

# Town of Greater Napanee

## Respectful Conduct Policy



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### 1. Purpose

The Town of Greater Napanee (The Town) aims 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 Members of Council and staff.

The purpose of this policy is to protect staff and Members of Council from unreasonable public behavior and frivolous, vexatious actions that consume a disproportionate amount of Town’s time and resources and impede staff from attending to other essential issues. This policy establishes the process to be used by all staff when addressing such matters. 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 systems should be activated.

### 2. Scope

This policy is not intended to deal with generally difficult customers. This policy applies to members of the public whose behaviours and actions are unreasonable, frivolous and/or vexatious. Deciding whether a request or complaint is frivolous, vexatious or unreasonably persistent, 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 proper or justified cause.

The decision to classify a subject person's behaviour as unreasonable, or to classify a request or complaint as frivolous or vexatious, could have serious consequences for an individual, including restricting their access to Members of Council, staff, municipal services and/or property and is not to be undertaken lightly.

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 behaviours or requests 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

**3.1. Frivolous** means a complaint or request that has no serious purpose or value, about a matter so trivial or one so meritless on its face that investigation would be disproportionate in terms of time and cost.

**3.2. Unreasonable** means behavior/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.

**3.3. 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.

#### **3.4. Examples of Frivolous or Vexatious Requests or Complaints**

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

- a) Submission of obsessive requests/complaints with a high volume and frequency of 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.

### **3.5. Examples of Unreasonable Behaviour**

Examples of what might be considered unreasonable behavior are provided below. The list is not exhaustive in determining if behavior is unreasonable, nor does one single feature on its own necessarily imply that the person will be considered as being in this category:

- 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, 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 Member 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 behavior, bullying, yelling, harassment or using coarse language while accessing a Town program, service, event or facility;
- l) Attending a Member of Council's or staff member's private residence or private property uninvited; and/or
- m) Emailing or otherwise circulating information or photos of a member of Council or staff member in a disrespectful way.

### **4. Responsibilities**

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.

Certain situations may fall under the jurisdiction of the police as a criminal matter. In such cases, the municipality will assist by providing any relevant documentation to the investigation, as requested.

For situations involving unreasonable behavior 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.

**4.1. Council is responsible for:**

- a) Approval of this policy and the standards contained within, as well as any changes made to the policy; and
- b) Supporting the implementation of these standards.

**4.2. The Chief Administrative Officer is responsible for:**

- a) Making the final decision to classify a customer's behaviour as unreasonable or to classify a request as frivolous or vexatious, in consultation with the affected Department Head(s); and
- b) Appraising Council of any restrictions imposed as a result of this policy.

**4.3. Department Heads are responsible for:**

- a) Reviewing requests to impose restrictions in accordance with this policy;
- b) Providing a recommendation on the appropriate restrictions, if any, and the anticipated impact to their department;
- c) Maintaining all documentation related to the review and restrictions imposed, and ensuring the privacy of involved individuals is respected; and
- d) Ensuring department staff are aware of and trained on this policy and any accompanying guidelines and protocols.

**4.4. All employees are responsible for:**

- a) Bringing safety concerns to the attention of their supervisor or the Health & Safety committee;
- b) Making reasonable efforts to satisfy or resolve customer requests;
- c) Consulting their Supervisor and/or Department Head if they believe that this policy is applicable to a situation; and
- d) Providing information as required in support of this policy.

**5. Policy and Procedure**

**5.1. Identification of Issue**

Before deciding to apply any restrictions, the Town will ensure that:

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

Each case will be considered on an individual basis. The decision to classify a customer's behaviour as unreasonable or to classify the request as vexatious will be made by the Department Head of the relevant service area in consultation with the CAO.

## 5.2. Steps to Address the Request or Complaint

### a) Employee

If an employee believes that a request for service or complaint is unreasonable, frivolous or vexatious, the employee should consult with their Department Head, provide any supporting materials and advise the Department Head of the steps that have been taken to resolve the issue, including as appropriate:

- i. the length of time that staff have been in contact with the individual, the history of the interactions (where appropriate), and the amount of correspondence that has been exchanged with the individual;
- ii. the number of requests that the individual has submitted and the status of each; and
- iii. the nature of the person's behavior and the amount of time that has been consumed.

### b) Department Head

The Department Head is responsible for reviewing the information provided by staff in a timely manner and confirming whether this policy should apply or not. Department Heads shall consult with other Senior Management to determine whether the pattern of behaviour extends to other staff/departments and to determine whether there are any other extenuating circumstances.

The Department Head will:

- i. Review the information provided by staff and determining if the customer's behaviour warrants the application of restrictions;
- ii. Work with the staff to determine appropriate restrictions, how to inform the customer of the restrictions and determine a review date for removing, modifying or continuing restrictions; and
- iii. Meet with the CAO and outline the situation including proposed restrictions, how to inform the customer of the restrictions and determine a review date for removing, modifying or continuing restrictions.

### c) CAO

Before making a determination to classify a customer's behaviour as unreasonable or to classify a request as frivolous or vexatious the CAO must be satisfied that:

- i. The request has been properly investigated;
- ii. Communication with the customer has been adequate; and
- iii. The customer is not attempting to provide new information when contacting staff.

When the decision, in consultation with the CAO, has been taken to

classify a customer's behaviour as unreasonable or to classify a request as frivolous or vexatious, the customer (where possible and appropriate) will receive written notification that:

- i. Details what action staff have taken and why;
- ii. Explains what it means for the customer's contacts with the Municipality;
- iii. Advises how long the restrictions will last and when the decision will be reviewed; and
- iv. Advises of the appeal options available.

The CAO shall also provide Council with a notification of the restrictions to be imposed under this policy, the scheduled review date, and in broad terms the reasons for implementing them.

### **5.3. 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):

- a) Placing limits on the number and duration of contacts with staff per week or month;
- b) Offering a restricted time slot for necessary calls;
- c) Limiting the customer to one method of contact (telephone, letter, email, etc.);
- d) Requiring the customer to communicate only with one named member of staff;
- e) Requiring any face-to-face interactions to take place in the presence of a witness and in a suitable location;
- f) Requiring the customer to make contact only through a third party e.g. solicitor/counsellor/friend acting on their behalf;
- g) Limiting or regulating the customer's use of Town services;
- h) Refusing the customer access to any Town buildings except by appointment;
- i) Pursuing legal actions e.g. issuance of Notice of Trespass;
- j) Informing the customer that further contact on the matter of the complaint/request will not be acknowledged or replied to;
- k) Requiring that the individual produce full disclosure of documentation or information before staff will further complete a service request or investigate a complaint;
- l) Instructing staff not to respond to further correspondence from an individual regarding a complaint or substantially similar issue;
- m) 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;
- n) Where efforts to resolve matters with the customer have not been successful the case or request may be closed; or
- o) Other actions as deemed appropriate.

#### **5.4. Restriction Review**

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. Generally, all cases where this policy is applied should be reviewed every three to six months and not more than 12 months after the restriction was initially imposed, or continued to be upheld.

The status of a customer will be reviewed by the relevant Department Head on or before the review date. 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.

Where possible, 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**

In the event requests/complaints cannot be resolved through the Town's complaint process and/or this policy, the complainant may choose to submit to the Provincial Ombudsman's office at [www.ombudsman.on.ca](http://www.ombudsman.on.ca) or 1-800-263-1830.

#### **5.6. Application of this Policy to Council**

- a) This policy may apply, with amendments as necessary, to actions of unreasonable behaviour directed toward elected officials.
- b) If a member of Council wishes to impose one of the restrictions available under this policy and there is a concern that the proposed measure may conflict with the Council Code of Conduct, the advice of the Integrity Commissioner will be sought prior to implementing any proposed actions under this policy.

### **6. Records Management and Privacy**

All records relating to any issue pursuant to this policy shall be maintained in accordance with the Town'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.

## **7. Related Documents**

This policy should be read in conjunction with the following documents:

- Corporate Complaints Policy
- Employee Code of Conduct Policy
- Council Code of Conduct Policy

## **Appendices**

N/A