
HALDIMAND COUNTY

Report LSS-04-2023 4th Quarter Insurance Activity - 2022

For Consideration by Council in Committee on March 21, 2023



OBJECTIVE:

To advise Council of insurance activity including claims made against the County and costs incurred for the period of October 1, 2022 to December 31, 2022.

RECOMMENDATIONS:

1. THAT Report LSS-04-2023 4th Quarter Insurance Activity - 2022 be received.

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Reviewed by: Lori Friesen, Manager of Legal & Support Services

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

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

EXECUTIVE SUMMARY:

In the fourth quarter of 2022, claims against the County and claims by the County are higher than previous years. Legal and Support Services staff are continuing to be proactive on all fronts of risk exposure and loss mitigation through data collection and examination, and providing staff training and knowledge sharing. These activities assist with the County continuing to be identified as a model municipality in terms of its loss experience. Staff also continue to be proactive in claims subrogation in order to recover costs from third parties where possible as this has a positive impact on the Self Insurance Reserve as described within this report.

BACKGROUND:

The County pays premiums to the external insurance carriers for general municipal 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 the County's deductible levels, and also covers payment of the respective deductibles to the insurer.

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, the property deductible is \$50,000 and auto deductible is \$25,000. More information regarding the County's insurance deductibles by policy can be found in LSS-22-2022 General Insurance Renewal – 2023 (Attachment 1).

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 on the County's historical claims experience and changing market conditions.

The following information outlines the statistical data for the 4th quarter of 2022 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:

- **Litigation** - is dealt with by a claims examiner and/or legal counsel assigned by the County and/or the insurer with staff working in close consultation on these matters, typically reserved for incidents resulting in a formal statement of claim.
- **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 that may result in an informal claim, but at the time of notification, there is no claim for compensation.

Claims which fall within the litigation category are provided annually to Council in a separate report.

Informal claims will include both claims that are issued *against* the County, which are claims or demands for compensation by third parties to Haldimand County, as well as claims made *by* the County. Claims made *by* the County can include internal claims such as fleet claims due to damaged County 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 Legal & Support Services staff and processed internally for the originating 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.

Tracking incidents is a proactive method to identify any type of situation that has the potential of turning into an informal or a litigation claim. It is possible that incidents could remain with an incident status throughout the limitation period due to no further action coming from the event. However, if a claim for compensation, notice of intent, statement of claim, or an internal invoice for repair is received, at that time, the incident will become an informal or litigation claim.

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.

Data:

Attachment 1 provides information on incidents and claims against the County received in the fourth quarter, and by what means they are managed. In the fourth quarter of 2022, Haldimand County received 13 claims against the County. Over the past three years, the average annual claims against the County is 41. Claims reported year to date for 2022 represents approximately a 26% increase over the three year average. The main driver of the increase is due to claims that have been identified as "Not County Jurisdiction/Other". Through investigation, these claims were determined to be made incorrectly against the County, or where the legal responsibility lies with a contractor or third party. These are typically resolved with minimal costs to the County.

Attachment 1 also breaks down the claims against the County by the applicable division. As is common with municipal operations, the Roads Operations Division experiences the bulk of the annual claims made against the County as it has the highest risk exposure.

In terms of claims made by the County, 15 claims were processed in the fourth quarter of 2022 as shown in Attachment 2. Over the past three years, the average annual claims by the County is 58 with four more claims received in 2022 than the three year average. As noted on Attachment 2, there were 110 claims reported. The significant decrease in claims reported for 2020, 2021 and 2022 is in large part due to a change in the administrative process. Pre-2020, all “incidents” were recorded as claims, when in fact the incident didn’t actually result in a claim. In 2020, this process changed for more accurate reporting and tracking; therefore, 2020, 2021 and 2022 identify actual claims reported with incidents tracked separately.

Attachment 2 also outlines the recovery/subrogation data in further detail, which represents costs that Haldimand County was 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/claim may have occurred, rather, they reflect the recovered amounts received in the fourth quarter. The recovery process and timeline can vary depending on the type and nature of the claim. Staff have been working diligently on subrogation and it is expected these efforts will be realized in 2023.

Finally, 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/award. In previous reporting years, subrogation claims that were recorded under the settled category are now separated and recorded as recovered, giving a clearer picture of the closure of these types of claims. 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 a minimum. Costs for settled claims during the stated period are not necessarily relative to the actual 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. Settlement amounts vary from claim to claim, never exceeding the County’s deductible threshold, and in fact, settlement internally is most often somewhat lower in value.

As represented by the solid line on the YTD Comparable – Resolution of Claims Costs table (Attachment 3), there was an increase in 2022 costs. It was anticipated that each quarter in 2022 would see higher costs than the previous year as we were still seeing the impacts of COVID-19 which caused slower resolutions throughout 2021. It is probable 2023 will see similar impacts.

Risk Management:

Efforts are made to reduce the frequency and severity of claims and costs incurred, using both proactive and reactive risk management measures. For example, incidents involving County vehicles and equipment are reviewed by the Vehicle Accident Review Committee (VARC) on a monthly basis. The VARC is comprised of stakeholders from Human Resources, Fleet, Roads Operations, and Legal & Support Services. Recommendations are made by the Committee to the applicable Manager and Supervisor in an effort to mitigate future losses by use of training, reassessment of business processes, as well as any other measures that may be applicable to the loss. Senior staff are also kept aware of liability claims that are received, as well as the outcomes of those claims. Legal & Support Services staff has initiated a formal process whereby Notices of Settlement are issued to the applicable division manager. When settlements have taken place and in consultation with senior staff, recommendations are made to assist divisions with mitigating or preventing future losses.

The practices of risk management are not limited to the division responsible for the insurance and risk program. For example, the Fleet division is responsible for administering the Commercial Vehicle

Operators Registration (CVOR) program as mandated through the Highway Traffic Act. Through their continued efforts at mitigating and reducing risk, the Fleet division confirms it is within compliance of the CVOR program.

The risk management team has initiated developing the framework for a Corporate Risk Management Strategy including education, training, and techniques that can be applied to corporate projects and implemented in the day-to-day operations throughout Haldimand County. The goal is to work collaboratively with all departments to further reduce risks associated with municipal operations.

FINANCIAL/LEGAL IMPLICATIONS:

When a claim is received, staff estimate the value of the claim and a dollar figure is allocated to the claim - this is known as setting a claim reserve. Setting claim reserves allows the County to meet future financial obligations such as defending and/or settlement of claims that fall under the applicable policy deductible. To establish accurate claim reserves, regular adjustments are made to reflect the value of the claim as it goes through the claim process; as this enables staff to allocate actual expenses and accrue future projections to the Self Insurance Reserve (SIR) at year-end. The SIR fund avoids significant negative variances affecting the budget, due to overages, or related 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 2022 budget for insurance claims costs and deductibles (both internal and external) was established at \$400,000. The expenses allocated to the SIR at the end of the fourth quarter is \$575,784.13 or 143.95% of this budget being expended. This does 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 costs related to claims for which reimbursement through subrogation is being sought and is actively being worked on to offset claim expenses. In 2021, only 35.48% of the SIR budget was expended which demonstrates the importance of the established SIR fund as noted above. The 2022 allocated expense is reflective of a large settlement that typically would have been realized in the 4th quarter of 2021, however, due to pandemic related delays, it was resolved in the 2nd quarter of 2022 ultimately showing a decrease in 2021 resolutions, and an increase in the 2022 resolutions thus far. In the fourth quarter of 2022, the SIR has a projected balance of approximately \$843,300. This balance includes an accrual for outstanding claims currently in litigation or under investigation totalling \$1,800,000. The accrual is adjusted at year-end based upon updated claim reserve amounts. At the time of preparing this report, staff will be seeking a one-time funding contribution to the SIR to cover self-insured claims and deductible levels as part of the 2023 Operating Budget. This request will appear as a new one-time initiative when the 2023 Tax-Supported Operating Budget is presented.

STAKEHOLDER IMPACTS:

All Managers are provided with the details of the insurance claims filed against the County, as well as the internal claims made, on a regular basis throughout the year.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

REFERENCES:

None.

ATTACHMENTS:

1. Total Claims against the County
2. Total Claims by the County
3. Resolution of Claims