
HALDIMAND COUNTY

Report LSS-27-2023 3rd Quarter Insurance Activity - 2023

For Consideration by Council in Committee on December 12, 2023



OBJECTIVE:

To advise Council of insurance activity including claims made against the County and costs incurred for the period of July 1, 2023 to September, 2023.

RECOMMENDATIONS:

1. THAT Report LSS-27-2023 3rd Quarter Insurance Activity be received;
2. AND THAT effective January 1, 2024 all of the County's insurance activity be reported on an annual basis along with the annual Litigation Report as one comprehensive report.

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Respectfully submitted: Megan Jamieson, CHRL, General Manager of Corporate & Social Services

Approved: Cathy Case, Chief Administrative Officer

EXECUTIVE SUMMARY:

In the third quarter of 2023, claims against the County and claims by the County are overall trending higher than previous years. Legal & Support Services staff are continuing to be proactive on all fronts of reducing risk exposure and mitigating losses through data collection and examination, staff training and knowledge sharing. These activities assist with the County continuing to be identified by its insurer as a model municipality in terms of its loss experience. Staff also continue to be persistent in claims involving subrogation in order to recover costs from third parties where possible, as this has a positive impact on the Self Insurance Reserve.

Currently, claims activity is reported to Council four times per year and claims that are in the litigation category are presented annually under a separate report. Staff are recommending combining each of these reports into one annual claim and litigation report. This approach will enable Council to have a holistic overview of all claims received each year - regardless if the claims are handled by staff (below established deductibles), handled by the insurer (over established deductibles), or in litigation. It will also allow staff to provide Council with annual fiscal impacts and comparators, trends, and explanations of the risk mitigation strategies incorporated into our way of work.

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 the 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 (Reference 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 charges which are based on the County's historical claims experience and changing market conditions.

ANALYSIS:

Claims can vary in value and scope, are managed according to the specifics of each claim, and fall within one of 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 or statement of 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. In order to provide a more comprehensive overview of all claims, staff recommend merging the quarterly insurance activity with the annual Litigation Report to enable Council to have a clearer overview of claims activity as a whole, irrespective of the claim deductible. Should Council support this change, in the 2023 fourth Quarter insurance activity will be included as part of the 2023 annual litigation report. In 2025, staff will prepare a consolidated claims and litigation report in early 2025 representing all 2024 claims and litigation activity.

Informal claims are claims that are issued *against* the County, and 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 claims management 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 third quarter and explains how they are managed. In the third quarter of 2023, Haldimand County received 26 claims against the County. This year, Environmental Operations experienced a higher than normal volume of claims, contributing to the 2023 Year To Date Claims total of 52 claims, which exceeds the previous three-year average annual count of 44 claims. Roads Operations has experienced a substantial reduction in claims, with only 7 claims received year to date, compared to the three-year average of 19. Claims categorized as “Not County Jurisdiction/Other” means that 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. Resolving these claims typically incurs minimal costs for the County, and as the end of Q3, the number of such claims is significantly lower compared to the three-year average of ten, with only 3 claims received.

Regarding claims submitted by the County, Attachment 2 illustrates that 16 claims were handled in the third quarter of 2023. Looking at the preceding three years, the County’s average annual claim count is 58. The claims reported in Quarter 3 represents 90% of the average reported claims, suggesting a slight increase in claims during the first three quarters compared to the annual average over the past three years. The increase in claims is attributed to claims reported by the Facilities, Parks, Cemeteries and Forestry Division, with vandalism being a significant contributor. Staff has worked with the OPP to conduct a media blitz regarding specific areas that have had high vandalism and graffiti activity. Staff are also working to determine if there are any opportunities for support through third party programs such as Crime Stoppers.

Attachment 2 also outlines the recovery/subrogation data in further detail, representing 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 are more likely to reflect the recovered amounts received in the first quarter associated with previously reported claims. The recovery process and timeline can vary depending on the type and nature of the claim. Legal & Support Services has been working diligently with Accounts Receivable Staff on processing, negotiating and collecting subrogation amounts; and the positive results can be seen as \$118,616.31 have been recovered year to date.

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), Quarter 3, 2023 has significantly lower costs due to a claim settlement as outlined further below in the Financial/Legal Implications section.

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.

Legal & Support Services have been providing Notices of Settlement to the applicable division manager. Notices of Settlement provide information after settlements have taken place, and in consultation with senior staff, recommendations are made to assist divisions with mitigating or preventing future losses.

Over the past year, Legal & Support Services staff have also been meeting with various divisional staff to gain a better understanding of the services provided within their respective areas. Through these discussions, staff are identifying areas of risk and integrating practical mitigation strategies into the County's operations. The goal is to work collaboratively with all departments to further reduce exposure associated with municipal operations.

FINANCIAL/LEGAL IMPLICATIONS:

When a claim is received, staff estimate the value of the claim and allocate a dollar figure to it - known as a claim reserve. Claim reserves allow the County to meet future financial obligations such as defending and/or settling claims that fall under the applicable policy deductible. To establish accurate claim reserves, periodic adjustments are made to reflect the value of the claim as it proceeds through the claims process; as this enables staff to allocate actual expenses and accrue future projections to the Self Insurance Reserve (SIR) at year-end. The SIR acts as a buffer against significant budget deviations caused by unexpected overages, or costly events, which are typically not part of the day-to-day operations. 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 third quarter of 2023 is seeing higher costs than the first two quarters of 2023, as there were some insurance settlements in favour of the County which were reported during those quarters.

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:

1. [LSS-22-2022 Attachment 1 - General Insurance Renewal – 2023](#)

ATTACHMENTS:

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