

Bill No. 341  
2021

By-law No. CPOL.-77( )-\_\_\_

A by-law to amend By-law No. CPOL.-77-309, as amended, being “Legal Services and Accounts”, to change claim amount to align with thresholds in the Procurement Policy.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Municipal Council of The Corporation of the City of London wishes to amend By-law No. CPOL.-77-309, as amended, being “Legal Services and Accounts”, to change claim amount to align with thresholds in the Procurement Policy;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. By-law No. CPOL.-77-309, as amended, being “Legal Services and Accounts”, is hereby amended by deleting Schedule “A” to the By-law in its entirety and by replacing it with the attached new Schedule “A”.
2. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council on August 10, 2021.

Ed Holder  
Mayor

Catharine Saunders  
City Clerk

First Reading – August 10, 2021  
Second Reading – August 10, 2021  
Third Reading – August 10, 2021

## Schedule "A"



London  
CANADA

### Legal Services and Accounts

**Policy Name:** Legal Services and Accounts

**Legislative History:** Enacted August 22, 2017 (By-law No. CPOL.-77-309); Amended July 24, 2018 (By-law No. CPOL.-77(a)-412); Amended August 10, 2021 (By-law No. CPOL.-\_\_\_\_\_)

**Last Review Date:** August 10, 2021

**Service Area Lead:** Deputy City Manager, Legal Services

#### 1. Policy Statement

1.1. This policy establishes the functions and duties of the City Solicitor's Office.

#### 2. Definitions

In this policy,

2.1. "**City Solicitor**" means the person appointed to the position of Deputy City Manager, Legal Services;

2.2. "**City Solicitor's Office**" includes those employees, agents and other persons to whom any of the City Solicitor's responsibilities have been implicitly or explicitly delegated.

2.3. "**Corporation**" means the Corporation of the City of London and includes the Council, its Committees, and the several departments of the civic administration.

2.4. "**Local board**" has the meaning set out in the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended from time to time.

#### 3. Applicability

This Policy applies to the responsibilities undertaken by the City Solicitor's Office.

#### 4. The Policy

##### Functions and Duties

4.1. The functions and duties of the City Solicitor's Office shall be to:

- a) provide legal advice to the Corporation in matters of law connected with and within the authority or jurisdiction of the Corporation;
- b) act as counsel for the Corporation in administrative, civil and criminal proceedings;
- c) institute such proceedings and take such steps in those proceedings as are considered reasonably necessary for the protection and advancement of the Corporation's interest;
- d) discharge such other responsibilities as are at any time assigned to it.

4.2. Notwithstanding Section 2, the City Solicitor's Office shall not act as counsel or legal adviser:

- a) on behalf of any person in connection with any dealings with the Corporation;
- b) on behalf of any local board without the consent of Council unless the interests of the local board and the Corporation are identical;

- c) in respect of any matter, the undertaking of which is contrary to law and the rules and regulations of The Law Society of Ontario.
- 4.3. Unless otherwise directed by the Council, the City Solicitor's Office shall not be required to advise any member of Council as to whether the member or any other member of Council has or may have a conflict of interest pursuant to the *Municipal Conflict of Interest Act*, R.S.O. 1990, Chapter M.50.
- 4.4. a) Where it is in the best interests of the Corporation to do so, the City Solicitor's Office may retain outside legal counsel or agents to act for or represent the Corporation in any matter or proceeding, or to act as agent for the City Solicitor's Office provided provision has been made in the current budget for the payment of such counsel or agents.
- b) Where no official or employee of the Corporation is able or qualified to provide expert, technical or special knowledge with respect to any matter or proceeding involving the Corporation and such knowledge is considered reasonably necessary for the advancement or protection of the Corporation's interests, or where the Council has directed that such a person or persons be engaged, the City Solicitor's Office may engage one or more experts or persons having technical or special knowledge to assist in an advisory or other capacity or to provide expert opinion evidence and their services and disbursements may be paid out of the same provision in the current budget as for the payment of outside legal counsel, or such other manner as the Council directs.
- c) Before payment is made for services rendered and disbursements, the City Solicitor's Office shall ensure that each account submitted sets out in reasonable detail the services rendered and disbursements, and the City Solicitor's Office shall examine and approve each account as proper for payment having regard to the following:
- i) time expended;
  - ii) complexity of the matters dealt with;
  - iii) degree of responsibility assumed;
  - iv) monetary value of the matter in issue;
  - v) importance of the matter to the Corporation;
  - vi) degree of skill and competence demonstrated; and
  - vii) results achieved.
- d) Where the City Solicitor's Office calls any account or item therein into question and is dissatisfied with the explanation or revision of the account or item, the City Solicitor's Office shall apply to have the account assessed by the appropriate Court or Official.

#### **Settlement of Claims**

- 4.5. A claim or demand of whatever nature by or against the Corporation which does not exceed \$50,000.00 exclusive of costs, may be settled by the City Solicitor with the advice of any department or division interested in the claim provided, in the case of a claim against the Corporation, provision has been made in the current budget for the payment of such claims.

#### **Action When Time Constrained**

- 4.6. Where it is not practicable, prior to the expiration of the time limited by or under any Act or Order for doing any act or taking any action conducive to the interests of the Corporation, to obtain instructions from the Council, the City Manager, or the City Solicitor, the City Solicitor's Office may do or take such actions (including the payment of any fee relating thereto) and shall report the reasons and actions forthwith to the City Solicitor for such further action as may be considered appropriate.

### **Costs to and Against the City**

- 4.7. The City Solicitor's Office shall seek an award of costs to the Corporation in any matter where costs may be awarded to a successful litigant, unless the Council or the City Solicitor have directed otherwise.
- 4.8. Costs which are awarded to the Corporation or which are payable to the Corporation by agreement or otherwise, shall be demanded in every instance and, if not fixed, shall be calculated in accordance with the prevailing practice unless the Council authorizes the:
  - a) waiver of a demand for costs, or
  - b) acceptance of a specified amount for costs upon such terms, if any, as may be considered appropriate under the circumstances

### **General**

- 4.9. The City Solicitor may make recommendations to Council on any matter whether or not covered by this policy.
- 4.10. Where anything is directed or permitted to be done by this policy, any authority necessary to enable the doing of the thing is also given hereby, and, where the doing of anything requires the enactment of a by-law, the City Clerk may request Council directly to pass the by-law.