

Reporting of Breaches and Financial Irregularities Policy (formerly known as “Whistleblower” Policy)

Policy

All Councillors, officers and employees of Nipissing First Nation and all contractors and agents engaged in financial administration activities have the responsibility to report instances misconduct to the Director of Administration, the Chair of the Finance & Audit Committee or to the external source at Anishinabek Police Services. The identity of individuals who report misconduct will be protected from disclosure to the extent practicable in the circumstances, individuals who report in good faith will be protected from reprisals, persons against whom an allegation of misconduct is made will be treated fairly and allegations of misconduct will be fully investigated as efficiently as possible and resolved as appropriate.

Purpose

The purpose of this policy is to ensure there is a procedure to report, investigate, and act upon allegations of wrongdoing within the financial management system and to provide protection to persons who come forward with these reports in good faith.

Scope

This policy applies to Council, officers, employees, contractors, agents and members of Nipissing First Nation.

Definitions

“**Misconduct or Wrongdoing**” includes any breach of Nipissing First Nation’s Financial Administration Law and its conflict of interest provisions, Council policies or procedures made under Nipissing First Nation’s Financial Administration Law and includes, but is not limited to the following:

- Questionable accounting practices and inadequate internal accounting controls;
- Misleading or coercion of auditors;
- Preparation of fraudulent or misleading financial information;
- Fraud – intentional deception for personal gain;
- Material misrepresentation in disclosures made by or on behalf of Nipissing First Nation;
- Theft – theft of Nipissing First Nation physical or intellectual property;
- Misappropriation of funds – use of Nipissing First Nation’s funds for personal gain or unauthorized uses;
- Unethical behaviour including breach of conflict of interest or code of conduct policies;
- Illegal activities;
- Gross mismanagement – A deliberate act or an omission demonstrating wilful disregard for the efficient and effective management of Nipissing First Nation’s resources;

- An expenditure, liability or other transaction of Nipissing First Nation that is not authorized by or under Nipissing First Nation's Financial Administration Law.

Responsibilities

Council is responsible for:

- a) Ensuring that this policy is communicated to all affected and interested persons;
- b) Investigating reported misconduct concerning members of the Finance and Audit Committee;
- c) Ensuring that the identity of the person who makes a report of misconduct in good faith is kept confidential to the extent practical in all circumstances and not subject to reprisals for making the report;
- d) Approving policies and procedures required in Nipissing First Nation's Financial Administration Law in respect of such matters; and
- e) Supporting and fostering an ethical environment.

The Finance and Audit Committee is responsible for:

- a) Reviewing any reports provided to it respecting inquiries into the circumstances of the reported misconduct, conducting any further inquiry it considers necessary and providing a report to the Council, along with any recommendations;
- b) Taking all reasonable steps to ensure that the identity of the person who makes a report of misconduct is kept confidential to the extent practical in all circumstances;
- c) Taking necessary steps to ensure that persons who have reported instances of wrongdoing remain protected against any reprisals including but not limited to discrimination, retaliation, threats, harassment or loss of employment or employment opportunities;
- d) Making recommendations to the Council on how to address and remediate reported instances of wrongdoing; and
- e) Supporting and fostering an ethical environment.

The Chair of the Finance and Audit Committee is responsible for:

- a) Receiving reports of misconduct, making an appropriate and expeditious inquiry into the matter and reporting to the Finance and Audit Committee as soon as practicable;
- b) Taking all reasonable steps to ensure that the identity of the person who makes a report of misconduct is kept confidential to the extent practical in all circumstances;
- c) Taking necessary steps to ensure that persons who have reported instances of wrongdoing remain protected against any reprisals including but not limited to discrimination, retaliation, threats, harassment or loss of employment or employment opportunities;
- d) Reporting to Council any contravention or suspected contravention of the prohibition against reprisals.

The Director of Administration is responsible for:

- a) Communicating the Reporting of Breaches & Financial Irregularities Policy to all affected and interested persons;
- b) Ensuring all employees, consultants and contractors have signed the Acknowledgement and Agreement of the Reporting of Breaches & Financial Irregularities Policy to acknowledge that they have read, understood, and will abide by the policy;
- c) Providing a confidential reporting procedure(s) to report violations;
- d) Receiving reports of misconduct, making an appropriate and expeditious inquiry into the matter and reporting to the Finance and Audit Committee as soon as practicable;
- e) Taking all reasonable steps to ensure that the identity of the person who makes a report of misconduct is kept confidential to the extent practical in all circumstances;
- f) Taking necessary steps to ensure that persons who have reported instances of wrongdoing remain protected against any reprisals including but not limited to discrimination, retaliation, threats, harassment or loss of employment or employment opportunities;
- g) Reporting to Council any contravention or suspected contravention of the prohibition against reprisals;
- h) Securing related records;
- i) Fostering an open and supportive ethical environment.

Procedures

1. Fostering an open and ethical working environment

The Director of Administration will communicate this policy to all employees.

Each individual employed or contracted with, or acting as an agent for Nipissing First Nation in respect of the financial administration of Nipissing First Nation will be required to sign the agreement in Appendix “S” to indicate that they have read, understood and accepted its contents before employment or appointment begins.

On an annual basis, all employees and consultants will sign and date their acknowledgement of the Reporting of Breaches & Financial Irregularities Policy agreement.

The identity of any person who raises a concern of wrongdoing will remain confidential to the extent practically possible.

A person reporting a breach in good faith will receive fair and unbiased treatment throughout the investigative process and will be protected from reprisals. Council will ensure that the person is protected from any discrimination, threats, retaliation or harassment.

A person against whom a report has been made will receive fair and unbiased treatment. Where a preliminary inquiry into a report indicates a possible finding of misconduct, the person against whom the report has been made will be given an appropriate opportunity to answer the allegation in a manner consistent with the other provisions of this policy.

On an annual basis, the Finance and Audit Committee will provide Council with a report on the effectiveness of this policy and the Code of Conduct policy. Statistics regarding the

number of cases reported, investigated, resolved and outstanding will be included in the report, as well as any lessons learned or proposed changes to the policies.

2. Methods to report suspected wrongdoing

Council has established the following procedures to receive, retain, investigate and act on complaints and concerns of councillors, officers, employees, contractors and agents of Nipissing First Nation regarding instances of misconduct or wrongdoing.

The Director of Administration will ensure that the procedures noted above will be included in the contracts of contractors and the appointment of agents and committee members.

The Director of Administration, the Chair of the Finance and Audit Committee and the external source at Anishinabek Police Services are authorized to receive and inquire into reports of misconduct or wrongdoing.

The Director of Administration, the Chair of the Finance and Audit Committee and the external source at Anishinabek Police Services will report their respecting findings of an inquiry into a report of misconduct or wrongdoing that they receive.

The Finance and Audit Committee is authorized to inquire further into any findings reported to it by the Director of Administration, the Chair of the Finance and Audit Committee and the external source at Anishinabek Police Services.

Any report received by Nipissing First Nation's officers, employees, contractors or agents from any source inside or outside Nipissing First Nation should be immediately forwarded to the Chair of the Finance and Audit Committee Chairperson. Councillors should report directly to the Chair of the Finance and Audit Committee.

Nipissing First Nation officers, employees, contractors or agents should forward their reports to the Director of Administration, the Chair of the Finance and Audit Committee and the external source at Anishinabek Police Services.

Instances of wrongdoing can be reported directly to the Director of Administration in the following ways:

- In writing to the attention of the Director of Administration: Freda Martel, 36 Semo Road, Garden Village, ON P2B 3K2;
- Via telephone to the Director of Administration at (705) 753-2050, extension 1223.
- Anonymously in writing to the Director of Administration.

Instances of wrongdoing can be reported directly to the Chair of the Finance and Audit Committee in the following ways:

- In writing to the attention of the Chair of the Finance and Audit Committee: Muriel Sawyer, 36 Semo Road, Garden Village, ON. P2B 3K2.
- Via telephone to the Chairperson of the Finance and Audit Committee at (705) 477-1198.

- Anonymously in writing to the Chairperson of the Finance and Audit Committee.

Instances of wrongdoing can be reported directly to an external source, the Inspector of the Anishinabek Police Services (APS) in the following ways:

- In writing to the attention of the external source Inspector, Anishinabek Police Services (APS): Marc LeSage, 16 Megezee Street, Garden River, ON P6A 6Z1;
- Via telephone to the external source Inspector of Anishinabek Police Services (APS) at (705) 946-4196;
- Anonymously in writing to the external source Inspector of Anishinabek Police Services (APS).

3. Inquiring into reported wrongdoing

Promptly upon receipt of a report, the Director of Administration, the Chair of the Finance and Audit Committee and the external source at Anishinabek Police Services, as the case may be, will:

- Confirm in writing to the party who has reported an alleged misconduct that the report has been received;
- Ensure that the identity of the person(s) making the report is kept confidential to the extent possible and that individuals who report in good faith are protected from reprisals;
- Include the report on a confidential written docket, summarizing in reasonable detail:
 - The nature of the report (including specific allegations made and the names of the persons involved);
 - The date of receipt of the report;
 - The current status of any inquiry;
 - The report made to the Finance and Audit Committee;
 - Any final resolution of the reported wrongdoing.

Decide upon the appropriate action to be taken when conducting the inquiry and start the inquiry as soon as possible. The inquiry should seek to confirm or refute the facts presented;

When the alleged incident is of significant risk (to the operations, reputation, etc. of Nipissing First Nation), related to potential criminal acts by individuals, or of high financial value to Nipissing First Nation, the Director of Administration, the Chair of the Finance and Audit Committee and the external source at Anishinabek Police Services may retain external expertise to conduct the inquiry;

Within a period of eight weeks from the moment the report has been received, inform the party who reported the alleged irregularity of the status of the inquiry and steps that have been taken or will be taken following the results of the inquiry;

If the inquiry cannot be completed with the eight week time frame, inform in writing the person who reported the alleged irregularity and indicate a new time frame for the conclusion of the inquiry;

Report on the progress of current inquiries at each Finance and Audit Committee meeting;

Upon completion of the inquiry, report to the Finance and Audit Committee on the conduct of the inquiry and the result of the inquiry and recommend actions to be taken.

Upon receipt of the report from the Director of Administration, the Chair of the Finance and Audit Committee and the external source at Anishinabek Police Services, the Finance and Audit Committee will determine if it will conduct any further inquiry into the matter but in any event will make a report to the Council of the circumstances reporting to the Committee including the Committee's recommendations if any.

The Finance and Audit Committee will actively monitor inquiries to ensure they are conducted in accordance with this policy.

If the reported wrongdoing concerns a member of the Finance and Audit Committee, the Council will inquire into the matter or retain external expertise to conduct the inquiry.

4. Responding to wrongdoing and initiating remedial actions

After considering the final report of the results of an inquiry, the Finance and Audit Committee will recommend a course of action to Council which will make a decision to resolve the issue as soon as practical.

Resolution actions will be commensurate with the severity of the wrongdoing incurred, and can include reprimands, leave without pay, termination, revocation of appointment or other remediation as determined by the Council and subject to the provisions of the Disciplinary and Dismissal Policy.

Police will be contacted if activities of a criminal nature are identified.

Recovery of Nipissing First Nation funds, either expended or forfeited, as a result of the wrongdoing as described in Nipissing First Nation's Financial Administration Law will be tracked and collected from the responsible individual(s).

*Approved this 27th day of May, 2015,
Amended and Approved by C&C this 4th day of October, 2016,
Amended and approved by C & C this 18th day of December, 2018.*

Reporting of Breaches & Financial Irregularities Policy - Acknowledgement and Agreement

This is to acknowledge that I have received and read a copy of Nipissing First Nation's Reporting of Breaches & Financial Irregularities Policy. I understand that the integrity of the financial information and other information of Nipissing First Nation is vital.

I further understand that Nipissing First Nation is committed to a work environment free of discrimination, retaliation, threats or harassment for employees and contractors who has raised concerns regarding financial misconduct or wrongdoing and that Nipissing First Nation specifically prohibits reprisals against any person who makes a good faith report regarding such concerns. Accordingly, I specifically agree that to the extent I have concerns of financial misconduct or wrongdoing that I reasonably believe to be in violation of Nipissing First Nation's laws or policies, I will immediately report such conduct in accordance with Nipissing First Nation's Reporting of Breaches & Financial Irregularities Policy.

I confirm that I have read this policy and understand the expectations of me contained herein.

_____ Employee's/Contractor's Signature

_____ Employee's/Contractor's Name [printed]

Date