

Policy Title: Staff Procedure for Handling Frivolous and Vexatious Complaints and Enquiries

Policy Number: 03-08-06

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 and enquiries in a timely manner.

Purpose

Complaints and enquiries 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 and enquiries, while also safeguarding staff well-being and maintaining service standards.

Scope

The staff process for the handling of Frivolous and Vexatious complaints and enquiries applies to complaints, expressions of concern, enquiries, or service requests related to by-laws, policies, procedures and rules or regulations initiated through any avenue available to the public for submitting complaints and enquiries 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 – 01-03-09 – Public Complaints Procedure.

Complaints involving elected officials should be forwarded to the Integrity Commissioner, appointed pursuant to the *Municipal Act, 2001*, to apply the Council Code of Conduct.

Legislative Authority

The actions of the City which may be taken under this policy arise from the City's general legislated duty under the *Occupational Health and Safety Act* to address workplace violence and harassment and to ensure employees and other persons on City property are reasonably safe while on the premises.

Related Policies

- Corporate Policy and Procedure – 01-03-04 – Respectful Workplace
- Corporate Policy and Procedure – 01-07-01 – Workplace Violence
- Corporate Policy and Procedure – 03-12-01 – Whistleblower Program
- Corporate Policy and Procedure – 05-01-10 – Responding to Incidents in City Facilities

Definitions

For the purposes of this policy:

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

“Restrictions Notice” means a notice issued by the City to a Subject Person, identifying the restrictions and other actions taken by the City in response to a Frivolous or Vexatious complaint or enquiry.

“Subject Person” means a person making a complaint or enquiry which is or could be considered Frivolous or Vexatious pursuant to this policy.

What Constitutes a Pattern of Conduct?

A “pattern of conduct” occurs when, on three or more occasions, a Subject Person 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 and enquiries process, including, but not limited to:
 - Harassing, verbally abusing or otherwise seeking to intimidate staff dealing with their complaint or enquiry, 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 or enquiry with staff in multiple City departments and/or an elected official

simultaneously) while their complaint or enquiry is in the process of being investigated or responded to

- Repeatedly challenging the findings of a complaint investigation, complaining about the outcome
- Repeatedly denying that an adequate response to an enquiry or service request 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 or outside established service levels
- Making statements or providing representations that the Subject Person knows or ought to know are incorrect, or persuading others to do so
- Providing staff with false or misleading information about their identity (e.g. using aliases or impersonating others)
- 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, enquiries or service requests to resurrect issues which were previously investigated and/or responded to
- Changing the basis of the complaint or enquiry as the investigation progresses and/or denying statements the Subject Person 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 Subject Person. Staff are responsible for determining the urgency of the complaint or enquiry. Non-urgent complaints should be responded to within 10 business days or within service levels set by the department. Where the nature of the complaint or enquiry requires a longer time for investigation and response, the Subject Person 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 Subject Person (e.g. emails, letters and staff notes reporting a conversation or incident) that the complaint or enquiry is Frivolous or Vexatious before applying the processes outlined in this policy. Staff should be diligent and alert to indicators that the Subject Person has used different alias to make multiple complaints or enquiries.

If an employee believes that a complaint or enquiry is Frivolous or Vexatious, the employee should consult with their manager/supervisor, provide any supporting materials (e.g. emails received from the Subject Person) 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 Subject Person and the amount of correspondence that has been exchanged with the Subject Person
- The number of complaints or enquiries that the Subject Person has brought and the status of each, and
- The nature of the Subject Person'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 Subject Person's behaviour is extreme.

Managers/Supervisor Responsibility

Managers/supervisors are responsible for reviewing the information provided by staff and determining if the Subject Person'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 or enquiry has been properly investigated and responded to
- Communication with the Subject Person has been adequate, and
- The Subject Person 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 or review the Restrictions List (as defined below) to determine if the Subject Person is contacting multiple City staff/departments.

If, after reviewing the circumstances, the director determines that action under this policy should be taken, they will determine, in consultation with Legal Services, the appropriate restriction(s) in accordance with this policy. A warning letter will be sent to the Subject Person indicating that the restrictions outlined in the letter will be put into effect if the complaints or enquiries of a Frivolous or Vexatious nature continue. If the complaint or enquiry includes multiple issues, the warning letter may also outline the priority assigned to resolving and responding to the complaints/enquiries. The Director will send a copy of the warning letter to Legal Services.

Legal Services

Legal Services is responsible for providing advice to directors when a Subject Person is making complaints or enquiries that could be considered Frivolous or Vexatious. Legal Services is also responsible for maintaining the Restrictions List (as defined below).

Maintaining Detailed Records

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

Types of Restrictions to Reduce Impact on Staff

Restrictions which may be imposed by directors under this policy may include, but are not limited to:

- Limiting the Subject Person'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, limited number of questions)
- Limiting the Subject Person to a particular point of contact at the City (where possible, other staff members should be advised not to respond to the Subject Person but to refer them to the point of contact)
- Requiring any face-to-face interactions between the Subject Person and staff to take place in the presence of an appropriate witness
- Requiring that the Subject Person produce full disclosure of documentation or information before staff will further investigate a complaint or respond to an enquiry
- Instructing staff not to respond to enquiries from the Subject Person that have already been answered or which are substantially similar to enquiries which have already been answered
- Instructing staff not to investigate any complaints from the Subject Person regarding an issue that has already been investigated or which is substantially similar to an issue which has already been investigated

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

Extreme Behaviour

In extreme cases, directors may take additional actions and restrictions, including but not limited to:

- Instructing staff to severely reduce or completely cease responses to further complaints, enquiries and correspondence from the Subject Person
- Imposing a ban under the Corporate Policy and Procedure – 05-01-10 – Responding to Incidents in City Facilities
- Imposing restrictions immediately without issuing a warning letter to the Subject Person
- Consulting Corporate Policy and Procedure – Workplace Violence if a Subject Person's behaviour threatens the safety or security of staff

In such extreme cases, the Subject Person will be directed to raise any new, legitimate issues in writing to one particular address.

Procedure when Imposing Restrictions

If a Subject Person disregards the warning letter and continues to submit complaints or enquiries deemed to be Frivolous and Vexatious, the following steps will be taken in consultation with Legal Services:

1. The director will send a Restrictions Notice to the Subject Person that the restrictions outlined in the warning letter will take effect immediately. The Restrictions Notice will specify the length of time that the restrictions will remain in effect and will inform the Subject Person that they may seek a reconsideration of the decision.
2. The director will provide their commissioner with a copy of the Restrictions Notice.
3. The commissioner will advise the following individuals of the action the City has taken and the reasons for it:
 - a. Extended Leadership Team (directors, commissioners and City Manager)
 - b. the Mayor and councillors
 - c. the City Solicitor
 - d. the Manager of Security Services
 - e. the City Clerk
 - f. the Manager of Revenue & Taxation
 - g. other relevant staff, having regard to the subject matter of the Subject Person's complaints or enquiries
4. Legal Services will maintain a list of all Subject Persons upon whom the City has imposed restrictions under this policy and which are then in effect (the "Restrictions List"). The Restrictions List will contain the name of the Subject Persons, the restrictions imposed, and the duration of the restrictions. All staff who were notified in step 3 above will have access to the Restrictions List.

Review of Restrictions Before Expiry

The director may establish a review date any time before the expiry of the restrictions. The director will consider whether the restrictions should be removed, modified or continue beyond the expiry date. The director will consider relevant factors, such as the behaviour of the Subject Person while the restrictions were in effect. Any changes to the restrictions will be reviewed with Legal Services and be communicated to the Subject Person through a new Restrictions Notice. If the restrictions will be continued, the Subject Person will be informed they may seek a new reconsideration of the decision.

Reconsideration

A Subject Person may seek a reconsideration of the action taken by the City, by submitting, within 14 days after the issuance of the Restrictions Notice, a request in writing to the City Manager, and explaining why the restrictions should be rescinded or amended. The restrictions

outlined in the Restrictions Notice will remain in effect pending the outcome of the reconsideration.

The director involved will provide a summary of the reconsideration and all relevant background information to the City Manager. The City Manager will review the reconsideration with involved staff members and HR, if required. The City Manager may confirm, rescind or amend the restrictions. The City Manager's office will communicate the reconsideration decision to the Subject Person in writing within 10 business days of the decision. The decision of the City Manager will be final.

New Complaints or Enquiries

Complaints or enquiries on a separate/new issue from a Subject 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 or enquiry.

Revision History

Reference	Description
GC-0323-2014 – 2014 07 02	
February 26, 2018	Housekeeping to update Records Retention By-law number.
November 6, 2019	Housekeeping to remove reference to Complaint Procedure for Security Staff policy.
GC-0081-2026 – 2026 02 25	Substantial revision to include content on notifying individuals, placing time limit for restrictions and introducing an appeal process.