



Policy #2024-02

Frivolous, Vexatious or Unreasonable Requests or Complaints Policy

1. Purpose/ Background

- 1.1 The purpose of this policy is to support the rural community of Hanwell's dedication to serving our public. Hanwell recognizes the importance of public input and welcomes complaints as valuable forms of feedback. Hanwell also recognizes that requests or complaints which are frivolous, vexatious or unreasonable can consume a disproportionate amount of time and resources and impede employees from attending to other customers or essential issues. This policy provides municipal employees with consistent practices for handling frivolous, vexatious or unreasonable requests or complaints about municipal programs, facilities, services and employees.

2. Policy Statement:

- 2.1 This policy is designed to ensure that municipal resources are used effectively and efficiently, while maintaining a high level of service excellence and responsiveness and at the same time providing a work environment that is free from discrimination, harassment, bullying and violence. to address substance use in the workplace by an employee that may negatively impact the safety, competency or efficiency of that employee, other employees, or put members of the public at risk of harm in any way.

3. Scope/Application

- 3.1 This policy applies to all employees, volunteers, students, and/or contracted service providers of the rural community of Hanwell.
- 3.2 This policy does not apply to:
- a) Complaints about members of council (as they are governed by By-Law #16-2019 "A By-Law Establishing the Code of Conduct for Council" and are investigated as described therein);
 - b) Members of advisory and quasi-judicial committees and local and other boards;
 - c) A function where there is a statutory or prescribed process for review or which is governed by specific legislation;
 - d) Complaints from employees about other employees or working conditions;

e) Allegations of violations of Canada's Criminal Code.

3.3 This policy does not apply where legal action against the municipality or a municipal official has been threatened or commenced. Additionally, the policy does not apply to typical complaints, which are addressed through Policy 2022-08, Conflict and Complaint Resolution Policy, which provides the public with an avenue for submitting complaints about programs, facilities, services and employees, and council and provides a consistent practice for handling complaints.

4. Definitions

4.1 Hanwell means the rural community of Hanwell.

4.2 Complaint means an expression of dissatisfaction or concern about the action or lack of action taken regarding operations, facilities, services or programs provided by the municipality, or a person or body on behalf of the municipality. A complaint can be spoken, written or submitted by another method of communication.

4.3 Complainant means a customer person who is submitting a complaint. Any customer who uses or is affected by municipal services can make a complaint including residents, visitors, businesses and community groups.

4.4 Contracted service provider means an individual or business that undertakes a contract or agreement with the municipality in order to perform a service on a continuing basis (e.g. security guard services, construction, etc.).

4.5 Council means the municipal council as a whole.

4.6 Council member means an individual member of council, including the mayor.

4.7 Cyberbullying means the use of communication technologies to engage in deliberate, repeated or hostile behaviour intended to harm, embarrass, harass or slander someone deliberately, including, but not limited to: social media outlets (e.g. Facebook, Instagram, Twitter, YouTube, LinkedIn, etc.), personal blogs, web pages, discussion groups or online media/newspaper articles.

4.8 Employee means all full-time, part-time, temporary, seasonal and employees hired on a contract basis for a defined period of time, of Hanwell, as well as students.

4.9 Feedback means an opinion or comment about a program, facility, service or employee.

- 4.10 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.
- 4.11 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.
- 4.12 Ombud** means the Ombud Office of New Brunswick.
- 4.13 Request** means the act of asking for something to be given or done.
- 4.14 Student** means an individual at least 15 years of age and registered in an educational program at a high school, college or university level.
- 4.15 Unreasonable** means a complaint/request that is likely to cause distress or disruption to the municipality, its employees or other members of the public, without any proper or justified cause. Behaviour that because of the nature or frequency of a complaint's contact with the municipality, negatively affects the ability to deal with their complaints or those of others.
- 4.16 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.
- 4.17 Volunteer** means an individual who volunteers their services, from time to time, to assist in areas of the municipality.

5. Examples of Frivolous, Vexatious and Unreasonable Complaints/Requests

- 5.1** Examples of what might be considered frivolous, vexatious and unreasonable requests/complaints are detailed below. This list is not exhaustive nor does a single behaviour on its own necessarily imply that a complaint or request will be considered frivolous, vexatious or unreasonable.

Generally, the complainant will exhibit one or more of these examples over a period of time:

- a) Refusing to specify the grounds of a complaint, despite offers of assistance.
- b) Prolonged submission of requests with high volume and frequency of communications to one or more employees via one or more customer service channels.
- c) Requests for information the complainant has already seen, or clear intent to reopen issues that have already been considered and concluded.
- d) Refusing to accept the decision of council, repeatedly arguing points with no new evidence.
- e) Where complying with the request would impose significant burden on the municipality in terms of expense and affect our ability to provide service to others.
- f) Where the complainant states that the request is meant to cause maximum inconvenience, disruption or annoyance.
- g) 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 factors.
- h) Complaint is retaliatory or is initiated with the intent to embarrass or annoy another customer or resident or in an attempt to use municipal services or by-laws as a tool in an ongoing neighbour dispute.
- i) Making excessive demands on the time and resources of employees with lengthy phone calls, emails to numerous employees, excessive social media posts on municipal channels, or detailed correspondence every few days and expecting immediate responses.
- j) Causing distress to employees using intimidation or hostile, abusive or offensive language, or an unreasonable fixation on an individual employee or any of the prohibited behaviours defined in municipal Policy #2022-06 Workplace Harassment and Violence Policy.
- k) Making unjustified complaints about employees who are trying to deal with the issues and threatening to negatively affect their employment status with the municipality.
- l) Excessive, repeated or hostile cyberbullying and contact with municipal social media accounts, intended to harm, embarrass, harass or slander the municipality or its employees.

6. Employees

6.1 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.

6.2 Corporate Leadership Team

Corporate Leadership Team (office of the CAO) is responsible for ensuring this policy is applied organization-wide and adhered to by all employees of the municipality and for clarifying and resolving any ambiguity, which may exist within this policy.

6.3 Customers

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

7. *Right to Information and Protection of Privacy Act*, SNB 2009m c. R-10.6 (RTIPPA)

The *New Brunswick Right to Information and Protection of Privacy Act*, section 15, provides that a request for information may be denied if:

- a) it is found to be frivolous or vexatious;
- b) it would unreasonably interfere with the operations of the public body because of the repetitious or systematic nature of the request or previous requests; or
- c) it is for information already provided to the applicant.

8. Procedure

8.1 Classifying Requests

Deciding whether a customer's actions fall under this policy must take into account all the circumstances of the case. There is no rigid test or criteria in deciding whether this policy applies as each case will be considered on an individual basis. Employees must establish, through the documented words and/or actions of a complainant (e.g. emails, letters, employee notes reporting a conversation or incident, voice mails), that the complaint is frivolous, vexatious or unreasonable before applying the process outlined in this policy.

8.2 Employee Review

If an employee believes that a complaint is frivolous, vexatious or unreasonable, the employee should consult with the CAO, provide any supporting materials and advise the CAO or direct supervisor of the steps that have been taken to resolve the issue, including:

- a) The length of time that the employee has been in contact with the complainant and the amount of correspondence that has been exchanged with the complainant;

- b) The number of complaints that the complainant has brought and the status of each;
- c) The nature of the complainant's behaviour; and,
- d) A list of other branches/departments and employees the complainant has also contacted.

Employees may choose to contact the CAO or their direct supervisor for assistance prior to a pattern of conduct being established if the complainant's behaviour is of concern.

8.3 CAO/direct supervisor review

The CAO or a direct supervisor is responsible for reviewing the information provided by employees and determining if the complaint should be escalated to the appropriate personnel.

Before escalating the issue, the direct supervisor must be satisfied that:

- a) The complaint has been dealt with properly and in line with the relevant procedures and/or statutory guidelines.
- b) Employees have made reasonable efforts to satisfy or resolve the complaint and communication with the complainant has been adequate.
- c) The complainant is not attempting to provide any significant new information when contacting employees

8.4 Restrictions

Actions available to the CAO and/or staff to address complainant's behaviour may include one or more of the following:

- a) limiting the complainant's correspondence with employee(s) 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);
- b) limiting the complainant to an established point of – Is there something missing here?
- c) requiring any face-to-face interactions between the complainant and employee to take place in the presence of an appropriate witness and in a suitable location;
- d) requiring the complainant to make contact only through a third party (e.g. solicitor, counsellor, etc);
- e) requiring that the complainant produce full disclosure of documentation or information before employees will investigate any new complaints;
- f) instructing employees not to respond to further correspondence from the complainant regarding the complaint of a substantially similar issue;
- g) instructing employees 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;

- h) limiting or regulating the complainant's use of or access to municipal services or facilities (e.g. community centres, access to technology systems);
- i) informing the complainant that further contact on the matter of the complaint or request will not be acknowledged or replied to;
- j) in extreme circumstances, instructing employees to severely reduce or completely cease responses to further complaints and correspondence from the complainant; and/or
- k) other actions as deemed appropriate.

8.5 Application of Restrictions (if required)

If a complainant disregards the warning letter and continues to submit complaints deemed to be frivolous, vexatious or unreasonable, CAO will advise municipal legal counsel.

Legal council may:

- a) Consult with the CAO and notify the complainant in writing that the actions outlined in the warning letter will take effect immediately and advise when the decision will be reviewed.
- b) Determine a date for the decision to be reviewed. This could be for a period of a few months or longer depending on the severity of the situation.
- c) Advise the mayor, members of council, the CAO, or other staff of the action the municipality has taken and the reasons for it.

8.6 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 CAO, in consultation with legal counsel (when or if required), will decide if any restrictions, which are currently in effect, should be applied to the new complaint.

9. Record Management

Employees are responsible for maintaining detailed records of their interactions with complainants (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 employees. Records must be retained in accordance with provincial records retention regulations.

10. Monitoring and Evaluation

- 10.1** This policy is reviewed by the municipality, governance committee, or designate at least every three years to ensure its effectiveness and compliance with

legislation and current business processes or as required based on legislative changes.

10.2 The CAO and/or clerk is authorized to make minor or housekeeping amendments to this policy, as required.

Original Date of Adoption by Council: June 17/24

Date of Revision Approved by Council: _____

Mayor's Signature: _____

Clerk's Signature: _____