



POLICY NO. 3.16

JANUARY 26, 2016

TITLE: WHISTLEBLOWER POLICY

POLICY STATEMENT:

Westlock County is committed to protecting its revenue, property, information and other assets from any acts, either by members of the public, contractors, sub-contractors, agents, intermediaries or its own employees, of waste and/or wrongdoing.

The County wished to established a whistleblower program that provides overarching guidance to augment existing County policies and establishes additional mechanisms to ensure consistent, systematic, organization-wide processes are in place for the prevention, detection, reporting and investigation of any suspected act of waste and/or wrongdoing.

PURPOSE:

The purpose of this policy is to establish specific program responsibilities regarding the reporting and investigation of allegations of waste and/or wrongdoing within Westlock County's municipal government. This policy reflects the County's ongoing effort to support open, ethical, accountable and transparent local government.

DEFINITIONS:

Administration means the administration branch of Westlock County's municipal government, distinct from the legislative branch of Westlock County's municipal government which is composed of its elected Council.

CAO means the Chief Administrative Officer of Westlock County.

County means the municipal corporation, Westlock County.

Personnel Committee means the Personnel Committee of Westlock County.

waste means the inefficient use of Westlock County resources. Specifically, waste refers to any operation, process or activity where taxpayer funds may be spent without due regard for value for money and/or where opportunities may exist to save money.

whistleblower means a person who calls attention to a questionable or illicit activity in an attempt to have the activity brought to an end.

Whistleblower Program refers collectively to all policies, processes and mechanisms within Administration that address issues of wrongdoing and/or waste.

wrongdoing means, for the purposes of this policy, illegal or inappropriate conduct. Wrongdoing includes but is not limited to:

- crime or suspected criminal activity;
- Fraud as defined in the Criminal Code of Canada (R.S., 1985, c. C-46);
- Breach of Code of Conduct (County Policy No. 3.13) or any other Council or Administration Policy;
- Malfeasance which means intentionally doing something either legally or morally wrong which one had no right to do. It always involves dishonesty, illegality, or knowingly exceeding authority for improper reasons. It includes, but is not limited to:
 - the wrongful or unauthorized acquisition, use, appropriation, or disposal of County assets including monies, information, data, materials, labour or equipment,
 - the violation of public trust or duty,
 - the misuse of position for personal gain;
- Other irregularities, including but not limited to:
 - Forgery or alteration of cheques, drafts, promissory notes and securities;
 - Any misappropriation of funds, securities, supplies or other assets;

- Any irregularity in the handling or reporting of money transactions;
- misappropriation of furniture, fixtures and equipment;
- unauthorized use or misuse of County property, equipment, materials or records; and
- Any claim for reimbursement of expenses that are not made for the exclusive benefit of the County.

1. APPLICABILITY:

- 1.1. This policy applies to all employees, contractors, suppliers, agencies, committees and commissions and Council as a whole over which Council has authority to require general policies be followed.
- 1.2. Complaints or allegations of waste and/or wrongdoing may be made by any employee, contractor, supplier or member of the public who has knowledge of an occurrence or has reason to suspect that waste and/or wrongdoing has occurred.

2. GENERAL:

- 2.1. County employees must report any suspected instance or allegation of waste/or wrongdoing immediately to a supervisor, management, Director or the CAO.
- 2.2. Where the employee fears reprisals or where the nature of the allegation precludes reporting within the administration, the employee may report their concerns to the Personnel Committee under the Whistleblower Program.
- 2.3. The County will fully investigate any suspected acts or allegations of waste and/or wrongdoing. An appropriate, objective and impartial investigation will be conducted regardless of the alleged wrongdoer's position, title, and length of service or the relationship with the County of any party who might be involved in such an investigation.
- 2.4. Where the results of the investigation find reasonable grounds to indicate that a fraud or criminal act may have occurred, the file will be turned over to the RCMP. The County will cooperate fully in any subsequent police investigation.

2.5. The County will make every reasonable effort, including court-ordered restitution, to pursue the recovery of County losses from the offender or other appropriate source(s).

2.6. The Whistleblower Program is designed to address complaints and allegations of waste and/or wrongdoing. It will not accept items that are considered to be activism and/or challenges of the appropriateness of Council policy decisions. Complaints of this nature should be made to the elected officials.

3. WHISTLEBLOWER PROTECTION:

3.1. No County employee or person acting on behalf of the County shall take any action in reprisal against an individual making a complaint or allegation in good faith, including:

- (a) Dismissal or threaten to dismiss an employee,
- (b) Discipline, suspend, or threaten to discipline or suspend an employee;
- (c) Subject the employee to any form of harassment or abuse;
- (d) impose any penalty, directly or indirectly, upon a complainant; and
- (e) intimidate or coerce the complainant.

3.2. Where management is informed or becomes aware of possible reprisals against an individual as a result of a report under this policy, the manager will inform the Personnel Committee and Council of such reprisals.

3.3. The allegations of reprisals will be the subject of immediate investigation. Where the investigation substantiates the allegations of reprisals, the CAO will be informed and the employees involved will be subject to disciplinary action.

4. BAD FAITH ALLEGATIONS:

4.1. Any individual who knowingly makes a false statement or bad faith complaint or who knowingly makes a false or misleading statement during an investigation will be subject to disciplinary or legal action.

4.2. Where the results of the investigation determine that a complaint or allegation was made in bad faith, the Personnel Committee, in consultation with County legal counsel and the CAO, will determine the action that is to be taken with respect to the complainant.

5. DISCIPLINARY ACTION:

5.1. If a suspicion of wrongdoing on the part of a County employee is substantiated by investigation, the employee will be subject to disciplinary action, up to and including dismissal.

5.2. All disciplinary action shall be taken by management in conformance with Section 18 of County Policy No. 3.01.

5.3. Unless exceptional circumstances exist, a person under investigation shall be given notice in writing of the essential particulars of the allegations following the conclusion of the investigation and prior to referral for disciplinary action.

5.4. Where notice is given under section 5.3, the person against whom allegations are being made may submit a written explanation no later than seven calendar days after the notice is received. This requirement is subject to any collective agreement provisions respecting the rights of employees during disciplinary proceedings.

6. RESPONSIBILITIES:

The Personnel Committee and the CAO will develop, implement and maintain an effective Whistleblower Program.

7. PERSONNEL COMMITTEE:

7.1. The Personnel Committee is responsible for ensuring procedures are established for investigating, tracking and appropriately resolving all allegations and complaints received under the Whistleblower Program and shall ensure that:

- (a) Channels, including an anonymous hotline, are established and maintained to facilitate the reporting of suspicions of waste or misconduct under this Policy.

- (b) All complaints and allegations received through the Whistleblower Program are subject to an appropriate investigation and resolution. Although the assignment of an investigative team to a whistleblower investigation is the responsibility of the Personnel Committee, every effort will be made to effectively use available resources and processes within the County. Where appropriate, complaints/allegations will be referred to administrative processes (for example: grievance procedure)
- (c) When the results of the investigation indicate that although there may have been inappropriate conduct or behavior, there is no criminal matter, the results will be forwarded to management for action in accordance with the personnel policy; and
- (d) if the underlying causes of procedural failure or control weakness are determined, that recommendations are made to correct the situation and prevent further occurrences.

8. CAO:

- 8.1. The CAO is responsible for ensuring that appropriate administrative policies are in place and maintained to clearly define behavior and conduct expected of County employees, encourage the reporting of waste and/or wrongdoing and establish sanctions for non-compliance.
- 8.2. The CAO is also responsible for ensuring that the Personnel Committee is informed of the results of substantiated investigations into wrongdoing that are raised through the administration as part of the Whistleblower Program.

9. ALL EMPLOYEES AND CONTRACTORS:

- 9.1. Any employee/contractor who has knowledge of an occurrence of waste and/or wrongdoing, or has reason to suspect that waste and/or wrongdoing have occurred, shall report their concerns as per this policy.
- 9.2. Where the employee fears reprisals as a result of making a report under section 9.1 or the nature of the allegation precludes reporting within the administration, the employee may report their concerns to the Chair of the Personnel Committee under the Whistleblower Program.

10. MANAGEMENT:

- 10.1. Management teams are responsible for establishing and maintaining a system of internal control to provide reasonable assurance of the efficiency of their operations, including the prevention and detection of wrongdoing, waste and other irregularities.
- 10.2. Management will be familiar with the types of wrongdoing and misconduct that might occur within their area of responsibility and be alert for any indicators of such conduct.
- 10.3. Upon notification from an employee or contractor of suspected waste and/or wrongdoing, or if a manager has reason to suspect that such an act has occurred, the manager shall immediately make a report and forward the report to the CAO.

PROCEDURES

11. REPORTING WASTE AND/OR WRONGDOING:

- 11.1. The Whistleblower Program will establish and maintain sufficient and appropriate channels to facilitate reporting of suspected wrongdoing and/or waste.
- 11.2. Employees are required to report allegations of criminal activity, breaches of security or administrative policy to their supervisor, manager, or CAO. Employees may report their concerns directly to the Personnel Committee where there is a fear of reprisals.
- 11.3. Other individuals may make a complaint directly to the Personnel Committee using any of the available reporting channels. Complaints or allegations may be reported in writing, in person, by email or by telephone directly to the Chair of the Personnel Committee.
- 11.4. Complaints or allegations can be made on an anonymous basis, where the individual is not required to provide their identity.

12. INVESTIGATIONS:

- 12.1. All complaints and allegations received through the Whistleblower Program will be appropriately investigated regardless of the basis of submission unless insufficient information is provided on an anonymous basis for the investigation to proceed.
- 12.2. All County employees shall cooperate fully with the investigation team.
- 12.3. All investigations will be conducted in accordance with FOIP legislation. The investigative team will honour all requests for confidentiality and will not release this information unless required by the courts.

13. SECURITY OF EVIDENCE:

Once an allegation or complaint is received, the Personnel Committee, in consultation with the County's legal counsel, shall take immediate action to prevent the theft, alteration, or destruction of relevant records.

14. CONFIDENTIALITY:

All employees who have knowledge of or are participants in an investigation under the Whistleblower Program shall keep the details and results of the investigation confidential. The matter shall not be discussed with anyone other than the Personnel Committee, CAO and/or the RCMP.

15. COMMUNICATION AND REPORTING RESULTS:

- 15.1. At the conclusion of the whistleblower investigation, the Personnel Committee will document the results in a confidential report. The distribution of the report will be based on applicable administrative policy and the circumstances of the case.
- 15.2. Where the results of the investigation are expected to be of public interest, such as when criminal charges are laid, the Personnel Committee and the CAO will jointly develop a communications strategy and inform Council of the investigation in a manner they deem appropriate in the circumstances, unless the RCMP direct otherwise.

- 15.3. Any person contacted by the media with respect to an investigation shall refer the media to the Chair of the Personnel Committee. The results of the investigation shall not be discussed with the media by any person other than through the Chair, the Reeve, or their designate, and/or the CAO, in consultation with the Personnel Committee.
- 15.4. The Personnel Committee will coordinate the reporting of all information relating to investigations conducted under this policy to Council.
- 15.5. The Personnel Committee will report, on an annual basis, information related to investigations conducted during the year to Council.

16. ADDITIONAL PROCEDURES AND GUIDELINES:

The Personnel Committee and the CAO may jointly recommend additional detailed procedures for the effective implementation of this policy. These procedures, on approval by Council, will be part of the County’s policy library.

MOTION: _____

DATE: _____

Peter Kelly
Chief Administrative Officer