



TITLE: Whistle Blowing

MANUAL: HUMAN RESOURCES

SECTION: WORKPLACE EXPECTATIONS

APPROVED BY: SENIOR MANAGEMENT TEAM

POLICY

The North Shore Health Network, in its commitment to maintaining high ethical standards, wishes to encourage the identification and prevention of any misconduct that may affect this commitment.

The purpose of this policy is to provide employees with a system whereby employees can disclose any knowledge of actual or intended misconduct which may be unethical, illegal, fraudulent, or against the regulations of an applicable professional or regulatory body; and to protect employees who provide such disclosure, and are acting in good faith, and on the basis of reasonable belief, with protection from any form of retaliation or threat of retaliation when they do provide such disclosure.

SCOPE

This policy applies to all employees, volunteers, board members, independent contractors, providers, patients, residents, clients, family members, job applicants and any other members of the public who may have dealings with the North Shore Health Network.

This policy does not apply to complaints or issues related to employment or safety issues. Such issues should be handled through the individual's immediate supervisor and be dealt with under other more appropriate (Health & Safety related) policies.

ROLES AND RESPONSIBILITIES

The Responsible Authority or his/her Delegate is responsible for implementing and maintaining this policy/procedure/protocol. Workers, Managers, and specific Departments may also have roles and/or responsibilities outlined in this document.

I. Workers

- An employee, acting in good faith and on the basis of reasonable belief, has a duty to report actual, suspected or potential incidents of misconduct and to co-operate with any investigation by lawful authorities into such allegations.
- An employee is responsible for adhering to the NSHN confidentiality policy when making reports to external lawful authorities, except where required by law, or where an employee's safety or public safety is imminently threatened.

II. Supervisors/Managers

- Receiving any reports of misconduct in confidence and immediately forwarding such reports to the Senior Manager responsible;
- Co-operating with any investigations into misconduct; and
- Fostering a work environment which encourages open communication, ethical behaviour, adherence to laws and adherence to company policy.

III. The Senior Manager

- Receiving reports of misconduct, alleged misconduct or anticipated misconduct;
- Assessing the situation in order to make a determination of the process of investigation to be followed;
- Determining whether external authorities should be notified;
- Leading the internal investigation process;
- Reporting to the CEO and Senior Leadership Team the confirmed facts of each disclosure;
- Implementing actions to resolve the issue and ensuring any procedural or policy changes that may be necessary in order to prevent a recurrence;
- Developing and preparing, in consultation with the most appropriate senior authority, a communications strategy for internal and external use regarding the misconduct and/or investigation;
- Providing any information or follow-up reports as required by executive management, external authorities or agencies.

IV. Chief Executive Officer (CEO)

- Sole discretion, may involve Human Resources personnel, legal counsel, auditors and/or independent representatives throughout the process.

PROTOCOLS

- I. Where an employee, acting in good faith and on the basis of reasonable belief, becomes aware of actual, suspected or intended misconduct, unlawful activity, suspicious financial management, or other accountability concerns, he or she has a duty to report such misconduct or incidents, as soon as learning of them, to lawful authorities.
- II. An employee, acting in good faith and on the basis of reasonable belief, may refuse to carry out any order or direction which is illegal, unethical, or against company policy and which is given by an individual who has direct or indirect control over the employee's employment. Such refusals must be reported immediately to lawful authorities.
- III. Employees are expected to co-operate fully with lawful authorities during any investigation or proceeding related to acts of alleged misconduct or work refusals under this policy.
 - a. NSHN, employees and board members will not do anything to discourage any of the following:
 - Mandatory reports under the FLTCA;
 - Reports of abuse or neglect;
 - Submission of complaints/concerns by patients, residents, clients and their representatives; and
 - Disclosures to an inspector or the Director of the MOLTC, any other representative of the MOLTC, and/or a representative of the Family and Friends Council, or the giving of evidence in proceeding under the FLTCA or during a coroner's inquest.
- IV. No employee shall be subject to discipline, termination, demotion, or any form of retaliation, including but not limited to, intimidation, harassment, financial penalty or other threats by reason that:
 - a. The employee, acting in good faith and on the basis of reasonable belief, reports actual, suspected or intended misconduct as outlined in paragraph 5.01(a); or
 - b. The employee, acting in good faith and on the basis of reasonable belief, refuses to carry out an order or direction which is illegal, unethical, or against company policy and reports such refusals in accordance with paragraph 5.01(b); or
 - c. The employee cooperates with, or provides information to, or testifies in any proceeding against a member of the Health Centre regarding situations outlined in paragraph 5.01.
 - d. Long-Term Care specific:
 - a. NSHN will not retaliate against any staff member, volunteer, or board member who:

- Makes a mandatory report under the FLTCA;
 - Discloses of anything to an inspector or the Director of the Ministry of Long-Term Care (MOLTC) or any other representative of the MOLTC, and/or a representative of the Family and Friends Council, Veteran Residents Council, or Community Residents Council; and
 - Gives evidence in a proceeding, including a proceeding in respect of the enforcement of the FLTCA and regulations, or during a coroner's inquest.
- V.** Nothing in this policy is meant to take precedence over an employee's duties under federal or provincial law, or common law. Any unlawful misconduct or incident which may affect public or patient/resident safety must be reported to the proper lawful authorities immediately.
- VI.** Information regarding any alleged misconduct, the identity of the reporting person, and any details of the alleged misconduct or investigation, shall be held in confidence by those to whom or through whom the misconduct is reported, including Human Resources, the CEO or other lawful authorities, except as required by this policy or by law. Any employee who breaches this confidentiality requirement shall be subject to discipline up to and including termination for cause.
- VII.** Complaints or reports of misconduct made under paragraph 5.01 shall be fully investigated, and any employee found to have participated in actions of misconduct shall be subject to discipline, up to and including termination for cause.
- VIII.** An employee who makes a complaint or report of misconduct under paragraph 5.01 which is found to be both unfounded and made with malicious intent will be subject to disciplinary measures up to and including termination for cause.
- IX.** Any person who receives a report of alleged misconduct under this policy must hold the report and the identity of the reporting person in confidence.
- X.** Employees are discouraged from making anonymous reports. It should be kept in mind by the employee that anonymous reports make it difficult for the CEO to investigate the alleged misconduct. If an employee, for whatever reason, believes that he or she cannot otherwise make a report of misconduct, anonymous reports can be sent to the CEO via the internal mail system or by telephone. Depending on the nature of the information received, the CEO may take reasonable efforts at his/her discretion to investigate. In contrast, reports that are submitted in writing that include the name of the author will be investigated by the CEO.
- XI.** The Senior Manager and/or CEO shall exercise the specific and exclusive responsibilities specified in paragraph 3.03 and conduct inquiries and investigations into complaints or allegations made and/or submitted under this policy, including complaints or allegations that whistleblowers have suffered retaliation. The employee who initiated the report of alleged misconduct shall be notified of the proposed process of investigation except where the initial report is made anonymously.
- XII.** Any and all information collected under this policy or through the investigative process shall be held in confidence, except where disclosure may be necessary to further the investigation, or as required by law.
- XIII.** Employees, providers, and independent contractors are required to co-operate with the investigation of incidents under this policy and, if necessary, shall be granted paid time off to do so.

PROCEDURES

I. Knowledge of actual or intended misconduct

- An employee, acting in good faith and on the basis of reasonable belief, who has knowledge or a concern that misconduct has occurred or will occur, must report the information to his or her immediate Supervisor as soon as the employee becomes aware of such information.

II. Reporting of misconduct

- If it is not possible or appropriate to report the information to the employee’s immediate Supervisor, the information should be reported to the Department Manager.
- If it is not possible or appropriate to report the information to the employee’s Supervisor or Manager, the information should be reported directly to Human Resources, a member of the Senior Management Team or the CEO.

III. Reporting any form of retaliation

- Non-union staff/volunteers: immediately notify supervisor or a manager
- Unionized staff: refer to procedure outlined in applicable collective bargaining agreement
- Board members: immediately notify the Board Chair or a Vice-Chair
- Patient, residents, clients, representatives: immediately notify the MOLTC and/or a manager

INFORMATION MANAGEMENT

I. Definitions (NOTE: For a list of definitions not included here within; see the *NSHN Master Definitions* document.)

Lawful authority	Any person directly or indirectly responsible for supervising the employee; Any police or law enforcement agency with respect to an offence within its power to investigate; or any person whose duties include the enforcement of provincial or federal law within his or her power to investigate.
Misconduct	Means conduct which results in or could result in a contravention of federal or provincial law, serious breach of company policy, misuse of company resources, financial mismanagement or misuse of authority. Misconduct also includes any retaliatory measures against any employee who is protected under this policy.
Retaliation	Can include: disciplining a staff member, including suspension or dismissal, discharge or threat of discharge of a resident, imposing a penalty upon any person, and or threatening, intimidating, coercing or harassing any person.
Discriminatory Treatment	Includes any change or discontinuation of any service or care provided to a resident, or the threat of any such change or discontinuation.
Representative of patient, resident, client	family member, substitute decision-maker (SDM), power of attorney (POA), personal caregiver.

II. External References

- Ontario Health Information Protection Act
- Ontario Occupational Health and Safety Act
- Criminal Code of Canada
- Personal Information Protection and Electronic Documents Act
- Confidentiality Policy
- Fixing Long-Term Care Act, 2021 and O. Reg 246/22