



SI POLICY MANUAL

POLICY NAME: Whistleblower – Disclosures of Wrongdoings Policy – Approved November 17, 2020

Department Responsible (if applicable)	Office of the ED
Policy Name:	Whistleblower – Disclosures Of Wrongdoings
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Signed by Chief <i>James Hamis</i>	Signed by Councillor <i>[Signature]</i>



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POLICY NAME: WHISTLEBLOWER – DISCLOSURES OF WRONG DOINGS POLICY

1. PURPOSE

This whistleblower policy is to provide direction to anyone (employee or non-employee) who deals with or has dealt with Seabird Island (SI) regarding the communication of concerns on serious wrongdoing in operational matters. A whistleblower incident is a wrongdoing as that contravention of any law, the misuse of SI funds or assets, gross mismanagement in the Band's operations, and a serious breach of the member and public trust.

It is the policy of SI that the Whistleblower must immediately communicate Whistleblower incidents as soon as the Whistleblower becomes aware of such situations. Whistleblower incidents shall be communicated using the Band's prescribed procedures for the submission of whistleblower incidents. If the person who filed the allegation believes it was not dealt with at the Management level they may forward it to the Council's designated member (see attached form)

It is the policy of SI that the Whistleblower will not be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against as a result of communicating a whistleblower incident in good faith. Full protection is granted to all persons who made protected disclosures or who have in good faith cooperated in an investigation into a disclosure. There are no third party disclosures.

SI will not protect a Whistleblower who intentionally makes false accusations in reporting of a whistleblower incident, particularly for personal gain or malicious spite. Any SI employee found to be making false accusations through falsifying proof or making deliberate false statements will be subject disciplinary action including dismissal. Any member of the public who intentionally makes false accusations will be dealt with by SI legal advisors.

This policy is intended to provide a framework for the responsible and professional conduct by all SI employees who may find themselves in a position of suspecting or identifying fraudulent activities during and outside of work hours where it relates to SI business. It is also intended to help employees manage the risks to themselves, other employees, stakeholders, and the organization in this regard. This policy is meant to work in conjunction with the SI Fraud Policy and other applicable policies

2. CONTACTING US

- Email: ED@seabirdisland.ca
- Telephone: (604) 796-2177
- Post Mail to: ED, SI Band, P O Box 2895Chowat Rd., Agassiz B.C. Visit us at: Band Office 2895 Chowat Rd. (Office Hours 8:00am – 4:00pm)



3. A “WHISTLEBLOWING INCIDENT”

- a. An incident is defined as a concern related to the Band’s financial or operational matters. For greater clarity, whistleblower incidents are intended to include, but are not limited to, the following:
 - i. changing work from one project to other projects to stay on budget without authorization;
 - ii. “side deals” or “under the table” dealings with contractors for personal benefit;
 - iii. receiving personal kickbacks or significant gifts (over \$100) from contractors or vendors which could create bias in the tendering process;
 - iv. inappropriate recording or reporting of revenues, or lack thereof;
 - v. inappropriate classification of assets and/or liabilities;
 - vi. embezzlement of SI assets by an individual or group of individuals;
 - vii. inappropriate use of SI credit cards, vehicles or equipment;
 - viii. inappropriate occurrences at an SI event;
 - ix. inappropriate projects for the benefit of a land leasee or business, and not necessarily in the SI’s interest
 - x. a deliberate disregard or circumvention of any act of council or any regulations made under any such act;
 - xi. a gross mismanagement in the SI’s operations;
 - xii. an act or omission that creates a substantial and specific danger to the life, health or 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;
 - xiii. questionable accounting practices and inadequate internal accounting controls;
 - xiv. misleading or coercion of auditors;
 - xv. preparation of fraudulent or misleading financial information;
 - xvi. fraud – intentional deception for personal gain;
 - xvii. material misrepresentation in disclosures made by or on behalf of the SI;
 - xviii. theft – theft of SI physical or intellectual property;
 - xix. misappropriation of funds – use of the SI’s funds for personal gain or unauthorized uses;
 - xx. unethical behaviour including breach of conflict of interest or code of conduct policies;



- xxi. illegal activities;
- xxii. an expenditure, liability or other transaction of SI that is not authorized by or under the financial administration law;
- xxiii. a serious breach of a code of conduct which may ordinarily lead to the termination of an employee with cause; and
- xxiv. Knowingly directing or counselling a person to commit a wrongdoing as defined above.

4. SCOPE OF POLICY

- a. This policy applies to all persons who come in contact with the SI organization, businesses, programs and services, during and outside of work hours, with both external and internal audiences. The term “employee” when used in this policy includes all these parties.

5. POLICY STATEMENT

- a. SI’s programs, services and businesses are important institutions. However, like in other workplace, wrongdoings can and do happen. While rare, these wrongdoings are breaches of public trust which erode the confidence of the public in the council’s practices.
- b. SI’s employees owe a duty of loyalty to SI, which includes a responsibility to bring to the attention of the organization instances of Wrongdoing.
- c. SI is committed to complying with the laws and regulations to which it is subject and to protecting the funds, assets and resources of SI. Accordingly, it is the Policy of SI to ensure that when an Employee has reasonable grounds to believe that another SI Employee has committed or is about a Wrongdoing, as defined in this Policy:
 - i. the Employee may disclose this information through a clearly defined process;
 - ii. the matter will be reviewed and, if warranted, investigated by ED, Council, legal advisor or authority;
 - iii. the Employee will be protected from reprisals;
 - iv. the subject of the disclosure will be provided an opportunity to respond to allegations;
 - v. all parties to an investigation will be treated fairly;
 - vi. confidentiality will be maintained to the greatest extent possible; and
 - vii. If Wrongdoing is found, appropriate remedial and disciplinary actions will be taken.
- d. Any persons making false accusations will be held accountable for their actions via SI policies or the full extent of the law.



I. PROTECTION FROM REPRISAL

- a. Employers are prohibited from retaliating against employees and contractors who denounce wrongdoing in the organization.
- b. Persons found committing any retaliation against a Whistleblower will be subject to disciplinary action including dismissal.
- c. The SI Council/Management offers protection to all who provide information on wrongdoing.
- d. The Executive Director must protect employees against reprisal when they have made a disclosure in good faith. This includes protecting the identity of the employee making the disclosure, and other persons involved in the disclosure situation, by keeping disclosure records separate from existing files and revealing information only to those investigating or the Manager involved.
- e. If the identity of the discloser or witness becomes known in the workplace, measures must be taken to prevent potential reprisals.
- f. Immediate action must be taken by the ED. The employee must be advised of his options, including potential access to legal advice. The ED can also reassign the employee subjected to reprisal, and take any required measures to protect the employee.
- g. If the Council determines there was reprisal, it can order remedial action including the following:
 - i. allow the complainant to return to his duties;
 - ii. reinstate the complainant or pay compensation in cases where reinstatement is impossible;
 - iii. pay compensation to the complainant, to a maximum amount equivalent to any financial penalty which had been imposed;
 - iv. rescind disciplinary action;
 - v. reimburse the complainant for financial losses incurred as a direct result of the disclosure; and
 - vi. Compensate the complainant to a maximum of \$10,000 for pain and suffering.

II. RESPONSIBILITIES

- a. All employees are expected to act in an honest and ethical manner, comply with legal requirements, and to protect the reputation of SI.
- b. All employees are expected to be alert for signs of wrongdoing as they carry out their duties.
- c. All employees are expected to fully cooperate with the investigations related to wrongdoings.



III. DISCLOSURE PROCEDURES

- a. SI has adopted a clear approach to disclosing Wrongdoings by the Band Members, the general public and the organization’s employees.

BAND MEMBERS AND GENERAL PUBLIC

- b. A member of SI or the general public may also provide information concerning an alleged wrongdoing in the SI Organization by contacting the ED or the designated Council member directly.
- c. The whistleblower needs to fill out the necessary form and meet with the person they are presenting it to. Before the disclosure is formally submitted, the Whistleblower may confirm with the person they are submitting the disclosure to that there appears to be merit to the submission. If upon review of a disclosure, the reviewer is of the opinion that the complaint is frivolous, vexatious or not made in good faith, or that there are no or insufficient grounds for an investigation, that will not conduct an investigation and shall communicate this position in writing to the complainant knowing that the discloser has the option to take it to a higher level.
- d. Once the allegation has been formally accepted the person(s) investigating it may speak to anyone, access and examine any other documents or electronic materials, and may enter any SI work location relevant to the complaint for the purpose of investigation and potential resolution.
- e. This investigation needs to be done within 10 work days but may be extended depending on the severity of the allegation or if it has to be moved to a higher level and then the 10 days starts at that time. The party making the disclosure will be informed of this time extension.
- f. Once the investigation is complete a copy of the complaint and any supporting materials to the member whose conduct is in question with a request that a written response to the allegation be provided to the person handling the complaint within 10 work days.
- g. The investigator(s) shall review all information and make his/her recommendations to the ED/Council within 10 working days of receipt of response from accused.

SI EMPLOYEES

- h. An SI employee may disclose wrongdoing to:
 - i. their supervisor;
 - ii. the Manager/Director/ED or designated for internal disclosure in the organization;
or
 - iii. the designated member of Council.
- i. Employees must remember that documents they handle during the regular course of their duties must be protected. If an employee takes or copies a protected document, he/she is in violation of the workplace code of conduct and will be subject to disciplinary measures. Furthermore, the employee could also lose the protection offered by this policy.



SUPERVISOR LEVEL

- j. Supervisors are the lowest level at which a wrongdoing complaint may be raised. To be able to deal with these issues, supervisors must be fully aware of the following:
 - i. the definition of wrongdoing under the policy;
 - ii. that disclosure by an employee involves the protection of information related to the disclosure and triggers protection from reprisal for the complainant; and
 - iii. the identity and role of the senior staff responsible to be forwarded accusation.
- k. Upon receiving a complaint of wrongdoing, the supervisor may look into the matter or refer it to the appropriate Manager.
- l. The supervisor should also advise the complainant about confidentiality and reprisal protection provisions under the policy and outline the next steps in the process and pass the information on to the next level.
- m. The supervisor is required to protect the identity of the complainant and the information related to the complaint to the greatest extent possible, and to act within his/her authority to protect the complainant from reprisal.

MANAGEMENT/DIRECTOR LEVEL

- n. The Manager/Director will review the disclosure to determine if there are sufficient grounds to investigate. Should the Manager decide to proceed, he/she will ensure the investigation is done in a neutral manner using an external investigator respecting the rights of both complainants and wrongdoers.
- o. The external investigator should be deemed to hold a respectable profession that entails a public obligation to discharge his/her undertaking in dutiful and ethical manner.
- p. The Manager/Director will protect the identity of all involved in the complaint.
- q. The Manager/Director will review the results of the investigation, prepare recommendations for action, and report directly to the ED who will in turn inform Council.
- r. An employee can make a complaint directly to the Council, should the employee believe it was not dealt with properly or adequately at the management/director level.

COUNCIL LEVEL

- s. The Council has the authority to investigate, report on findings, make recommendations on corrective measures to the ED, and review reports on measures taken in response to their recommendations.
- t. The Council will protect the identity of all concerned to the greatest extent possible. The Council may also notify others about the investigation, including those whose actions have been called into question. They do not have to hold hearings, but the individual accused or the ED may be given the opportunity to answer allegations about his/her staff.



- u. The Council will write a report regarding an investigation which leads to a finding of wrongdoing, and may request that the ED notify them of corrective measures taken, or why no measures were taken, within 10 working days of their decision.

IV. FRIVOLOUS OR VEXATIOUS REPORTS

- a. An investigation may determine that a report of suspected wrongdoing is not supported or that there is no contravention of this policy. Such a finding does not automatically mean that the report was frivolous or vexatious.
- b. Frivolous or vexatious reports are those where the reporting individual knows or should reasonably be expected to know that there is no foundation in fact that would suggest a contravention of this policy and where the report is filed for the purpose of bringing an adverse consequence to the subject of the report or another employee of SI. Such reports are, in and of themselves, a breach of this policy and any employee or persons engaged in the presentation or filing of such a report may be subject to discipline up to and including dismissal or the termination of a contract for services, and may lead to prosecution.

V. CONDUCTING INVESTIGATIONS

- a. The following process will be applied to conduct investigations:
 - i. **Responsibility to Investigate:** The designated investigator(s) has the primary responsibility for coordinating the investigation of all allegations where there is sufficient cause. No one other than this party or legal authority should attempt to personally conduct investigations or interviews related to any allegation of wrongdoing. Great care must be taken in the investigation of suspected improprieties or wrongdoings so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.
 - ii. **Access to Records:** The designated investigator(s) or legal authority, in the course of conducting any investigation, will have free and unrestricted access to all Company records and premises and the authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items or facilities when it is within the scope of their investigation. This access is only permitted in relation to an investigation and must be in accordance with applicable privacy legislation and in accordance with employment policy or contracts.

VI. INQUIRIES ABOUT INVESTIGATIONS

- a. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the ED or Council. No information concerning the status of an investigation should be provided by any other person without the written consent of the ED or Council. The proper response to any inquiry is: "I am not at liberty to discuss this matter."
- b. Under no circumstances should any reference be made to "the wrongdoing," "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.



VII. ACTIONS TO BE TAKEN FOLLOWING AN INVESTIGATION

- a. The results of the investigation will be included in a written report prepared by the Investigator(s) or legal authority and presented to the ED and Council
- b. Based on the results of the investigation, management will determine an action plan for discipline, any referral to the applicable law enforcement agency and/or changes to processes or controls. All actions taken in response to an established act of fraud must be approved by the ED and Council.
- c. SI will pursue every reasonable effort to obtain recovery of any losses incurred as a result of wrongdoing. Decisions to prosecute by way of civil proceedings or refer the investigation results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with the ED and Council, as will final decisions on disposition of the matter.

VIII. SANCTIONS FOR SOMEONE FOUND GUILTY OF WRONGDOING

- a. The sanctions will depend on the severity and type of wrongdoing. In addition to sanctions required by law, the ED and Council have the authority to administer administrative and disciplinary penalties such as return of monies, financial penalties, reprimands, suspensions, demotions and termination of employment.
- b. These penalties cannot be grieved.
- c. If the allegations were valid but are deemed unfounded or insufficient for further action, then the case is closed.
- d. If the allegations are deemed to have been made as retaliation against another employee or an employer, the person who made the disclosure is subject to disciplinary action.

6. APPLICABLE REFERENCES, POLICIES, PROCEDURES AND FORMS

- a. SI Fraud Policy
- b. SI Personnel Policy and Procedures Manual
- c. SI Band's Privacy Policies

7. APPLICABLE LEGISLATION AND REGULATIONS

- a. SI Governance Manual
- b. Canada – The Personal Information Protection and Electronic Documents Act (PIPEDA)
- c. Criminal Code of Canada

8. QUESTIONS AND ADVICE RELATED TO THE POLICY

- a. Your supervisor is normally the first person you would contact if you have questions about anything in this Policy. In some cases, you may feel more comfortable discussing the matter



with someone other than your manager. In those cases, please contact the Administration Director or ED. If there is any question as to whether an action constitutes fraud, you should contact the Administration department for guidance.



SEABIRD ISLAND WHISTLEBLOWER FORM

SI will treat all disclosures in a confidential and sensitive manner. The process has been designed so as to protect your identity when communicating your concern. This Whistleblower Form allows you the opportunity to provide your name and contact information as this information may assist us in investigating your concern. Should you not wish to provide your name, reported incidents will still be accepted and investigated, as appropriate.

Instructions

Please provide as much detail as possible – use back of page if necessary. If you wish to remain anonymous, do not include your relationship to persons identified in your report, or your location relative to persons or incidents in your report.

- 1) Please provide details with respect to the location of the incident. For example: specific location, business and department.

- 2) Please describe the nature of your concern regarding a wrongdoing. *Include sufficient information for an independent person to understand the concern and to enable further investigation.*

- 3) Please state the full name(s) and title(s) of individuals whom you suspect of wrongdoing.



4) When did the event take place and how many times has this incident taken place? (if applicable)

5) How long has this incident been taking place? (if applicable)

6) Would you be willing to provide your name and contact information? (optional) If yes please provide name, phone number, and email address.

7) Would you like to arrange a meeting/telephone call with an Investigating Officer to discuss this matter? (this option is only available to individuals who chose to provide their name) YES or NO please circle.
