
Claims and Damages Settlement

Receiving and Responding to Claims

Procedures

1. All claims are to be forwarded to the Director, Corporate Finance or designate who will initiate the review of the claim with the County's adjustors and/or insurers as applicable.
2. The claimant must submit the claim in writing. The claim must contain information relating to the incident and the County's alleged liability. A minimum of two repair estimates should be provided.

Depending on the nature and/or circumstances of the claim, the type and number of estimates required may be adjusted. If the claim is for a personal injury, evaluation will be completed with the claimant directly by an adjuster on behalf of the liability insurer, and may involve examination by a medical professional.

3. The Director, Corporate Finance or designate shall investigate the circumstances of the claim with the Department(s) involved. The investigation shall include working with staff from the department involved or responsible for the matter which allegedly caused the claim, a visual inspection of the alleged damage may be conducted by the County.
4. During the claim review, the Director, Corporate Finance or designate (along with the Director, Legislative and Legal Services or designate) shall take the following factors into consideration:
 - a. Claims involving repair of public works should be investigated in accordance with Sections 532 and 533 of the Act. The claim must outline circumstances supporting allegations of the County's failure to keep the works in a reasonable state of repair.
 - b. Pursuant to Section 528 of the Act, the County is not liable in an action based on nuisance, or on any other tort that does not require a finding of intention or negligence, if the damage arises, directly or indirectly from roads or from the operation or non-operation of a public utility or a dike, ditch or dam.
 - c. Pursuant to Section 530 of the Act, the County is not liable for damage caused by a system of inspection, or the manner in which inspections are to be performed or the frequency, infrequency or absence of inspections, or a system of maintenance, or the manner in which maintenance is to be performed, or the frequency, infrequency or absence of maintenance.
 - d. Depending on the claim circumstances, advice and/or services may be obtained from the County insurers or legal counsel, and may involve the services of outside parties or other County personnel to complete the claim investigation.
 - e. Claims made to the County must meet the time and notification requirements of the Act as well as any applicable statute of limitations provision.
 - f. Each claim shall be reviewed on its own merit. Consideration should also be given to the legal principles involved in any particular claim and also to the impact that

the settlement of a claim may have on other litigation or legal issues involving the County.

5. Upon completion of the claim investigation, the Director, Corporate Finance or designate or other handling parties as applicable shall make a determination as to payment or non-payment. This decision must be communicated to the claimant in writing on a "Without Prejudice" basis.
6. The Director, Corporate Finance or designate shall process all claims in a timely manner.
7. Claimants receiving a financial settlement shall be required to sign a release waiving further claims associated with the incident.
8. The Director, Corporate Finance or designate shall recommend to the Department Director involved in the claim, any changes in department procedure to ensure that future claims are minimized.
9. All claims against the County are potential matters under litigation and should be reviewed and processed in a confidential manner. Accordingly, any review by Council of an administrative decision to deny a claim shall be taken to a closed session of Council. Information regarding claims shall be treated as confidential but may be subject to release pursuant to the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c. F-25, as amended.
10. All claims shall be reviewed with a business-like approach accepting responsibility only where legal liability exists. This avoids setting precedent and exposing the County to significant liability which may occur if responsibility is accepted because the amount is small, the claimant has limited means, is irate, or lacking insurance coverage.
11. Where a claim decision is unsatisfactory to the claimant, options available are:
 - If the claimant has additional information to support their case, they may submit it for further review.
 - If circumstances warrant, the Ex Gratia Payments policy, FIN-001-028 may be accessed.
 - If no new supporting information or the above policy does not apply, legal action in small claims court is the final option.

Definitions

Act – means the *Municipal Government Act*, RSA 2000, c. M-26.

Procedure Record

Next Review Date: September 5, 2021

Policy No: FIN-001-029D

Last Review Date: September 5, 2018

Administrative Review: Corporate Finance

Approved by:

Rob Coon
Rob Coon
Chief Commissioner

September 5, 2018
Date