

Policy/Procedure	Applegrove Disclosure of Wrong Doing and Reprisal Protection Policy
Date Approved by Board	December 14, 2015 May 31, 2021
Change History (date, reason)	August 2016 – revisions drafted, not finalized April 2021 – revisions completed and finalized
Most Recent Review	April 2021

1. BACKGROUND

In June 2014, City Council approved the Toronto Public Service By-law¹ (TPS By-law) which is an important piece of foundation legislation that strengthens the separation between the administrative and political components of Toronto’s government, and advances Toronto’s public service as professional, impartial and ethical.

2. POLICY STATEMENT

Applegrove Community Complex (Applegrove) will not tolerate wrong doing or reprisals against employees who report wrong doing. All employees have a duty to report suspected wrong doing. Disclosures of wrong doing will be investigated in accordance with these provisions in order to maintain public confidence in our services and use of our resources.

These provisions address only those matters that are in the public interest and for which there are no established mechanisms for consideration and investigation. For example, it is not intended to address matters that can be dealt with through existing procedures, established through Collective Agreements or City of Toronto and Applegrove policies such as anti-harassment or health and safety.

3. DEFINITIONS AND INTERPRETATION

Wrong Doing

Wrong doing refers to serious actions that are contrary to the public interest including but not limited to:

- Fraud
- Theft of Applegrove or City assets

¹ The full report can be found at <http://www.toronto.ca/legdocs/mmis/2014/ex/bgrd/backgroundfile-69449.pdf>.

- Waste: mismanagement of Applegrove resources or assets in a willful, intentional or negligent manner
- Violations of Applegrove or City of Toronto Conflict of Interest provisions
- Breach of public trust

Wrong Doing - additional definition explanation

- A contravention of a Federal or Provincial law that may give rise to a prosecution.
- Misuse of public funds or a public asset.
- Acts or omissions that create a grave and unreasonable danger to life, health, safety of persons or to the environment other than a danger that is inherent in the performance of the duties or functions of a public servant
- Gross mismanagement in the public sector (e.g. gross waste, abuse of authority etc.)
- Directing or counselling someone to commit a wrongdoing listed above

Reprisal

Reprisal is any measure taken or threatened as a direct result of an employee disclosing or being suspected of disclosing an allegation of wrong doing, initiating or co-operating in an investigation into alleged wrong doing. Reprisal includes but is not limited to:

- Disciplinary measures
- Demotion
- Suspension
- Termination
- Intimidation or harassment
- Any punitive measure that adversely affects the employment or working conditions of the employee
- Directing or counseling someone to commit a reprisal

Wrong doing refers to serious actions that are contrary to the public interest. Wrong doing does not include issues that can be handled through other established processes or procedures, for example personal grievances, harassment or discrimination, work-related grievances, or issues related to occupational health and safety. These types of matters will be referred to the appropriate forum for review, investigation and resolution.

4. APPLICATION

This policy applies to all Applegrove employees.

5. DISCLOSURE OF WRONG DOING

All employees who are aware that wrong doing has occurred will immediately notify their manager, the Executive Director (Agency Head) or the Board.

Allegations received by Managers other than the Executive Director must be immediately reported to the Executive Director (Agency Head) who will investigate the allegations in a timely manner. If an allegation of wrong doing is received by the City Manager, it will be reported to the Executive Director and investigated in a timely manner.

Board members will follow the City's Code of Conduct for Members of Local Boards (restricted definition).

Employees who report wrong doing in good faith will be protected from reprisal.

Anonymous Reporting: Employees may remain anonymous when reporting suspected wrong doing. Anonymous reports can be made via:

- An unsigned letter
- An anonymous e-mail to the Applegrove or Executive Director's e-mail
- An anonymous e-mail to the confidential Board e-mail

Anonymous complaints will be investigated in accordance with this policy.

Reported allegations that do not constitute wrong doing as defined in the Disclosure of Wrong Doing and Reprisal Protection provisions, will be referred to the Executive Director (Agency Head) or the appropriate Division, City official including the Human Rights Office, or Accountability Officer(s), for investigation and appropriate action.

6. INVESTIGATING ALLEGED WRONG DOING

All disclosures of alleged wrong doing as defined in the Disclosure of Wrong Doing and Reprisal Protection provisions will be investigated in a timely manner. The Executive Director (Agency Head) or designate will direct the investigation depending on the nature and scope of the wrong doing.

The Executive Director will notify the Executive Director, Human Resources / designate who will provide oversight to ensure investigations of alleged wrong doing led by the Executive Director are appropriately conducted. The Executive Director will periodically report on the status of any ongoing investigation of alleged wrong doing to the Executive Director, Human Resources and including the final outcome of the investigation.

Decisions to prosecute or refer the investigation results to the Toronto Police Service or other regulatory agencies for independent investigation will be made through a consultative process between the City Manager, City Solicitor and the Executive Director of Human Resources.

Expectations of Employees

Employees will fully co-operate with the investigation and with law enforcement agencies during the course of an investigation and will make all reasonable efforts to be available to assist the above noted persons with the investigation.

If employees are contacted by the media about a wrong doing investigation, they will not comment and will refer the media to the Executive Director or designate.

7. REPRISAL PROTECTION

No one shall take reprisal against an Applegrove employee because the employee:

- has sought information or advice about making a disclosure about wrong doing
- has made a good faith report about wrong doing
- has acted in compliance with the Disclosure of Wrong Doing and Reprisal Protection provisions
- has initiated or co-operated in an investigation or other process related to a disclosure of wrong doing
- has appeared as a witness, given evidence or participated in any proceeding relating to the wrong doing, or is required to do so
- has alleged or reported a reprisal
- is suspected of any of the above actions

Reprisal protection may not be able to be extended to employees whose identity cannot be confirmed.

8. INVESTIGATING ALLEGED REPRISAL

An Applegrove employee who believes that they are the subject of a reprisal following a disclosure of wrong doing shall notify the Executive Director immediately. If the reprisal involves a Member of City Council or a Member of the Board, the employee shall notify the Integrity Commissioner immediately. If the reprisal involves the Executive Director, the employee shall notify the City Manager and the Board Chair immediately.

An employee informed of, or who becomes aware of a reprisal against another employee, has a duty to notify the Executive Director or in the case of a Councillor or a Board member, the Integrity Commissioner. Where the Executive Director receives such disclosures, they will

immediately notify the Director, Human Resources or Integrity Commissioner and will undertake to ensure that the employee is protected from any further reprisal.

An employee informed of, or who becomes aware of a reprisal against another employee by the Executive Director, has a duty to notify the City Manager and Board Chair immediately. The City Manager will undertake to ensure that the employee is protected from any further reprisal.

Allegations of reprisal will be the subject of investigation. The Executive Director will lead the investigation of alleged reprisals involving staff in consultation with the Director, Human Resources. The Integrity Commissioner will lead the investigations of alleged reprisals involving Members of City Council or Members of Local Boards.

If the investigation substantiates the allegations of reprisals, the Executive Director will inform the Executive Director, Human Resources and the employee(s) involved will be subject to disciplinary action up to and including dismissal as determined by the Executive Director in consultation with the City Solicitor and Executive Director of Human Resources. The Executive Director will consult with the Director of Human Resources and the City Solicitor to determine and take appropriate actions to stop, reverse or remedy a reprisal against an employee.

9. ALLEGATIONS ABOUT THE AGENCY HEAD

Where it is alleged that the Applegrove Executive Director (Agency Head) has committed wrongdoing, improperly breached confidentiality under the policy or committed a reprisal, the Board Chair will be notified of the allegation. The Board Chair will notify the City Manager's Office of the allegation.

The Board Chair will consult with the City Manager's Office for advice on how to manage the investigation. The investigation may include retaining a third party investigator to conduct an investigation. The results of the investigation will be shared with the Board and the City Manager's Office.

10. ALLEGATIONS AGAINST A BOARD MEMBER

Where it is alleged that a Member of the Agency Board has committed wrongdoing, improperly breached confidentiality under this Policy or committed a reprisal, the City's Integrity Commissioner is responsible for receiving, reviewing, investigating and reporting pursuant to the City of Toronto Act, 2006 and Code of Conduct for Members of Local Boards.

Board Members and the Agency Head will cooperate with the Integrity Commissioner during investigations of wrong doing and provide the Integrity Commissioner with access to information.

11. REPORTING

The Executive Director will track and report annually to Applegrove Board of Management on the disclosure, investigations and resolution of allegations of wrong doing.

12. IMPLEMENTATION

All employees will receive a copy of this policy at the time of orientation. All existing employees will receive a copy of the policy as well.

13. RELATED INFORMATION

- Applegrove Complaints Procedure
- Applegrove Conflict of Interest Policy
- Applegrove Human Rights and Anti-Harassment/Discrimination Policy
- City of Toronto Code of Conduct Complaint Protocol for Members of Local Boards (Restricted Definition) including Adjudicative Boards
- City of Toronto Code of Conduct for Local Boards
- Toronto Public Service Bylaw (particularly Conflict of Interest and Political Activity provisions)