecting and reviewing any related documentation from the Complainant, Respondent, or a witness.
  - Taking statements during interviews and making detailed notes of the investigation and maintaining them in a confidential file.
- d) All Employees have a duty to cooperate with internal or external investigations concerning alleged misconduct and provide honest, accurate, complete, and timely information. Participants in the investigation are required to cooperate, including providing the Investigator with any relevant documents requested during the course of the investigation.

### **3. Roles and Responsibilities of the Investigator**

- a) The Investigator is responsible for engaging in the following steps:
- (i) Plan and implement the investigation, including gathering and recording all relevant evidence.
  - (ii) Identify information gaps, potential sources of further information, and who may be able to corroborate information.
  - (iii) Plan and prepare interview questions to obtain the necessary evidence about the alleged incidents.
  - (iv) Conduct interviews with the parties and relevant witnesses.
  - (v) Analyze evidence and determine the substance of each allegation.
  - (vi) Prepare the investigation report and summary.
- b) Once all interviews are complete, the Investigator will compile all evidence into an Investigation Report. The Investigator then must determine, based on a balance of probabilities, whether or not a breach of the Code occurred.
- c) In cases where harassment has been alleged, the Investigator must establish whether the conduct meets the definition of harassment, in accordance with the Town's Respectful Workplace Policy.
- d) Within the Investigation Report, the conclusions of the Formal Investigation will be outlined. Possible conclusions include:
- A breach of policy occurred.
  - A breach of policy did not occur.

- No findings, based on lack of evidence.
  - Not a breach of policy, but inappropriate behaviour.
- e) The Investigation Report must be submitted to the Manager of Human Resources and/or the CAO or the Mayor/Deputy Mayor, as applicable.
- f) The Town will endeavour to complete any investigation and communicate the results to the Complainant and Respondent within 90 days after the receipt of a Formal Complaint, where possible. In some cases, a Formal Investigation may take longer. For example, if there are more than five witnesses or one of the parties or a key witness is unavailable (such as on a leave of absence).

#### **4. Corrective Action**

- a) The Manager of Human Resources, the Director, the CAO and Council, as applicable, will determine what corrective action (if any) will be taken based on the Investigation Report. However, if the Formal Complaints involves the CAO as a Respondent, Council as a whole will determine the appropriate corrective action, if any.
- b) The Town will provide the Complainant and Respondent with a written summary of the Formal Investigation findings, including any corrective action that has been or will be taken.
- c) If an allegation is substantiated, the Town will take appropriate corrective action, regardless of the Respondent's seniority or position in the Town. The Complainant and Respondent will be advised as to what corrective action, if any, will be taken to prevent further incidents or breaches of the Code, but may not be provided specific details of any particular discipline that has been imposed.
- d) Corrective action may include one or more of the following:
- discipline, such as a verbal warning, written warning or suspension without pay;
  - termination with or without cause;
  - referral for counselling, diversity and inclusion training, anger management training, supervisory skills training, or attendance at educational programs on Respectful Workplaces;
  - a demotion or denial of a promotion;
  - reassignment or transfer;
  - financial penalties, such as the denial of a bonus or performance-related salary increase;
  - any other disciplinary action deemed appropriate under the circumstances; or
  - referral of the Respondent and Complainant to mediation if both parties agree to the process.

- e) If there is not enough evidence to substantiate the Formal Complaint, corrective action will not be taken. However, in circumstances where the Investigator determines that there has not been a breach of the Code but inappropriate behaviour has occurred, the Town reserves the right to take corrective action, as appropriate in the circumstances.

## **5. Allegations in Bad Faith**

- a) If an Employee makes a Formal Complaint in good faith and without malice, the Employee will not be subject to any form of discipline, regardless of the Investigation Report's findings.
- b) The Town will discipline, up to and including termination of employment, any Employee who files a complaint that is knowingly false, frivolous, vexatious, or malicious. If a breach of the Code is reported in bad faith with the intent to harm either the individual or the Town, the Employee may face disciplinary actions, including possible termination.

## **6. Commitment to Non-Retaliation**

- a) In the event that an Employee becomes aware of a breach of the Code or any illegal activity in the workplace, they have a responsibility to report that misconduct to their Supervisor, Manager, Director, Human Resources, or the CAO. There will be no discipline, dismissal, or retaliation for speaking up and making a truthful report of actual or potential misconduct, for participating in a Formal Investigation, or for exercising legal rights. Retaliation can include behaviour or actions that punish or deter someone from speaking up, such as unsubstantiated negative performance evaluations, creating a hostile work environment, harassment, demotion, dismissal, or assigning tasks with the intent to isolate or discourage someone.
- b) If an Employee encounters any form of retaliation, they must report it to a Supervisor, Manager, Director, Human Resources, or the CAO immediately. The Town is committed to investigating every claim of retaliation and to taking disciplinary action if necessary.