
Progressive Enforcement

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Purpose statement

The Corporation of the Town of Oakville (Town) supports compliance-based enforcement of municipal by-laws. The purpose of this procedure is to provide guidelines for by-law enforcement that include a range of options to achieve compliance with progressive escalation when required.

Scope

This procedure applies to all enforcement actions taken by Town of Oakville Municipal Law Enforcement Officers (MLEO) or any other staff involved in enforcement activity.

Procedure

Enforcement action should be undertaken on a continuum, starting with public education on by-law requirements to encourage voluntary compliance, progressing to warnings and finally to the pursuit of various penalties if the violation continues (i.e., administrative penalties, tickets, and charges under Part III of the Provincial Offences Act).

Voluntary compliance

Voluntary compliance is the initial step in the progressive enforcement process. Voluntary compliance is primarily achieved through education and outreach programs that aim to raise awareness among residents and businesses about applicable by-laws, their intent and purpose, and how compliance can be achieved.

Promoting compliance can take various forms including:

- Providing education information pamphlets or material to businesses and residents including web-based information and social media
- Meeting with residents, resident groups and businesses to discuss compliance
- Speaking at public venues or schools
- Referring appropriate matters to community mediation services

Complaint and risk based investigations

Even with a strong voluntary compliance program in place, violations may still happen, requiring MLEO to investigate based on complaints and risk assessments. Complaints need to include information about the person making the complaint, and anonymous complaints will only be looked into if there is an urgent safety concern. Investigations must be approached on a case-by-case basis, keeping in mind that collected evidence may need to be presented in court. Following proper investigative procedures and gathering evidence in accordance with the law is crucial, always ensuring the integrity of the investigation.

Reasonable, transparent and proportionate enforcement

The investigative process relies on enforcing principles of reasonableness, transparency, and appropriate enforcement. The MLEO involved in an investigation must ensure that their actions are fair, impartial, and legally justified. Consistency and impartiality are crucial to maintain public trust in the enforcement process.

To achieve this, the MLEO needs a clear understanding of relevant regulations and potential outcomes if a violation is proven. This involves knowing applicable laws, policies, and procedures guiding their investigative actions.

Priority levels

Each complaint will be individually evaluated, assigned a priority level as set out below, and handled in accordance with the appropriate standard operating procedure. This approach aims to optimize resource allocation, maintain a high level of service excellence, and ensure timely and effective responsiveness.

Priority*	Examples**
<p>High</p> <ul style="list-style-type: none"> ➤ Alleged by-law violation may pose an adverse impact to residents, visitors, businesses/property or environment. 	<ul style="list-style-type: none"> ➤ Emergency property standards and lot maintenance issues ➤ Municipal right of way safety concerns
<p>Medium</p> <ul style="list-style-type: none"> ➤ Alleged by-law violation affects the reasonable enjoyment of individuals but does not present an immediate risk to residents, visitors, businesses/property or environment. 	<ul style="list-style-type: none"> ➤ Noise complaints- construction or party noise ➤ Health and safety complaint related to a business ➤ Zoning By-Law Investigation

<p>Low</p> <ul style="list-style-type: none"> ➤ Alleged by-law violation has no direct impact on the complainant or the general health and safety of residents, visitors, businesses/property or environment. 	<ul style="list-style-type: none"> ➤ Property standards- drainage, derelict vehicle ➤ Noise complaints- barking dog, waste pickup ➤ Nuisance - dust, light ➤ Zoning investigations
<p>Parking***</p> <ul style="list-style-type: none"> ➤ Parking violations in accordance with relevant by-laws. 	<ul style="list-style-type: none"> ➤ School zone parking concerns ➤ Fire route parking concerns ➤ Zoning parking concerns

*Priority levels can be subject to modifications based on regulatory changes.

**The examples provided are solely intended for illustrative purposes and are not meant to be an exclusive list and other similar scenarios, situations, or entities may exist that are not explicitly mentioned.

*** Parking investigations will be conducted based on the severity of the violation, available resources and when deemed to be legitimate.

Considerations to obtain compliance

When determining the most appropriate response to obtain compliance with a by-law, several factors are typically considered by a MLEO.

History

Any history of repeated offences regarding the same or similar violations is taken into account, including the severity of any previous violations. The MLEO will also consider previous instances of non-compliance that have been corrected both before and after the issuance of administrative penalties/tickets or before or after court proceedings.

Intent

When considering intent, the MLEO must consider whether the violator knowingly contravened the by-law or if the violation was unintentional or inadvertent. This consideration may be relevant in determining the appropriate enforcement action and the severity of any penalties or fines issued.

Reasonable prospect of a conviction

If there is no reasonable prospect of a conviction, the MLEO may decide not to pursue the case further. This decision could be based on a variety of factors, including the strength of the evidence, the nature/seriousness of the alleged violation, and the resources required to pursue the case.

In all investigations, the MLEO may choose to issue a warning or take other non-punitive measures to address the non-compliance, even if there is no reasonable prospect of a conviction. The goal in these cases is still to promote compliance with the by-law, even if a conviction is not possible.

General practice of communication During the investigation, the MLEO typically adhere to the following approach when communicating with a complainant:

1. Initial contact: The MLEO will provide an overview of the investigation process and any requirement of the complainant.
2. Follow-up contact: The MLEO will reach out to the complainant as needed to resolve the investigation.
3. Final contact: At the end of the investigation, the MLEO will share the results and offer any additional guidance with the complainant.

The form of communication (in person, telephone, email) used by the MLEO will depend on the investigation type. Some low priority investigations and parking investigations may not be required to follow this approach and rely on system generated notifications.

A MLEO shall not disclose any confidential information including personal information gained in the performance of their duties except as required for prosecution purposes or otherwise as legally authorized.

Meritless complaints

In situations where meritless complaints (as outline in the [Town of Oakville's Customer Conduct Procedure](#)) are received the Director of Municipal Enforcement Services or designate is given the discretion to decide on an appropriate level of response.

In making this decision the following criteria will be considered:

- Does the complaint deal with safety concerns
- Does the division have available resources to respond to the concerns
- What are the potential impacts on the complainant
- What are the potential impacts of not responding
- What are the potential impacts on the neighborhood
- Does the complaint appear to be frivolous or vexatious

The resulting level of response by staff may include acting on some or all of the complaints, not acting on the complaints, or responding to some or all of the complaints as resources are available.

Dealing with Children under 16 Years

The *Provincial Offences Act* regulates how a Young Person is to be dealt with when issuing charges. Interacting with a Young Person for enforcement related concerns can

create health and safety concerns. In order to ensure all of our interactions are conducted in the safest manner possible, the following criteria will help to guide officer interactions with a Young Person

1. Officers will not issue charges to a Young Person;
2. Once an officer identifies that they are dealing with a Young Person they will discontinue the conversation and, if necessary, contact the Young Person's parent or guardian;
3. If an officer is responding to a call involving Young Persons, Halton Regional Police (HRP) are required to be in attendance and any enforcement action will be taken by the HRP;
4. An officer will not correspond directly to a Young Person, any correspondence should be addressed to the parent or guardian; and
5. Any required meetings with a Young Person will only be held in the company of the parent or guardian.

References and related documents

Regulatory Services Policy
Provincial Offences Act
Coyote Education and Response Procedure
Administrative Penalties Procedure

Customer Conduct Procedure

Definitions

Frivolous – means a complaint that is reasonably perceived by the town to be (a) without reasonable or probable cause (b) without merit or substance, or (c) trivial.

Officers – is a law enforcement professional who is responsible for enforcing municipal bylaws, regulations, and policies.

Young Person(s) – as defined in the *Provincial Offences Act*

Vexatious – means a complaint that is frivolous and which is pursued in a manner that is reasonably perceived by the town to be (a) malicious (b) intended to embarrass or harass the recipient, or (c) intended to be a nuisance.