

Policy # 64

Frivolous, Vexatious or Unreasonable Complaints/Requests Policy

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Department: Administration

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Policy Statement and Rationale:

The Corporation of the Township of Gillies (the Township) is committed to providing exemplary service and ensuring that Township 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 Complaint/Request s that consume a disproportionate amount of Township time and resources, ultimately impeding Employees from tending to other essential issues.

Purpose:

The purpose of this policy is to guide Employees in identifying 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 Township 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 Township. This policy is not intended to deal with generally difficult Complaints or Requests This policy applies to Frivolous, Vexatious or Unreasonably persistent Complaints or Requests and is designed to provide members of the public and Employees with the tools needed to ensure Township resources are managed equitably for all members of the public.

This policy does not apply to:

- Complaints or Requests about Members of Council, Members of Committees of Council and Local Boards (as they are governed by the Township Code of

Conduct for Members of Council/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 Township or a Township official has been threatened or commenced. Additionally, this policy does not apply to typical Complaints which are addressed through the Complaints Policy, which provides the public with an avenue for submitting Complaints of Requests and provides a consistent practice for handling Complaints or Requests.

Definitions:

Township Clerk or Clerk means the Township Clerk of the Corporation of the Township of Gillies.

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

Complainant means person(s) who is/are submitting a Complaint or Request. Any person(s) who uses or is affected by services can submit a Complaint or Request including residents, visitors, businesses and community groups.

Complaint means an expression of dissatisfaction related to a Municipal program, service, or staff member, where a member of the public believes that the Municipality has not provided a service experience to the complainant's satisfaction at the point of service delivery, and where a response or resolution is expected.

Council means The Corporation of the Township of Gillies Council as a whole.

Council Member means an individual member of Council, including the Reeve.

Customer means any individual, resident, business, organization, or entity that interacts with or receives services from the Township.

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

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

Frivolous means a Complaint or 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. This includes but is not limited to any behaviour, targeting behaviour, conduct or comment that is directed to, targeted 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, harass, embarrass, intimidate, demean, humiliate, taunt, target, ridicule, or create a toxic environment to the recipient.

Management for the Township means the Clerk-Treasurer, Roads Maintenance Coordinator, Chief Building Official, MBLEO (Municipal By-law Enforcement Officer), and the Fire Chief or their designees.

Ombudsman means the Ombudsman of Ontario.

Request means the act of asking for something to be given or done such as requests made to the Township on behalf of a member of the public for a specific service, or to notify the Township that a scheduled service was not provided on time. It is understood that the below examples are not determinative or exhaustive, nor do they necessitate application of this policy.

Examples include requesting road repairs, burnt out road light, by-law infraction.

Supervisor means an Employee of the Township that has taken on a supervisory role. For example, a Volunteer First Responder may have taken on the role of supervisor for specific tasks.

Unreasonable means a Complaint or Request that is likely to cause distress or disruption to the Township, 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 Township negatively affects the ability to deal with their Complaints or Requests or those of others.

Vexatious means a Complaint or 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 Complaint/Requests processes and procedures.

Procedures:

1. Identifying the Conduct or Behaviour

The decision to classify someone's behaviour as Unreasonable, or to classify a Complaint or Request as Frivolous and Vexatious, could have serious consequences for the individual, including restricting their access to Township 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 or Requests, inquiries, demands regarding an issue which staff have already investigated and determined to be groundless;
- Covertly recording meetings and conversations with the Township;
- Complaints or Requests 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 Townships Complaints or Requests process, including but not limited to:
 - Excessive or multiple lines of inquiry regarding the same issue (i.e., Pursuing a Complaint or Request with Employees in multiple departments and/or Council or Committee members simultaneously), while a Complaint or Request is being investigated or has been deemed to be groundless;
 - Repeatedly challenging the findings of a Complaint or Request 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 Townships jurisdiction;
 - Making unreasonable demands on Employees by, for example, insisting on responses to Complaints or Requests 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 Council;
 - Using new Complaints or Requests to resurrect issues which were investigated and completed in previous Complaints or Requests;

- Changing the basis of the Complaint or Request 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 or Request to be resolved;
- Failing to clearly identify the precise issues of the Complaint or Request, despite reasonable efforts of Employees to obtain clarification of the concerns;
- Making unjustified Complaints or Requests or defamatory remarks about Employees in an effort to see them disciplined or question their integrity or work ethic, make others question Employees integrity or work ethic, create doubt about an Employee, create a sense of mistrust about an Employee; or
- Providing false or misleading information, including in person, on social media, written, or verbal communication.

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 Township Clerk. 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 that is 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 or Requests, the process through which a Complaint or Request can be made and the standards that apply to Complaints or Requests. They are to be aware of this policy and any accompanying guidelines and protocols.

Managers, and Supervisors:

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

Township Clerk:

The Township Clerk is responsible to consult with Legal Services in the application of the policy, where appropriate and as determined by the Township Clerk.

Management:

Management is responsible for ensuring this policy is applied organization-wide

and adhered to by all Employees of the Township 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 Clerk 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 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 and Members of the Public:

Customers and Members of the Public are asked to recognize that the Township 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

a) **Freedom of Information and Protection of Privacy Act**

the *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.

b) **Occupiers' Liability Act and Occupational Health and Safety Act**

The Township 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.

c) **Occupational Health and Safety Act**

The Township 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 Township operations and in public use of Township facilities.

d) **Related Policies**

The Township 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, threatened, or perceived violence. The Corporate Workplace Harassment Policy and the Corporate Violence Policy details the steps available to the Township to

ensure that a respectful and safe workplace is maintained. The Townships Complaint Policy provides the public with an avenue for submitting Complaints and provides Employees with consistent practices for handling Complaints about programs and services.

4. Addressing the Conduct or Behaviour

a) 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 Complaints and Requests made by the Complainant, the details, 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.

b) The Manager/Supervisor Review:

The Manager/Supervisor will review the information provided to them by the Employees and determine in a timely manner 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 Township services and/or jurisdiction.
- Determine if the Complainant's conduct warrants the application of restrictions; and
- Work with Employees and the Township Clerk to determine appropriate restrictions, how to inform the Complainant of the restrictions and determine a review date for removing, modifying, or continuing restrictions

c) The Township Clerk will review the information provided as well as the determination by the Manager/Supervisor with respect to proposed restrictions and review date. In the event that the Township Clerk is the requestor than they shall consult with Legal Counsel to 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
- 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 Township Clerk.

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 Township's Solicitor with a copy to Members of Council, Managers/Supervisors, and the Township 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 Township.

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 Township (where appropriate, the Township Clerk may 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 Township 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 or Request;
- Instructing Employees not to respond to further correspondence from the Complainant regarding the Complaint or Request or a substantially similar issue;
- Instructing Employees not to investigate any Complaints or Requests 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 Complaint or Requests and correspondence from the Complainant;
- Instructing Employees to close a matter;
- Limiting or regulating the Complainant's use of services;
- Refusing the Complainant access to any buildings except by appointment;

- 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 Township Clerk.

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 Township Clerk. a written letter outlining the reasons for the appeal. The Township Clerk 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 Manager 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 or Supervisor on or before the review date, the outcome of which shall be communicated to the Complainant in writing.

The Manager or Supervisor, in consultation with the Township Clerk, 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 or modification is received to appeal the decision. The Complainant shall provide the Township Clerk a written letter outlining the reasons for the appeal. The Township Clerk 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 the Complaint or Request cannot be resolved under this policy, they may be submitted to the Ombudsman's office.

7. New Complaint/Requests

Complaints or Requests on a separate or new issue from a Complainant who has come under this policy will be treated on their individual merits. The Township Clerk in consultation with Legal Counsel, will decide if any restrictions, which are currently in effect, should be applied to the new Complaint or Request.

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. Township Records must be retained in accordance with the Township Records Retention By-Law.

Exclusions

This policy applies to all Complaints and Requests 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 or Requests made to the Integrity Commissioner under the Code of Conduct are not subject to this policy.

This policy is not intended to conflict with the Township's Workplace Violence & Harassment Policy. If any conflict arises between this policy and the Township's Workplace Violence & Harassment Policy, the provisions that are stronger and in compliance with applicable legislation will take precedence.

Consequences of Non-Compliance

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