

# Policy

<b>Policy Name:</b>	Public Conduct and Complaints Policy
<b>Policy Owner:</b>	Director of Legislative Services / CityClerk
<b>Approved by:</b>	Council
<b>Effective Date:</b>	
<b>Date of Last Revision:</b>	new
<b>Review Date:</b>	as required

## Purpose:

The City of Richmond Hill is committed to providing exemplary services to the Public. The City aims to address service requests and complaints equitably, comprehensively and in a timely manner, while promoting a respectful, tolerant and harassment-free workplace between Members of Council, Members of a Local Board, officers and employees of the City, residents and the Public.

This Policy contributes to the City of Richmond Hill's objective of responding to complaints by the Public in ways that are consistent and fair while acknowledging that there may be a need to protect Staff, Members of Council and residents of the City from unreasonable behaviour and frivolous and/or vexatious actions.

The purpose of this Policy is to provide a framework to respond to formal complaints. It is also to address unreasonable behaviour, and 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 members of the Public and/or their regular duties. 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.

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

## Definitions:

The definitions applicable to this Policy are set out in Appendix "A".

## Scope

This Policy applies to the conduct of members of the Public in the use of City Services and/or interactions with Staff. It also applies to complaints made by the Public about City services and/or Staff. Notwithstanding the generality of the foregoing, this Policy applies when Staff are responding to unreasonable, frivolous or vexatious behaviour, requests and complaints.

This Policy does not apply to:

- Complaints pursuant to the CBO Code of Conduct to the extent that the complaint is a subject matter covered in that code;
- Complaints in respect to the Administrative Penalty System (AMPS), including, but not limited to, “AMPS Policy 2 - Public Complaints Respecting the Administration of Administrative Monetary Penalty System (AMPS)”;
- Decisions of Council, committees or local boards, including decisions that are subject to appeal to a Court of competent jurisdiction or administrative tribunal such as the Ontario Land Tribunal; or
- Complaints or inquires in respect to the Council Code of Conduct and Code of Conduct for Local Boards.

## Policy

### Overview

The City aims to provide exemplary services to the Public, including Staff interactions with all members of the Public. The City further aims to address service requests and complaints equitably, comprehensively and in a timely manner, and informally in the normal course of business. The City recognizes that some situations arise when a member of the Public’s conduct is unreasonable, requiring a response from the City to mitigate the impact of the unreasonable behaviour on other members of the Public, Staff and City services. The City also recognizes that some situations arise in which the Public are not satisfied with the resolution or outcome of an interaction with the City. In these circumstances, the City recognizes that the Public should be provided a formal complaint process.

This Policy is not intended for use in dealing with generally difficult members of the Public. It applies to members of the Public whose behaviours and actions are unreasonable, frivolous and/or vexatious, as defined in the Policy. The City recognizes that determining whether particular behaviours or actions are unreasonable, frivolous or vexatious should be a flexible balancing exercise that requires all circumstances of a particular case to be taken into account.

This Policy is meant to complement, not replace, the Respect in the Workplace Policy, the Employee Code of Conduct, the Council Code of Conduct for Members of Council, and the Code of Conduct for Local Boards. This Policy is also meant to complement, not replace, the Council approved Responding to Incidents in City Recreation Facilities Policy, the Responding to Incidents in City Recreation Facilities Procedures, or any other Council approved policy pertaining to Public conduct or complaints.

## **Public Conduct**

The City reasonably expects that most interactions between the Public and Staff will generally be respectful. However, the City also recognizes that it has a duty to Staff to protect them from discrimination, violence, abusive conduct, harassment, sexual harassment, a poisoned work environment, and other matters referred to in the Respect in the Workplace Policy.

The City recognizes that some situations arising from unreasonable behaviour may cause concern for the reasonable safety of Staff and other individuals on City premises. Other situations may compromise the enjoyment of City facilities for its users. Vexatious, frivolous and/or unreasonably persistent requests may consume a disproportionate amount of Member of Council and/or Staff time and resources and can compromise the City's ability to provide assistance or deliver good customer service efficiently and effectively. Such requests may also impede Staff from attending to other members of the Public and/or their regular duties. These situations and requests may require the City to put restrictions on the contact that some individuals have with the City.

## **Public Complaints**

The City recognizes that most complaints about City services and Staff are resolved informally through the normal course of business. This Policy does not change those situations. The Public are encouraged to resolve all complaints about City Services and/or Staff informally within the normal course of business. This Policy provides a formal complaints process that may be used when the Public is not satisfied with an informal resolution.

## **Restrictions on the Public**

The City recognizes that a decision to classify someone's behaviour as unreasonable, or to classify a behaviour, request or complaint as vexatious or frivolous could have serious consequences for the individual, including restricting their access to Members of Council, Staff, services and/or property. As such, this policy provides clear examples of behaviours and actions, as well as clear steps for Staff to follow in addressing unreasonable behaviour, or frivolous or vexatious behaviour, requests or complaints. Any restrictions made under this Policy are dependent on particular circumstances of the matter, and there is an opportunity for the affected individual to have any restrictions reviewed and/or appealed.

## **Members of Council**

The City recognizes that individual Members of Council may have interactions with the Public that are unreasonable, vexatious or frivolous. While this Policy is not intended to specifically apply to the interactions of Members of Council, it may be used as a guide by the Member in responding to those scenarios. Members of Council are subject to the Council Code of Conduct, and should seek the advice of the Integrity Commissioner on such matters as considered appropriate.

## **Application and Implementation**

This Policy applies and is to be implemented when a member of the Public wants to make a formal complaint about City services or Staff.

This Policy is also to applied and implemented if behaviours, requests or complaints from an individual are determined to be unreasonable, frivolous and/or vexatious as defined herein. Unreasonable, frivolous or vexatious behaviour, requests or complaints may occur in circumstances including, but not limited to, one or more of the following:

- Public meetings;
- Written communication;
- Telephone communication;
- In-person communication;
- Electronic communication, including email or social media communication; and/or
- Interactions at City property, parks or facilities.

### **Unreasonable Behaviour Defined**

Examples of what might be considered unreasonable behaviour are shown below. The list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as having engaged in unreasonable behaviour:

- Refusing to specify the grounds of a complaint, despite offers of assistance;
- Changing the basis of the complaint/request as the matter proceeds; Denying or changing statements made at an earlier stage;
- Covertly recording meetings and conversations;
- Submitting falsified documents from themselves or others;
- Making excessive demands on the time and resources of Staff with lengthy phone calls, emails to numerous Staff, or detailed letters every few days, and/or expecting immediate responses;
- Refusing to accept the decision; repeatedly arguing points with no new evidence; Persistently approaching the City through different routes (including different Staffs) about the same issue;
- Causing distress to Staff, which could include use of hostile, abusive, offensive or threatening language, or an unreasonable fixation on an individual member of Staff;
- Making unjustified complaints about Staff who are trying to deal with the issues, and seeking to have them replaced;
- Engaging in aggressive, disrespectful or intimidating behaviour, bullying, harassment or using coarse language while accessing a City program, service, program, event or facility;
- Loitering, causing a disturbance or acting under the influence of drugs and alcohol while attending City premises; and/or
- Where a Subject Person, having been previously subject to restrictions under this Policy for a limited period of time, and upon expiry of that time, has engaged in the same unreasonable,

frivolous or vexatious behavior, request or complaint on a substantially similar issue that was the subject of the earlier restrictions.

### **Frivolous or Vexatious Defined**

Examples of what might be considered to be frivolous or vexatious are provided below. The list is not exhaustive, and for a request to be considered as frivolous or vexatious it is likely that more than one of the examples is relevant:

- Submission of obsessive and/or repeated requests with very high volume and frequency of correspondence;
- Requests for information the requester has already seen, or a clear intention to reopen issues that have already been considered;
- Where complying with the request would impose significant burden on the City 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, or for retaliatory reasons;
- 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;
- Harassing the City and City Staff, which could include very high volume and frequency of correspondence, or mingling requests with accusations and complaints;
- Where a requestor makes repeated and baseless accusations and or derogatory statements directly at Staff who are investigating the complaint/issue;
- Where the requestor pursues a complaint with Staff in multiple City Departments and or an elected official simultaneously while a complaint is in the process of being investigated
- Where the requestor has been repeatedly advised of and failed to take advantage of an alternative process to address their concern;
- Where the requestor repeatedly refuses to accept that the specific subject matter falls outside of the jurisdiction of the Municipality;
- Where a requestor makes numerous by-law complaints about the same neighbour, property or incident for a purpose that is not consistent with or connected to the intent of the by-law;
- Where a Subject Person, having been previously subject to restrictions under this Policy for a limited period of time, and upon expiry of that time, has engaged in the same unreasonable, frivolous or vexatious behavior, request or complaint on a substantially similar issue that was the subject of the earlier restrictions; and/or
- Where the complaint is in respect to a legislative process (such as matters under the *Municipal Freedom of Information & Protection of Privacy Act*) and that person has failed to follow that

process, or have followed the process to its logical end and are attempting to revisit a matter already decided.

Furthermore, a pattern of conduct that can be unreasonable, frivolous or vexatious occurs when on several occasions an individual engages in one or more of the following:

- Brings complaints concerning an issue that Staff have already investigated and concluded;
- 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;
- Demonstrates a consistent pattern of statements or actions which slander City Staff without supporting evidence;
- 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
- Engages in unreasonable conduct which is abusive of the request for services or complaints process, including but not limited to the examples set out under the Application section of this Policy.

### **Formal Complaints and Investigations**

Most complaints made to the City about its services and/or Staff are to be handled and resolved informally within the normal course of business.

Where a member of the Public is not satisfied with any informal complaint resolution, they may make a formal complaint to the City. Formal complaints must be made in writing and provide sufficient detail to permit the matter to be reviewed and responded to. The Public are not required to use a specific form to submit a formal complaint unless one has been established by the Clerk. Anonymous complaints will not be accepted.

The following persons are responsible for reviewing and responding to a formal complaint:

- A Manager or Director is responsible for reviewing and responding to formal complaints about a City Service;
- The Mayor will be responsible for reviewing and responding to formal complaints about the City Manager, and may refer any such complaint to Council;
- The City Manager will be responsible for reviewing and responding to formal complaints about a Commissioner;
- A Commissioner will be responsible for reviewing and responding to formal complaints about a Director, and may refer any such complaint to the City Manager;
- A Director will be responsible for reviewing formal complaints in respect to any other Staff within his or her Division, and may refer any such complaint to his or her Commissioner; and,
- The Director responsible for overseeing the work of a Contractor will be responsible for reviewing and responding to formal complaints in respect to Contractor.

The City is committed to responding to a formal complaint in a reasonable amount of time. The person responsible for reviewing and responding to a formal complaint will conduct a Reasonable Investigation, and provide the Complainant with a written response on the complaint resolution. Any written response on a complaint will include sufficient detail, as determined by the Staff providing the report, for the complainant to understand the review and resolution of the complaint. In preparing the written response, the person responsible for reviewing and responding to a formal complaint will ensure that they do not disclose information which they are not permitted to disclose. This includes, but not limited to, personal information about identifiable individual, labour or employee relations information, and other confidential information such as Closed Session Council information and/or information explicitly supplied by a Third Party to the City in confidence. Written Responses may be provided to a Complainant using any form established by the Clerk for that purpose, and may also be provided by email.

### **Identifying Unreasonable, Frivolous or Vexatious Behaviors, Requests and Complaints**

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 behaviour, complaint or request is unreasonable, frivolous or 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 or complaint as vexatious or frivolous will be made by the Director of the relevant service area in consultation with the Commissioner and, if required, the City Manager.

### **Restrictions and Notification for Unreasonable, Frivolous or Vexatious Behaviors, Requests and Complaints**

Where a decision has been made to classify the Subject Person's behaviour, request or complaint as unreasonable, frivolous or vexatious, the Subject Person (where possible and appropriate) will receive written notification that:

- Details what action Staff have taken and why;
- Explains what it means for the Subject Person's contact with the City; and/or
- Advises how long the restrictions, if applicable, will last and when the decision will be reviewed.

Where a decision has been made to classify the Subject Person's behaviour, request or complaint as unreasonable, frivolous or vexatious, the City may place the following restrictions on that Subject Person:

- 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 on a substantially similar issue;
- 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;
- Certain situations involving unreasonable behaviour, such as threats to the safety and security, on City property, parks or facilities may require immediate action by way of a Trespass Notice, after all possible alternative measures are considered and/or implemented;
- Pursuing other legal action as specifically authorized by Council; and/or
- Other actions as deemed appropriate.

When restrictions are put in place for unreasonable, vexatious or frivolous behaviour, requests or complaints, the restrictions will be put in place for a minimum of three (3) months or longer depending on the seriousness of the situation as determined by Staff. Repeat unreasonable, frivolous or vexatious behaviour or complaints will result in longer restriction periods. The City, in the case of persistent repeat unreasonable, frivolous or vexatious behaviour requests or complaints, may impose restrictions in respect to substantially similar issues for up to a maximum one (1) year that may be renewed for additional one (1) year periods for repeat behaviour following the expiry of the restriction.

Restrictions put in place under this Policy may be removed before their expiry if the Subject Person provides a sincere apology for the unreasonable, frivolous or vexatious behaviour or complaints, and a commitment to avoid such behaviour or complaints in the future. The decision on the early removal of a restriction will be made by the City Manager in consultation with appropriate staff.

### **Review of Decisions and Ombudsman**

The Public may request a review of any decision on a formal complaint, and any notice or restrictions they have received regarding unreasonable, frivolous or vexatious behaviour, requests or complaints,



within ten (10) days of the date of the notice. A request for a review must be made in writing, and must set out the grounds on which the Subject Person believes the review should occur. The Mayor's decision in the case of complaint about the City Manager is final unless the Mayor decides to refer the matter to Council. In other cases, a person who has filed a formal complaint may request a review by the City Manager. The City Manager is not obligated to reconsider any part of that notice, but may, if deemed appropriate, amend the restrictions.

Where a person is not satisfied with any complaint resolution, or is subject to restrictions for unreasonable, frivolous or vexatious behaviour, or for any other purpose, that person has the right to make a complaint to the Ombudsman.

## **Records**

Staff or the Mayor 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.

All users of this Policy are required to document the actions of the individual, and their own actions, in as much detail as possible.

Records may be shared with other staff in order to conduct an internal review and investigation of the response and conduct of the City and other parties involved as required.

Records must be retained in accordance with the Information Governance Policy and Records Classification and Retention Schedule Records Retention By-law, as amended.

Subject to the requirements of the *Municipal Freedom of Information and Protection of Privacy Act*, the records maintained in respect to this Policy may only be disclosed to Staff who require it, the Subject Person, the Ontario Ombudsman, or in accordance with any other legislative or legal requirement (e.g. disclosure to the Integrity Commissioner).

## **Roles and Responsibilities**

### **Council**

Council is responsible for approving this Policy, and any amendment thereto

### **Mayor**

The Mayor is responsible for responding to formal Complaints about the City Manager. In reviewing and responding to a formal complaint, the Mayor will ensure that there is a Reasonable Investigation, as defined in the Policy, and will report out their finding in writing including to the Complainant.

### **City Manager**

The City Manager is responsible for ensuring that all City Staff adhere to this Policy.

### **Clerk**

- The Clerk is responsible for the implementation and interpretation of this Policy.

- The Clerk is responsible for creating, approving and implementing Procedures deemed necessary to implement this policy, including, but not limited to, procedures:
  - That may establish forms, processes and timelines; and
  - That ensure that confidentiality is maintained.
- The Clerk is responsible for collecting and maintaining records under this Policy

### **Staff Responsible for Reviewing and Responding to Complaints**

Staff responsible, under this Policy and any related Procedure(s), for reviewing and responding to formal complaints, will ensure that there is a Reasonable Investigation, as defined in the Policy, and will report out their findings, in writing, to those involved including to the Complainant.

### **Staff (General)**

Staff are responsible for adhering to this Policy and any related Procedure(s), and documenting interactions with the Public subject to this Policy. Staff are also responsible for cooperating with persons responsible for conducting formal complaint investigations.

## **Related Documents**

- Accountability and Transparency Policy
- AMPS Policy 2 - Public Complaints Respecting the Administration of Administrative Monetary Penalty System (AMPS)
- Respect in the Workplace Policy
- Responding to Incidents in City Recreation Facilities Policy
- Responding to Incidents in City Recreation Facilities Procedure

## Appendix “A” Definitions

In this Policy,

- “Act” means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended.
- “AMPS” means the Administrative Penalty System established by By-law No. 69-16, as may be amended or superseded, and includes any other By-law, policy or procedure pertaining to the system.
- “City” means the Corporation of the City of Richmond Hill.
- “City Manager” means the person appointed by Council as Chief Administrative Officer of the City pursuant to section 229 of the Act, or his or her designate.
- “CBO Code of Conduct” means the “Code of Conduct for Chief Building Official and Inspectors Appointed Pursuant to the Building Code Act”, attached as Schedule “A” to By-law 9-20, or any amended or successor Code of Conduct approved by Council pursuant to Section 7.1 of the *Building Code Act, 1992*, S.O. 1992, c. 23.
- “Clerk” means the person appointed as Clerk of the City under Subsection 228(1) of the *Municipal Act, 2001*, or his or her designate.
- “Code of Conduct for Local Boards” means the Code of Conduct governing the behaviour of Members of a Local Board that is adopted by Council pursuant to Section 223.2 of the Act.
- “Commissioner” means the Staff appointed as head of one of the City’s various departments who report to the City Manager.
- “Complainant” or “Subject Person” means a member of the Public who has submitted a formal complaint under this Policy, or who has engaged in unreasonable, frivolous or vexatious behaviour, requests or complaints.
- “Contractor” means a third party that conducts or is conducting work or providing services on behalf of the City
- “Council” means the Council of the City.
- “Council Code of Conduct” means the Code of Conduct governing the behaviour of Members of Council that is adopted by Council pursuant to Section 223.2 of the Act.

“Director”	means the Staff appointed as head of one the City’s various divisions, forming parts of a Departments, who report directly to the City Manager or a Commissioner.
“Integrity Commissioner”	means the person appointed by Council pursuant to Section 223.3 of the Act, for the purpose of, among other things, investigating the behaviour of Members of Council pursuant to the Council Code of Conduct.
“Members of Council”	means, individually, the Mayor, the Regional and Local Councillors, and the Ward Councillors.
“Ombudsman”	means the person appointed by Council pursuant to Section 223.13 of the Act, or, if no such person has been so appointed, the Ontario Ombudsman appointed under the <i>Ombudsman Act</i> , R.S.O., 1990, c.O.6, as amended.
“Public”	means any person, other than Staff or Members of Council, who interacts or engages with the City for any purpose, and includes, but is not limited to, residents and businesses.
“Respect in the Workplace Policy”	means the Respect in the Workplace Policy approved by Council, as amended.
“Reasonable Investigation”	means the person responsible for reviewing and responding to a complaint will review the complaint with Complainant and any appropriate or relevant party as deemed necessary and report out on the findings including to the Complainant.
“Staff”	means all full-time and part-time persons hired by the City of Richmond Hill including the City Manager, Commissioners, Directors, Managers, Supervisors, Salaried Staffs’ Association Staff, members of C.U.P.E. Local 905, members of the Richmond Hill Professional Fire Fighters Association, Local 1957, Administrative Staff, contract and temporary employees, students, secondments, and co-op placement Staff, and in this Policy includes Contractors retained by the City to provide services or perform work on behalf of the City.
“Trespass Notice”	means a notice pursuant to the <i>Trespass to Property Act</i> , R.S.O. 1990, c. T.21, as amended, which has the effect of prohibiting a person, or persons, for entering into or onto any City property.