Title: Whistleblower	☒ **Policy** ☒ **Procedure** ☐ **SOP**
Category: General **Sub-category:** Administration	**Distribution:** Organization Wide
Approved: Board of Directors **Signature:**	**Approval Date:** Oct. 2, 2007 **Reviewed/Revised Date:** Aug. 16, 2023 **Next Review Date:** Aug. 16, 2026

CROSS REFERENCES: (ADMIN-06) Conflict of Interest, (ADMIN-28) Ethical Business Conduct, (ADM-2-22) Health Professions Sub-standard Practice Issue Management, (HR-hr-08) workplace harassment investigation process, (HR-tce-10) Code of Conduct, (QM-50) Patient care and quality management concerns, (QM-90) Ethical Consultations, (OHS-os-203) Occupational health and safety concerns

1. PURPOSE

Provide for the protection from retaliatory actions for individuals who submit concerns in good faith regarding questionable activity or compliance by employees and other stakeholders.

2. POLICY STATEMENT

Thunder Bay Regional Health Sciences Centre (The Hospital) promotes and supports a culture of transparency, accountability, safety and ethical standards. Accordingly, when a member of the Hospital Community has reasonable grounds to believe that another person has engaged in inappropriate or unlawful acts in the workplace, they are encouraged to disclose this information with the confidence that an investigation will take place and they will be treated fairly and protected from reprisal.

3. SCOPE

3.1 Applicability

Applies to Employees of the Hospital, Members and Officers of the Boards of Directors, Professional Staff, Contractors, Learners and Volunteers.

3.2 Reportable Activities

Reportable activities include concerns of, but are not limited to:

- Non-compliance with legal and regulatory requirements;
- Suspected theft or fraud;
- Fraudulent reporting;
- Unethical behavior or practices;
- Questionable accounting, controls and auditing matters;
- Developing deals and/or accepting gifts for one's own personal benefit/gain;
- Knowingly directing or counseling a person to commit an incident of wrongdoing;
- Failure to comply with the Hospital's internal controls or policies;
- Circumventing the Hospital's internal controls or policies;
- A retaliatory act against any party who, in good faith, reports a suspected violation or concern;
- Any actions designed to have the effect of concealing any of the above.

3.3 Exclusions

This policy is not meant to duplicate existing processes or remedies that are available through policy, legislation or otherwise; it is to be used when no other avenue for the concern or complaint exists or when an existing process or remedy has been frustrated or has failed. Certain patient, health, safety and other matters have established legal and/or other processes for reporting and investigation and/or require immediate action by authorized individuals.

The following matters are generally excluded from the scope of this policy, due to other applicable policy and procedure:

- Occupational health and safety concerns (OHS-os-203);
- Patient care and quality management concerns (QM-50);
- Workplace harassment investigation process (HR-hr-08), human rights and/or misconduct covered by Collective Agreements and/or other Human Resource policies.
- Health Professions Sub-standard Practice Issue Management (ADM-2-22)

If, after exhausting all other appropriate internal mechanisms, non-compliance concerns remain, an individual, acting in good faith, may make a disclosure report using the process described within this policy without fear of retaliation.

Allegations that are found to be trivial, frivolous, vexatious or made in bad faith will not be treated as a disclosure and will not be pursued under the Whistleblowing policy.

4. DEFINITIONS

"Allegation" is an assertion which may or may not be supported by evidence.

"Complainant" a person who has made an allegation or disclosure report for the purposes of this policy.

"Contractor" is an external party working onsite in any manner – could be servicing, completing repairs, construction, etc.

"Disclosure" is a complaint made by a Complainant about a serious violation, wrongdoing or reprisal.

"Employee" includes senior leaders, management and staff.

"Fraud" is an act by deceit, falsehood or other fraudulent means (acts a reasonable person would consider dishonest) defrauds the public or any person of any property, money or valuable security as well as the intentional or reckless misrepresentation of fact in the face of a duty to disclose, which deceives another and causes that other legal injury.

"Good Faith" means that the complainant reasonably believes that the concern is true and it has not been made either for personal gain or for any ulterior motive.

"Hospital Community" refers to employees, board members and officers, professional staff, contractors, learners and volunteers.

"Independent Compliance Provider" (ICP) is an independent agency, external to the Hospital, appointed by the President and CEO and Board of Directors to receive, validate, disseminate report and where deemed necessary, investigate allegations in accordance with this policy.

"Internal Reviewers" (IR) are the internal subject matter experts identified to receive and manage validated disclosures from the ICP.

"Misconduct" includes but is not limited to a violation of a law, rule, regulation and/or a direct threat to public interest, such as fraud, health and safety violation, and corruption.

"Retaliation" any adverse action against a Complainant or act of seeking revenge upon another because they reported a suspected violation.

"Volunteer" is a person who will augment and enhance, but not replace, the services provided by the employees of Thunder Bay Regional Health Sciences Centre (the Hospital).

5. PROCEDURE

5.1 Reporting Procedure

The Hospital has well established procedures to enable members of the Hospital Community to escalate concerns through a variety of policies. The processes outlined in these policies should be the channel of choice for most concerns.

Advice or assistance in managing or escalating workplace issues or concerns is available from the Human Resources Department. The Human Resources Department can also be contacted to provide guidance to members of the Hospital Community who are unsure which reporting mechanisms to use.

Members of the Hospital Community who have identified a serious violation and who feel that the internal reporting channels have not adequately addressed the concern, can report it to the Independent Compliance Provider "ICP", Clearview Connects™ by:

- Phone – by calling a live agent at 1-877-887-3120.
- Online – by submitting a report at www.clearviewconnects.com
- Mail – by sending a letter to Clearview Connects at P.O. Box 11017, Toronto, ON, M1E 1N0

The Complainant should provide as much information as possible to enable a full investigation. Information must be facts and not speculative and should include, but not limited to:

- Details of the nature of the incident and/or description of the reportable activity;
- Where and when incidence or activity occurred and/or if on-going;
- Names and titles of individuals suspected of reportable activity;
- Names and titles of other potential witnesses;
- How they became aware of the reportable activity;
- Any action taken to date such as others informed of incidence or reportable activity prior to making submission under this policy;
- Their name and contact information, in accordance with 5.11 Confidentiality.

5.2 Role of the Independent Compliance Provider (ICP)

- Provides the independent reporting channels to receive disclosures.
- Confirms receipt of disclosure submissions with the Complainant within five business days of receipt.
- Documents the disclosure and opens a confidential file to document the disclosure and all activity to address the concern, maintained in a secure location.
- Reports disclosures to the Hospital's designated internal reviewer in accordance with 5.7 Reporting.
- Ensures that the designated internal reviewer is not subject of the disclosure or any allegations within and redirects as necessary per 5.7 Reporting.
- Protects the confidentiality of the complainant and the accused to the extent possible.

5.3 Role of the Internal Reviewer (IR)

- Receives the disclosure from the ICP.
- Advises the President and CEO upon receipt of a disclosure from the ICP and keeps them informed on the process, findings and resolution.
- Assesses the disclosure to determine if an investigation shall commence. This will include an assessment of the risks and immediately recommend appropriate preventative measures if required.
- Determines based on the nature and complexity of the disclosure and any issues arising therein if support and/or guidance of the ICP and other internal or external supports such as legal counsel, other internal subject matter experts, third party experts or investigators, including appropriate law enforcement or regulatory authorities is required.
- Empowered to cease further investigation if the disclosure does not fall within scope of this policy, per 5.5 below.
- Protects the confidentiality of the complainant and the accused to the extent possible.

5.4 Investigation

- Where further investigation is deemed warranted, the IR will initiate the investigation process.
- The determination of the investigator will depend on the nature of the disclosure. In cases where conflict of interest is identified the investigation will be assigned to BDO Canada in accordance with the agreement with Clearview Connects™.
- Wherever possible the investigation will begin within 30 days.
- The determination of the need for an investigation and who will conduct the investigation shall be communicated to the Complainant via the online platform.
- All members of the Hospital Community are expected to cooperate fully in any investigation.
- The Investigator will ensure that the investigation process is documented.
- The investigator will interview witnesses and obtain applicable documentation and records as appropriate to review and analyze in order to reach a finding.
- Upon completion of an investigation, a summary including the following information will be provided to the President and CEO:
  - Incident date;
  - Disclosure date;
  - Name and title of Investigator if applicable;
  - Complainant name(s);
  - Respondent name(s) and contact log;
  - Summary of complaint;
  - Summary of findings;
  - Action(s) taken;
  - Recommendations for preventative measures if applicable.

5.5 No Investigation

A recommendation to cease or decline to pursue an investigation will be made if it is determined that:

- The disclosure is frivolous or vexatious, or has not been made in good faith;
- The allegations even if found to be true do not constitute inappropriate conduct;
- The disclosure relates to a matter that could more appropriately be dealt with according to the procedures under a collective agreement, employment agreement, by-law or a more appropriate hospital policy;
- So much time has elapsed between the date when the subject matter of the disclosure occurred and the date when the disclosure was made that investigating it would not serve a useful purpose;
- The disclosure does not provide adequate details to permit a proper investigation;
- Or there is another valid reason for not investigating the disclosure.

The recommendation will be presented to the President and CEO and communicated to the Complainant.

5. 6 Findings

The following will be reported in accordance with 5.7 Reporting:

- Unsubstantiated disclosures;
- Findings of wrongdoing or reprisal;
- Findings that a disclosure is trivial, frivolous, vexatious, or made in bad faith;
- Findings of failure to co-operate in the process; and
- Findings of a breach of confidentiality.
- If the disclosure cannot be substantiated, no further action will be taken and the complainant and respondent will be notified.
- If the allegations are substantiated, the IR will provide a summary report, taking into account privacy and the public interest. The Complainant may be required to sign a confidentiality agreement in advance of receiving the summary report.

Those found to have engaged in improper conduct in any of the categories listed above may be subject to corrective action, up to and including the termination of their employment or engagement with the Hospital. The IR will consult with the CEO, management and Human Resources to determine appropriate corrective action.

5.7 Reporting

The ICP sends a report notification to the IR upon confirmation of a validated disclosure.

The IR reports all new disclosures to the President and CEO and keeps them apprised of all matters under investigation and subsequent findings and recommended resolutions.

The Resource Planning & Audit Committee of the Board receives:

- A report of all allegations involving legal, accounting, internal controls or audit matters and/or suspected fraud of any amount; and

An annual report reconciliation on reporting frequency, disclosure activity, resolutions and/or status will be provided to the Human Resources Committee of the Board.

5.8 Conflicts of Interest

- Disclosures regarding an IR are reported to an alternate IR.
- Disclosures involving the President and CEO are reported to the Chair of the Board of Directors.
- Disclosures regarding the Chair of the Board will be reported to the Vice Chair of the Board.

5.9 No Retaliation

A person who, in good faith, makes an allegation in accordance with this policy is protected from and not subject to reprisal, harassment or retaliation.

Members of the Hospital Community are subject to disciplinary action up to and including termination of the person's relationship with the Hospital, if a member retaliates against another, who, acting in good faith, has made a disclosure in accordance with this policy or against an individual identified as a witness.

5.10 Acting in Good Faith

Anyone making a disclosure concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation.

Anyone who makes unfounded allegations that are proven to have been made recklessly, maliciously, or with the foreknowledge that the allegations were false is subject to disciplinary action.

Anyone who fails to report a known violation or to disclose relevant information so that appropriate action may be taken is subject to disciplinary action.

5.11 Confidentiality

The Hospital is committed to treating all disclosures confidentially and seriously.

Complainant names must be revealed to allow for the proper investigation of the allegations. While disclosures cannot be made anonymously, confidentiality will be preserved to the extent appropriate or possible in the circumstances.

An individual accused of wrongdoing is afforded due process and protection from unmerited personal and professional harm.

Breach of confidentiality to individuals not involved in the investigation is viewed as a serious disciplinary offense, subject to disciplinary action.

6. POLICY COMMUNICATION AND EDUCATION

This policy will be easily accessible in an electronic format to all members of the Hospital community via the Hospital's internal iNtranet and external internet site.

Employees are responsible for educating themselves and any employees they supervise regarding this policy and regulations and laws specifically applicable to their areas, professions and/or positions.

There will be annual review of this policy in conjunction with the annual review of Ethical Business Conduct, ADMIN-28, by the Health Human Resources Committee of the Board, and management from departments including but not limited to:

- Financial Services
- Human Resources
- Materials Management
- Pharmacy
- Purchasing

7. RELATED PRACTICES AND/OR LEGISLATIONS

Criminal Code, Section 425.1
Employment Standards Act
Environmental Protections Act
Occupational Health and Safety Act
Public Servants Disclosure Protection Act, 2007
Public Service of Ontario Act, 2006

8. REFERENCES

TBRHSC Framework for Ethical Decision Making
Grant Thornton Hear that whistle blowing! Establishing an effective complaint-handling process Corporate Governor Series August 2006 Volume 2, Issue 2
Whistleblowing Policy and Procedure, Ornge, July 2020
Whistleblowing Policy Kingston Health Sciences Centre, October 2020