

## When a Claim Occurs

When a person suffers a loss, alleged to be as a result of the actions or omissions of the municipality, it is very common for the person to call their local member of council, alderman or mayor looking for answers and resolution.

While this practice has been common in the past, we have noticed an increase in such communication in recent years. As a reminder, unfortunate as an injury is, not every incident that affects your citizens is a result of municipal negligence. Each and every case must be determined on its own facts.

In many circumstances an insurance recovery is wanted. In such situations, the terms and conditions of the insurance policy must be followed. The municipal liability policy agrees to pay on behalf of the municipality all sums for compensatory damages that the municipality becomes obligated to pay by reason of liability imposed by law. The conditions within the policy impose certain requirements upon the parties to the insurance contract.

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The conditions within the policy impose certain requirements upon the parties to the insurance contract. Among them are the duties of the insured in the event of a claim, the investigation of the claim and the requirement of assistance and cooperation of the insured. The insured cannot admit liability nor take any actions that can prejudice the insurer's position or defence of the claim. Prejudicing the insurer's position can result in denial of the claim thereby requiring the municipality to rely on its own funds to pay monetary damages, investigation expenses and legal fees.

The initial contact with the constituent can impact the final resolution of the situation. In order to protect the municipality and the other taxpayers in the community, we recommend the following protocol:

- Listen and document the conversation.
- Offer empathy not monetary restitution.
- Do not admit fault
- If appropriate, instruct constituents to report the incident to their insurer.
- Assure them that you will also report the incident to the appropriate party within the municipality.
- If contacted by the media, inform them that the incident has been reported to the appropriate party within the municipality and an investigation is taking place.
- Refrain from commenting on the incident to avoid prejudicing the insurer and/or breaching any privacy laws.

If at any time you are unclear as to the appropriate response do not hesitate to contact one of our claims management team members. They are there to assist and advise you throughout.