

POLICY TITLE: NSBI Disclosure of Wrongdoing Policy

POLICY STATEMENT: Nova Scotia Business Inc. (NSBI) provides employees a safe environment to bring forward disclosures of potential wrongdoing without fear of reprisal and to have claims of wrongdoing investigated fairly and without bias.

PURPOSE / OBJECTIVE: The purpose of the NSBI Disclosure of Wrongdoing Policy (this Policy) is to provide a framework to facilitate the disclosure and investigation of potential wrongdoing and to provide protection for those who make a disclosure in good faith.

The framework for the disclosure of wrongdoing set out in this Policy is intended to be, to the degree attainable, consistent with the intent and framework set out under the province's *Public Interest Disclosure of Wrongdoing Act* that applies to government departments.

This Policy is the avenue for dealing with wrongdoings as defined in this Policy and is not intended to deal with all matters and concerns employees may have. Additional processes for bringing forward concerns include those under the *Occupational Health and Safety Act*, the *Human Rights Act*, NSBI corporate administrative policies and the grievance process.

DEFINITIONS: **Designated officer** – means the person designated by the President & CEO under Policy Directive 1.1 of this Policy to receive and deal with disclosures.

Disclosure – means a report in writing of a wrongdoing or potential wrongdoing made in good faith by an employee in accordance with this Policy.

Employee – means a person employed by NSBI.

Gross mismanagement – means an act or omission that is deliberate and shows a reckless or willful disregard for the efficient management of significant NSBI or government resources.

Information that is subject to cabinet confidentiality – means information that would reveal the deliberations of the Executive Council or any of its committees, including any advice, recommendations, policy considerations or draft legislation or regulations submitted or prepared for submission to the Executive Council or any of its committees.

Procedural fairness and natural justice – means a duty to allow persons affected by a decision to have a reasonable opportunity of presenting their case, and the duty to act fairly, to listen to arguments, and to reach a decision in a manner untainted by bias.

Reprisal – means a disciplinary measure, a demotion, termination of employment, any measure that adversely affects an employee's employment or working conditions, or a threat to take any of these measures.

Wrongdoing – means:

- (i) a contravention of Provincial or federal statutes or regulations if the contravention related to official activities of the employee or any NSBI, or public, funds or assets,
- (ii) a misuse or gross mismanagement of NSBI, or public, funds or assets,
- (iii) an act or omission that creates a substantial and specific danger to the life, health or safety of persons or the environment, or
- (iv) directing or counselling someone to commit a wrongdoing described in (i) to (iii) above.

APPLICATION: This Policy applies to all employees of NSBI.

POLICY DIRECTIVES:

1. Designated officer

- 1.1 The President & CEO shall appoint a person to be the designated officer.
- 1.2 The designated officer may, with the President & CEO's approval, appoint a person to investigate a disclosure of wrongdoing.

2. Advice about disclosure

- 2.1 An employee may make a request to the designated officer for advice regarding a possible disclosure.
- 2.2 The designated officer may require the request for advice to be in writing.

3. Making disclosure

- 3.1 Where an employee reasonably believes that a wrongdoing has been committed or is about to be committed, the employee has a duty to, make a disclosure to one of the following, as best appropriate:
 - (a) their supervisor,

- (b) People Services,
- (c) a member of the Executive Team,
- (d) the designated officer, or
- (e) the President & CEO.

- 3.2 A disclosure must be in writing and include, if known,
- (a) a description of the wrongdoing;
 - (b) the name of the person or persons alleged to have committed the wrongdoing or about to commit the wrongdoing;
 - (c) the date of the wrongdoing; and
 - (d) whether a disclosure has already been made respecting this wrongdoing and any response received.

- 3.3 Where an employee makes a disclosure to their supervisor, or to People Services, or a member of the Executive Team the person receiving the disclosure must forward the disclosure immediately to the designated officer. If the potential wrongdoing relates to the designated officer, then the person receiving the disclosure must instead forward the disclosure immediately to the President & CEO.

- 3.4 Disclosures under this Policy must be made within twelve months of the employee becoming aware of the wrongdoing.

4. Matter constitutes imminent risk of danger

- 4.1 Where an employee reasonably believes a matter constitutes an imminent risk of substantial and specific danger to the life, health or safety of persons or to the environment such that there is insufficient time to make a disclosure under Policy Directive 3.1, the employee may make a disclosure to the public
- (a) if the employee has first made the disclosure to an appropriate law enforcement agency or, in the case of a health-related matter, to the Office of the Chief Medical Officer of Health; and
 - (b) subject to any direction that the law enforcement agency or medical officer referred to in clause (a) considers necessary in the public interest.

- 4.2 An employee who has made a public disclosure pursuant to Policy Directive 4.1 shall immediately make a disclosure about the matter to the employee's supervisor or designated officer.

5. Information not to be disclosed

- 5.1 Nothing in this Policy authorizes the disclosure of
- (a) information that is subject to Cabinet confidentiality; or
 - (b) information protected by solicitor-client privilege.

6. Personal or confidential information

- 6.1 Where a disclosure involves personal or confidential information, the employee shall take reasonable precautions to ensure that no more information is disclosed than necessary to make the disclosure.

7. Employee duty to report

- 7.1 Nothing in this Policy respecting disclosures is to be construed as affecting an employee's duty to report or otherwise give notice of any matter under any Act.

8. Investigation

- 8.1 The designated officer shall investigate the disclosure in accordance with any procedures that may be established in accordance with this Policy.
- 8.2 Where the designated officer believes they would be in a potential conflict of interest if they were to investigate a disclosure made to them, they must immediately forward the disclosure to the President & CEO who then directs the investigation.

If the disclosure relates to the President & CEO, the designated officer must instead immediately forward the disclosure to the NSBI Board Chair who then directs the investigation.

If the disclosure relates to an NSBI Board Director, the designated officer must instead immediately forward the disclosure to the NSBI Board Chair or the Audit Committee Chair, as may be appropriate, who then directs the investigation.

- 8.3 All investigations conducted under this Policy must be done in such a way to ensure that the right to procedural fairness and natural justice is respected for all persons involved in an investigation, including
- (a) employees who make a disclosure;
 - (b) witnesses; and
 - (c) persons alleged to be responsible for wrongdoings.
- 8.4 An investigation shall be conducted as informally and expeditiously as possible.
- 8.5 Where the designated officer learns of another wrongdoing during the investigation, the designated officer may investigate that wrongdoing in accordance with this Policy, unless the designated officer believes they would be in a potential conflict of interest if they were to investigate that wrongdoing, then they must forward the matter consistent with Policy Directive 8.2.
- 8.6 Except as is required to administer this Policy, and any procedures developed in accordance with this Policy, all NSBI employees who participate in or are involved in any way in any process under this Policy must not reveal:
- (a) the identity of a person making a disclosure;
 - (b) the identity of a person alleged to have committed a wrongdoing;
 - (c) the identity of a person who provides information related to a disclosure.

9. No investigation

- 9.1 The designated officer may decide not to investigate a disclosure and may cease an investigation if the designated officer believes that
- (a) a procedure provided for pursuant to an Act would be more appropriate;
 - (b) the disclosure is frivolous or vexatious or has not been made in good faith;
 - (c) so much time has elapsed between the date when the matter disclosed arose and when the disclosure was made that an investigation would serve no useful purpose;
 - (d) the disclosure does not contain sufficient information as required by Policy Directive 3.2;
 - (e) the procedures under a collective agreement or employment agreement would be more appropriate for a resolution of the matter; or
 - (f) there is another valid reason for not investigating.

10. Report of findings and recommendations

- 10.1 The designated officer shall, once the investigation is complete, prepare a report containing the designated officer's findings and any recommendations concerning the disclosure and the wrongdoing, as may be directly related to the investigation of the disclosure.
- 10.2 The designated officer's findings and recommendations report must be provided to the President & CEO. However, if the matter being investigated involves the President & CEO, then the designated officer shall provide the findings and recommendations report to the NSBI Board Chair.
- 10.3 A statement of the outcome of the investigation must be provided to the employee that made the disclosure. "A statement of the outcome of the investigation" means a statement of whether or not the investigation resulted in a finding of wrongdoing.
- 10.4 The outcome of the investigation including a summary of the investigative findings and any recommended corrective action must be provided to the alleged wrongdoer.

11. Annual report

- 11.1 The designated officer shall, by June 30 each year, prepare and submit to the President & CEO for approval an annual report of disclosures.
- 11.2 The annual report must include:
- (a) the number of disclosures received,
 - (b) the number of investigations commenced as a result of a disclosure, and
 - (c) any findings of wrongdoing
 - (d) any corrective actions taken or the reasons why no corrective action taken
- 11.3 The annual report shall be available to the public.

12. Employer disciplinary authority

- 12.1 Nothing in this Policy overrides the authority of NSBI as employer to take any disciplinary measures against an employee as NSBI deems necessary.

13. Disclosure by non-employee

- 13.1 Where a person who is not an employee reasonably believes that the person has information that a wrongdoing has been committed or is about to be committed by an officer or employee of NSBI, the person may provide that information to the designated officer.
- 13.2 Information provided pursuant to Policy Directive 13.1 must meet the requirements of Policy Directive 3.2.
- 13.3 Where the designated officer decides to investigate information received pursuant to policy directive 13.1, the designated officer shall be guided by Policy Directives 8, 9 and 10 of this Policy.
- 13.4 The designated officer shall provide a statement of the outcome of any investigation to the person who provided the information about the wrongdoing.

14. No reprisal

- 14.1 No reprisal shall be taken against an employee because the employee has in good faith taken any actions under this Policy.
- 14.2 Taking a reprisal constitutes employee misconduct, will not be tolerated by NSBI, and may result in disciplinary action up to and including termination.
- 14.3 An employee who alleges that a reprisal has been taken against the employee, may lay a complaint with the Labour Board under the *Labour Board Act*.

15. No false, obstructive or destructive activity

- 15.1 An employee shall not knowingly make a false or misleading statement, orally or in writing, to a supervisor, to the designated officer, to any person conducting or directing an investigation of a disclosure, or to a person acting on the behalf of the supervisor, designated officer or person conducting or directing the investigation.
- 15.2 An employee shall not willfully obstruct a designated officer, or any other person conducting or directing an investigation of a disclosure, or any person acting on their behalf or under their direction, in the performance of a duty under this Policy.
- 15.3 An employee shall not, knowing that a document or thing is likely to be relevant to an investigation under this Policy,
 - (a) destroy, mutilate or alter the document or thing;
 - (b) make a false document;
 - (c) conceal a document or thing; or

- (d) direct, counsel or cause, in any manner, a person to do anything set out in clauses (a) to (c) above.

15.4 Failure of an employee to comply with Policy Directives 15.1, 15.2 or 15.3 or the making by an employee of a disclosure that is known, or ought to be known, as frivolous or vexatious, or not made in good faith, constitutes employee misconduct, will not be tolerated by NSBI and may result in disciplinary action up to and including termination.

16. General

15.4 People Services shall develop and maintain procedures to be used in making disclosures and in investigating disclosures.

15.5 The procedures developed by People Services, may include procedures for

- (a) receiving and reviewing disclosures,
- (b) confidentiality for information collected respecting disclosures and investigations,
- (c) reporting the outcomes of investigations, and
- (d) setting time periods for action.

15.6 People Services shall ensure that procedures for handling disclosures are available to, and communicated to, all employees and are followed.

ACCOUNTABILITIES:

President & CEO – is the approval authority for this Policy, including its amendment or rescindment and is responsible for:

- appointing a designated officer
- considering the designated officer's findings and recommendations from an investigation of a disclosure, and deciding what action to take
- approving the annual report

People Services – is responsible for:

- acting as a resource for supervisors and employees requiring guidance about this Policy
- developing and maintaining procedures to give effect to this Policy
- monitoring this Policy's implementation
- this Policy's scheduled review

Designated officer – is responsible for:

- receiving disclosures,
- conducting investigations of disclosures
- reporting findings and recommendations of investigations to President & CEO
- providing a statement of the outcome of the investigation to the person that made the disclosure
- preparing the annual report of disclosures required by this Policy

Supervisors – are responsible for:

- effectively communicating to employees they supervise the existence and intent of this Policy; and
- receiving and forwarding disclosures

Employees – are responsible for following this Policy

EXCEPTIONS: Exceptions to this Policy may only be approved by the President & CEO.

MONITORING: People Services is responsible for monitoring this Policy, its implementation and scheduled review.

This Policy shall be reviewed three years from its effective date.

REFERENCES: NSBI Code of Conduct
NSBI Fraud Policy
Public Interest Disclosure of Wrongdoing Act
Public Interest Disclosure of Wrongdoing Regulations

APPENDICES: *[none]*

ENQUIRIES: For more information about this Policy please contact:
People Services
Nova Scotia Business Incorporated
PO Box 2374
Halifax, NS B3J 3E4
Tel: (902) 424-6650
Toll free in Nova Scotia: 1-877-297-2124
Toll free in North America: 1-800-260-NOVA (6682)
E-mail: info@nsbi.ca *[or a direct email (as appropriate)]*

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| APPROVED BY: | President & CEO |
| APPROVAL DATE: | August 1, 2019 |
| EFFECTIVE DATE: | August 1, 2019 |
| REPLACES: | POL-HR_4.0 Disclosure of Wrongdoing Policy, August 1, 2016 |
| NEXT REVIEW DATE: | August 1, 2022 |

Approved: original signed by
Laurel Broten, President & CEO