

Clause 18 in Report No. 9 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on May 17, 2018.

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Write-Off of Uncollectable POA Fines and Collection Strategy Update

Committee of the Whole recommends adoption of the following recommendations contained in the report dated April 27, 2018 from the Regional Solicitor:

1. Council approve the write off of uncollectible receivables of \$25 or less totalling \$3,670.23.
2. Council approve the write off the uncollectible accounts of defunct entities, business or organizations totalling \$1,992,748.75.

Report dated April 27, 2018 from the Regional Solicitor now follows:

1. Recommendations

It is recommended that:

1. Council approve the write off of uncollectible receivables of \$25 or less totalling \$3,670.23
2. Council approve the write off the uncollectible accounts of defunct entities, business or organizations totalling \$1,992,748.75

2. Purpose

The report seeks Council approval to write-off of *Provincial Offences Act* (POA) default fines that have been deemed uncollectable in accordance with The Ministry of Attorney General's Write-Off Directive and Operating Guideline and the Region's Court Services Collections Policy. This report also provides an update on the Court Services Provincial Offences collection strategy approved by Council in May 2016.

3. Background

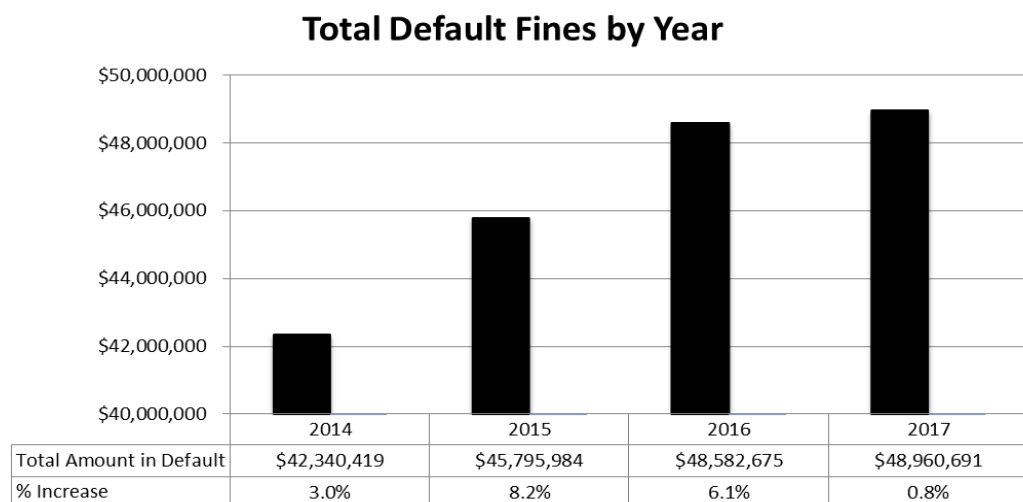
Council approved changes to the Collection and Write-off Policy for POA Defaulted Fines

The Collection and Write-off Policy for POA Defaulted Fines (the “Policy”) provides methods for the collection of defaulted fines under the POA and thresholds under which those fines shall be deemed uncollectible and written-off in accordance with the Ministry of the Attorney General’s (MAG) Write-Off Directive and Operating Guideline.

In May 2016, Council approved amendments to the Regional Policy to implement a revised collections strategy to enhance the collection tools available. The strategy included improved use of collection agencies; collection of fines through property tax rolls; use of civil enforcement tools and cost recovery for collection activities.

The rate of increase for default fines in 2017 was five percent less compared to 2016

As of December 31, 2017 there was approximately \$48.9 million of unpaid POA fines, representing less than one percent increase from 2016. The reduced rate of increase is a result of the additional collection tools being utilized and the write-off of uncollectible fines last year totalling \$2.3 million.



When the POA court program was transferred to the Region in 1999, the Province transferred \$13 million in unpaid fines. As of December 31, 2017 \$1.3 million of those fines remain unpaid. While POA fines are not subject to a limitation period, older fines are more difficult to collect.

Provincial directive provides guidelines with respect to POA collection best practices and allows for “write-off” of uncollectible accounts

In February 2008, the Ministry of Attorney General (MAG) published their Write-Off Directive and Operating Guideline for the handling of POA fines deemed uncollectible. The purposes are to ensure that municipal partners have made all reasonable efforts to collect and to minimize the value of POA accounts receivable.

In accordance with the Guideline, a POA fine may be written off if:

1. The accounts receivable in default is a minor underpayment (i.e. accounts receivable \$25 or less)
2. The accounts receivable is greater than \$25 and was in default for a minimum of four (4) years, all reasonable collection efforts have been followed by the Region, and those collection efforts were unsuccessful. (In this case, the POA debt is deemed “uncollectible.”)
3. The person who owes the unpaid amount(s) is deceased and collection from the estate is impractical or has been unsuccessful
4. A clerical/court error was determined to have placed the account in default status and/or conviction when the account, if properly administered, would have been completed
5. The original charging document cannot be located to proceed with additional collection efforts and/or other court processes
6. The operating entity, business or organization convicted and that owes the unpaid amount is no longer in operation or has no assets against which the Region can pursue a claim, making collection from the defunct entity impractical
7. A court order or a Provincial or Federal directive requires that collection efforts must cease.

The accounts recommended for write-off in this report relate to numbers 1 and 6 above.

4. Analysis and Implications

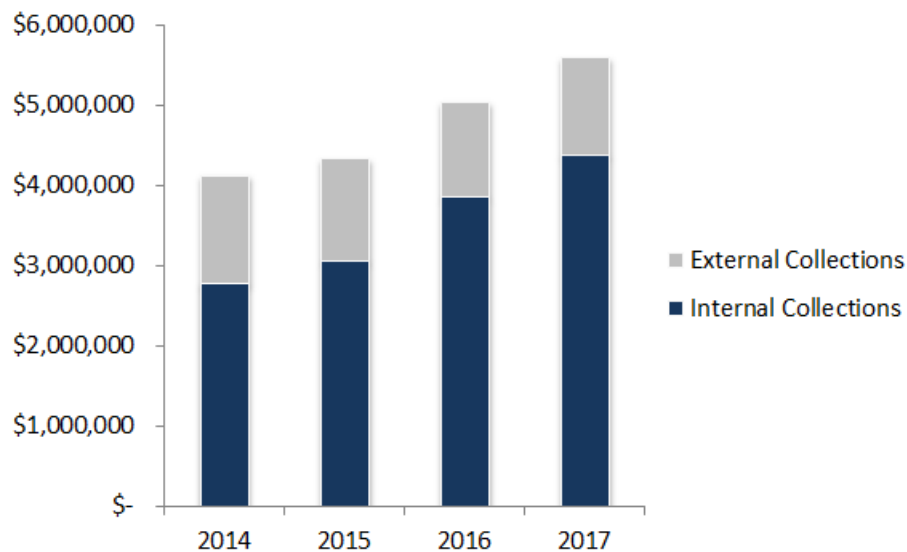
POA Collections Strategy Update

The total revenue from defaulted fines increased by 11 percent in 2017

Despite changes introduced to the use of external collection agencies, internal collections continue to generate more default fine revenue than external collections as a direct result of the enhanced tools available to staff to maximize collection efforts in the amended Collection Strategy. (see Figure 1 below).

Figure 1

Internal vs. External Default Collections



Increasing collection agency fees and the number of collection agencies have increased the collections of older fines

Court Services increased the total number of collection agencies from four to eight, resulting in additional resources for the collection of older fines. Collection agency fees are added to the POA fine and are fully recoverable from the defendants. Fees are not paid to the collection agency unless the fines are successfully collected so there is no direct cost to the Region. The total fines collected by the external agencies in 2017 increased 3.7 percent from the previous year.

Court Services recovered 48 percent of all default fines listed to property tax roll

Section 441.1 of the *Municipal Act, 2001* allows for the collection of POA fines through property tax rolls where the debtor is the sole owner of the property. York Region currently has agreements with the City of Vaughan, Town of Newmarket, Town of Georgina, City of Markham and the Town of Whitchurch-Stouffville to add fines to property tax roll where applicable. Since the implementation of the amended collection strategy, tax rolling of default fines with our participating partners led to collections of 68 fines for a total of \$94,458.

Property tax roll is limited in its application due to the requirement that the debtor be the sole owner of the property. The Municipal Court Managers Association and the Ontario Municipal Tax and Revenue Association have lobbied the province to expand Section 441 of the *Municipal Act, 2001* to allow POA defaulted fines to be added to property tax rolls for joint ownership.

York Region continues discussions with all remaining local municipalities and is exploring opportunities to expand property tax rolling by partnering with the City of Toronto in the collection of default fines through property tax roll.

Court Services collected 38 percent of all fines where civil enforcement was initiated

Court Services initiated civil enforcement through the filing of a writ of seizure and sale (lien) on 124 fines valuing \$223,405. To date, a total of \$83,533 has been recovered. Court Services staff continue to explore opportunities to move forward with garnishment of wages or bank accounts but the use of such tools may be limited as it requires access to employment and banking information which must be obtained through a court order.

Changes in licence plate denial introduced in 2017 may have limited impact on the collection of default fines

Legislative changes in the use of licence plate denials for POA collections came into effect on May 1, 2017 (*Bill 31, Making Ontario's Roads Safer Act, 2015*). Only those POA fines that enter default and are processed for licence suspension are subject to plate denial. The application of the sanction was applied retroactively seven years however it excludes company and jointly owned vehicles.

Since these provisions have been in effect for only one year, there is very limited data available to analyze the true impact on collections. Historically, licence suspension has been the most effective tool for the collection of unpaid fines resulting in over 50 percent of all fines processed to licence suspension within

the first year. During the implementation of Bill 31, the Region advocated for broader use of plate denial to enhance collections. Given the limited nature of this collection tool, it is likely to have a limited impact on collections. Staff will continue to monitor this tool and report further findings based on 2018 collections.

It is also worth noting that effective May 1, 2017, Service Ontario expanded its services to include payments for municipal court fines where a suspension or plate denial has been applied. For every payment made at Service Ontario, \$20 of the \$40 default fee is retained by the Ministry of Transportation. Since May 1, 2017, the Region has paid \$65,000 to the Ministry for payments made at Service Ontario, further reducing the positive financial impact of plate denial for the Region's collections.

The new \$20 late payment fee generated \$171,660 in revenue since being introduced in February 2017

Council approved the creation of the \$20 fine default fee as part of the 2017 budget. This fee is intended to assist in the recovery of costs of fine collection administered directly by the Region. The fee is applied to all fines that default after January 1, 2017 and resulted in the collection of an additional \$171,660.

2018 Write-Offs for Uncollectible Accounts

All practical efforts are made to collect under the Region's Provincial Offences Act Collection Policy prior to write-off

In accordance with the fine enforcement tools authorized by Council in 2017, staff have taken every practical step to maximize the collection of defaulted provincial offences fines and to maintain the integrity of the justice system by using all legislative collection tools available. Reasonable collection efforts include:

- Timely distribution of all notices and communications to debtors
- Consideration of extended payment plans to assist debtors with financial hardship
- Application of available administrative sanctions (including license suspension and plate denial)
- Enhanced use of collection agencies
- Civil fine enforcement mechanisms where available
- Annual review to identify POA accounts that could be deemed uncollectible and to be recommended for write-off in accordance with the Policy

Since 2008, Court Services staff has successfully collected over \$38 million in defaulted fines. However, when the POA court program was transferred to the Region in 1999, the Province also transferred \$13 million in unpaid fines. Approximately \$6.7 million has been written off since that time as the unpaid fines were deemed uncollectible. The accounts recommended for write-off in this report date as far back as 1988.

Receivables of \$25 or less are frequently inappropriate for collection activity and are no longer realistically collectible

Despite all available enforcement and collection efforts, Staff have identified 176 receivables of \$25 or less totalling \$3,670.23 that have no reasonable prospect of collection (see Table 1 below).

The Provincial Guideline as provided by the Ministry of Attorney General allows write-off of receivables of \$25 or less with no time restriction. Due to the minor amount of the receivables and the time and difficulty to recover, it has always been both provincial and municipal practice to excuse payment of the added amounts in these circumstances.

Table 1

Accounts Receivable \$25 or Less recommended for Write-Off

# of Accounts	Fine Value	Total
79	\$25.00	\$1,975.00
71	\$20.00	\$1,420.00
26	Less Than \$20.00	\$275.23

There is no reasonable prospect of collection from defunct entities or those with no assets

Staff have identified 1094 uncollectable receivables of corporate entities, businesses or organizations owing unpaid amounts totalling \$1,992,748.75. The organizations are no longer in operation or have no assets against which the Region can pursue a claim (see Table 2 below). All reasonable collection efforts have been taken while these entities were in operation. Further enforcement options either do not exist or are impractical to implement.

Table 2

Accounts Receivable greater than \$25 recommended for Write-off

# of Accounts	Fine Value	Total
932	Less Than \$1000	\$263,748.38
128	\$1000-\$9999	\$438,170.75
32	\$10,000-\$99,999	\$1,034,534.62
2	\$100,000 or more	\$256,295.00

Administrative “write-off” does not absolve guilty parties

The Ministry of Attorney General's Write-Off Directive and Operating Guideline is based on the principle that POA accounts receivable may be written off for accounting purposes only as ‘debts to the Crown are owed in perpetuity and are never forgiven’.

5. Financial Considerations

Outstanding Default Fines are not part of the Courts Receivable

The Region uses the cash basis of accounting for POA Courts collections and does not accrue POA Courts receivables; therefore any Council approved write-off will have no impact on the Region’s financial statement.

All practical efforts are made to collect POA fines. While the amount of the fines in default continues to increase, the rate of increase year over year is decreasing.

6. Local Municipal Impact

The Region collects POA fines on behalf of the local municipalities. Of the total amount for recommended for write-off, fine value of \$204,930.33 is related to municipal parking and bylaw charges (See Table 3 below). Local municipal staff are aware that if the write-off is authorized, collection efforts will cease on these accounts and revenue will not be realized by the local municipality. The write-off of receivables of \$25 or less will have no impact to local municipalities.

Table 3

Accounts Receivable Related to Municipal Bylaw charges

Municipality	Total Number of Cases	Total Fine Amount
Vaughan	111	\$97,553.70
Markham	20	\$58,238.50
Richmond Hill	6	\$20,060.00
Whitchurch-Stouffville	10	\$685.00
Aurora	123	\$10,534.03
Newmarket	1	\$2,555.00
King	6	\$1,286.10
East Gwillimbury	7	\$527.00
Georgina	3	\$13,491.00

7. Conclusion

Amendments to the collection strategy have provided staff additional tools to increase efforts to collect fines imposed under the POA. Court Services will continue to implement the strategy including administrative sanctions and civil fine enforcement mechanisms.

Staff recommends that Regional Council receive, for information, the status of the amended collections strategy and approve the write-off of the uncollectible accounts identified in this report.

For more information on this report, please contact Lisa Brooks, Director Court Operations at 1-877-464-9675 ext.73209

The Senior Management Group has reviewed this report.

Accessible formats or communication supports are available upon request.

April 27, 2018

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