



FORTFRANCES

BOUNDLESS

PUBLIC CONDUCT POLICY

HUMAN RESOURCES 3.9

POLICY

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Superseded:

1. PURPOSE

The Corporation of the Town of Frances endeavors to provide exemplary service to all members of the public. The Town also strives to address public service requests and complaints equitably, comprehensively, and in a timely manner, while at the same time promoting a respectful, tolerant, and harassment-free workplace for staff and Members of Council.

The purpose of this policy is to protect staff and Members of Council from unreasonable public behaviour and frivolous and/or vexatious actions that consume a disproportionate amount of Town time and resources and impede staff from attending to other essential issues.

This policy will guide staff and volunteers to identify situations that meet the criteria of unreasonably persistent, frivolous and/or vexatious, and the associated actions that may be taken in such circumstances. The goal of this policy is to promote a positive, safe, and supportive environment for interactions between members of the public and Town staff that will encourage respect, commitment, and considerate relationships. This policy also aims to provide measures that be may taken when behaviour or actions become inappropriate.

For immediate threats to person or property, 911 systems should be activated, and staff should follow the Workplace Harassment Policy and/or Workplace Violence Policy.

2. SCOPE

- (1) This policy applies to all members of the public whose behaviours and actions are unreasonable, frivolous, and/or vexatious. Decision whether a request or complaint is unreasonably persistent, frivolous, and/or vexatious, requires a flexible and balanced approach, taking into account all the circumstances of the situation. In most cases, the key question is whether there is a pattern of conduct likely to cause distress, disruption, or irritation without the proper or justified cause.
- (2) The decision to classify a subject individual’s behaviour as unreasonable, or to classify a request or complaint as frivolous and/or vexatious, could have serious consequences for an individual, including restricting their access to Members of Council, staff, municipal services and/or property.
- (3) The decision may be made if behaviour or requests from an individual are determined to be unreasonable, frivolous, and/or vexatious as defined herein. The following behaviours or request may take place in circumstances including, but not limited to, one or more of the following:
 - (a) Public meetings;

- (b) In person communication;
- (c) Interactions at municipal property, parks, or facilities;
- (d) Written communication;
- (e) Telephone communication; and
- (f) Electronic communication, including email and/or social media

3. DEFINITIONS & EXAMPLES

- **“Frivolous”** means a complaint or request that has no serious purpose or value, about a matter deemed so trivial or meritless on its face that investigation would be disproportionate in terms of time and cost.
- **“Unreasonable”** means behaviour/conduct that is unacceptable in all circumstances regardless of how stressed, angry, or frustrated the individual is because it compromises the health, safety, and/or security of Members of Council, staff, other service users, or the individual themselves.
- **“Vexatious”** means the complaint or request for service is initiated with the intent to embarrass or annoy the recipient, or is part of a pattern of conduct by the complainant or requester that amounts to an abuse of the complaint or request for service process.

3.1. EXAMPLES OF FRIVOLOUS AND/OR VEXATIOUS REQUESTS/COMPLAINTS:

1. Examples of what might be considered frivolous and/or vexatious are provided below. The list is not exhaustive, and in determining if a request/complaint is frivolous and/or vexatious, more than one of the examples may be relevant:
 - a. Submission of excessive requests/complaints with a high volume and frequency or correspondence;
 - b. Requests for information that the requester/complainant has already seen, or clear intention to reopen issues that have already been considered;
 - c. Where complying with a request would impose a significant burden on the Town in terms of expense and negatively impact the ability to provide timely service to others;

- d. Where the requester/complainant states that the request/complaint is actually meant to cause maximum inconvenience, disruption, or annoyance;
 - e. Where the request/complaint lacks serious purpose or value. An apparent lack of value would not usually be enough on its own to make a request/complaint vexatious, but may when considered with other examples; and/or
 - f. Harassing the Town, which could include a high volume and frequency of correspondence, or mingling of requests with accusations and complaints.
2. A pattern of conduct occurs when an individual engages in one or more of the following:
 - a. Brings complaints concerning issue(s) that staff have already investigated and concluded;
 - b. Brings complaints concerning an issue that is substantially similar to an issue that staff have previously investigated and concluded and no new information is being introduced; and/or
 - c. Engages in unreasonable conduct which is abusive of the request for services or complaints process, including but not limited to the examples set out above.

3.2. EXAMPLES OF UNREASONABLE BEHAVIOUR

1. Examples of what might be considered unreasonable behaviour are provided below. The list is not exhaustive and in determining if behaviour is unreasonable, more than one of the examples may be relevant:
 - a. Refusing to specify the grounds of a complaint, despite offers of assistance;
 - b. Changing the basis of the request/complaint as the matter proceeds;
 - c. Denying or changing statements made at an earlier stage of the request for service/complaint process;
 - d. Covertly recording meetings or conversations;
 - e. Submitting falsified documents and/or information from themselves or others;
 - f. Making excessive demands on the time and resources of staff with lengthy phone calls; emails to numerous staff; or frequent detailed letters, and expecting detailed responses;

- g. Refusing to accept the decision and repeatedly arguing points with no new evidence;
- h. Persistently approaching the Town through different routes about the same matter/issue;
- i. Causing distress to staff and/or Members of Council, which could include use of hostile, abusive or offensive language, or an unreasonable fixation on an individual member of staff;
- j. Making unjustified complaints about staff who are trying to deal with a matter or an issue and seeking to have that staff member replaced;
- k. Engaging in aggressive, disrespectful or intimidating behaviour, bullying, yelling, harassment or using coarse language while accessing a Town program, services, event, or facility;
- l. Loitering, causing a disturbance or acting under the influence of drugs and/or alcohol on a Town property, events, or facility;
- m. Lodging complaints with staff outside of work hours and/or Town programs, services, events, or facilities;
- n. Approaching staff or a Member of Council's family member to issue a complaint regarding Town programs, services, events, or facilities;
- o. Attending a Member of Council's or staff member's private residence or private property uninvited; and/or
- p. Emailing or otherwise circulating information or photos of a Member of Council or staff member in a disrespectful way.

4. RESPONSIBILITES

1. All users of this policy are required to document the actions of the individual, as well as their own, in as much detail as possible.
2. Certain situations involving unreasonable behaviour may require immediate action by way of a Notice of Trespass, after possible alternative measures are considered or implemented.

3. For situations involving unreasonable behaviour that does not require such immediate action, as well as frivolous and/or vexatious requests for service and/or complaints, the following process will be followed:

a. Staff/Employees

- i. If a staff member/employee experiences or witness any incident or behaviour that makes the staff member uncomfortable or unsafe, the staff member should report the matter to their supervisor, and provide any supporting materials;
- ii. If an employee believes that a request for service or complaint is unreasonable, frivolous and/or vexatious, the employee should consult with their supervisor (or designate), provide any supporting materials and advise the supervisor (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 individual, the history of the interactions (where appropriate);
 - The amount of correspondence that has been exchanged with the individual;
 - The number of requests that the individual has submitted and the status of each; and
 - The nature of the individual's behaviour and the amount of time that has been consumed.

For clarity, the Chief Administrative Officer (CAO) will report their actions to Council.

b. Supervisors

- i. When approached by a staff member who has concerns about unreasonable behaviour or a frivolous and/or vexatious service request or complaint, the supervisor will:
 - Review the information provided by staff/employee and determine if the individual's behaviour warrants the application of restrictions;

- Work with staff to determine appropriate restrictions, including how to inform the individual of the restrictions
- Consult with the Clerk and/or Legal Counsel as necessary;
- Make the determination to classify an individual's behaviour as unreasonable or to classify a service request or complaint as frivolous and/or vexatious;
- Determine the restrictions to be imposed on the individual and communicate them to the individual;
- Maintain all documentation related to the review and restrictions imposed;
- Conduct reviews of the restrictions and communicate the results to the individual;
- Advise the Clerk and CAO in writing when restrictions are placed on an individual and provide any additional information as required; and
- If applicable, ensure compliance with any relevant duties and procedures.

c. Members of Council

- i. If a member of Council experiences or witnesses any incident or behaviour that makes the Member uncomfortable or unsafe, the Member should consult with the CAO and the Integrity Commissioner. Upon being consulted, the Integrity Commissioner will provide advice to the Member respecting any proposed action under this policy as it relates to the Member's obligations under the Code of Conduct for Members of Council
- ii. Any restrictions placed on an individual on behalf of a Council Member pursuant to this policy will be administered by the CAO or delegate.

5. PROCEDURE/STEPS

5.1. INFORMATION REVIEW

1. Based on the information provided by staff/employee, the supervisor will conduct a review to determine if the individual's behaviour warrants the application of a restriction.

Each case should be considered on an individual basis. This determination, and any restrictions imposed, shall be based on consideration of the specific circumstances of the matter as well as the following:

- a. The individual's personal circumstances, level of competency, literacy skills, etc. that may be known to staff/employee;
- b. If applicable, whether the service request or complaint has been dealt with properly in accordance with the Town's Customer Complaint Policy and other applicable policies and legislation;
- c. If applicable, whether staff have made reasonable efforts to satisfy or resolve the request or complaint; and
- d. If applicable, whether the individual is presenting new material or information about the situation, or making a new service request or complaint.

5.2. NOTICE

1. Upon determination that an individual's behaviour is unreasonable, or to classify a service request or complaint as frivolous or vexatious, depending on the severity of the incident, the Supervisor will:
 - a. Send a letter of warning to the individual indicating that the behaviour/service request/complaint is in violation of this policy and the restrictions that may be imposed should they continue; or
 - b. Send a letter of notification to the individual indicating that the matter has been reviewed and that restrictions will be imposed. This letter will contain a summary of the findings of the supervisor's review; including as follows:
 - A summary of the matter which led to the restrictions;
 - A summary of the interactions with the individual;
 - A description of the restrictions that are to be applied; and
 - The rationale for applying the restrictions.

5.3. POTENTIAL RESTRICTIONS

1. Restrictions should be tailored to deal with individual circumstances. Actions available to supervisors to restrict the individual may include, but are not limited to one or any combination of the following:
 - a. Limiting the individual's correspondence with staff or a Member of Council to a particular format, time, or duration;
 - b. Limiting the individual to a particular point of contact;
 - c. Requiring any face to face interactions between the individual and staff or a Member of Council to take place with another member of staff or a Member of Council present;
 - d. Requiring the individual to make contact with the Town only through a third party such as a solicitor or counsellor;
 - e. Limiting or regulating the individual's use of Town services;
 - f. Refusing the individual access to a Town facility except by appointment or specific permission;
 - g. Requiring that the individual produce full disclosure documentation or information before staff will further complete a service request or investigate a complaint;
 - h. Instructing staff not to respond to further correspondence from an individual regarding a complaint or substantially similar issue;
 - i. Informing the individual that further contact on the matter will not be acknowledged or replied to;
 - j. Closing the service request or complaint file;
 - k. Instructing staff not to investigate any complaints regarding an issue that has already been investigated or which is substantially similar to an issue that has already been investigated;
 - l. Pursuing legal action including the issuance of a Notice of Trespass.

5.4. RESTRICTION REVIEW

1. The letter of notification will advise of a review date for the matter, depending on the severity of the incident and the nature of the matter and the restrictions imposed. Generally, all cases where this policy is applied should be reviewed every three or six months, and not more than 12 months after the restriction was initially imposed or continued to be upheld.
2. The impacted individual will be invited to participate in the restriction review process by providing a written submission, or by way of another method as appropriate in the circumstances, unless the supervisor determines that this invitation will provoke a negative response from the individual.
3. Prior to the restriction review date, staff and the supervisor will meet and review the file and determine if the restrictions should continue. During this review, consideration will be given to such matters as:
 - a. Whether the individual has had any contact with the Town during the restriction period;
 - b. The individual's conduct during the restriction period;
 - c. Any information/arguments put forward by the individual as part of the restriction review process;
 - d. The effect that continuing the restriction may have on the individual; and
 - e. Any other information that may be relevant in the circumstances.
4. The individual will be informed of the outcome of the review by way of letter within ten (10) business days of completion of the restriction review (unless extenuating circumstances arise) and be given another date for review if any restrictions remain.

5.5. APPEALS

1. The individual will have the ability to appeal any decision to impose restrictions by writing the Clerk and the CAO within ten (10) business days from the date the restriction letter was issued. Within ten (10) days of receipt of the appeal letter the Clerk and CAO will review it against this policy, along with all relevant information and confirm, rescind, or amend the restrictions. The Clerk and the CAO's decision is final.
2. In the event that an issue cannot be resolved through this policy, the individual may submit a complaint to the office of the Ontario Ombudsman.

6. RECORDS MANAGEMENT AND PRIVACY

All records relating to any issue pursuant to this policy shall be maintained in accordance with the Municipality's record retention schedule. Throughout all processes outlined in this policy, all Members of Council and municipal employees shall adhere to all applicable legislation regarding privacy in accordance with the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA). Individuals should be aware that certain circumstances may identify them during an investigation.