

Indemnification Policy for Members of Council

As amended and adopted by City Council at its meeting on July 16, 2008 on EX22.8, "Review of Indemnification Policy for Members of Council"^{1 2}

1) Where a Member of Council ("Member") is charged with an offence under the *Criminal Code*, or under any other statutes(s), arising out of an act done in the performance of his/her official duties:

- a) The Member shall, in the first instance, be responsible for his/her own defence including the retaining of legal counsel or a paralegal.
- b) Where the Member is acquitted and is seeking reimbursement for legal expenses, the matter shall be referred to the Executive Committee and City Council for their consideration on advice from the City Solicitor.

Interpretation Notes:

- (i) The term "acquitted" shall be taken to be the same as a dismissal of the charge(s) and may, in appropriate circumstances, include the withdrawal of the relevant charge(s).
- (ii) Section (1) shall not be read so as to preclude the reimbursement of funds in circumstances where no charge has been laid and where independent legal advice is necessary, except for a proposed application alleging a Member has contravened the *Municipal Conflict of Interest Act*.

2) Where a civil action or proceeding, which is not covered by the City's insurance policy, is brought against a Member, which in the opinion of City Council arises out of acts or omissions done or made by such Member in his/her capacity as a Member of Council, the City may pay damages or costs awarded against such Member or legal expenses incurred by him/her as may be determined by City Council on advice from the City Solicitor, as provided for by section 218 of the *City of Toronto Act, 2006*, as amended. Whenever a civil action or other proceedings is brought against a Member, the Member is to advise the Insurance and Risk Management Section of the Corporate Finance Division immediately with respect to such action proceeding.

3) Upon the approval of the Executive Committee and Council, Members may be reimbursed for legal expenses in matters covered by sections (1) and (2) above to a maximum of \$25,000, where the reimbursement of funds is warranted upon consideration of all the circumstances. In the event that the initial reimbursement is exhausted before the matter is concluded, any further financing shall be referred to the Executive Committee for its consideration and recommendation to Council.

- 4) Section (3) does not apply to an application alleging a Member has contravened the *Municipal Conflict of Interest Act*.
- 5) Where a request for reimbursement of legal expenses has been made under this policy, the City Solicitor shall provide a report and a recommendation to the Executive Committee and to City Council for their consideration. In appropriate circumstances, or when requested by the Councillor involved, the City Solicitor shall consult with the Integrity Commissioner and/or external counsel in the preparation of the report.
- 6) Where a Member of Council is eligible for the reimbursement of legal expenses, the City Solicitor's report shall include an assessment of the reasonableness of the lawyer's account, having regard to the factors ordinarily considered by a court, including, but not limited to, the experience, skill and competence of the lawyer, the complexity of the issues, the importance of the matter and the time expended by the lawyer.

¹ EX22.8, report titled "Review of Indemnification Policy for Members of Council" amended and adopted by City Council at its meeting of July 15, 16 and 17, 2008 <http://www.toronto.ca/legdocs/mmis/2008/cc/minutes/2008-07-15-cc23-mn.pdf>

² While City Council considered EX33.6, report titled "Indemnification Policy for Members of Council and Defamation" at its meeting of August 5 and 6, 2009, this report was received. Therefore, the Indemnification Policy for Members of Council, approved by City Council at its July 15, 16 and 17, 2008 meeting still applies and is the current policy. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.EX33.6>