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# HALDIMAND COUNTY

## Report LSS-18-2024 Provincial Offences – Outstanding Revenue and Collection Strategy Update

For Consideration by Council in Committee on December 10, 2024

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### OBJECTIVE:

To provide Council with a sustainable strategy for reducing outstanding Provincial Offences fines by optimizing software use, use of third-party collection agencies and implementing best practices.

### RECOMMENDATIONS:

1. THAT Report LSS-18-2024 Provincial Offences – Outstanding Revenue and Collection Strategy Update be received;
2. AND THAT Council supports the go-forward collection strategy for outstanding fines, as outlined in Report LSS-18-2024;
3. AND THAT Provincial Offences ticket statistics, updates and write-offs be included as an annual Council report to replace the ticket statistics that are currently provided monthly in the Council Information Package.

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### EXECUTIVE SUMMARY:

Haldimand County is responsible for administering and operating Provincial Offences on behalf of the Province of Ontario. As of November 1, 2024, the current outstanding receivables are approximately \$7.2M. The ongoing challenge of unpaid fines remains a significant concern for municipalities. Limited enforcement tools provided by the Ministry of the Attorney General (MAG), coupled with an overburdened judicial system, have worsened the accumulation of arrears over time.

Despite these challenges, staff are actively developing and implementing a sustainable strategy to reduce outstanding Provincial Offences fines and fees. Key initiatives include optimizing use of existing software, use of third-party collection agencies and adopting best practices to enhance collections and improve overall efficiencies.

By supporting a four phase strategy to collect on outstanding arrears, Haldimand County can ensure that all collection efforts are being exhausted before accessing the available write-off process and experiencing a loss in potential revenues.

## **BACKGROUND:**

In March 2001, the Province of Ontario transferred the responsibility for administering and operating Provincial Offences to Haldimand County, referred to as Provincial Offences Administration (POA). This means that Haldimand County is responsible for ensuring that legal processes within the scope of the Provincial Offences Act are effectively managed, including the collection of fines. This transfer was formalized through a Memorandum of Understanding (MOU) and a Local Side Agreement (LSA) with the Ministry of the Attorney General (MAG).

At the time of transfer in 2001, over \$1.6 million in arrears was transferred to the County. The amount of fines in arrears has grown significantly since that time, which is consistent with the experience of other POA courts throughout the Province. As of November 1, 2024, the current outstanding receivables amounts to approximately \$7.2M.

While the County's arrears are quite sizable, it is important to note that staff last reported arrears totaling approximately \$7.8M as of December 2017. As of January 2024, the province reported that the total value of outstanding POA fines across Ontario exceeds \$1.7 billion.

### **Collection Efforts and Write-Off Policy**

The challenge for all municipalities is to motivate individuals to pay their fines, surcharges and fees (accounts). Overdue accounts trigger additional collection actions such as licence suspension, licence plate validation denial, and involvement of third-party collection agencies. However, these efforts are not always enough to garner payment.

Through Report [CL-07-2018](#), Council approved a formal POA Collection and Write-Off Policy, which provides, as a last resort, a process to write-off fines in arrears of eight years or more, once all reasonable efforts have been made to collect any outstanding fines within the tools available. An initial pilot project wrote off fines prior to transition in 2001 and the following year, through Report [CLS-07-2019](#), additional write-offs were approved for fines issued during the period of 1995-2008.

Although the intent was to review arrears annually for the purpose of ensuring all collection efforts were being exhausted and for using the write-off process, staff have faced a number of uncontrollable challenges related to the collection and reporting on arrears, including legislated direction during the pandemic, judicial resource shortages, court cancellations, changes in Haldimand POA court days, downloaded responsibilities, MAG operational review, staff gapping and labour strikes.

**Pandemic:** POA offices closed in March 2020 and reopened in September 2020. During this period, tickets continued to be issued, but collection activity was paused. Since then, collection has been slow to resume due to a variety of challenges, as outlined below. During this same period, the Ontario Court of Justice extended the timeline for defendants to select their ticket option (pay, seek Early Resolution, go to trial) from 15 days to nine months. As a result, the time from ticket issuance to payment could be as long as up to 4 years if the defendant selected a trial option and if approval to extend payment was granted by the Judiciary.

**Judicial Resources / Court Cancellations:** Judicial resource shortages have affected Haldimand since 2009, reaching a critical point in 2022. Frequent last-minute court cancellations due to lack of judicial availability led to duplication of administrative work. For instance, several matters were rescheduled multiple times, resulting in inefficient use of staff time, and increased 11B Charter Applications (seeks dismissal of charges as matter not heard within a two year period) resulting in dismissed charges and lost revenue for the County.

**Change in Court Days:** In September 2023, the Regional Senior Justice of the Peace adjusted Haldimand's court schedule from two half-days to one full day on Fridays, which raised concerns as Fridays were historically the most frequently cancelled court day. Early in 2024, three last-minute court cancellations prompted staff to advocate to address this issue, as only 26 court days had been allocated

for Haldimand for the entire year. Staff were successful in obtaining three additional court dates to offset the cancelled dates, and provide an opportunity to reaffirm concerns of only having one day of court a week. To date, no additional dates have been cancelled.

In October 2024, staff received a proposal to change court dates again, of which the proposed dates conflicted with the availability of our shared Council Chamber / court space. Staff submitted a counter proposal with supporting rationale, which was successfully accepted. As a result, Haldimand will maintain full-day Fridays and gain an additional half-day on Wednesdays, starting January 2025. This change is expected to optimize operations, reduce backlog, and enhance our ability to actively collect outstanding accounts.

Downloaded Responsibilities: In March 2023, Bill 46, Less Red Tape, Stronger Ontario Act, 2023 shifted the responsibility of handling applications to strike convictions from Justices of the Peace (JP) to POA staff. Previously, defendants needed a JP to review applications for reopening cases; now POA staff can approve the application if the defendant missed a notice or hearing through no fault of their own. If staff reject the application, it is forwarded to JP. While intended to reduce JP's workload, this change has increased the administrative burden on POA staff.

Ministry of Attorney General (MAG) Operational Audit: MAG notified Haldimand that it is one of nine POA courts selected for an operational review which required extensive and committed staff time to gather and submit a variety of documentation of POA activity from 2016 to 2023. On March 13, 2024, MAG conducted interviews with POA staff and management. Although MAG indicated the results of the review would be provided by July 2024, as of yet, no report has been received.

Staff Gapping: Due to a full-time staff member accepting a temporary position in another division, a vacancy arose in the POA team. Although the position was filled, the new hire left only after a few months for an external opportunity. The position was reposted and filled again. Due to the legislated nature of POA, the two temporary staff members required dedicated training provided by other POA staff. Consequently, an active collection of outstanding POA fines was not undertaken.

Canada Post Strike: With the recent strike, the Ontario Court of Justice approved changes to the Provincial Offences Act, which once again delayed the ability to collect revenue as extensions have been granted to fine holders to make payment.

Given the above noted challenges, staff recognize the need for a sustainable strategy to reduce outstanding accounts and have developed a comprehensive approach to address them effectively through use of CAMS, third party collection agencies and implementation of available collection tools.

## **ANALYSIS:**

### **Reimplementation of Court Administration Management Software (CAMS)**

All municipal POA courts utilize the Integrated Court Offences Network (ICON), a software system provided by MAG. Developed and implemented in the 1990's, ICON has seen minimal updates in 30 years and offers limited functionality, particularly for revenue collections, requiring very manual processes. To address this, Haldimand Provincial Offences Administration (POA) historically used Court Administration Management Software (CAMS) as a supplementary tool to support POA revenue collection, as CAMS integrates with ICON allowing for efficiencies in workflow automation.

In early 2020, collections and use of CAMS were temporarily halted due to some of the challenges noted above. In review of best practices, discussions with other municipal courts indicate that they use CAMS for various administrative tasks enhancing the management of court-related data, and allowing information exchange with ICON for new offences thereby improving efficiencies and case management. CAMS also automates several collection processes, optimizing efficiencies and reducing manual intervention.

As part of the collection strategy, CAMS has been fully reimplemented and the automated workflows will initiate collections for defaulted fines, as described further below. The reimplementation went live on November 4, 2024.

## **Collection Strategy**

Effective collection of outstanding accounts are vital for encouraging payment. Fines amounts are established through judicial process, court-ordered, and cannot be altered or amended by POA staff. Individuals wishing to challenge a conviction or a fine amount must apply through the courts by filing for a reopening, appeal or extension during which active collections are paused.

Collection activities vary depending on whether the account is current or in default (past due). While POA offices have some discretion in collection tools, certain collection activities must be completed and documented before any write-off can occur. Collection tools include the issuance of letters of outstanding fines, driver's licence suspension (if applicable to the charge), civil actions (e.g. taking a defendant to small claims court), and utilization of third-party collection in stages as defined below:

- **First Placement:** Initial assignment of delinquent account sent to collection agency, with a higher chance of recovery.
- **Second Placement:** If the first placement collection agency is unsuccessful, the account is reassigned to a second placement collection agency, where recovery remains possible, but becomes more challenging and typically requires more effort.
- **Third Placement:** Remaining uncollected debts are reassigned to a third placement collection agency. The likelihood of recovery is lower, although collection tactics become more intensive in alignment with regulations and fair debt collection practices. As best practice, there are two third place collection agencies. Once the first third party collection agency has had the fine(s) for a one-year period, the uncollected debt is then submitted to a different third placement collection agency for an additional one-year period.

Collection agency fees range from 11.5% to 38.94% of the fine, added to the defendant's balance and fully recoverable with no additional cost to the County. Automating workflows through CAMS ensures defaulted fines are sent to the appropriate collection agency promptly.

Beginning January 1, 2025, Haldimand's new collection strategy will manage defaulted fines on an ongoing basis, streamlining the process and improving recovery efforts.

### **Stream 1: Defaulted Fines effective January 1, 2025:**

- i. Notice of Fine and Due Date sent by mail providing information regarding the ticket number, type of charge, total amount owing, and payment options. Failing to make payments on a fine may result in additional fees, suspension of a driver's licence, garnishment of wages, and the use of third-party collection agencies.
- ii. If payment is not received within 30 days, the outstanding fine amount will be sent to a first placement collection agency, and, if applicable, a driver's licence suspension will be initiated. The fine will remain in the first placement for six months for collection efforts.
- iii. If the fine remains uncollected, it will be forwarded to a second placement collection agency for a one-year period.
- iv. If the fine remains uncollected, it will be submitted to a third placement collection agency for a one-year period.
- v. If the fine remains uncollected, it will be assigned to a second third placement collection agency for a one-year period.
- vi. Any remaining uncollected fines will be retracted from third placement by the County to determine if there are any other options available – i.e. civil action, write-off, etc.
- vii. Annually in the first quarter, a report will be submitted to Council outlining a proposed list of defaulted fines for write-off.

- viii. Annually in June, the Council approved defaulted fines are required to be reported to MAG via ICON (per MAGs schedule) for review.
- ix. Annually in October, the County will receive confirmation from MAG of the write-offs being completed.

As the County currently has outstanding fines as old as 1970, the following streams outline the collection strategy based on the age of the defaulted fine:

#### Stream 2: Defaulted Fines January 1, 2020 to December 31, 2024

- As collections have been paused since 2020, a courtesy Notice of Fine and Due Date letter have been initiated for individuals with defaulted fines to inform them of their outstanding balance. The letter will include payment instructions, a payment deadline, and potential consequences of non-payment such as driver's licence suspension or referral of the fine to a collection agency. Approximately 1,300 letters are scheduled to be sent in an effort to recover about \$1.2 million, anticipating all letters to be issued by the end of Q1 2025.
- If payment is not received within 20 days (15 days + 5 days grace), the outstanding fine amount will be sent to a first placement collection agency, and if applicable, a driver's licence suspension will be initiated. The grace period allows for any delay in the mail process (typically 2-3 business days) plus weekends.
- The remaining process will follow Stream 1 starting at step ii. - first placement collection.

#### Stream 3: Defaulted Fines January 1, 2015 to December 31, 2019

- Due to the age of these defaulted fines, they will be sent directly to the second placement collection agency.
- The remaining process will follow Stream 1 starting at step iv. - third placement collection agency.

#### Stream 4: Defaulted Fines December 31, 2014 and prior

- Due to the age of these defaulted fines, they will be sent directly to the first third placement collection agency.
- If the fine remains uncollected, it will be assigned to a second third placement collection agency for a one-year period.
- The remaining process will follow Stream 1 starting at step v. – a second third placement collection agency.

#### Uncollectable Defaulted Fines

Collection activities stop for deceased individuals through confirmation from the Ministry of Transportation where the driver's licence has been surrendered to Service Ontario along with a death certificate, or when POA receives a copy of a death certificate. Staff are currently updating CAMS to identify defaulted fines under these circumstances and anticipate presenting a write-off report for these uncollectable fines to Council in February 2026.

In light of the two year period required to carryout the Stream 4 process, it is anticipated that Council will receive the write-off report, covering uncollectable defaulted fines from December 31, 2014, and older in February 2027. Following this, based upon the current collection streams, write-off reports will be presented to Council in the first quarter, annually.

#### **Next Steps**

In addition to the strategy for Stream 1-4 defaulted fines, staff continue to investigate best practices and collection efforts available. Some additional measures being considered are as follows.

Utilization of Enforcement Tools: There are a variety of enforcement tools available depending upon the type of charge, the status of the defaulted fine, and the age of the fine. In addition to utilizing third

party collection agencies, other collection activities include court-ordered payment plans, requests for an extension to pay, licence suspension and plate denial (through the MTO), civil enforcement (e.g. garnishment of wages), and adding defaulted fines to tax roll (if the person to whom the fine has been issued is the same person and the sole owner of the property).

Entering into Agreements with Collection Agencies: In 2024, Niagara Region issued a Request for Proposal for POA Collection Services allowing other municipal POA offices to enter into agreements with the successful bidders. Haldimand is currently reviewing options to designate agencies for first, second, and third placements. The agreements are expected to be finalized early in 2025, and outstanding accounts as noted above will be sent for collection shortly thereafter.

Write-Off Process: In 2008, MAG issued its Provincial Offences Act Write-Off Directive and Operating Guideline to assist municipalities addressing POA uncollectible accounts. This directive allows municipalities to write-off fines for accounting purposes. Writing off fines does not absolve convicted offenders of their obligation to pay; debts to the Crown remain legally enforceable and are not forgiven. Fines that are written off by a municipal partner are coded accordingly in ICON.

As noted previously, Council approved Policy No. 2018-04 Provincial Offences Act Fine Collection & Write-off Policy, which outlines protocols and thresholds for deeming accounts uncollectible. Despite this policy, staff continue to use all available tools to collect outstanding accounts, resorting to write-offs only when all other reasonable methods have been exhausted.

Legal and Support Services jointly with Finance staff are reviewing the Policy to align its best practices and legislated requirements. The revised Policy is expected to be presented to Council in 2025, in conjunction with updates to the County’s over-arching County Write-Off Policy.

**Council Annual Update of POA Activities**

Currently, Council receives monthly statistics regarding the issuance of Provincial Offences tickets within the Council Information Package. Although statistics are provided, there is no context provided with this data and they do not directly relate to outstanding arrears or collection efforts. Staff are recommending that a more comprehensive annual report which includes statistics, information regarding POA changes or updates and the proposed annual write-offs be submitted as a single, annual report for Councils information.

**FINANCIAL/LEGAL IMPLICATIONS:**

The County uses the cash basis of accounting for POA fines, meaning that the revenue is not recorded until the fine is paid, regardless of when the fine was imposed. POA fine collections have varied from year to year, mainly based on the number of tickets issued, transfer of fines to the tax roll, and occasional payment of large fines imposed by certain Provincial agencies. This revenue is used to offset the fixed costs of staffing the POA Administration office.

The County retains the net amount of POA collected fines, fees, and surcharges after the remittance of fees to the Minister of Finance and payment of County contracted prosecutorial fees. The chart below indicates the total revenue and expenses for 2018 to 2023 inclusive.

	2018	2019	2020	2021	2022	2023
<b>Revenue</b>	\$434,707	\$515,409	\$272,677	\$411,273	\$357,610	\$1,229,041
<b>Expenses</b>	\$389,463	\$456,703	\$315,207	\$366,180	\$481,504	\$548,132
<b>Excess (Deficiency) of Revenue</b>	\$45,244	\$58,706	(\$42,530)	\$45,093	(\$123,894)	\$680,909

As of September 2024, the outstanding fines are approximately \$7.2M. Collection of defaulted accounts is a top priority and staff have been actively engaging in the implementation of the outlined collection strategy.

### **STAKEHOLDER IMPACTS:**

Not applicable.

### **REPORT IMPACTS:**

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

### **REFERENCES:**

1. [Report CL-07-2018 Provincial Offences Act Fine Collection and Write-off Policy](#)
2. [Report CLS-07-2019 Provincial Offence Act Write-Offs](#)

### **ATTACHMENTS:**

None.