

TITLE

FRIVOLOUS OR VEXATIOUS DISCLOSURES**SCOPE**

Provincial

DOCUMENT

1101-02

APPROVAL AUTHORITY

Alberta Health Services Board

INITIAL EFFECTIVE DATE

April 22, 2019

SPONSOR

Chief Ethics and Compliance Officer

REVISION EFFECTIVE DATE

Not applicable

PARENT DOCUMENT TITLE, TYPE AND NUMBER

Whistleblower Policy (#1101)

SCHEDULED REVIEW DATE

January 21, 2022

NOTE: The first appearance of terms in bold in the body of this document (except titles) are defined terms – please refer to the Definitions section.

If you have any questions or comments regarding the information in this document, please contact the Policy & Forms Department at policy@ahs.ca. The Policy & Forms website is the official source of current approved policies, procedures, directives, standards, protocols and guidelines.

OBJECTIVES

- To confirm the prohibition against Alberta Health Services (**AHS**) **People** making frivolous or vexatious **disclosures**.
- To provide clarity about how a disclosure is determined to be frivolous or vexatious.

PRINCIPLES

AHS is committed to maintaining a positive working environment for AHS People and upholding the integrity of its business and clinical operations. AHS shall take action in an objective manner to address disclosures, and expects that disclosures are made **in good faith**.

If it becomes apparent, based on reasonable grounds, that a disclosure is made with an ulterior motive, the disclosure may be considered frivolous or vexatious, and handled outside of other established policies, procedures or processes, which would apply to disclosures made in good faith.

APPLICABILITY

Compliance with this Procedure is required by all AHS People, including AHS Board Members, AHS employees, AHS medical staff members (physicians, dentists, oral and maxillofacial surgeons, and podiatrists), AHS midwifery staff members, other Allied Health professionals with an AHS appointment and privileges, students, volunteers, researchers working with AHS or studying AHS staff or patients, and other persons acting on behalf of AHS.

This Procedure is to be used in conjunction and accordance with AHS' *Whistleblower Policy*, *Investigations Policy*, the *Medical Staff Bylaws and Rules*, the *Midwifery Staff Bylaws and Rules*, any relevant collective agreement, or other terms and conditions of employment.

ELEMENTS**1. What is a frivolous or vexatious disclosure?**

1.1 A frivolous or vexatious disclosure is one which is:

- a) a misuse or abuse of the disclosure process;
- b) not reasonably purposeful, with no reasonable or appropriate outcome that would resolve the subject matter of the disclosure;
- c) directed, unreasonable conduct by an individual who:
 - (i) attempts to re-open a matter that has been addressed and closed through the applicable process and offers no new relevant information;
 - (ii) is unreasonably persistent in pursuing a disclosure which leads to resources being absorbed disproportionately, and causes disruption, delay, or disadvantage to other individuals who are part of the disclosure or to AHS as an organization;
 - (iii) is abusive or threatening; or
- d) motivated by ill will, hostility, malice, personal animosity, lack of fairness or impartiality, or dishonesty.

2. Prohibition against making frivolous or vexatious disclosures

2.1 Any AHS People who are found to have knowingly made a disclosure which is frivolous or vexatious may be subject to disciplinary action, up to and including termination of employment, appointment/privileges, contractual, or other relationship with AHS.

3. Determining whether a disclosure is frivolous or vexatious

3.1 The decision of whether a disclosure is frivolous or vexatious is made by a three (3) member panel consisting of the Chief Ethics and Compliance Officer (ECO), the General Counsel, and the Vice President, People, Legal, and Privacy.

3.2 Panel members may appoint delegates when appropriate.

3.3 A unanimous agreement of the panel is required to deem a complaint as frivolous or vexatious.

4. Handling of frivolous or vexatious disclosures

4.1 AHS shall take all necessary steps to appropriately manage frivolous or vexatious disclosures from AHS People and members of the public. This may

include a refusal to act on a disclosure if it is deemed frivolous or vexatious, or other special handling as determined by the specific circumstances of the disclosure.

5. Documentation and retention of records

- 5.1 If a disclosure is deemed frivolous or vexatious, the ECO shall promptly notify the person making the disclosure in writing.
- 5.2 In accordance with applicable legislation and AHS bylaws, policies, and procedures, the ECO shall retain all records relating to a frivolous or vexatious disclosure and subsequent action taken, as appropriate. The record shall indicate:
- a) the name of the discloser;
 - b) the names and positions of individuals who participated in the determination;
 - c) the rationale for the determination; and
 - d) a copy of the notification to the discloser.

DEFINITIONS

AHS People means anyone who provides care or services, or who acts on behalf of AHS, which may include AHS board members, AHS employees, AHS medical staff members (physicians, dentists, oral and maxillofacial surgeons, and podiatrists), AHS midwifery staff members, other Allied Health professionals with an AHS appointment and privileges, students, volunteers, researchers working with AHS or studying AHS staff or patients.

Disclosure means a report or allegation of wrongdoing as defined in the Whistleblower Policy and the *Public Interest Disclosure (Whistleblower Protection) Act* (Alberta) (PIDA).

In good faith means in accordance with standards of honesty, trust, sincerity, and without ulterior motive.

REFERENCES

- Alberta Health Services Governance Documents:
 - *Code of Conduct*
 - *Collection, Access, Use, and Disclosure of Information Policy* (#1112)
 - *Conflict of Interest Bylaw*
 - *Duties and Reporting Under the Protection of Persons in Care Act* (#PS-01)
 - *Fraud, Theft, or Misappropriation Policy* (#1164)
 - *Keeping Patients Safe From Abuse Policy* (#1153)
 - *Medical Staff Bylaws*
 - *Medical Staff Rules*
 - *Midwifery Staff Bylaws*

- *Midwifery Staff Rules*
- *Privacy Protection and Information Access Policy (#1177)*
- *Records Retention Schedule (#1133-01)*
- *Whistleblower policy (#1101)*
- *Workplace Violence: Prevention and Response Policy (#1115)*
- Alberta Health Services Resources:
 - *AHS Just Culture Guiding Principles*
 - *Ethics Framework*
 - *Public Interest Disclosure (Whistleblower Protection) Act (PIDA) Frequently Asked Questions*
 - *Whistleblower Policy Frequently Asked Questions*
- Non-Alberta Health Services Documents:
 - *Criminal Code (Canada) and associated regulations*
 - *Freedom of Information and Protection of Privacy Act (Alberta) and associated regulations*
 - *Health Information Act (Alberta) and associated regulations*
 - *Health Professions Act (Alberta) and associated regulations*
 - *Protection of Persons in Care Act (Alberta) and associated regulations*
 - *Public Interest Disclosure (Whistleblower Protection) Act (Alberta) and associated regulations*

VERSION HISTORY

Date	Action Taken
Click here to enter a date	Optional: Choose an item
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