



CIVIL ACTIONS MANAGEMENT AND DISPOSITION PRP-AI-002

Adopted: 1998/10/23
Amended: 2000/11/27
Amended: 2012/11/30
Reviewed: 2015/09/25

Policy Statement

It is the policy of the Regional Municipality of Peel Police Services Board that the requirements set out in this document shall form part of the Board Policies and the Chief of Police is hereby directed to implement and comply with these requirements in the administration and operation of Peel Regional Police.

1. Subject

The manner in which Board staff, the Chief of Police, contracted services as provided by Regional officials (Region's Loss Management & Insurance Services section), and legal and professional advisors, directly or indirectly contracted by the Board, are to administer, supervise and dispose of civil actions filed against the Board, the Chief of Police and members of the police service.

2. Objective

It is the Board's intent to defend itself when it is named as a party in a civil action in a manner that:

- a) Protects the interests and reputation of the Board and the police service, including any individual members that may be named;
- b) Protects the interests of the residents of the Region of Peel; and
- c) Provides for the professional administration of all claims with a view to bring claims to a resolution in as effective and cost-efficient manner as possible.

3. Policy Requirements

The Board directs that this policy and police service directive and/or procedure, or any procedure instituted by contracted agencies and individuals, be interpreted based on the following principles:

- a) That decisions be made in accordance with the stated objective;
- b) That decision making authority be vested in appropriate individuals based on the nature and content of individual civil actions and based on financial thresholds;
- c) That the Board reserve its right to provide direction in any claim and specifically in individual claims of an exceptional nature and including all matters that exceed the deductible, which include, but are not limited to:
 - i. Any unusual event or circumstance;
 - ii. A significant event reported or very likely to be reported by the media which could create or does create a negative perception or could impact the reputation of the Board and/or police service;
 - iii. Significant issues of liability for the Board and the police service; and
 - iv. Any claim likely to involve a settlement to a third-party in excess of \$40,000; and

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- d) That the Board continues to exercise its oversight function through the receipt of reports as set out in the policy.

4. Procedure

It is the policy of the Board:

- a) That, with the exclusion of any claim determined to be of an exceptional nature, the day-to-day administration, supervision and disposition of civil actions shall be vested in the appropriate police staff as designated by the Chief of Police, and as contracted with the Region's Loss Management & Insurance Services section and that this shall be done in conjunction with the insurer;
- b) That external counsel retained by the Region's Loss Management & Insurance Services section shall be from a stable of firms as approved by the Board; such a list of approved firms to be brought forward for review every five years; and
- c) That immediately upon being served notice of an action, Board staff shall forward the claim to the appropriate police staff as designated by the Chief of Police and to the Region's Loss Management & Insurance Services personnel.

5. Civil Actions of an 'Exceptional' Nature

In accordance with the attached Civil Actions Management and Disposition Protocol (*Appendix A*), it is the policy of this Board with respect to civil actions of an exceptional nature, including all matters exceeding the deductible, that:

- a) A preliminary report shall be received from the Chief of Police in sufficient detail for the Board to generally determine its position with respect to the claim;
- b) Region's Loss Management & Insurance Services section shall ensure that at the appropriate time, but prior to any possible disposition of the action, that explicit instructions be obtained from the Board and forwarded to the Board's solicitor and/or insurer; and
- c) The Board shall have the opportunity to make comment prior to settlement, on those claims above the \$250,000 deductible.

6. Measurement Methods

Chief of Police shall forward a report to the Board as set out in Section 7 of this policy.

7. Reporting

- a) On an annual basis, the Chief of Police shall provide an In Camera report to the Board containing the following:
 - i. A brief description on how civil actions are handled administratively;
 - ii. A statistical compilation of the number of civil actions ongoing; the number initiated the past calendar year, and the number resolved the past year. The statistical analysis will include a comparison to the previous year(s);
 - iii. Each civil action shall include a synopsis of the circumstances of the claim. The synopsis shall also list the date of the incident, the claim date, the amount being sought in damages; and the current status;
 - iv. Each civil action resolved the past year shall also include a description of how the matter was concluded, including any damages and/or costs paid; and

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- v. Any recommendations the Chief of Police may wish to make with respect to policy issues, procedure, and on the handling and administration of civil actions, either by the Peel Regional Police or the Region of Peel.
 - b) Notwithstanding the annual reporting requirement, the Board shall be informed at the first opportunity of any civil action initiated that is of an exceptional nature as defined in Section 3 c) of this policy.

8. Authority/Legislative Reference

Board Minute #247/00

Replaces: Civil Actions Initiated Against PRP – (II-KK-1) - Adopted 1998/10/28

Solicitors – (I-U-1) Adopted 1985/05/16

Solicitor Fees – (II-T-4) - Adopted 1977/04/14

Board Minute #96/12

Board Minute # 60/15

9. Linkage to Appropriate Police Service Procedure/Directive

N/A

Appendix A CIVIL ACTIONS MANAGEMENT AND DISPOSITION PROTOCOL

WHEREAS the Region's Loss Management & Insurance Services section coordinates the procurement of insurance and coordinates the management of all insurance related claims on behalf of the Board;

AND WHEREAS the Region's Loss Management & Insurance Services section administers, supervises and disposes of civil actions filed against the Board, the Chief of Police and members of the police service in accordance with the Board's policy PRP-AI-002;

AND WHEREAS the Region's Loss Management & Insurance Services section is to report to the Board and seek direction from the Board with respect to claims of an exceptional nature, as defined in the Board's policy PRP-AI-002;

AND WHEREAS the deductible for the liability insurance is \$250,000 per occurrence;

The following protocol shall be followed by the Region's Loss Management & Insurance Services section in respect to the administration of matters of an exceptional nature including all matters that exceed the deductible:

- 1) Given the Region's Loss Management & Insurance Services section liaises with the Insurer's representatives on all reported claims, in reporting claims of an exceptional nature, the Region's Loss Management & Insurance Services section shall explicitly inform the Insurer's representative that the Board requires notice of any intention to settle such a matter, with sufficient opportunity to provide its comments prior to any such discussions being initiated.
- 2) It is the responsibility of the Region's Loss Management & Insurance Services section's Claims Analyst to proactively liaise with the insurer's representative and defence counsel (if any) in order to remain current and knowledgeable in the insurer's intended course of action, through to the resolution of the claim.
- 3) If at any point during the claim or litigation process, the Insurer is of the view that the liability and damages exposure justify the need to consider settlement or the Insurer is approached with a settlement offer by the claimant, the Region's Loss Management & Insurance Services section shall request the Insurer's representative to hold in abeyance its action or response in order to allow the Region's Loss Management & Insurance Services section the opportunity to provide a report to the appropriate police staff, as designated by the Chief of Police, for information and comment and to the Board for information, comment and/or direction prior to settlement discussions being initiated or reciprocated.
- 4) The Region's Loss Management & Insurance Services section shall convey the Board's comments or direction to the Insurer and if the Insurer is not in agreement, further discussions between the Insurer and the Region's Loss Management & Insurance Services section will take place with a view to providing the Board with alternate courses of action in the event consensus cannot be achieved; realizing that it is a standard term of insurance policies for the Insurer to retain the right to settle any claim or suit.

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- 5) Notwithstanding the foregoing, following the completion of the examinations for discovery and within sixty (60) days of the receipt of a report from legal counsel, the Region's Loss Management & Insurance Services section shall provide appropriate police staff, as designated by the Chief of Police, and the Board a report detailing the liability and damages assessments in conjunction with recommendations for future handling of the matter.
 - 6) Should the matter proceed to mandatory mediation or pre-trial, the Region's Loss Management & Insurance Services section shall provide appropriate police staff, as designated by the Chief of Police, and Board with a report in advance of the proceeding, seeking settlement authority or with an indication that further recommendations with respect to settlement potential will be reported to the Board following the proceeding.
 - 7) Prior to agreeing to a non-mandatory mediation, the Region's Loss Management & Insurance Services section will provide appropriate police staff, as designated by the Chief of Police, and the Board with a report, with recommendations, seeking comment from appropriate police staff, as designated by the Chief of Police and direction from the Board to participate in this alternate form of dispute resolution (given mere participation normally conveys a willingness, on the defendant's part, to provide financial consideration in exchange for a full and final resolution) and seeking settlement authority or with an indication that further recommendations with respect to settlement potential will be reported to the appropriate police staff, as designated by the Chief of Police, and the Board following the proceeding.
 - 8) If the matter is to proceed to trial, the Region's Loss Management & Insurance Services section will provide a report to the appropriate police staff, as designated by the Chief of Police, and the Board at least thirty (30) days in advance of the trial, detailing:
 - the liability issues
 - damages exposure
 - qualitative observations regarding the probability of success
 - the anticipated cost of the proceedings and
 - any ancillary issues that may impact the proceedings or reputation of the Board or the members of the Service.