

Category	Governance
Type	Procedure
Title	Safe Disclosure (Serious Wrongdoing)
Approval Authority	President and CEO
Implementation Authority	Vice-President, Administration and CFO and Vice President, Human Resources
Related Policy	Safe Disclosure
Related Procedure(s)	Safe Disclosure (General Disclosures)
Related Additional Information	Safe Disclosure (Serious Wrongdoing) – Frequently Asked Questions (FAQs)
Original Approval Date	05/12/2016
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Most Recent Revision Date	n/a
Next Review Date	08/12/2019

PURPOSE

To outline disclosure and investigative practices at **Banff Centre** in respect of **Serious Wrongdoing** (as defined herein):

- to facilitate the disclosure and investigation of significant and serious matters in or relating to Banff Centre, that an **Employee** believes may be unlawful, dangerous to the public or injurious to the public interest;
- to protect Employees who make disclosures;
- to manage, investigate and make recommendations respecting disclosures of Serious Wrongdoing and **Reprisal**; and
- to promote public confidence in the administration of Banff Centre.

SCOPE

Compliance with this Banff Centre procedure extends to all Employees (as such term is defined below) in relation to any Serious Wrongdoing and/or Reprisal.

Please note: Employees who have information about other issues that do not fall within the definition of Serious Wrongdoing or Reprisal (as defined in this Procedure) should consult the alternative Banff Centre Procedure “Safe Disclosure (General Disclosures)” for guidance.

PROCEDURE

1. RESPONSIBILITIES

- a. The President and CEO serves as Banff Centre's **Chief Officer** and shall ensure that information about these Procedures is widely communicated to all Employees.
- b. The Chief Officer has appointed each of the Vice President, Administration and CFO and the Vice President, Human Resources to be a **Designated Officer** for the purpose of managing and investigating **Safe Disclosures**. In the absence of a Designated Officer, the Chief Officer will also be the Designated Officer.
- c. In the event that an Employee makes a Safe Disclosure to the **Chair of the Audit and Finance Committee** under section 2(c) below or to the **Chair of the Board of Governors** under section 2(d) below, then the Chair of the Audit and Finance Committee or the Chair of the Board of Governors (as appropriate) shall be deemed to take on the role of Designated Officer for the purposes of this Procedure.

2. SEEKING INFORMATION/ADVICE AND MAKING A SAFE DISCLOSURE

- a. Employees considering making a Safe Disclosure may request information or advice from the Chief Officer, a Designated Officer or the Chair of the Audit and Finance Committee. Such requests for information or advice may be required to be in writing.
- b. Employees who believe, in **Good Faith**, that they have information that could show that a Serious Wrongdoing has been committed or is about to be committed, or that could show that the Employee has been asked to commit a Serious Wrongdoing, are encouraged to come forward with such Safe Disclosure and may make the Safe Disclosure directly to a Designated Officer. At the time an Employee makes a disclosure under this section 2(b), the Employee may also make the Safe Disclosure to the Chair of the Audit and Finance Committee to advise they have made a Safe Disclosure to a Designated Officer for the purposes of commencing an investigation.
- c. Instead of disclosing directly to a Designated Officer, Employees have the right to disclose directly to the Chair of the Audit and Finance Committee (thus circumventing the Designated Officers or Chief Officer) in the following limited circumstances:
 - i. the Employee has made a Safe Disclosure in accordance with these Procedures to a Designated Officer and an investigation in respect of the Safe Disclosure has not been completed in accordance with the Procedures;
 - ii. the Employee has made a Safe Disclosure in accordance with these Procedures and the matter has not been resolved within the time periods established under the Procedures;
 - iii. the Employee has made a Safe Disclosure in accordance with these Procedures, the investigation under those Procedures has been completed, a final decision has been issued in respect of the Safe Disclosure and the Employee is dissatisfied with the decision;
 - iv. the subject matter of the Safe Disclosure involves the Chief Officer, the Designated Officers, members of the Board of Governors, or members of the Board of Directors of The Banff Centre Foundation;
 - v. the Employee reasonably believes that a matter constitutes an imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the

environment, such that there is insufficient time to make a Safe Disclosure to the Designated Officers. However, in these circumstances, the Employee must as soon as reasonably practicable make a Safe Disclosure of this matter to a Designated Officer; and/or

- vi. the Employee has made a Safe Disclosure in accordance with these Procedures and is unable to complete the Procedures because a Reprisal has been taken or directed against the Employee, or the Employee reasonably believes that a Reprisal is likely to be taken or directed against the Employee if the Safe Disclosure is made in accordance with these Procedures.
- d. Instead of disclosing directly to a Designated Officer or Chair of the Audit and Finance Committee, Employees have the right to disclose directly to the Chair of the Board of Governors (thus circumventing the Designated Officers, Chief Officer and Chair of the Audit and Finance Committee) if the subject matter of the Safe Disclosure involves the Chair of the Audit and Finance Committee.

3. INFORMATION TO BE SUBMITTED WHEN MAKING A SAFE DISCLOSURE

- a. Safe Disclosures made to a Designated Officer under section 2(b) above, to the Chair of the Audit and Finance Committee under section 2(c) above, or to the Chair of the Board of Governors under section 2(d) above, should be made in writing.
- b. All Safe Disclosures made pursuant to section 3(a) above must include the following information:
 - i. a description of the Serious Wrongdoing giving rise to the complaint;
 - ii. name of individual(s) alleged to have committed the Serious Wrongdoing, or about to commit the Serious Wrongdoing;
 - iii. date of the Serious Wrongdoing;
 - iv. whether a Safe Disclosure in respect of the Serious Wrongdoing in question has already been made, and if so, whether a response has been received. If a response has been received, a copy of that response should be attached; and
 - v. any additional information the Designated Officer or Chair of the Audit and Finance Committee or Chair of the Board of Governors may reasonably require to investigate the matters set out in the Safe Disclosure.
- c. Safe Disclosures may be submitted anonymously, but the Employee should be aware that this may limit the ability of Banff Centre to respond and investigate.

4. RECEIPT OF A SAFE DISCLOSURE BY THE DESIGNATED OFFICER

- a. Upon receipt of written notice of a Safe Disclosure pursuant to section 3(a) above, the Designated Officer may:
 - i. consult with the Chief Officer,
 - ii. consult with another Designated Officer (if appropriate), and/or
 - iii. request advice from the Chair of the Audit and Finance Committee or Chair of the Board of Governors

with respect to the management and investigation of the alleged Safe Disclosure.

- b. A single investigation may be conducted by the Designated Officer in circumstances where multiple alleged Safe Disclosures are made on the same matter.
- c. Once a disclosure has been made in writing by an individual to a Designated Officer under this Procedure, the Designated Officer shall:
 - i. acknowledge receipt of the disclosure by writing to the individual who made the disclosure, within five (5) Business Days of receiving it; and
 - ii. review the subject matter of the written disclosure within ten (10) Business Days of receipt, and confirm to the individual, in writing whether:
 - 1. the disclosure shall indeed be investigated as a Safe Disclosure in accordance with these Procedures;
 - 2. the disclosure is not a Safe Disclosure and shall be referred to an alternate process for investigation;
 - 3. the disclosure shall be dismissed for not being made in Good Faith; or
 - 4. the disclosure shall be dismissed for another valid reason.
- d. The Designated Officer shall refer a Safe Disclosure to the Chief Officer and Chair of the Audit and Finance Committee as soon as reasonably practicable if the Designated Officer reasonably believes that the matter to which the Safe Disclosure relates constitutes an imminent risk of a substantial or specific nature to the life, health or safety of individuals, or to the environment.

5. PROTECTING THE INDIVIDUAL

- a. The Designated Officer may appoint an advocate for the individual making a Safe Disclosure to help manage that individual's welfare. The advocate will:
 - i. examine the immediate welfare and protection needs of the individual;
 - ii. ensure the individual is aware of Banff Centre's employee assistance programs or other supports;
 - iii. listen to any concerns of harassment or intimidation, or Reprisal for making a Safe Disclosure; and
 - iv. act as liaison and guide pertaining to the process.

6. INVESTIGATING THE SAFE DISCLOSURE

- a. The Designated Officer may act as investigator, or have the option to appoint a separate investigator to carry out the investigation. The investigator may be an individual internal or external to Banff Centre or a committee. When the Designated Officer appoints a committee, the Designated Officer will appoint one member of the committee as chair.
- b. The objectives of the investigation will be:
 - i. to collect information relating to the allegation. This may involve steps to protect or preserve documents, materials and equipment and to interview witnesses;
 - ii. to consider the information collected and to draw conclusions objectively and impartially;
 - iii. to maintain and uphold the principles of natural justice and procedural fairness throughout the investigation, particularly as regards the treatment of those people

- involved in the investigation, including witnesses and to ensure a fair decision is reached by an objective decision maker; and
- iv. if applicable, to make recommendations arising from the conclusions drawn concerning non-disciplinary remedial or other appropriate action.
- c. The Designated Officer will draw up terms of reference for the investigation of a Safe Disclosure and obtain authorization for those terms from legal counsel prior to appointing an investigator.
 - d. The terms of reference referred to in section 6(c) above will:
 - i. describe the resources available to the investigator to complete the investigation;
 - ii. set a date, no later than one hundred and ten (110) Business Days after the receipt of the Safe Disclosure, by which an investigation report is to be concluded and submitted in writing to the Chief Officer, Chair of the Audit and Finance Committee, or Chair of the Board of Governors (as appropriate); and
 - iii. require the investigator to update the Designated Officer regularly on the progress of the investigation who, in turn, will keep legal counsel informed of the progress.
 - e. The person(s) alleged to have carried out the Serious Wrongdoing are entitled to know the allegations made against them and must be given the right to respond, in both cases within a reasonable period of time without undue delay. This does not mean they must be advised of the allegation immediately after the disclosure is received or the investigation has commenced.
 - f. If the investigator is contemplating making a report adverse to the interests of any person, that person should be given the opportunity to put forward further material that may influence the outcome of the report and that person's defense should be set out in the report.
 - g. The Chief Officer, Chair of the Audit and Finance Committee, or Chair of the Board of Governors (as appropriate) may approve a request from the Designated Officer to extend the time to complete an investigation by up to thirty (30) Business Days. Any further extension of time may only be granted in advance by the Chair of the Audit and Finance Committee or Chair of the Board of Governors (as appropriate);.

7. CONDUCTING THE INVESTIGATION

- a. Everyone involved in the investigation of a Safe Disclosure will keep all information relating to the Safe Disclosure confidential except for information required to be shared under this policy, or information shared with those who have a legitimate need for the information. The identity of individuals involved in the disclosure process involved in the investigation will also be protected, including:
 - i. the individual who made the Safe Disclosure;
 - ii. individual(s) alleged to have committed the Serious Wrongdoing; and
 - iii. witnesses.
- b. The investigator will make notes of all discussions, phone calls, and interviews with witnesses.

- c. If the person making the Safe Disclosure, or the person alleged to have committed the Serious Wrongdoing are represented by a union, they will be advised of their right to representation and may request to have a union representative present during any investigation meetings or interviews.
- d. The Designated Officer will make the individual who made the Safe Disclosure aware of the progress of the investigation and whether the complaint was substantiated or not.

8. FINAL REPORT

- a. When the Investigation is complete, the investigator will submit a written investigation report to the Designated Officer. The report will include:
 - i. the allegation;
 - ii. an account of all relevant information received and, if the investigator has rejected evidence as being unreliable, the reasons for this conclusion;
 - iii. the conclusions reached and the basis for them; and
 - iv. if the investigator has found evidence of Serious Wrongdoing, recommendations for disciplinary or non-disciplinary action that should be taken to prevent the conduct from continuing or occurring in the future as well as action that should be taken to remedy any harm or loss arising from the misconduct.
- b. If the investigation has identified any other possible occurrences of Serious Wrongdoing or violations of Banff Centre policy, the investigator should include the possible occurrences/violations in the report. The possible occurrences/violations identified in the report will be dealt with by the Designated Officer in accordance with this procedure.
- c. Report findings will be validated as required to meet the principles of procedural fairness and natural justice. The reporting process will include the opportunity for the individual who made the Safe Disclosure and the individual(s) alleged to have committed the Serious Wrongdoing to receive clarification of the investigator's findings, if needed.

9. RECORDS

- a. The report referred to in section 8 above will be accompanied by all records created or received by the investigator in the course of the investigation. Records pertaining to the investigation are the property of Banff Centre and will be retained in accordance with Banff Centre's document retention rules. The report and records will not include information that leads or could lead to the identification of the individual who made the Safe Disclosure if that person has requested anonymity.
- b. The Designated Officers will provide the Chief Officer and the Chair of the Audit and Finance Committee with an annual statistical summary of all Safe Disclosures received under this procedure including those handled informally or referred to an alternate process.

10. OUTCOMES OF THE INVESTIGATION

- a. If the Designated Officer is satisfied that the report brings the investigation to an end, the Designated Officer will inform legal counsel as to the conclusion, review the investigator's

- report and if deemed appropriate, implement and enforce any recommendations for disciplinary or non-disciplinary corrective action.
- b. If the Safe Disclosure did indeed conclude a Serious Wrongdoing has taken place, the Designated Officer will provide the report referred to in section 8 to the Chief Officer and Chair of the Audit and Finance Committee, as appropriate.
 - c. A respondent who is found to have committed a Serious Wrongdoing or a breach of Banff Centre policy may be subject to disciplinary action up to and including termination of employment or other relationship with Banff Centre. Disciplinary action will be taken in accordance with the provisions of any applicable collective agreement or any other applicable policy or law, including Banff Centre's *Policy - Code of Ethics*.

11. REPRISAL

- a. Banff Centre will not tolerate any Reprisal, directly or indirectly, against anyone who, in Good Faith and in accordance with these Procedures, made a Safe Disclosure, sought advice about making a Safe Disclosure, co-operated in an investigation relating to a Serious Wrongdoing, or declined to participate in a Serious Wrongdoing.
- b. All complaints of Reprisal relating to Safe Disclosures made under this Procedure will be managed and investigated by the Chair of the Audit and Finance Committee. Any Employees who believe they have been the subject of a Reprisal are encouraged to contact the Chair of the Audit and Finance Committee directly in writing.

12. ANNUAL REPORTING

- a. The Chief Officer will arrange preparation of a report to the Audit and Finance Committee on all Safe Disclosures received that involve allegations of Serious Wrongdoing. The report will be submitted on a timely basis after receipt of a disclosure (but no less frequently than quarterly). This report will include:
 - i. the number of disclosures received by the Designated Officers that involve a Serious Wrongdoing, the number of disclosures that were acted on and the number of disclosures not acted on;
 - ii. the number of investigations commenced by the Designated Officers as a result of Safe Disclosures involving Serious Wrongdoing; and
 - iii. in the case of an investigation that results in a finding of a Serious Wrongdoing, a description of the violation and any recommendations made or corrective measures taken in relation to the violation or the reasons why no corrective action was taken.

DEFINITIONS

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use.

Definition	Meaning
Approval Authority	The individual or entity with authority to approve

	this Procedure
Approval Date	The date on which this Procedure is approved for publication by the Approval Authority
Banff Centre	Banff Centre for Arts and Creativity
Board of Governors	The Board of Governors of Banff Centre
Business Day	Any day between and including Monday to Friday and on which Banff Centre is open for business, excluding public holidays and weekends
Chief Officer	The President and CEO of Banff Centre
Chair of the Audit and Finance Committee	The Chair of the Audit and Finance Committee of Banff Centre (who can be contacted in confidence by first contacting the Board Administrator and Policy Analyst, Ext. 6240)
Chair of the Board of Governors	The Chair of the Board of Governors of Banff Centre (who can be contacted in confidence by first contacting the Board Administrator and Policy Analyst, Ext. 6240)
Designated Officers	Each of the Vice President, Administration and CFO and the Vice President, Human Resources (or others deemed to take on the role of Designated Officer pursuant to section 1(c) above)
Effective Date	The date on which the approved Procedure is deemed to be effective. The default Effective Date shall be the Approval Date unless otherwise determined by the Approval Authority
Employees	Individuals employed by Banff Centre, or an individual who has suffered a Reprisal and has been terminated by Banff Centre, including: <ul style="list-style-type: none"> i. members of the Senior Leadership Team; and ii. staff, including sessional workers. For the purpose of this Procedure, Employees also includes members of the Board of Governors of Banff Centre and members of the Board of Directors of The Banff Centre Foundation
Good Faith	A submission of information that is based on reasonable belief, and is not malicious, frivolous or vexatious, to the appropriate Banff Centre authority
Implementation Authority	The individual or entity with authority to implement this Procedure and with responsibility for the matter that is the subject of this Procedure (or his/her delegate)
Policy	A statement that regulates Banff Centre activities, operations or structures and: <ul style="list-style-type: none"> i. establishes how Banff Centre conducts one or more aspects of its business;

	<ul style="list-style-type: none"> ii. sets out how Banff Centre expects members of its community to conduct themselves generally or in particular circumstances; iii. sets Banff Centre objectives or direction in order to establish a framework for Banff Centre decisions or actions; and/or iv. deals with compliance with laws, court orders, government policies or directives.
Policy Office	The Policy Office at Banff Centre
Procedure	The statement of processes required to implement a Policy. Not all Policies will necessarily require an associated Procedure.
Reprisal	<p>Retaliatory measures that are taken against an individual because the individual has sought advice about making a Safe Disclosure, made a Safe Disclosure in Good Faith, cooperated in an investigation of a Safe Disclosure, or declined to participate in behavior that would breach Banff Centre Policy, including the following:</p> <ul style="list-style-type: none"> i. a dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job or position, change of job location, reduction in wages, change in hours of work or reprimand; ii. any act that adversely affects the employment, working conditions, or education of the individual; and iii. a threat to do any of the above.
Safe Disclosure	A disclosure of a Serious Wrongdoing made pursuant to this Procedure
Senior Leadership Team	The President and CEO, together with the Vice Presidents of Banff Centre
Serious Wrongdoing	<ul style="list-style-type: none"> i. a contravention of an Act of Parliament or of the Legislature of Alberta, or of any regulations made under any such Act; ii. an act or omission that creates: <ul style="list-style-type: none"> a. a substantial and specific danger to the life, health or safety of individuals other than a danger that is inherent in the performance of the duties or functions of an Employee or; or b. a substantial and specific danger to the environment; iii. gross mismanagement of public funds or a public asset; or

	iv. knowingly directing or counseling an individual to commit a Serious Wrongdoing mentioned in clauses (i) to (iii).
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RELEVANT DOCUMENTS

- Relevant legislation:
 - *Freedom of Information and Protection of Privacy Act (Alberta)*
- Relevant Banff Centre Policies/Procedures
 - *Policy - Code of Ethics*
 - *Policy - Unlawful Activity*
 - *Policy – Anti-Harassment*
 - *Policy - Safe Disclosure*
 - *Procedure - Safe Disclosure (General Disclosures)*
 - *Additional Information – Safe Disclosure (Serious Wrongdoing) – Frequently Asked Questions (FAQs)*

MODIFICATION HISTORY

- Original Approval Date: 05/12/2016
- Effective Date: 08/12/2016
- Subsequent Revision Dates: n/a

CONTACT

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