

Investigation into Allegations of Reprisal: Insufficient Evidence to Support Reprisal

Date: June 30, 2021

To: Audit Committee

From: Auditor General

Wards: All

SUMMARY

This report provides the results of an investigation into an allegation of reprisal from a former City of Toronto employee whose position was terminated. The former employee claimed the termination of their employment was reprisal by management for disclosing billing concerns and potential conflicts of interest between a Director and vendors.

In accordance with the Toronto Public Service Bylaw, Chapter 192, the Auditor General's Office (AGO) has the responsibility to investigate reprisal, in consultation with the City Manager or designate. Reprisal investigations are complex. Termination is one of the most severe types of reprisal, and therefore the Auditor General initiated an investigation into the allegations.

Under the City of Toronto Act, the Auditor General is also responsible for assisting city council in holding itself and city administrators accountable for the quality of stewardship over public funds and for achievement of value for money in city operations. Ensuring that employees can come forward in a safe environment to report potential wrongdoing is a key internal control that helps to safeguard City assets and ensure value for money.

The Auditor General has concluded that there is insufficient evidence found to substantiate that the former employee was the subject of reprisal for reporting concerns of potential wrongdoing during the course of their employment or for raising questions about potential conflicts of interest. Therefore no further action is recommended with respect to the alleged reprisal.

RECOMMENDATIONS

The Auditor General recommends that:

1. City Council receive this report for information.

FINANCIAL IMPACT

There is no financial impact associated with this report.

DECISION HISTORY

The Toronto Public Service By-law, Chapter 192, adopted December 31, 2015, requires that employees immediately report wrongdoing that has occurred. The By-law requires the Auditor General in consultation with the City Manager, to investigate allegations of reprisal.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EX42.3>

COMMENTS

The Toronto Public Service By-law, Chapter 192, requires that employees immediately report wrongdoing that has occurred. Wrongdoing includes the "mismanagement of City resources or assets in a wilful, intentional, or negligent manner that contravenes a City policy or direction by Council," and "violations of the City's Conflict of Interest provisions" or "breach of public trust".

An employee who reports wrongdoing or reprisal in good faith is not to suffer any reprisal, regardless of whether their wrongdoing allegation is found to be substantiated or not.

Reprisal is any measure taken or threatened as a direct result of disclosing or being suspected of disclosing an allegation of wrongdoing. Reprisal can include disciplinary measures, demotion, suspension, intimidation or harassment, or any punitive measure that adversely affects the employee's employment or working conditions, including termination.

The Auditor General, in consultation with the City Manager or his designate, is required to investigate allegations of reprisal.

A strong whistleblowing system is one of the best mechanisms available for uncovering wrongdoing. There are many benefits to the City in having an effective whistleblowing system, most importantly being the early detection and/or prevention of harmful misconduct. Other non-quantifiable benefits are strengthened internal controls, improved policies and procedures, and increased operational efficiencies.

A whistleblowing system is only effective, if employees feel their job is not in jeopardy when they report suspected wrongdoing. Reprisal protection helps to ensure employees feel safe when reporting potential wrongdoing. Thus, for the Fraud and Waste Hotline to function effectively as the whistleblowing system, there must be no reprisal from reporting suspecting wrongdoing.

The Auditor General takes all allegations of reprisal seriously. Reprisal allegations take a great deal of time to investigate because of the complexities – by nature, retaliation is often difficult to prove. Although there was insufficient evidence for reprisal in this case, there are many benefits of a reprisal investigation, one of which is closure for those involved. Reprisal investigations also help to retain public confidence; if there was no reprisal the public needs to know that, and if there was reprisal, the public needs to feel confident that the City is committed to taking appropriate steps to address the allegations.

The Auditor General has concluded that there is insufficient evidence found to substantiate that the former employee was the subject of reprisal for reporting concerns of potential wrongdoing during the course of their employment or for raising questions about potential conflicts of interest. Therefore, no further action is recommended with respect to the alleged reprisal.

CONTACT

Sean MacIntosh, Director (A) - Forensic Unit, Auditor General's Office
Tel: 416-392-8460, Email: Sean.MacIntosh@toronto.ca

Claire Fang Mu, Senior Audit Manager, Auditor General's Office
Tel: 416-392-0057, Email: ClaireFang.Mu@toronto.ca

SIGNATURE

Beverly Romeo-Beehler
Auditor General