

Policy Title: Staff Procedure for Handling Frivolous and Vexatious Complaints

Policy Number: 03-08-06

Section:	Corporate Administration	Subsection:	Provision of City Services
Effective Date:	July 2, 2014	Last Review Date:	May, 2017
Approved by: Council	Owner Division/Contact: Applicable Divisional Director		

Policy Statement

The City of Mississauga, in accordance with its values of trust, quality and excellence, seeks to provide exemplary service to all members of the public and resolve complaints in a timely manner.

Purpose

Complaints which are Frivolous and Vexatious consume a disproportionate amount of City time and resources and impede staff from attending to other essential issues. This policy establishes the process to be used by all City staff when handling Frivolous and Vexatious complaints.

Scope

The staff process for the handling of Frivolous and Vexatious complaints applies to complaints or expressions of concern related to by-laws, policies, procedures and rules or regulations initiated through any avenue available to the public for submitting complaints to the City, with the exception of the exclusions noted below.

Exclusions

This policy does not apply to complaints about City staff. For complaints related to City staff refer to the applicable Corporate Policy and Procedure – Human Resources – Public Complaints Procedure or Code of Conduct and Complaint Procedure for Security Staff.

Complaints involving elected officials should be forwarded to the Integrity Commissioner, appointed under the Council Code of Conduct.

Related Policies

The City of Mississauga is committed to ensuring a climate of understanding and mutual respect and to providing a safe workplace, free from any form of discrimination, harassment, bullying or actual, attempted or threatened violence. Corporate Policy and Procedure – Human Resources – Respectful Workplace and Corporate Policy and Procedure – Human Resources – Workplace

Violence detail the steps available to the City to ensure that a respectful and safe workplace is restored and maintained.

Accountability

Directors and managers/supervisors are responsible for ensuring that relevant staff are aware of and trained on this policy and any accompanying guidelines and protocols.

Definitions

For the purpose of this policy:

“Frivolous or Vexatious” means the complaint is initiated with the intent to embarrass or annoy the recipient or is part of a pattern of conduct by the complainant that amounts to an abuse of the complaints process.

What Constitutes a Pattern of Conduct?

A “pattern of conduct” occurs when, on three or more occasions, a complainant engages in one or more of the following:

- Brings complaints concerning an issue which staff have already investigated and determined to be groundless; or brings complaints concerning an issue which is substantially similar to an issue which staff have already investigated and determined to be groundless (e.g. with respect to the same neighbour or same property), or
- Engages in unreasonable conduct which is abusive of the complaints process, including, but not limited to:
 - Harassing, verbally abusing or otherwise seeking to intimidate staff dealing with their complaint, in violation of the City’s Respectful Workplace Statement of Commitment and/or Corporate Policies and Procedures Respectful Workplace and Workplace Violence
 - Making excessive or multiple lines of enquiry regarding the same issue (e.g. pursuing a complaint with staff in multiple City departments and/or an elected official simultaneously) while their complaint is in the process of being investigated
 - Repeatedly challenging the findings of a complaint investigation, complaining about the outcome and/or denying that an adequate response has been given
 - Refusing to accept that an issue falls outside the scope of the City’s jurisdiction
 - Making unreasonable demands on staff by, for example, insisting on responses to complaints and enquiries within an unreasonable time-frame
 - Making statements or providing representations that the complainant knows or ought to know are incorrect, or persuading others to do so
 - Demanding special treatment from staff by, for example, not following the normal chain of command and immediately demanding to speak to a manager or supervisor
 - Using new complaints to resurrect issues which were investigated and completed in previous complaints

- Changing the basis of the complaint as the investigation progresses and/or denying statements he/she made at an earlier stage
- Refusing to co-operate with the investigation process while still wanting their complaint to be resolved, and
- Failing to clearly identify the precise issues of the complaint, despite reasonable efforts of staff to help them clarify their concerns

Complaint Procedure

Response Time

Issues of an urgent nature should be responded to within a reasonable time frame, as communicated to the complainant. Non-urgent complaints should be responded to within 10 business days. Where the nature of the complaint requires a longer time for investigation and response, the complainant should be advised of the anticipated timeframe as soon as practicable.

Employee Responsibility

Staff must establish, through the documented words and/or actions of a complainant (e.g. emails, letters and staff notes reporting a conversation or incident) that the complaint is Frivolous or Vexatious before applying the processes outlined in this policy.

If an employee believes that a complaint is Frivolous or Vexatious, the employee should consult with their manager/supervisor, provide any supporting materials (e.g. emails received from the complainant) and advise the manager/supervisor of the steps that have been taken to resolve the issue, including:

- The length of time that staff have been in contact with the complainant and the amount of correspondence that has been exchanged with the complainant
- The number of complaints that the complainant has brought and the status of each, and
- The nature of the complainant's behaviour

Note: Employees may choose to contact their manager/supervisor prior to a pattern of conduct being established (i.e. the behaviour has occurred on less than three occasions) if the complainant's behaviour is extreme.

Manager/Supervisor Responsibility

Managers/supervisors are responsible for reviewing the information provided by staff and determining if the complainant's behaviour should be escalated to the appropriate director(s).

Before escalating to the director(s) the manager/supervisor must be satisfied that:

- The complaint has been properly investigated
- Communication with the complainant has been adequate, and

- The complainant is not attempting to provide any significant new information when contacting staff

Director Responsibility

Directors are responsible for reviewing the information provided by the manager/supervisor in a timely manner. Directors may contact other City directors to determine if the complainant is contacting multiple City staff/departments.

If, after reviewing the circumstances, the director determines that action under this policy should be taken, he or she will determine the appropriate action(s) in accordance with this policy. A warning letter will be sent to the complainant indicating that the actions outlined in the letter will be put into effect if the complaints of a Frivolous or Vexatious nature continue. If the complaint includes multiple issues, the letter may also outline the priority assigned to resolving and responding to the complaints.

Types of Action to Restrict Complainant Impact on Staff

Actions available to directors under this policy may include, but are not limited to:

- Limiting the complainant's correspondence with staff to a particular format (e.g. email only), time (e.g. telephone calls only at specific times and days of the week) or duration (e.g. conversations may last no longer than ten minutes)
- Limiting the complainant to a particular point of contact at the City (where possible, other staff members should be advised not to respond to the complainant but to refer them to the point of contact)
- Requiring any face-to-face interactions between the complainant and staff to take place in the presence of an appropriate witness
- Requiring that complainants produce full disclosure of documentation or information before staff will further investigate a complaint
- Instructing staff not to respond to further correspondence from the complainant regarding the complaint or a substantially similar issue
- Instructing staff not to investigate any complaints regarding an issue that has already been investigated or which is substantially similar to an issue which has already been investigated, and/or
- In extreme circumstances, instructing staff to severely reduce or completely cease responses to further complaints and correspondence from the complainant

If deemed appropriate, the director may set up a face to face meeting with the complainant and relevant staff (if applicable) in order to identify any misunderstandings and attempt to resolve the issue.

Procedure if Frivolous and Vexatious Complaints Continue

If a complainant disregards the warning letter and continues to submit complaints deemed to be Frivolous and Vexatious, the director will advise their commissioner or his/her delegate that the actions outlined in the warning letter will take effect immediately.

The commissioner will advise the Leadership Team (commissioners and City Manager), the Mayor and the appropriate ward councillor(s) of the action the City has taken and the reasons for it.

Extreme Behaviour

Corporate Policy and Procedure – Workplace Violence should be consulted if a complainant's behaviour threatens the safety or security of staff.

New Complaints

Complaints on a separate/new issue from a person who has come under this policy will be treated on their individual merits. The applicable commissioner, in consultation with the relevant director(s), will decide if any restrictions which are currently in effect should be applied to the new complaint.

Maintaining Detailed Records

Staff are responsible for maintaining detailed records of their interactions with complainants (emails, notes of telephone conversations and notes of in-person discussions) in order to justify any action being taken to restrict the complainant's access to City staff. Records must be retained in accordance with the Records Retention By-law 0097-2017, as amended.

Revision History

Reference	Description
GC-0323-2014 – 2014 07 02	
February 26, 2018	Housekeeping to update Records Retention By-law number.