



Frivolous and Vexatious Complaints Policy

Respect. Excellence. Connection. Service.

City of Greater Sudbury

www.greatersudbury.ca

Department/Division: Corporate

Last Update: June, 2023

1. INTRODUCTION

The City of Greater Sudbury is committed to providing excellent customer service to all residents. The City aims to address service requests and complaints equitably, comprehensively, and in a timely manner.

Unreasonable complaints can have significant staff time and resource implications for the organization, which may compromise the City's ability to deliver excellent customer service for all residents.

2. PURPOSE

The aim of this policy is to contribute to the City's commitment to service excellence and good governance by addressing all service requests and complaints equitably and efficiently, and to protect staff from unreasonable behaviour. This policy may be applied alone or in conjunction with the City's Workplace Violence, Harassment and Discrimination Prevention Policy. It also differs in purpose from the City's Wrongdoing Hotline, which is used to report complaints related to activities that could be deemed illegal, dishonest or a deliberate violation of the policy of the organization. Specifically, this policy serves as a guide for City of Greater Sudbury employees to identify situations that meet the criteria of frivolous, vexatious and/or unreasonably persistent complaints, and the associated actions that may be undertaken in such circumstances. It also ensures that any restrictions would be applied as fairly and consistently as possible across the organization.

This policy was developed in line the City of Greater Sudbury's Customer Service Strategy, *Respect. Excellence. Connection. Service.*, which sets the groundwork for all future work in customer service. The strategy recognizes that customer service is everyone's responsibility – it needs to be provided in an environment where mutual respect and knowledge connect to create service excellence.

3. DEFINITIONS

COMPLAINT

A complaint is an expression of dissatisfaction related to a City of Greater Sudbury program, service, facility, or staff member, where a resident believes that the City has not provided a service experience to the customer's satisfaction at the point of service delivery and a response

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or resolution is explicitly or implicitly expected. A complaint can be spoken, written or submitted by another method of communication.

COMPLAINANT

The person making the complaint to the City.

COMPLAINT OWNER

The employee who is assigned the complaint for investigation, follow-up or to provide the response to the resident.

UNREASONABLE BEHAVIOUR

Unreasonable behaviour negatively impacts the City's ability to deal with a customer's complaint or those of others. Examples of what might be considered unreasonable behaviour are provided below. The list is not exhaustive, nor does a single behaviour or incident on its own necessarily necessitate the application of this policy. Generally, the complainant will exhibit one or more of these behaviours over a period of time, and often even after being provided with the City's response to their complaint, for a behaviour to be deemed unreasonable:

- Repeatedly submitting complaints about an issue which staff have already investigated and determined to be groundless, with no new evidence;
- repeatedly challenging the findings of an investigation, complaining about the outcome and/or denying that an adequate response has been given;
- refusing to accept that an issue falls outside of the scope of the City's jurisdiction;
- refusing to co-operate with the investigation process while still wanting the complaint to be resolved;
- immediately demanding to speak with a manager or supervisor without given staff the opportunity to resolve their issue through regular channels and procedures;
- making unjustified or falsified complaints about staff who are trying to deal with the issues;
- denying or changing statements as the matter proceeds;
- covertly recording meetings and conversations;
- persistently approaching the corporation through multiple lines of inquiry regarding the same issue (eg. multiple City departments and/or an elected official simultaneously), while a complaint is in the process of being investigated;
- repeated hostile behaviours or lengthy contacts through phone calls, emails, detailed letters or social media, that impede the City's ability to provide effective service or are intended to harm, embarrass or slander the City or City staff; or

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- causing distress to staff through hostile, abusive or offensive language, or fixating on an individual member of staff, or exhibiting behaviours defined in the City's Workplace Violence, Harassment and Discrimination Prevention Policy.

FRIVOLOUS OR VEXATIOUS COMPLAINTS

A complaint is frivolous when it is trivial in nature or does not have a proper or justified cause. A complaint is vexatious when it is perceived to be pursued in a manner that is malicious, intended to embarrass or harass the recipient, or intended to be a nuisance. Examples of what might be considered frivolous or vexatious complaints are provided below. The list is not exhaustive, nor does a single behaviour or incident on its own necessarily necessitate the application of this policy. Generally, the complainant initiates the request with malicious intent or is part of a pattern of conduct that amounts to abuse of the complaints process, and it's likely that more than one of these factors are relevant:

- Prolonged submission of obsessive requests with high volume and frequency of correspondence, to one or more City staff members, through one or more customer service channels;
- requests for information that the requester has already seen, or clear intention to reopen issues that have already been considered and concluded;
- where complying with the request would impose significant burden on the Corporation in terms of expense, and negatively impact the ability to provide service to others;
- where the requester states that the request is actually meant to cause maximum inconvenience, disruption or annoyance;
- where the request lacks any serious purpose or value. An apparent lack of value would not usually be enough on its own to make a request vexatious, but may when considered with other examples; or
- harassing the Corporation or individual staff members. This could include with very high volume and frequency of correspondence, or making requests with accusations and complaints.

4. APPLICATION & SCOPE

This policy applies to all City departments and to any frivolous, vexatious or unreasonable complaint received by City staff or anybody acting on behalf of the City. This policy is not intended to deal with general complaints and only applies to unreasonable or unreasonably persistent behaviours, as they are defined in this policy. These customer contacts are differentiated based on their frequency and volume.

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There is no rigid test or criteria in deciding whether a complaint is unreasonable, frivolous or vexatious. When determining whether a complaint falls under this policy, staff should consider whether the request is likely to cause distress, disruption or irritation, and whether it is without proper or justified cause. The decision may be a result of a repeated pattern of conduct, where the complainant has engaged in one or more of the behaviours identified in this policy. This situation may require the City to put limits on the contact which the complainant has with the Corporation to ensure that the City's resources can continue to be used efficiently and effectively. The City may also refuse to address complaints that fall within this policy, and this decision is at the City's sole discretion.

5. ROLES AND RESPONSIBILITIES

Before deciding to apply this policy, all staff will ensure that:

- The request has been dealt with properly and in line with the relevant internal procedures and statutory guidelines;
- staff have made reasonable efforts to satisfy or resolve the request; and
- the customer is not presenting a new request or new material or information about the situation.

All staff are responsible for maintaining detailed records of their interactions, actions and decisions 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. If the staff member is in a department that has access to the City's Customer Relationship Management (CRM) system, then all individual and related interactions should be formally logged in that system.

EMPLOYEES

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

- The length of time that staff have been in contact with the customer, history of the interactions (where appropriate) and the amount of correspondence that has been exchanged with the customer;
- the number of requests that the customer has brought and the status of each;
- the nature of the customers' behaviour;
- amount of time that has been consumed and the impact; and

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- a list of other departments and staff the complainant may also have contacted.

MANAGERS

The Manager (or designate) is responsible for reviewing the information provided by staff in a timely manner and determining whether this policy could apply to the complaints received. They may want to contact other staff if the subject person is contacting multiple departments. The manager will meet with their Director and/or General Manager to outline the situation, including any proposed restrictions applicable under this policy.

DIRECTORS

Directors will consider complaints from their Managers on an individual basis, and the final decision to classify the complaint as unreasonable, frivolous or vexatious will be made by the Director of the relevant service area, in consultation with involved staff members. They will:

- Within 10 business days of the receipt of the complaint from their Director, they will review the information provided by staff and determine whether the customer's behaviour warrants the application of restrictions in this policy;
- work with staff to determine appropriate restrictions, to determine an appropriate length of time for the restrictions and to establish a review date for removing, modifying or continuing restrictions;
- notify their General Manager, the Manager of Corporate Security and By-law Services and other relevant staff to outline the situation and proposed restrictions;
- consult with the Mayor and/or individual Councillors depending on the nature of the request and whether or not it originated within the Office of the Mayor and Council;
- ensure that all relevant staff are made aware of any restrictions imposed on an individual and the length of the restrictions, including City systems (such as the Customer Relationship Management system), if required; and
- ensure that all relevant staff are aware of and trained on this policy.

The authority to take the actions above has been delegated to Directors by the Executive Leadership Team. As such, Directors are automatically supported by their General Manager or Executive Leadership Team member in making decisions that are in line with this Policy.

MANAGER OF CORPORATE SECURITY AND BY-LAW SERVICES

When the decision has been made to classify requests or complaints as frivolous, vexatious or unreasonable in nature, the subject person (where possible and appropriate) will receive written notification within 10 business days from the Manager of Corporate Security and By-law Services that:

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- Detail what actions staff have taken under this policy and why;
- explain what it means for the customer's contacts with the City; and
- advise how long the restrictions will last and when the decision will be reviewed.

6. APPLICATION OF RESTRICTIONS

Restrictions will be tailored to deal with the individual circumstances and may include one or more of the following (the list is not exhaustive):

- Placing limits on the number and duration of contacts with staff per week or month;
- offering a restricted time slot for necessary calls;
- limiting the customer to one method of contact (telephone, letter, email, etc.);
- limiting the customer to a single person of contact designated by the City;
- requiring any personal contacts to take place in the presence of a witness and in a suitable location;
- requiring the customer to make contact by telephone only through a third party (eg. solicitor, counsellor, friend acting on their behalf);
- limiting or regulating the customer's use of the City's services;
- refusing customer access to any City building except by appointment;
- banning a customer from City facilities or properties for a specific period of time which may include pursuing Legal actions, such as the issuance of a Notice of Trespass;
- closing the case or service request;
- informing the customer that further contact on the matter of the complaint/request will not be acknowledged or replied to;
- ending all contact with the customer for a specified period of time; or
- 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 Manager (or designate) on or before the review date and they will be informed of the outcome of the review, where possible.

The Director 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.

DISPUTE

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The complainant will have the ability to make one appeal directly to the Corporation, regarding the decision to impose restrictions, by addressing their concerns in writing to the CAO. The Director or Executive Leadership Team member involved will provide a summary of the appeal and all relevant background information to the CAO. The CAO will review the appeal with involved staff members and HR, if required. The CAO may confirm, rescind or amend the restrictions. The CAO's office will communicate the appeal decision to the complainant in writing within 15 business days of the decision.

In the event that a complaint cannot be resolved through the process outlined within this policy, the City may recommend that a complaint be referred to the Provincial Ombudsman's Office and the City file will be deemed closed.