



# Policy

---

## POL.COR.22.08 Frivolous, Vexatious or Unreasonable Complaints Policy

<b>Policy Type:</b>	Corporate Policy (Approved by Council)
<b>Date Approved:</b>	June 6, 2022
<b>Department:</b>	Administration
<b>Staff Report:</b>	FAF.22.104
<b>By-Law No.:</b>	N/A

### Policy Statement

---

The Town of The Blue Mountains (the Town) is committed to providing exemplary service and ensuring that municipal resources are used effectively and efficiently to maintain service excellence and responsiveness to all members of the public. This policy addresses Frivolous, Vexatious or Unreasonable requests or Complaints that consume a disproportionate amount of Town time and resources, ultimately impeding Employees from attending to other essential issues.

### Purpose

---

The purpose of this policy is to guide Employees to identify situations that meet the criteria of Frivolous, Vexatious or Unreasonable, and the associated actions that may be taken in such circumstances. 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 to all members of the public.

### Application

---

This policy applies to all Employees of the Town of The Blue Mountains. This policy is not intended to deal with generally difficult Requests or Complaints. This policy applies to Frivolous, Vexatious or Unreasonably persistent Requests or Complaints and is designed to provide members of the public and Employees with the tools needed to ensure municipal resources are managed equitably for all members of the public.

This policy does not apply to:

- Complaints about Members of Council, Members of Committees of Council and Local Boards (as they are governed by the Code of Conduct for Members of Council and Local Boards and investigated by the Integrity Commissioner);
- Members of advisory and quasi-judicial committees and local and other boards;
- A function where there is a statutory or prescribed process for review, or which is governed by specific legislation;
- Complaints from Employees about other Employees or working conditions;
- Allegations of violations of Canada's Criminal Code.

This policy does not apply where legal action against the Town or a Town official has been threatened or commenced. Additionally, this policy does not apply to typical Complaints, which are addressed through the Town Complaint Resolution Policy, which provides the public with an avenue for submitting Complaints and provides a consistent practice for handling Complaints.

## Definitions

---

**C.A.O.** means Chief Administrative Officer of the Town of The Blue Mountains.

**Committee Member** means an individual appointed by Council to a specific Committee of Council.

**Complainant** means a customer or person who is submitting a Complaint. Any customer who uses or is affected by Town services can submit a Complaint including residents, visitors, businesses and community groups.

**Complaint** is an expression of dissatisfaction related to a Town of The Blue Mountain's program, service, facility, or staff member, where a member of the public believes that the Town has not provided a service experience to the customer's satisfaction at the point of service delivery and a response or resolution is explicitly or implicitly expected.

**Council** means The Blue Mountains Town Council as a whole.

**Council Member** means an individual member of Council, including the Mayor.

**Employee** means all full-time, part-time, temporary, seasonal and staff hired on a contract basis for a defined period of time, of the Town as well as students.

**Feedback** means an opinion or comment about a program, facility, service, or Employee. By a member of the public.

**Frivolous** means a Complaint /Request that has no serious purpose or value or may have little merit and be trivial and is part of a pattern of conduct that amounts to an abuse of the right of

access, interferes with the operations of the institution, or is made in bad faith or for a purpose other than to obtain access.

**Harassment or Harass** means engaging in a course of behaviour, comment or conduct, whether it occurs inside or outside the work environment, that is or ought reasonably to be known to be unwanted. It includes but is not limited to any behaviour, conduct or comment that is directed at or is offensive to another person:

- a. on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status, as well as any other grounds under the provisions of the Human Rights Code; or
- b. which is reasonably perceived by the recipient as an intention to bully, embarrass, intimidate or ridicule the recipient.

**Ombudsman** means the Ombudsman of Ontario.

**Request** means the act of asking for something to be given or done, such as request made to the Town on behalf of a member of the public for a specific service, or to notify the Town that a scheduled service was not provided on time. Examples include: requesting road repairs, missed garbage collection, burnt out street light, no water service, by-law infraction.

**Unreasonable** means a Complaint /Request that is likely to cause distress or disruption to the Town, its Employees or other members of the public, without any proper or justified cause. Behaviour that, because of the nature or frequency of a Complainant's contact with the Town, negatively affects the ability to deal with their Complaints or those of others.

**Vexatious** means a Complaint /Request without merit, that is pursued in a manner that is malicious, intended to inconvenience, embarrass or Harass the recipient or is a pattern of conduct by the Complainant that amounts to the misuse of the Complaints processes and procedures.

## Procedures

---

### 1. Identifying the Conduct or Behaviour

The decision to classify someone's behaviour as Unreasonable, or to classify a Request or Complaint as Frivolous and Vexatious, could have serious consequences for the individual, including restricting their access to Town services, facilities, and staff. The decision may be as a result of a repeated pattern of conduct when, on several occasions, a person engages in one or more behaviours or actions identified as Unreasonable, Frivolous and/or Vexatious, or it may be a single significant incident that requires the invocation of this policy. If an incident presents an immediate threat, contact 9-1-1.

Although each case must be determined in light of its own circumstances, below are examples meant to help staff identify Frivolous, Vexatious or Unreasonable conduct. It is understood that

these examples are not determinative; the list is not exhaustive, nor does any action set out in the list necessitate application of this policy.

Examples of Frivolous, Vexatious, or Unreasonable conduct may include, but are not limited to:

- Complaints, inquiries, demands regarding an issue which staff have already investigated and determined to be groundless;
- Covertly recording meetings and conversations with the Town;
- Complaints concerning an issue which is substantially similar to an issue which staff have already investigated and determined to be groundless (i.e., with respect to the same party or same property);
- Unreasonable conduct, which is abusive of the Town's Complaints process, including but not limited to:
  - Excessive or multiple lines of inquiry regarding the same issue (i.e., Pursuing a Complaint with Employees in multiple departments and/or Council or Committee members simultaneously), while a Complaint is being investigated or has been deemed to be groundless;
  - Repeatedly challenging the findings of a Complaint investigation, complaining about the outcome and/or denying that an adequate response was given;
  - Refusing to accept that an issue falls outside the scope of the Town's jurisdiction;
  - Making unreasonable demands on Employees by, for example, insisting on responses to Complaints and inquiries within an Unreasonable time-frame, demanding meetings with Employees without justifiable reason, excessive correspondence either to one member of Town staff in a short time frame, or to numerous Employees;
  - 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 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 Employees to obtain clarification of the concerns;
  - Making unjustified Complaints or defamatory remarks about Employees in an effort to see them disciplined; or
  - Providing false or misleading information.

## Frivolous, Vexatious or Unreasonable Complaints Policy

Each situation will be considered on a case-by-case basis. The decision to classify the Complainant's conduct as Frivolous, Vexatious or Unreasonable will be made by the relevant Manager or designate, in consultation with the Senior Management Team.

Deciding whether a Complainant's conduct is Frivolous, Vexatious or Unreasonable requires a flexible approach, taking into account all circumstances. There is no rigid test or criteria for deciding whether conduct is Frivolous, Vexatious or Unreasonable. 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 may be made as a result of one or more behaviours identified as Frivolous, Vexatious or Unreasonable. Staff must establish, through documented words and/or actions of the Complainant (i.e., Emails, letters, posts on social media, photographs, voicemails, and staff notes reporting a conversation or incident), that the conduct of the Complainant is Frivolous, Vexatious or Unreasonable, before applying the restrictions outlined in this policy.

## **2. Responsibilities**

### **Employees:**

Employees are to have knowledge and understanding of the purpose of receiving Complaints, the process through which a Complaint can be made and the service standards that apply to Complaints. They are to be aware of this policy and any accompanying guidelines and protocols.

### **Directors, Managers and Supervisors:**

Directors, Managers and Supervisors are responsible for ensuring that relevant Employees are aware of and trained on this policy and any accompanying guidelines and protocols.

### **Town Clerk:**

The Town Clerk is responsible to consult with the Director of Legal Services and the C.A.O. in the application of the policy.

### **Senior Management Team:**

Senior Management Team is responsible for ensuring this policy is applied organization-wide and adhered to by all Employees of the Town and for clarifying and resolving any ambiguity, which may exist within this policy.

### **Members of Council and Committees:**

Members of Council and Committees will consult with the C.A.O. and the Integrity Commissioner, if necessary, regarding cases of Unreasonable behaviour and/or Frivolous and Vexatious action that the Member wishes to address, as described in this policy. Upon being consulted by a Member of Council or Committees, the Integrity Commissioner shall provide

## Frivolous, Vexatious or Unreasonable Complaints Policy

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.

**Customers/ Members of the Public:**

Customers / Members of the Public are asked to recognize that the Town must consider the needs of the whole community. They are to provide honest and respectful communication with a goal to improving services.

**3. Legislative and Policy Overview****i. Municipal Freedom of Information and Protection of Privacy Act, R.S.O.1990, c.M. 56**

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.

**ii. Occupiers' Liability Act and Occupational Health and Safety Act**

The Town has a general legislated duty under the *Occupiers' Liability Act*, R.S.O. 1990, c 0.2, to take such care, as in all the circumstances is reasonable, for any persons entering on its premises, and the property brought on the premises are reasonably safe. The Town has further duties under the *Occupational Health and Safety Act*, R.S.O. 1990, c 0.1, to address workplace violence and harassment and to:

- make reasonable efforts to provide a safe, healthy working environment for its Employees;
- ensure that all persons on the property are reasonably safe while on the premises; and,
- make reasonable efforts to provide for the safety of all Council, Employees, and the public in Town operations and in public use of Town facilities.

**iii. Related Policies**

The Town is committed to ensuring a climate of understanding and mutual respect and to make reasonable efforts to provide a safe workplace, free from any form of discrimination, Harassment, bullying or actual, attempted or threatened violence. The Corporate Workplace Violence and Harassment Policy, POL.COR.18.08, details the steps available to the Town to ensure that a respectful and safe workplace is maintained.

The Town's Complaint Resolution Policy, POL.COR.16.05, provides the public with an avenue for submitting Complaints and provides Town Employees with consistent practices for handling Complaints about Town programs and services.

#### **4. Addressing the Conduct or Behaviour**

##### **i. Employee Review**

In the event suspected Frivolous, Vexatious or Unreasonable conduct is experienced or observed, the Employee will consult with their Manager or Supervisor providing any supporting materials identifying the nature of the conduct including, as appropriate:

- The number of Requests and Complaints made by the Complainant and the status of each;
- The length of time that Employees have been in contact with the Complainant, including the time and resources invested in the issue(s);
- The history of the interactions (where appropriate) and the amount of correspondence that has been exchanged with the Complainant;
- A summary of the steps taken by Employees to resolve the issue;
- The nature of the Complainant's behaviour.

Employees may choose to contact their Manager or Supervisor for assistance prior to a pattern of conduct being established if the Complainant's behaviour is of concern.

##### **ii. The Manager/Supervisor Review:**

- Review the information provided by Employees and determine in a timely manner to determine whether:
  - The Request has been dealt with properly and in line with the relevant procedures;
  - Employees have made reasonable efforts to satisfy or resolve the Request;
  - That the Complainant is not presenting new material or information that demonstrates there is an issue within the scope of Town services and/or jurisdiction.
- Determine if the Complainant's conduct warrants the application of restrictions; and
- Work with Employees and the Director to determine appropriate restrictions, how to inform the Complainant of the restrictions and determine a review date for removing, modifying, or continuing restrictions.

##### **iii. A panel of the Senior Management Team (or their appropriate designates) consisting of no less than 3 persons, not including the Manager/Supervisor, will review the information provided by Employees, as well as the determination by the Manager/Supervisor with respect to proposed restrictions and review date, and determine whether:**

- The Request has been properly investigated;
- Communication with the Complainant has been adequate;
- The proposed restrictions and proposed review date are justified in light of the circumstances; and

## Frivolous, Vexatious or Unreasonable Complaints Policy

- The Complainant is not attempting to provide any significant new information that would warrant further Employee engagement;
- Any restriction(s) placed on an individual on behalf of a Council or Committee Member under this policy shall be administered by the C.A.O.

**5. Application of Restrictions and Notice**

When a decision has been made to classify the Complainant's conduct as Frivolous, Vexatious or Unreasonable, the Complainant (where possible and appropriate) will receive written notification from the Town's Legal Services Department, with a copy to Members of Council, the C.A.O., the Senior Management Team and Town Clerk, detailing:

- The reasons for the decision;
- The restrictions to be applied;
- The review date; and
- What it means for the Complainant's contact with the Town.

Restrictions available under this policy for Frivolous, Vexatious or Unreasonable conduct shall be tailored to deal with the individual circumstances of each case and may include, but are not limited to:

- A letter of warning may be issued to the Complainant for any conduct that is in violation of this policy;
- Limiting the Complainant to a particular point of contact at the Town (where appropriate, CityView may be flagged to advise other Employees not to respond to the Complainant, but to refer them to the point of contact);
- Limiting the Complainant's correspondence with Employees to a particular format only (i.e.. Email only), time (i.e. Phone calls only at specific times and days of the week) or duration (i.e. Conversations may last no longer than 10 minutes), this may include technological or electronic limiters, such as muting or blocking on social media, email filters, and automatic telephone redirects;
- Requiring that the Complainant only contact the Town through a third-party agent, such as a solicitor, counsellor, family member or friend;
- Requiring any face-to face interactions between the Complainant and Employees to take place in the presence of an appropriate witness and/or police;
- Requiring that the Complainant 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 Complaint s regarding an issue that has already been investigated, or which is substantially similar to an issue which has already been investigated;
- Instructing Employees to significantly reduce or completely cease responding to further Complaints and correspondence from the Complainant;

## Frivolous, Vexatious or Unreasonable Complaints Policy

- Instructing Employees to close a matter;
- Limiting or regulating the Complainant's use of municipal services (i.e., Community centres, libraries, registration in programs, access to technology systems, etc.);
- Refusing the Complainant access to any municipal buildings except by appointment or scheduled delegations at public meetings of Council;
- Informing the Complainant that further contact on the matter will not be acknowledged or replied to;
- Pursuing legal action; and/or
- Any other actions deemed appropriate by the panel of Senior Management Team members.

## 6. Review of Restrictions

The Complainant shall have thirty (30) days from the date upon which notice is received of Restrictions to appeal the decision by providing to the C.A.O. a written letter outlining the reasons for the appeal. The C.A.O. may confirm, rescind, or amend the Restrictions, Review Date, extension, or modifications within ten (10) days of receiving the appeal.

Any Restrictions made under this policy shall contain a review date. This date is set at the discretion of the Department Head or their designate, having considered the circumstances of the case. A review date may be ninety (90) days or longer from the date on which the Restrictions were put in place where the conduct or behavior has been deemed severe or where the Complainant's conduct or behaviour has established a pattern of behavior necessitating a longer period of Restriction. The status of the Complainant will be reviewed by the relevant Manager /Direct Supervisor on or before the review date, the outcome of which shall be communicated to the Complainant in writing.

The Manager / Supervisor, in consultation with the Senior Management Team, may extend the Restrictions beyond the review date where appropriate, in which case the Complainant shall be notified of the extension, the reasons for the extension and provided a new review date.

The Complainant shall have thirty (30) days from the date upon which notice of extension/modification is received of an extension/modification to appeal the decision by providing to the C.A.O. a written letter outlining the reasons for the appeal. The C.A.O. may confirm, rescind, or amend the Restrictions, review date, extension, or modifications within ten (10) days of receiving the appeal.

Where Restrictions imposed are not respected by the Complainant, further Restrictions may be imposed upon review in accordance with this policy.

In the event that Complaints cannot be resolved under this policy, they may be submitted to the Ombudsman's office.

## 7. New Complaints

Complaints on a separate or new issue from a Complainant who has come under this policy will be treated on their individual merits. The C.A.O., in consultation with the Director of Legal Services, will decide if any restrictions, which are currently in effect, should be applied to the new Complaint.

## 8. Record Retention

Staff are responsible for maintaining detailed records of their interactions (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 the Town. Records must be retained in accordance with the Town's Records Retention Policy.

## Exclusions

---

This policy applies to all Requests and Complaints made by members of the public unless:

- Where a meeting is covered under the Procedural By-law, the procedures established under that By-law take precedence over this policy.
- Complaints made to the Town's Integrity Commissioner under the Town's Code of Conduct are not subject to this policy.

Nothing in this policy is meant to conflict with the Town's Workplace Violence & Harassment Policy POL.COR.18.08.

## References and Related Policies

---

- POL.COR.07.01 Accountability and Transparency of Town Actions to the Public Policy
- POL.COR.13.16 Integrated Accessibility Standards Regulation Policy
- POL.COR.16.05 Town Complaint Resolution Policy
- POL.17.04 Accessibility Standards for Customer Service
- POL.COR.18.08 Workplace Violence & Harassment Policy
- POL.COR.18.10 Social Media Policy
- POL.COR.21.06 Code of Conduct for Members of Council, Local Boards, and Advisory Committees
- POL.COR.22.07 Respectful Public Interaction Policy
- Bill 8, the Public Sector and MPP Accountability and Transparency Act, 2014
- Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, as amended.
- Occupational Health and Safety Act, R.S.O. 1990, c 0.1
- [Ontario Ombudsman -Tips for Municipal Complaint Resolution Policies](#)

## **Consequences of Non-Compliance**

---

- Non-compliance with the Frivolous, Vexatious and Unreasonable Complaints Policy may result in the Complaint being filed with the Ontario Ombudsman for investigation;
- Consequence to commensurate with severity of non-compliance.

## **Review Cycle**

---

This policy will be reviewed once per term of Council or as required based on revisions to corporate practices or governing legislation.