

County of Essex Policy and Procedures Manual

Public Conduct Policy

Policy Number:	2023-003
Policy Type:	Corporate Policy
Approval Authority:	Essex County Council
Office of Responsibility:	Administration
Issuance Date:	2023-05-17
Revised on Date:	N/A
Scheduled Review Date:	2025-05-03
Replaces Policy:	N/A

1.0 Introduction

The Corporation of the County of Essex (the "**County**") regularly interacts with members of the public (the "**Public**"), and in doing so attempts to at all times provide services in a prompt, professional, and respectful manner, and attempts to at all times address service requests and complaints from members of the public equitably, comprehensively and in a timely manner. However, this is done while the County also promotes a respectful, tolerant and harassment-free workplace between members of County Council, employees of the County, and the Public.

In order to achieve the objectives outlined above, unreasonable behaviour and/or frivolous and vexatious complaints or requests from some members of the Public who require services or who access County premises may need to be limited in a manner that is clear, consistent, reasonable, and proportional to the individual's action(s), to ensure the safety of members of County Council, employees of the County, and other members of the Public, and to ensure that services can continue to be provided to other members of the Public in a timely and efficient manner.

2.0 Scope

This Public Conduct Policy pertains to all members of the Public who interact with members of County Council and employees of the County, including,

but not limited to verbally via telephone, through written communication, and/or by attending in person at the County's administration building, located at municipal address 360 Fairview Avenue West, Essex, Ontario (the "**Administration Building**") or any other property owned by the County.

3.0 Definitions/Glossary

Facilities: Means all properties owned by the County.

Frivolous: Means a complaint 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.

Vexatious: Means that the complaint or request for service is initiated with the intent to embarrass or annoy, or is part of a pattern of conduct that amounts to an abuse of the complaint process or request for service.

Unreasonable: Means behaviour that involves conduct that is unacceptable in all circumstances, 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 or inflammatory are also considered unreasonable.

4.0 Purpose

This Public Conduct Policy contributes to the County's balancing its requirement to deal with all members of the Public in ways that are open, transparent, consistent, and fair, with its requirement to protect members of County Council, employees of the County, and other members of the Public from unreasonable behaviour and frivolous and/or vexatious actions of some members of the Public.

This Public Conduct Policy is further intended to address some situations arising from unreasonable behaviour from some members of the Public that:

- (1) may cause concern for the reasonable safety of other individuals at County Facilities;
- (2) may compromise the enjoyment of County Facilities for other users;

- (3) may be considered vexatious, frivolous and/or unreasonably persistent interactions and/or requests that may consume a disproportionate amount of time of members of County Council and/or County employees, that compromises their ability to provide assistance and/or deliver good customer service efficiently and effectively to other members of the Public.

The situations described above, may require the County to put restrictions on the contact that some members of the Public have with the County.

The overall intention of this Public Conduct Policy is to limit very specific and problematic behaviours of members of the Public in very targeted ways when interacting with the County, but is **not** intended to, and will not be used to, limit the interactions of members of the Public who may simply be perceived to be generally difficult in the demands imposed for service and/or requests for information. Rather, it applies only to members of the Public whose behaviours and actions rise to the level that they are deemed to be unreasonable, frivolous, and/or vexatious, or whose actions provide a reasonable basis to fear for the safety of members of County Council, employees of the County, and/or other members of the Public at County Facilities. Determining whether particular behaviours or actions are unreasonable, frivolous, and/or vexatious can be a flexible balancing exercise that requires all circumstances of a particular case to be considered, with the key consideration often being whether the behaviours or actions are likely to cause distress, disruption, or fear of harm, without proper or justified cause.

The decision to classify the behaviour and/or actions of a member of the Public as unreasonable, or to classify a request as vexatious or frivolous, could have serious consequences for the individual member of the Public, including restricting their access to members of County Council, employees of the County, and/or County Facilities. As such, this Public Conduct Policy provides that any restrictions made under this Public Conduct Policy, and the related Trespass to Property Policy if implemented along with this policy, are dependent on the particular circumstances related to an individual member of the Public, and with there being an opportunity for affected member of the Public to have any restrictions imposed by the County under this Public Conduct Policy reviewed and/or appealed.

5.0 Policy

5.1 Application of Policy

This Public Conduct Policy, and, as may be required, the related Trespass to Property Policy, are to be implemented if behaviours or requests from an individual are determined to be unreasonable, frivolous and/or vexatious as defined herein, or are deemed to pose a risk to the safety of member of County Council, employees of the County, and/or other members of the Public that use County Facilities. The following behaviours or requests may take place in circumstances including, but not limited to, one or more of the following:

- Public meetings held by the County;
- Written communication to, or about, members of County Council and/or employees of the County, which may also include email communication and posts on social media;
- Telephone communication with members of County Council and/or employees of the County;
- In-person communication with members of County Council and/or employees of the County; and/or
- Interactions at County Facilities.

5.2 Examples of Unreasonable Behaviour

The list below provides examples of what might be considered unreasonable behaviour. The list is not exhaustive, nor does one single example listed on its own necessarily imply that an individual member of the Public will be considered as exhibiting unreasonable behaviour. Examples of what may constitute unreasonable behaviour include, but are not limited to:

- Refusing to specify the grounds of a complaint or request for a service, despite offers of assistance;
- Changing the basis of the complaint or request for a service as the matter proceeds;

- Denying or changing statements made at an earlier stage of the matter;
- Submitting falsified documents;
- Making excessive demands on the time and resources of employees with repeated telephone calls and/or written correspondence without allowing a reasonable time for response from employees of the County;
- Persistently approaching the County about the same issue once a decision has already been made regarding said issue;
- Causing distress to members of County Council, employees of the County, and/or other members of the Public, which could include the use of hostile, abusive, gestures, or offensive language, or an unreasonable fixation on individual member(s) of County Council or employee(s) of the County;
- Engaging in aggressive, disrespectful or intimidating behaviour, bullying, and/or harassment towards, and/or using threatening language when interacting with or speaking about a member of County Council and/or County employees; and/or
- Loitering, causing a disturbance, and/or being under the influence of drugs and/or alcohol while attending County Facilities.

5.3 Examples of Vexatious or Frivolous Requests

The list below provides examples of what might be considered vexatious or frivolous. The list is not exhaustive, nor does one single example listed on its own necessarily imply that an individual member of the Public will be considered as making requests that are vexatious or frivolous. Examples of what may constitute a vexatious or frivolous request, include, but are not limited to:

- Submission of requests for information in high volume and frequency;
- Submission of requests for information that have already been responded to by the County;

- Submission of requests by a member of the Public that blatantly states the request is meant to cause maximum inconvenience and disruption to the County;
- Submission of requests that lack any serious purpose or value (this factor cannot be considered on its own, but may be considered as a factor with other factors in determining whether conduct is vexatious and/or frivolous);
- Submission of requests that are mingled with baseless accusations and/or complaints.

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

- Brings complaints concerning an issue that the County has already addressed and concluded;
- Brings complaints concerning an issue that is substantially similar to an issue that staff have previously addressed and concluded;
- Engages in conduct which is deemed to be an abuse of the complaints process of the request for services or information process of the County.

5.4 This Public Conduct Policy is meant to complement, **not** replace or supersede, any other County policy related to behaviour at County Facilities, whether by members of the Public, members of County Council, or employees of the County.

5.5 **Process**

The decision to invoke this Public Conduct Policy may be as a result of a repeated pattern of conduct by an individual member of the Public, or it may arise from a significant incident that requires the immediate application of this Public Conduct Policy.

However, any decision to classify the request or complaint of a member of the Public as frivolous and/or vexatious, or to classify the behaviour of a member of the Public as unreasonable or a threat to the safety of members of County Council, employees of the County, and/or other members of the Public (the "**Impugned**

Conduct"), could have serious consequences for the individual member of the Public, including restricting his or her access to services, information, interaction with members of County Council and employees of the County, and access to County Facilities. As such, it is imperative that the following process under this Public Conduct Policy be adhered to, to the extent possible in the particular circumstances:

- (1) **General** – All members of County Council and employees of the County who receive requests and/or complaints and/or witness actions that are perceived to be Impugned Conduct shall:
 - (a) Document the actions of the member of the Public engaged in the Impugned Conduct, and document their own response and interactions with the said member of the Public, in writing immediately after the interaction, and in as much detail as possible; and
 - (b) Follow the specific protocols, pertaining to the individual member of County Council or employee of the County, outlined below.
 - (c) Report the Impugned Conduct and provide the detailed notes to the CAO, or his or her designate, of the County for further investigation and for the determination of what actions, if any, are required to address the Impugned Conduct in consultation with such other members of the County as are deemed necessary, and in their sole and absolute discretion, if any.
- (2) **Employees** – Any employee of the County who perceives an interaction with a member of the Public to be Impugned Conduct shall, after complying with Section 5.5(1)(a):
 - (a) Report the Impugned Conduct to their immediate supervisor, providing the detailed notes.
 - (b) Advise their immediate supervisor of any steps taken to resolve the issue, and a summary of any previous known interactions with the relevant member of the Public, along with any previous correspondence exchanged with the relevant member of the Public;

- (c) If applicable, the number of requests that the relevant member of the Public has made and the status of each; and
 - (d) Nature of the individual's behaviour and the amount of time that has been consumed addressing same.
- (3) **Supervisors** – After being provided with the information and documents referenced in Section 5.5(2) above, a supervisor shall:
 - (a) If the supervisor is not a department head, shall review the information provided by the employee of the County with the department head, and determine whether the behaviour of the member of the Public is (1) Impugned Conduct and (2) whether actions are required to address the Impugned Conduct;
 - (b) If deemed appropriate by the department head, work with employee of the County and the department head to determine what, if any, actions on the part of the County and/or restrictions on the part of the County could address the Impugned Conduct; and
 - (c) If deemed appropriate by the department head, determine what would have to occur on the part of the relevant member of the Public for the actions of the County and/or the restrictions to be relaxed or discontinued if there are actions.
- (4) **Department Heads** – After completing the analysis required by Section 5.5(3) above, the department head shall provide all information and documents referred to above, as well as the joint recommendations of the affected employee of the County, the supervisor and the department head referenced in Section 5.5(3) above to the CAO.
- (5) **CAO** – The CAO, or his or her designate, after receiving and reviewing all information and documents referred to above, and discussing the matter with the department head, shall:

- (a) Conduct such further and other investigation, if any, deemed necessary and appropriate, in their sole and absolute discretion;
- (b) If deemed appropriate by the CAO, in their sole and absolute discretion, retain an independent third party to conduct such further and other investigation as the CAO may deem appropriate as per Section 5.5(5) above;
- (c) Make the final determination as to whether the Impugned Conduct complained of related to a member of the Public is a violation of this Public Conduct Policy;
- (d) Determine the actions to be taken by the County and/or restrictions to be imposed on the member of the Public, if any to protect members of County Council, employees of the County, and other members of the Public from the Impugned Conduct, and communicate same, or cause the County Solicitor to communicate same, to the relevant member of the Public;
- (e) Determine, in consultation with the County Solicitor, whether the Trespass to Property Policy should be applied to the affected member of the Public, and, if so, instruct the County Solicitor as to the terms to impose in trespassing the member of the Public from County Facilities;
- (f) In communicating with the relevant member of the Public regarding any action to be taken by the County and/or restrictions to be imposed on the member of the Public, the CAO and/or the County Solicitor, shall communicate the rights of the member of the Public to seek a reconsideration and/or appeal the decision of the CAO, or his or her designate, in accordance with this Public Conduct Policy;
- (g) Maintain all documentation related to the review of the Impugned Conduct and the determination of action(s) taken by the County and restriction(s) imposed on the member of the Public.

- (6) **County Council** – Any member of County Council who perceives an interaction with a member of the Public to be Impugned Conduct shall, after complying with Section 5.5(1)(a):
- (a) Report the Impugned Conduct to the CAO, providing the detailed notes required in Section 5.5(1)(a);
 - (b) Advise the CAO of any steps taken to resolve the issue, and a summary of any previous known interactions with the relevant member of the Public, along with any previous correspondence exchanged with the relevant member of the Public;
 - (c) If applicable, the number of requests that the relevant member of the Public has made and the status of each; and
 - (d) Nature of the individual’s behaviour and the amount of time that has been consumed addressing same.
- (7) **CAO** – The CAO, or his or her designate, after receiving and reviewing all information and documents referred to in Section 5.5(6) above, and discussing the matter with the member(s) of Council with knowledge of the Impugned Conduct shall follow the same procedure outlined in Section 5.5(5) above.

5.6 **Determination Process**

In reaching their conclusions and making a determination of reported Impugned Conduct in accordance with Section 5.5(5) or Section 5.5(7) above the CAO, or his or her designate, shall:

- (1) **Information Review** – Based on the information provided by the relevant members of County Council and/or employees of the County, and such further information as may be discovered during any subsequent investigation by the CAO, if any, a review of the information shall be conducted by the CAO to determine if the Impugned Conduct warrants action by the County and/or restrictions of the relevant member of the Public. Each case should be considered by the CAO, to the extent possible, on an individual basis, with the determination of actions to be taken by the County and/or the restrictions to

be imposed on a member of the Public considering the specific facts and circumstances related to the matter, as well as the following:

- (a) The member of the Public's individual personal circumstances, level of competency, literary skills, etc., that may be known to the County;
 - (b) If applicable, whether the Impugned Conduct can be dealt with in accordance with existing relevant procedures and guidelines;
 - (c) Whether employees of the County have made reasonable efforts to resolve reasonable requests or complaints of the member of the Public prior to the Impugned Conduct arising;
 - (d) Whether the Impugned Conduct can be addressed without any restriction(s) being imposed on the member of the Public; and
 - (e) The likelihood that any action(s) taken by the County and/or restriction(s) imposed on the member of the Public are going to protect the members of County Council, the employees of the County, and other members of the Public from the Impugned Conduct.
- (2) **Notice** – Upon determination that the Impugned Conduct is a violation of this Public Conduct Policy, the CAO, or his or her designate, or the County Solicitor shall either:
- (a) Send a letter of warning to the member of the Public indicating that the Impugned Conduct is a violation of this Public Conduct Policy and that action(s) may be taken by the County and/or restriction(s) imposed on the member of the Public should the Impugned Conduct continue; or
 - (b) Send a letter of notification to the member of the Public indicating that the Impugned Conduct has been reviewed and that the County is taking action and/or imposing restrictions on the member of the Public. This

letter shall include a summary of the findings of the CAO, or his or her designate, including:

- a summary of the Impugned Conduct;
- a summary of the findings following the review of the information and documents provided and/or discovered during any investigation;
- a description of the action(s) being taken by the County and/or the restriction(s) being imposed on the member of the Public; and
- the rationale for taking such action(s) and/or imposing such restriction(s).

- (3) **Potential Restrictions** – Potential action(s) and/or restriction(s) should be tailored to address the member of the Public's circumstances. Action(s) and/or restriction(s) available to the CAO, or his or her designate, may include, but are not limited to, any one or combination of the following:
- (a) Limiting the correspondence with the County by the member of the Public to a particular format, time, and/or duration;
 - (b) Limiting the member of the Public to a particular point of contact;
 - (c) Requiring that any in-person meetings be scheduled in advance and in the presence of at least 2 representatives of the County;
 - (d) Requiring that the member of the Public only make contact with the County through a third party, such as their lawyer or such other third party as the County may agree;
 - (e) Limiting or regulating the member of the Public's use of County services;
 - (f) Refusing the member of the Public access to County Facilities entirely, or on such terms as are deemed appropriate;

- (g) Instructing staff not to respond to further correspondence from the member of the Public;
- (h) Informing the member of the Public that further contact on the matter will not be acknowledged or replied to;
- (i) Closing the complaint or request for service;
- (j) Pursuing legal action, including, but not limited to the issuance of a Notice of Trespass; and
- (k) Such further and other action(s) and/or restriction(s) that the CAO, or his or her designate, deems to be appropriate in the circumstances.

5.7 Restriction Review

The letter of notification referred to in Section 5.6(2)(b) above, shall advise of a review date for the action(s) being taken and/or restriction(s) being imposed, which review date shall be as soon as reasonably required by the CAO, or his or her designate, and shall be conducted at least within 12 months of the date of the letter of notification. The review process shall include the following:

- (1) The affected member of the Public will be invited to participate in the review process by providing written submissions, or by such other means as the CAO, or his or her designate, may, in their sole and absolute discretion, deem appropriate in the circumstances;
- (2) Prior to the review date, the CAO, or his or her designate, shall, either alone, or with such other members of County Council and/or employees of the County they, in their sole and absolute discretion deems appropriate, determine if the action(s) taken and/or the restriction(s) imposed by the County should continue. During this review, consideration shall be given to factors considered appropriate by the CAO, or his or her designate, including, but not limited to:
 - (a) Whether the member of the Public has any contact with the County while the action(s) and/or restriction(s) were in place;

- (b) The conduct of the member of the Public during the period when the action(s) and/or restriction(s) were in place;
 - (c) The submissions of the affected member of the Public, if any;
 - (d) The effect that continuing the action(s) and/or restriction(s) will have on the member of the Public;
 - (e) The effect that the discontinuing of the action(s) and/or restriction(s) will have on the safety of the member of County Council, the employees of the County, and/or other members of the Public accessing County services and/or Facilities; and
 - (f) Any other factors and information the CAO, or his or her designate deems relevant in the circumstances.
- (3) The affected member of the Public shall be informed of the outcome of the review in writing within 10 business days of completion of the review, and, if action(s) and/or restriction(s) remain in place, the affected member of the Public will be advised of the next date for review of the remaining action(s) and/or restriction(s).

5.8 Appeals

The affected member of the Public as the right to appeal any decision on the part of the County to take action(s) and/or impose restriction(s) related to any Impugned Conduct, with the appeal process to be as follows:

- (1) The affected member of the Public must commence the appeal by advising the County Clerk of the desire to appeal in writing, within 10 business days from the County providing notice of any action(s) taken or restriction(s) imposed by the County in accordance with the provisions of this Public Conduct Policy; and
- (2) The Warden, or his or her designate on County Council may, after reviewing the information and materials related to the original decision of the CAO, or his or her designate, along

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with any submissions made by the affected member of the Public, confirm, rescind, or amend the action(s) taken and/or the restriction(s) imposed by the County, with the decision of the Warden, or his or her designate, on the appeal to be provided in writing within 10 business days of the review required by this Section 5.8(2), and with the decision of the Warden, or his or her designate being final.

6.0 Responsibility

- 6.1 All members of County Council and employees of the County are responsible for ensuring their compliance with their respective obligations under this Public Conduct Policy.
- 6.2 Notwithstanding the duties of the CAO under this Public Conduct Policy, the CAO may assign a designate to conduct his or her functions provided for in Section 5 of this Public Conduct Policy.
- 6.3 Notwithstanding the duties of the Warden under this Public Conduct Policy, the Warden may assign a designate to conduct his or her appeal functions provided in Section 5.8 of this Public Conduct Policy.
- 6.4 The Clerk is responsible for ensuring this Public Conduct Policy is reviewed every 2 years, or at such earlier date as may be required.

7.0 Related Documents/Legislation

- Public Conduct By-law
- Visitor Policy and By-law
- Trespass to Property Policy and By-law

8.0 Summary of Amendments

Date	Amendment(s)
2023-05-03	New Policy

Appendices

None