

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 27, 2017

Item 8, Report No. 7, of the Finance, Administration and Audit Committee, which was adopted without amendment by the Council of the City of Vaughan on June 27, 2017.

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VEXATIOUS POLICY

The Finance, Administration and Audit Committee recommends approval of the recommendation contained in the following report of the City Clerk, dated June 19, 2017:

Recommendation

The City Clerk, on behalf of the Corporate Management Team, recommends:

1. THAT the Policy for Handling Vexatious, Frivolous, or Unreasonably Persistent Requests or Complaints (the "Vexatious Policy"), be approved.

Contribution to Sustainability

A strong policy framework contributes to accountability, transparency and effective governance by clearly defining the City's governance practices and ensuring that policies will be made transparent to the public.

Economic Impact

Not applicable.

Communications Plan

Upon approval this policy will be posted on the City's website.

Purpose

The purpose of this report is to provide Council with information regarding the proposed Vexatious Policy, and to obtain Council's approval to implement same.

Background

The purpose of the Vexatious Policy is to address vexatious, frivolous, or unreasonably persistent requests or complaints, received by staff either directly or indirectly from the public, that consume a disproportionate amount of City time and resources and impede staff from attending to other essential issues. The Vexatious Policy establishes the process to be used by all staff when handling such requests or complaints. Actions taken pursuant to the Vexatious Policy will ensure that municipal resources are used effectively and efficiently, while maintaining a high level of service excellence and responsiveness.

The Vexatious Policy will guide staff to identify situations that meet the criteria of vexatious, frivolous or unreasonably persistent, and the associated actions that may be taken in such circumstances. The aim of this policy is to contribute to the City's commitment to service excellence and good governance by addressing all requests and complaints equitably and efficiently, while acknowledging that there may be a need to protect staff from unreasonable behaviour. While the events requiring the application of this policy are rare, it is important that staff be prepared to manage these situations in advance of their occurrence.

In drafting the proposed Vexatious Policy, staff considered similar policies from other relevant municipalities. In addition, the proposed Vexatious Policy adheres and supports current City

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policies and procedures, such as the Respectful Workplace Policy and the Workplace Violence Policy. The proposed Vexatious Policy has been reviewed by members of the Corporate Management Team and their input has been incorporated.

Relationship to Term of Council Service Excellence Strategy Map (2014-2018)

This report supports Council's priority to continue to advance a culture of excellence in governance.

Regional Implications

There are no regional implications associated with this report.

Conclusion

The Corporate Management Team recommends that the proposed Vexatious Policy be approved.

Attachments

Attachment 1: Policy for Handling Vexatious, Frivolous or Unreasonably Persistent Requests or Complaints.

Report prepared by:

Kellie Hodges,
Legal Counsel

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)

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Report prepared by:

Kellie Hodges,
Legal Counsel

Respectfully submitted,

Barbara A. McEwan,
City Clerk

Policy No:	LS – 000
Department:	OFFICE OF THE CITY CLERK
Subject:	VEXATIOUS AND FRIVOLOUS COMPLAINTS

**POLICY FOR HANDLING VEXATIOUS, FRIVOLOUS OR UNREASONABLY
PERSISTENT REQUESTS OR COMPLAINTS**

PURPOSE

The Corporation of the City of Vaughan (the “City”) is committed to providing exemplary service to all members of the public. The City aims to address service requests and complaints equitably, comprehensively, and in a timely manner.

The purpose of this policy is to address vexatious, frivolous, or unreasonably persistent requests or complaints that 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 staff when handling such requests or complaints. Actions taken pursuant to this policy will ensure that municipal resources are used effectively and efficiently, while maintaining a high level of service excellence and responsiveness.

This policy will guide staff to identify situations that meet the criteria of vexatious, frivolous or unreasonably persistent, and the associated actions that may be taken in such circumstances. The aim of this policy is to contribute to the City’s commitment to service excellence and good governance by addressing all requests and complaints equitably and efficiently, while acknowledging that there may be a need to protect staff from unreasonable behavior.

For immediate threats to persons or property, 911 should be contacted.

RELATED POLICIES

In addition to this policy, the following City policies and tools may be relevant and should be consulted:

- Respectful Workplace Policy (Harassment and Discrimination) (*HR-017*)
- Workplace Violence Policy (and Procedure) (*HR-018*)
- Safe Community Centres Policy (04.1.28)
- Commentary to Rule 1(b) of the Code of Ethical Conduct for Members of Council
- Compliments and Complaints Instructions (see City’s website)

Note: The *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56, provides that a request for information may be denied if, on reasonable grounds, it is found to be frivolous or vexatious.

SCOPE

This policy is not intended to deal with generally difficult requests or complaints. This policy applies to vexatious, frivolous or unreasonably persistent requests or complaints. Deciding whether a request or complaint is vexatious, frivolous or unreasonably persistent, is a flexible balancing exercise, taking into account all the circumstances of the situation. There is no rigid test or criteria in

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deciding whether a request or complaint is vexatious, frivolous or unreasonably persistent. The key question is whether there is a pattern of conduct likely to cause distress, disruption or irritation, without proper or justified cause.

The decision to classify a subject person's behaviour as unreasonable, or to classify a request or complaint as vexatious or frivolous, could have serious consequences for the subject person, including restricting their access to municipal services.

The decision may be made as a result of a repeated pattern of conduct when, on multiple occasions, the subject person engages in one or more behaviours or actions identified as unreasonable, frivolous or vexatious. This does not preclude a single significant incident from being considered under this policy.

Examples of Vexatious, Frivolous or Unreasonably Persistent Requests or Complaints

Examples of what might be considered vexatious, frivolous or unreasonably persistent requests or complaints are provided below. The list is not exhaustive, nor does a singular action set out below necessitate the application of this policy.

- Complaints concerning an issue which staff have already investigated and determined to be groundless.
- 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).
- 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 a complaint;
 - 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 a 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 subject person knows or ought

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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 made at an earlier stage;
- refusing to co-operate with the investigation process while still wanting the complaint to be resolved;
- failing to clearly identify the precise issues of the complaint, despite reasonable efforts of staff to obtain clarification of the concerns; or
- providing false or misleading information.

Identifying the Problem

Staff must establish, through documented words and/or actions of the subject person (e.g. emails, letters, posts on social media, photographs, voicemails, and staff notes reporting a conversation or incident), that the complaint or request is frivolous, vexatious or unreasonably persistent, before applying the processes and restrictions outlined in this policy.

Each case will be considered on an individual basis. The decision to classify the subject person's behavior as unreasonable or to classify the request as vexatious or frivolous will be made by the Department Head or designate of the relevant service area in consultation with Senior Management.

Dealing with the Complaint

Employee

If an employee believes that a request or complaint is unreasonable, frivolous or vexatious, the employee should consult with their Department Head (or designate), provide any supporting materials and advise the Department Head (or designate) of the steps that have been taken to resolve the issue, including as appropriate:

- the length of time that staff have been in contact with the subject person, the history of the interactions (where appropriate), and the amount of correspondence that has been exchanged with the subject person;
- the number of requests and complaints made by the subject person and the status of each; and

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- the nature of the subject person's behaviour.

Department Head (or designate)

The Department Head (or designate) is responsible for reviewing the information provided by staff in a timely manner and opining on whether this policy should be applied. The Department Head (or designate) may want to contact other municipal departments to determine if the subject person is contacting multiple municipal staff/departments.

The Department Head (or designate) will:

- review the information provided by staff and determine if the subject person's behavior warrants the application of restrictions;
- work with the staff to determine appropriate restrictions, how to inform the subject person of the restrictions and determine a review date for removing, modifying or continuing restrictions; and
- meet with Senior Management and outline the situation, including proposed restrictions, how to inform the subject person of the restrictions and determine a review date for removing, modifying or continuing restrictions.

Senior Management

Before making a determination to classify the subject person's request or complaint as vexatious, frivolous or unreasonably persistent, a panel comprised of Senior Management must be satisfied that:

- the request has been properly investigated;
- communication with the subject person has been adequate; and
- the subject person is not attempting to provide any significant new information when contacting staff.

Notification to the Subject Person

When the decision, in consultation with Senior Management, has been made to classify the subject person's request or complaint as vexatious, frivolous, or unreasonably persistent, the subject person (where possible and appropriate) will receive written notification that:

- detail what action staff have taken and why;

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- explain what it means for the subject person's contact with the City; and,
- advise how long the restrictions will last and when the decision will be reviewed.

Application of Restrictions

Actions available 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);
- 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;
- instructing staff not to respond to further correspondence from the subject person 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;
- instructing staff to severely reduce or completely cease responding to further complaints and correspondence from the subject person;
- instructing staff to close the matter;
- limiting or regulating the subject person's use of municipal services e.g. community centres, access to technology systems, etc.;
- refusing the subject person access to any municipal buildings except by appointment;
- informing the subject person that further contact on the matter of the complaint/request will not be acknowledged or replied to;
- pursuing legal action; and/or

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- other actions as deemed appropriate.

Review of Restrictions

When any restrictions are put in place, a review date will be set. This will be based on the circumstances of the case and could be for a period of 3 months or longer depending on the severity of the situation. The status of the subject person will be reviewed by the relevant Department Head (or designate) on or before the review date. The subject person (where possible) will be informed of the outcome of the review.

The Department Head (or designate), in consultation with Senior Management, may extend the restrictions beyond the review date where appropriate. The subject person shall be notified of the extension and be given another date for review.

MAINTAINING RECORDS

Staff are responsible for maintaining detailed records of their interactions 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, as amended.

POLICY ADMINISTRATION

This policy shall be administered by the Office of the City Clerk.