

Frivolous and Vexatious Complaints Procedure

1.0 Definitions

Frivolous or Vexatious Complaint

For 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.

Pattern of Conduct

For the purpose of this policy, a pattern of conduct that has become frivolous or vexatious, 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 employees dealing with their complaint, in violation of the City's *Respectful Workplace Policy* and the *Workplace Violence Policy*.
 - Making excessive or multiple lines of enquiry regarding the same issue (e.g., pursuing a complaint with employees 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 employees by, for example, insisting on responses to complaints and enquiries within an unreasonable timeframe.
 - 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 employees 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 employees to help them clarify their concern.

2.0 Frivolous and Vexatious Complaints Procedure

A. Employee Responsibility

Employees must establish, through the documented words and/or actions of a complainant (e.g., emails, letters and employees 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 the employee has 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
- 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.

B. Manager/Supervisor Responsibility

Managers/supervisors are responsible for reviewing the information provided by employees and determining if the complainant's behaviour should be brought 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 the employee

C. 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.

3.0 Types of Action to Restrict Complainant Impact on Employees

Actions available to City of Mount Pearl Directors under this policy may include, but are not limited to:

- Limiting the complainant's correspondence with employees 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 employees 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 employees to take place in the presence of an appropriate witness
- Requiring that complainants produce full disclosure of documentation or information before employees will further investigate a complaint
- Instructing employees not to respond to further correspondence from the complainant regarding the complaint or a substantially similar issue
- Instructing employees 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 employees 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.

4.0 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 the City's Chief Administrative Officer or designated delegate that the actions outlined in the warning letter will take effect immediately.


The Chief Administrative Officer will advise the Mayor and the City Council of the action the City has taken and the reasons for it.

If a complainant's behaviour threatens the safety or security of an employee, the City will consult the *Respectful Workplace Policy*, *Workplace Violence Policy* and the *Harassment Free Workplace Policy*.

New complaints on a separate/new issue from a person who has come under this policy will be treated on their individual merits. The Chief Administrative Officer in consultation with the relevant Director(s), will decide if any restrictions which are currently in effect will apply to the new complaint.

City employees 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 employees.

7.0 APPROVALS



Steve Kent, Chief Administrative Officer

January 28, 2019

Date