



## Peterborough Police Services Board

### Legal Indemnification for Auxiliary Members

#### 1.0 Policy

- 1.1 The Peterborough Police Services Board desires to enact a policy to provide legal indemnification for Auxiliary Members of the Peterborough Police Service in certain circumstances.

#### 2.0 Authority

- 2.1 Pursuant to section 52 of the **Police Services Act**, the Peterborough Police Services Board may, with the Solicitor General's approval, appoint Auxiliary Members of the Service.
- 2.2 As outlined in Section 52 (4) of the **Police Services Act**, an Auxiliary Member of a police service has the authority of a police officer if he or she is accompanied or supervised by a police officer and is authorized to perform police duties by the Chief of Police.
- 2.3 Pursuant to section 52 of the **Police Services Act**, Auxiliary Members may be deployed in situations which could result in civil or criminal liability.
- 2.4 The Board is responsible for torts committed by its Members in accordance with Section 50 (1) of the **Police Services Act**.
- 2.5 Auxiliary Members are not members of the Peterborough Police Association or the Peterborough Senior Officers' Association.
- 2.6 The Police Services Board has deemed it appropriate to provide Auxiliary Members with similar legal indemnification afforded to the uniform and civilian Members.

#### 3.0 Application

- 3.1 This policy applies to the Auxiliary Members of the Peterborough Police Service.

## **4.0 Policy**

- 4.1 Upon receipt of a request for legal indemnification from an Auxiliary Member, the Chief shall make a written confidential report to the Board at the its next regularly scheduled meeting advising of any requests or applications for legal indemnification made by an Auxiliary Member. The report shall include a reference to this policy, a brief description of the situation and a recommendation to grant or deny the request.
- 4.2 Indemnification is conditional upon the Auxiliary Member obtaining Board approval prior to retaining legal counsel. Notwithstanding this condition, if in the opinion of the Chief the circumstances require that a lawyer be retained immediately and prior to the next Board meeting, this condition may be waived and the Chief may approve the request. In this event, the Chief shall report the matter to the Chair immediately and to the Board in writing at the next regular meeting.
- 4.3 As a condition to the Board making payments in respect of legal indemnification, the Auxiliary Member must agree in writing to the terms and conditions outlined in Schedule "A", including the requirement to repay the Board if the Member is not finally acquitted of all charges or if the Member's acts or omissions were found to be not in good faith.
- 4.4 An Auxiliary Member charged and finally acquitted of a criminal or statutory offence, because of on duty acts done in the attempted good faith performance of his/her duties as an auxiliary officer shall be indemnified for the necessary and reasonable legal costs incurred in the defense of such charges.
- 4.5 The Board may refuse payment where the actions of the Auxiliary Member from which the charges arose amounted to a dereliction of duty or abuse of his or her power as an Auxiliary Member.
- 4.6 Where a Member received indemnification and is subsequently found guilty of a criminal or statutory offence, or 4.5 applies, all monies provided under this clause shall be repaid by the Auxiliary Member to the Police Services Board.
- 4.7 The Board's obligation to pay legal fees pursuant to the Legal Indemnification provisions of this policy in any case shall not exceed \$350.00 per hour for a lawyer or \$90 per hour for a paralegal for work performed pursuant to the retainer.
- 4.8 The Board will pay one half of the normal hourly rate, not to exceed the rates in section 4.7, for the lawyer or paralegal's travel time.
- 4.9 Where an Auxiliary Member is named as a defendant in a civil action for damages because of acts done in the attempted good faith of his or her duties as an Auxiliary Officer, the civil action will be defended by the Board. The lawyer representing the Board will defend the Auxiliary Member unless he or she is of

the opinion there is a conflict of interest which requires the appointment of a separate lawyer.

- 4.10 Should the conduct of an Auxiliary Member be called into question in a **Coroner's Inquest** or in a proceeding under the **Public Inquiries Act** before a **Royal Commission** because of acts done in the attempted good faith performance of the Member's duties as an Auxiliary Officer, the Auxiliary Member shall be indemnified by the Board for necessary and reasonable legal costs if the Board concludes that legal representation is required. In the event that such indemnification is provided, the hourly rates shall be as described in 4.7 above.
- 4.11 As per sections 52 (2) and (3.2) of the **Police Services Act**, where it is the intention for the Board to terminate the appointment of an Auxiliary Member, the Board shall give the Auxiliary Member reasonable information with respect to the reasons for the termination and an opportunity reply, orally or in writing, as the board may determine. The Auxiliary Member is not entitled to any indemnification during this process unless the Board decides not to terminate the Auxiliary Member. Where the Auxiliary Member is not terminated, the Board shall indemnify the Auxiliary Member for reasonable legal costs based on the rates described in 4.7 above, to a maximum of \$1,500.
- 4.12 The Board may consider a request from a former Auxiliary Member for legal indemnification pursuant to this policy in respect of an incident which arose when the former Auxiliary Member was acting in the good faith performance of his/her duties as an Auxiliary Member.
- 4.13 For the purposes of this provision, members shall not be deemed to be "finally acquitted" if as a result of charges laid they are subsequently found guilty of, or pleads guilty to, other charges arising out of the same incident or incidents.
- 4.14 If the solicitor performing the work is not the Board's solicitor, "necessary and reasonable legal costs" shall be based on the rates described in 4.7 above, and on the account rendered by the solicitor performing the work, subject initially to the approval of the solicitor acting on behalf of the Peterborough Police Services Board and, in the case of dispute between the solicitor doing the work and the Board's solicitor, then the amount fixed by the assessment officer following an assessment of the account rendered by the solicitor performing the work under the **Solicitors Act, R.S.O. 1990, c.S.15** as amended.
- 4.15 For greater certainty, Auxiliary Members shall not be indemnified for legal costs arising from actions or omissions while acting in their capacity as private citizens.

## **5.0 Administration**

- 5.1 That the policy titled Legal Indemnification for Auxiliary Members is hereby enacted this 22<sup>nd</sup> day of January 2019.
- 5.2 That distribution of this policy be unrestricted.

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Gary Baldwin, Chair  
Peterborough Police Services Board

### **Additional References:**

Evaluation Date:  
Issue Date: January 22<sup>nd</sup> 2019  
Revision Dates:

## Schedule "A"

### Obligation to Repay Legal Indemnification

As an Auxiliary Member of the Peterborough Police Service to whom legal indemnification has been offered, I, \_\_\_\_\_ hereby irrevocably agree, as a condition precedent to receiving such indemnification, to:

1. Provide the Board with sufficient information to assess and decide whether legal indemnification is justified.
2. Provide the Board with sufficient information regarding the description of legal services provided, as well as a breakdown of legal costs for it to assess reasonableness and necessity. Such information shall be provided on a monthly basis or as otherwise directed by the Board.
3. Repay the legal indemnification provided by the Board in the event the Board determines I am ineligible for such indemnification pursuant to the requirements set out in the policy, Legal Indemnification for Auxiliary Members.
4. Where repayment is required, such payment will be made in full by me within ninety (90) days of such demand, or on such other repayment schedule as the Board may agree to. Failing such, the sum is a debt recoverable by the Board together with the costs incurred in securing judgement and repayment.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2019.

I hereby affirm my acceptance of legal indemnification from the Board on the terms and conditions set out in this agreement and covering policy, Legal Indemnification for Auxiliary Members.

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Auxiliary Member

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Board Chair