
HALDIMAND COUNTY

Report LSS-06-2021 3rd and 4th Quarter Insurance Activity – 2020

For Consideration by Council in Committee on April 20, 2021



OBJECTIVE:

To advise Council of insurance activity including claims made against the County and costs incurred for the period of July 1, 2020 to September 30, 2020 and October 1, 2020 to December 31, 2020.

RECOMMENDATIONS:

1. THAT Report LSS-06-2021 3rd and 4th Quarter Insurance Activity Report – 2020 be received.

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Respectfully submitted: Cathy Case, General Manager of Corporate & Social Services

Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

The claims data from the third and fourth quarter of 2020 are being prepared jointly. First and second quarter information, which was previously reported to council in 2020, are also included in the attachments for comparison purposes and to provide an overall picture of the year's activity. The 2020 data is not completely indicative of a typical year as the activity over this time period partly reflects the effect of the COVID-19 Pandemic.

BACKGROUND:

The County pays premiums to the external insurance carriers for general insurance coverage. In addition, funds are allocated annually within the County's budget for the Self Insurance Reserve (SIR) program. The SIR program is designed to cover the costs of investigation, defence and settlement of all claims falling below and up to the deductible levels, as well as payments of the respective deductibles to the insurer on claims exceeding these levels.

As with previous years, deductible levels are varied and based on the type of insurance coverage applicable to a loss or claim. For example, municipal liability coverage carries a deductible of \$250,000, property coverage is \$50,000 and auto coverage has a deductible of \$25,000. All deductibles with the exception of the Environmental Impairment Liability and the Errors and Omission policies are per occurrence based, meaning that the insurance policy in place during the occurrence of an event will be responsible for the claim (upon validation of claim), regardless of when the claim is filed.

This report does not quantify the total cost of a claim if a deductible is exceeded. The dollar value of insurance claims over and above the deductible levels are reported in the annual litigation report and are also reflected in annual premium changes, which are based, in part, on the County's historical claims experience as well as market conditions.

The following information outlines the statistical data for the 3rd and 4th quarters of 2020 and compares the information to historical data in order to recognize the County's risk profile and trends that can be addressed and mitigated.

ANALYSIS:

Claims can vary in value and scope, are managed according to the specifics of each claim and fall within one of the three categories mentioned below:

Litigation - is dealt with by legal counsel assigned by the County and/or the insurer, with staff working in close consultation on these matters.

Informal Claims - are claims for compensation managed by staff or with the assistance of a third party adjuster for more complex matters.

Incidents - are those events where staff receive notification of something happening, but there is no claim for compensation.

Claims which fall within the litigation category are provided annually to Council in a separate report. Attachment #1 provides information on the types of claims and incidents received in the last two quarters of 2020 and by what means they were managed. It is important to continually review all reported incidents alongside the claims and litigation matters in order to obtain a holistic view of risk exposure. Staff continually review this data and engage in risk mitigation strategies, such as those described under the Risk Management section of this report.

In an effort to improve the data capturing and assessment of information, claims that are issued **against** the County, which are claims or demands for compensation by third parties to Haldimand County, are separated from claims issued **by** the County. Claims made **by** the County can include damage claims made internally, such as fleet claims due to damaged vehicles, lost or stolen equipment, as well as damage to County infrastructure by third parties (for example, motor vehicle collisions damaging a street light). Where the County can identify a responsible party for such damage, further administrative duties are completed, including subrogating for cost recovery. In the absence of a responsible party, claims are made by the applicable division to the risk management and legal services staff and processed internally for the division's cost recovery. Claims exceeding or nearing the deductible threshold are processed through the County's insurer in accordance with the contractual provisions of the respective insurance policies. Within the parameters set out above, the County is also responsible to report certain types of incidents, including liability claims regarding bodily injury matters to the insurer, even where the deductible threshold has not (yet) been met.

Data:

Within the third and fourth quarters of 2020, Haldimand County received 22 claims (8 and 14, respectively). While by comparison, the numbers are at par with the 2019 year to date (YTD) claims, it should be noted that staff are now tracking claims that are either incorrectly issued against Haldimand County, for instance on a road that is under the legal jurisdiction of another municipality or the province; or where the legal responsibility lies with a contractor or third party. This is noted as "Not County Jurisdiction/Other" on Attachment #1, which is provided to improve the accuracy of the statistical data. In effect, this means the actual claims processed, compared with 2019 YTD is slightly lower than the average for Q3 and Q4.

Attachment #1 also breaks down the claims received by the applicable division. As is common with municipal operations, the Roads Operations division experiences the bulk of the claims made against the County as their risk exposure is the highest. Although the presence of the ongoing pandemic had led to a small decrease in the typical services normally provided through the early months and into the warmer months of 2020, the 3rd and 4th quarter only had a slight increase in activity in the other service

areas from the 1st and 2nd quarter, which is still lower than the previous year's averages for facilities operations, parks, and community events.

In terms of claims made by the County, 18 claims were processed in the third quarter and 21 in the fourth quarter. A breakdown of this information is provided in Attachment #2 and indicates that the volumes are well below the average for this time period. Attachment #2 also outlines the recovery/subrogation data in further detail, meaning costs that Haldimand County were able to recover for damage by a responsible third party. It is important to note that the subrogation figures do not necessarily reflect the actual quarter that the damage may have occurred in, rather they reflect the recovered amounts attained in Q3 and Q4, as the recovery process and timeline can vary depending on the type and nature of the claim that staff process or subrogate for.

Attachment #3 outlines costs associated with resolving claims, both by and for the County, as described above. The resolution of a claim is either in the form of settlement or denial of a claim, or in the case of litigation, a judgement which is itemized in the annual litigation report.

Costs associated with denial of claims are usually limited to the expenses incurred to investigate a claim and efforts are made to keep these costs to minimum, where feasible. Costs for settled claims during the stated period are not indicative of claims received during the same period, as the timeline and process of claims investigation varies according to the specific nature of each claim. Costs pertaining to claims from previous quarters and prior years include expenses to resolve claims involved in the litigation process. In these cases, one claim settlement might be for settlements up to a deductible threshold, while settlement of internal claims would represent compensation for a damage to property and might be somewhat lower. Perhaps not surprisingly, the effect of COVID-19 on trends resulted in slightly fewer claims in 2020; however, the costs are noted to be higher as many outstanding claims and litigation matters have been brought to an administrative close in 2020. This is shown in the higher costs across most of the divisions and is not representative of the claims activity. To that end, the high value of settlements shown in Attachment #3 for the latter half of 2020, particularly those attributed to the Roads Operations division, are indicative of the settlement, closure and below deductible billings (SIR) of a number of litigation files.

Finally, the last table in Attachment #3 shows 27% of the files as being inactive. This term is new to the Insurance claims program and is used to reflect files that have either been denied where the County has been given some indication of further litigation, or where a claim for compensation has become dormant for reasons beyond the County's control (such as lack of response from Claimant and/or their legal counsel). Inactive files have the potential to become active again or will eventually time out pending the expiration of the statute of limitations imposed on a claimant's ability to pursue legal action.

Risk Management:

In 2020, the risk management and legal services staff initiated meetings with various County divisions to obtain a better understanding of the activities they are responsible for and how the County can better identify and manage those risks. The discussions have been well received and have resulted in several proactive initiatives including:

- discussing documentation consistency and best practices (the who, what, when and how of documentation)
- identifying training needs
- actively sharing information about claims (what the claims are, what we can do to prevent or reduce County exposure)
- identify patterns (i.e. types of claims, seasonality impacts), etc.

This continues to be an ongoing proactive effort to help identify and mitigate the County's risk exposure.

FINANCIAL/LEGAL IMPLICATIONS:

The 2020 budget for insurance claims costs and deductibles (both internal and external) was established at \$400,000. The costs of the SIR program reflect that, at the end of the fourth quarter, \$632,570 or 158% of this budget has been expended. This figure represents the high values of settlements noted above and outlined in Attachment #3 with respect to a number of long-standing files that have been brought to a close this year. These numbers do not include any allowance for outstanding and/or unresolved claims or reserves that have been established by the insurer for larger claims. It also excludes approximately \$77,000 in costs related to claims for which reimbursement through subrogation is being sought.

The County's Insurance Reserve is used to fund the costs incurred in settling claims administered internally, as well as payment of deductibles. This source of funding avoids significant negative variances affecting the annual operating budget, due to unusual and costly events, which are typically not expected as part of the day-to-day business. Without such a source of funding, there would be major fluctuations in the annual expenditures incurred within the various operating divisions, as well as challenges in defining, monitoring and managing "normal" operations. The Self Insurance Reserve has an unaudited balance of approximately \$1.29 million as at the end of 2020. This balance includes an accrual for outstanding claims currently in litigation or under investigation totalling approximately \$1.07 million.

The insurance reserve is monitored and reviewed on an annual basis and includes future projections.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. 2020 Q3 & Q4 Claims Data – Total Claims against the County
2. 2020 Q3 & Q4 Claims Data – Total Claims by the County
3. 2020 Q3 & Q4 Claims Data – Resolution of Claims