

RM OF REYNOLDS

Title: Public Conduct Policy

Policy No. 61

Policy Statement

The Rural Municipality of Reynolds (the “Municipality”) aims to provide exemplary services to all members of the public and 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, officers and employees of the Municipality, and the public. In order to achieve these objectives, unreasonable behaviour and/or frivolous and vexatious complaints or requests from some members of the public who require services or access Municipality premises may need to be limited in a manner that is clear, consistent, reasonable, and proportional to the individual’s action(s).

Purpose

This policy contributes to the Municipality’s objective of dealing with all residents 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 Rural Municipality of Reynolds from unreasonable behaviour and frivolous and/or vexatious and/or threatening actions.

Some situations arising from unreasonable behaviour may cause concern for the reasonable safety of other individuals on municipal premises. Other situations may compromise the enjoyment of municipal facilities for all users. Vexatious, frivolous and/or unreasonably persistent requests may consume a disproportionate amount of Council and/or staff time and resources and can compromise their ability to provide assistance or deliver good service efficiently and effectively. Such requests may also impede staff from attending to other essential issues. These situations and requests may require the Municipality to put restrictions on the contact that some individuals have with the Municipality.

This policy is not intended to deal with generally difficult ratepayers and individuals. It applies to members of the public whose behaviours and actions are unreasonable, frivolous and/or vexatious and/or threatening. Determining whether particular behaviours or actions are unreasonable, frivolous or vexatious or threatening can be a flexible balancing exercise that requires all circumstances of a particular case to be taken into

account. In many cases, the key question is whether the behaviours or actions are likely to cause distress, disruption or irritation, without proper or justified cause.

The decision to classify someone's behaviour as unreasonable, or to classify a request as vexatious or frivolous or threatening, could have serious consequences for the individual, including restricting their access to Council, municipal 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. Any restrictions made under this policy are dependent on particular circumstances, and there is an opportunity for the affected individual to have any restrictions reviewed and/or appealed.

Application

This policy is to be implemented if behaviours or requests from an individual are determined to be unreasonable, frivolous and/or vexatious and/or threatening as defined herein. The following behaviours or requests may take place 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 and social media; and/or
- Interactions at municipal property, parks or facilities.

Examples of Unreasonable Behaviour

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 being in this category:

- 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 expecting immediate responses;
- Refusing to accept the decision/repeatedly arguing points with no new evidence;
- Persistently approaching the Municipality through different routes about the same issue;
- Causing distress to staff, which could include use of hostile, abusive or offensive 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 the staff member terminated or disciplined;

- Engaging in aggressive, disrespectful or intimidating or threatening behaviour, bullying, harassment or using coarse language while accessing a municipal meeting, hearing, program, service, program, event or facility (including communications to any municipal staff); and/or
- Loitering, causing a disturbance or acting under the influence of drugs and alcohol while attending municipal premises.

Examples of Vexatious or Frivolous or Threatening Requests

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

- Submission of obsessive requests with very high volume and frequency of correspondence;
- Requests for information the requester has already seen, or clear intention to reopen issues that have already been considered;
- Where complying with the request would impose significant burden on the Municipality 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;
- 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; and/or
- Harassing the Municipality, which could include very high volume and frequency of correspondence, or mingling requests with accusations and complaints.

Furthermore, a pattern of conduct occurs when on several occasions an individual engages in one or more of the following:

- Brings complaints concerning an issues that staff have already investigated and concluded;
- 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.

This policy is meant to complement, not replace, the Respectful Workplace Policy, the Employee Code of Conduct and the Code of Conduct for Members of Council.

Policy Requirements

The decision to classify someone's behaviour as unreasonable, or to classify a request or complaint as frivolous and vexatious or threatening, could have serious consequences for the individual, including restricting his or her access to municipal services 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 and/or threatening, or it may be a single significant incident that requires invocation of this policy.

If an incident presents an immediate threat, contact 9-1-1.

Responsibilities

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

For situations involving unreasonable behaviour, as well as those circumstances that involve frivolous and vexatious requests or threatening behavior, specific responsibilities include as follows:

a) Employees

- If a staff member experiences or witnesses any incident or behaviour that makes the staff member uncomfortable or unsafe, the staff member should report the matter to the CAO, providing any supporting material;
- If a staff member believes that a request or a complaint is unreasonable, frivolous or vexatious or threatening, the staff member should consult with the Chief Administrative Officer ("CAO") providing any supporting material.
- Staff are responsible for advising the CAO of the steps that have been taken to resolve the issue, which may include the following:
 - Length of time that staff have been in contact with the individual and the history of interactions;
 - Amount of correspondence that has been exchanged with the individual;
 - Number of requests that the individual has brought and the status of each;
 - Nature of the individual's behaviour and the approximate amount of time that has been consumed; and
 - Maintaining detailed records of staff interactions with individuals in order to justify any actions taken to restrict the individual's access to staff or services.

b) Chief Administrative Officer (CAO)

- Review the information provided by staff and determine if the individual's behaviour warrants the application of restriction(s); File a complaint, in the same form as staff, and determine if the individual's behaviour warrants the application of restriction(s);
- Make the determination to classify an individual's behaviour as unreasonable or to classify a request as frivolous and/or vexatious and/or threatening;
- Determine a proposed review date for removing, modifying or continuing the restriction(s);

- Determine the restriction(s) to be imposed on the individual and communicate these restrictions to the individual;
- Maintain all documentation related to the review and determination of restriction(s);
- Conduct reviews of any restriction(s) and communicate the outcome to the individual; and
- Review the policy every two years through the Municipality's regular governance reviews.

c) Members of Council

- Consult with the Chief Administrative Officer and/or municipal solicitor regarding cases of unreasonable behaviour and/or frivolous and vexatious or threatening action that the Member wishes to address, as described in this policy. Upon being consulted by a Member of Council, the Chief Administrative Officer and/or the municipal solicitor shall provide advice to the Member respecting any proposed action under this policy.

d) Council

- When an appeal of a restriction is received by the CAO in accordance with this Policy, Council shall appoint an Appeal Committee to decide the appeal consisting of no less than two (2) members of council. The Appeal Committee shall not include any staff involved in the report giving rise to the restrictions.

e) Appeal Committee

- Review any appeals and confirm, rescind or amend the restrictions.

Monitoring/Contraventions

Course of Action

1. **Information Review:** A review shall be conducted by the CAO to determine if an individual's behaviour warrants the application of restriction. Each case should be considered on an individual basis. This determination, or any restrictions, shall consider the specific circumstances of the matter as well as the following:
 - a. The individual's personal circumstances, level of competency, literary skills, etc. that may be known to staff;
 - b. If applicable, whether the request or complaint has been dealt with properly and in line with the relevant procedures and statutory guidelines;
 - c. If applicable, whether staff have made reasonable efforts to satisfy or resolve the request or complaint;
 - d. If applicable, whether the individual is presenting new material or information about the situation or making a new request or complaint.
2. **Notice:** Upon determination that an individual's behaviour is unreasonable or threatening or to classify a request or complaint as frivolous or vexatious, and depending on the severity of the incident, the CAO shall:
 - a. Send a letter of warning to the individual indicating that the behaviour/requests are a violation of this policy and that restrictions may be imposed should they continue; or
 - b. Send a letter of notification to the individual indicating that the matter has been reviewed and that restrictions are to be imposed. This letter shall include a summary of the findings of the CAO's review, including as follows:
 - i. a summary of the matter which has led to the restrictions;
 - ii. a summary of the interactions with the individual;
 - iii. a description of the restrictions that are to be applied; and
 - iv. the rationale for applying the restrictions.
3. **Potential Restrictions:** Restrictions should be tailored to deal with the individual circumstances. Actions available to the CAO to restrict the individual may include, but are not limited, to any one or combination of the following:
 - a. Limiting the individual's correspondence with staff to a particular format, time or duration;
 - b. Limiting the individual to a particular point of contact;

c. Requiring any face-to-face interactions between the individual and staff to take place in the presence of another staff member;

d. Requiring the individual to make contact with the Municipality only through a third party, such as a solicitor or counsellor;

e. Limiting or regulating the individual's use of municipal services;

f. Refusing the individual access to a municipal facility except by appointment or specific permission;

g. Requiring that the individual produce full disclosure of documentation or information before staff will further investigate a complaint;

h. Instructing staff not to respond further correspondence from the individual regarding the complaint or a substantially similar issue;

i. Informing the individual that further contact on the matter will not be acknowledged or replied to;

j. Closing the complaint or request for service;

k. 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;

l. Instructing staff to severely reduce or completely cease responses to further complaints or request and correspondence from the individual;

m. Pursuing legal action ; and

n. Any other measures deemed necessary, based on the individual circumstances.

4. **Restriction Review:** The letter of notification shall advise of a review date for the matter, depending on the severity of the incident and the nature of the matter and restriction/service provided. Generally, all cases where this policy is applied should be reviewed every twelve months and not more than 12 months after the service change or restriction was initially imposed or continued/upheld.

The affected individual will be invited to participate in the review process by providing a written submission or by way of another method as appropriate in the circumstances, unless it is determined that this invitation will provoke a negative response from the individual.

Prior to the review date, the CAO shall review the situation and determine if the restrictions should continue. During this review, consideration shall be given to factors such as:

- Whether the individual has had any contact with the Municipality during the restriction period;
- The individual's conduct during the restriction period;
- Any information/arguments put forward by the individual for review;
- The effect that continuing the restriction may have on the individual; and
- Any other information that may be relevant in the circumstances.

The individual shall be informed of the outcome of the review by way of letter within 10 business days of completion of the review and be given another date for review if any restrictions remain.

Appeals

1. The individual shall have the ability to appeal any decision to impose restrictions by contacting the Chief Administrative Officer in writing within 10 business days from the date the restriction was issued. Upon receipt of an appeal, Council shall appoint an Appeal Committee in accordance with this Policy, who shall review all relevant information along with the appeal within 10 business days from the date the appeal was received and may confirm, rescind or amend the restrictions. The Appeal Committee's decision will be final.
2. In the event that the issue cannot be resolved through this policy, the individual may submit a complaint to the Office of the Manitoba Ombudsman.

Monitoring

This policy shall be reviewed every two years by the Chief Administrative Officer as part of the Municipality's regular Governance Review process.

References

Code of Conduct for Members of Council
Employee Code of Conduct

Definitions

“Vexatious” means that the complaint or request for service is initiated with the intent to embarrass or annoy the receipt, or is part of a pattern of conduct by the complaint of requestor that amounts to an abuse of the complaint process or request for service.

A “frivolous” complaint is one 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.

“Unreasonable” behaviour involves conduct that is unacceptable in all circumstances – regardless of how stressed, angry or frustrated an individual is, because it unacceptably comprises the health, safety and security of staff, other service users or the individual themselves. Further, requests or complaints that are incomprehensible, inflammatory or based on conspiracy theories are also considered unreasonable.

“Threatening” behaviour refers to any conduct involving direct or indirect threats, including verbal intimidation, physical aggression, actions that cause fear or unease, threats of retaliation, public embarrassment or humiliation, vandalism, or any communication or act that leads another individual to fear for their safety or well-being..

Enquiries

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