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# MEMO

**To:** Member Presidents and Executive Directors/CEOs

**From:** Brian Cairo, CFO

**Date:** July 30, 2022

**Subject:** Message from Hockey Canada regarding National Equity Fund

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We recognize there are questions from players and their parents, and from members and from Canadians more broadly, about Hockey Canada's National Equity Fund.

We want to be clear that no general registration fees are paid into the National Equity Fund. It is funded through portions of insurance fees only. The status of this fund is reported to our Membership at every Congress and a budget is presented annually.

The fund was originally created in 1986 to provide insurance to our members. It was a means for Hockey Canada to support anyone who might have been injured or harmed through their participation in minor hockey, because at the time, Hockey Canada did not purchase insurance policies – it was self-insured.

In 1995, Hockey Canada began purchasing insurance policies to insure against various risks. Since that time, the National Equity Fund has grown to fund a broad range of insurance, safety, wellbeing, and wellness initiatives across our organization. This includes, but is not limited to, insurance for players, counselling and treatment for players, concussion research grants to the Canadian Hockey League, criminal record checks of Hockey Canada staff, and a range of safety initiatives. Since 1995, these activities have represented 95 per cent of the fund's resources.

As you have heard, the fund is also used for uninsured liabilities. These include, but are not limited to, settlements for catastrophic injuries and to victims of sexual assault. The latter includes victims of Graham James and Gordon Stuckless for whom it was not possible to put the claim through commercial insurance, because the abuse took place before we had commercial coverage.

We recognize this is deeply troubling to our Members and to parents, but we also want to emphasize the importance of providing victims with the support they need in cases of assault, catastrophic injury, or abuse.

We also want to be clear that we have heard from you, and parents, and to confirm that we have stopped using the fund to settle sexual assault claims pending the outcome of our governance review by an independent third party.

We recognize we have significant work to do to rebuild trust with Canadians. We know we need to be held and hold ourselves accountable. That is why, as part of our Action Plan announced last week, we are conducting a full governance review of our organization that will be overseen by an independent third party. This review will include a review of our use of the fund to pay settlements to victims of historic sexual abuse.

Following the governance review, we will take any additional steps that are recommended to fund compensation for these uninsured claims.

Canadians have been loud and clear: you expect our national sport and those representing it to work hard to earn your trust each day. We have heard you and are committed to making the changes necessary to allow us to be the organization you expect us to be, and to restore your confidence and trust in us.

More information on the National Equity Fund is below. If you have any questions, please do not hesitate to contact me directly.

Sincerely,

Brian Cairo  
Chief Financial Officer

## **Q&A**

### **What is the National Equity Fund?**

The National Equity Fund is a fund that was created in 1986 to provide insurance to our Members, as a means for Hockey Canada to support anyone who might have been injured or harmed where insurance policies were insufficient.

Since that time, it has grown to fund a broad range of safety, wellbeing, and wellness initiatives across our organization. This includes, but is not limited to, insurance, counselling and treatment for players, concussion research grants to the Canadian Hockey League, criminal record checks of Hockey Canada staff, as well as safety initiatives.

### **Why does Hockey Canada have it?**

Until the mid-1990s, Hockey Canada did not purchase insurance policies – it was self-insured. Since 1995, Hockey Canada has purchased insurance policies to manage risk. The premiums for this insurance are paid through the National Equity Fund. The fund also pays for a broad range of safety, wellbeing, and wellness initiatives across our organization. This includes, but is not limited to, insurance, counselling and treatment for players, concussion research grants to the Canadian Hockey League, criminal record checks of Hockey Canada staff, as well as safety initiatives. These represent about 95% of the fund payments since 1995.

The fund is also used to pay uninsured claims that are not covered by insurance policies.

### **How are registration and insurance fees allocated?**

Hockey Canada Members pay Hockey Canada an annual fee of \$23.80 per player, which includes both a registration fee and insurance fees.

The registration fee is allocated exclusively to general operations, for example, our programming, facilities, and staff.

Insurance fees are allotted into different funds with specific insurance and risk management purposes. By pooling insurance fees together, our Membership pay much lower and more stable fees than if they had to purchase insurance individually. For example, between 2000 and 2017, there was no change to Members' insurance fees.

The allocation of the registration and insurance fees is outlined below:

Type of Fee	Amount/ Participant	Paid into
Director's and Officers Insurance	\$2.00	National Equity Fund
General Liability Insurance (includes sexual misconduct coverage)	\$8.90	National Equity Fund
Safety/Admin	\$2.75	National Equity Fund
Medical and Dental Insurance	\$2.00	Health and Benefit Trust
Accidental Death and Dismemberment Insurance	\$5.15	Health and Benefit Trust
<b>Total Insurance</b>	<b>\$20.80</b>	
<b>Assessment/Registration</b>	<b>\$3.00</b>	General Operations
<b>Total Fees per Player</b>	<b>\$23.80</b>	

### **Does the Health and Benefit Trust pay Uninsured Claims?**

No. The Health and Benefit Trust is a separate fund used for specific purposes. None of the fees paid into the trust are used to pay uninsured claims nor Director/Officers insurance.

### **How is the National Equity Fund reported to Members?**

The status of the National Equity Fund is reported to our Membership at every Congress and a budget is presented annually. The notes to the most recent financial statements state: "*The National Equity Fund Balance has been accumulated as precaution against judgments that may be made against the organization as a result of current or future claims.*" It has also been reported and audited in our financial statements since the early 1990s.

### **Why does Hockey Canada have Sexual Misconduct Insurance?**

In 1998, largely in response to the crimes committed by Graham James, Hockey Canada added sexual misconduct coverage to its general liability insurance. When setting up the sexual misconduct insurance, it was recognized that insurance would not cover historical claims, including new claims which may be made against known perpetrators, such as Graham James or others. Both then and now, Hockey Canada felt a responsibility to potential victims who have claims that may not be covered by its sexual misconduct insurance.

## **Doesn't Hockey Canada purchase corporate/commercial insurance like other companies do?**

Hockey Canada began purchasing corporate/commercial insurance in 1995 and has broad coverage for most risks. However, not every risk can be insured. In addition to its other uses, the National Equity Fund is available to cover these uninsurable risks.

## **What is the fund used for in addition to Hockey Canada's insurance premiums?**

In addition to insurance premiums and deductibles, the fund pays for counselling and treatment for players, concussion research grants to the Canadian Hockey League, criminal record checks of Hockey Canada staff, and safety initiatives. These activities represented about 95 per cent of the fund's activities since 1995. It is standard insurance industry practice for an insurance policy to cover certain claims and not others. As with any liability insurance that is purchased, there are always unforeseen circumstances where some claims are not insured. The fund is also used to pay these amounts.

## **How many sexual abuse claims have been settled through the fund?**

From 2000-2021, there have been nine uninsured payments to nine sexual assault victims out of this fund, totaling \$7.6 million. These payments represent 3.7 per cent of all disbursements (including insurance premiums) made over the same period.

These payments were made to these victims in recognition of the harm caused, and to support their well-being and needs.

Three known perpetrators are responsible for all nine of these cases and related payments: Graham James (5), Gordon Stuckless (2) and Brian Shaw (2). Graham James' settlements make up \$6.8 million (89 per cent) of the total paid out to victims. These were historical claims, which pre-dated our insurance policy, and as a result were not covered.

The fund will no longer be used to settle sexual assault claims. As part of our Action Plan, we are beginning a full governance review of our organization that will be overseen by an independent third party. This will include a review of the use of the fund to cover uninsured sexual abuse claims.

Following the governance review, we will take any steps that are recommended to fund these claims.

## **How will sexual abuse claims be settled going forward?**

As we have stated, we stopped use of the National Equity Fund being used for sexual abuse claims.

As part of our Action Plan, we are beginning a full governance review of our organization that will be overseen by an independent third party. This will include past use of the fund to pay these claims and recommendations concerning how such claims should be paid going forward.

Following the governance review, we will take any steps that are recommended.

## **Why did you use the National Equity Fund to settle allegations of sexual misconduct in 2018?**

In May 2022, Hockey Canada drew from the National Equity Fund investments when settling allegations of sexual assault made against individuals of the World Junior team in 2018. It was unclear at the time whether the claim would be covered by our insurance policies. We still intend to seek recovery from our insurance companies, if possible, but we did not want the settlement to be held up by the process of confirming whether the claim was covered or not.

As a named defendant, Hockey Canada had two options: settle or litigate. Settlement allowed Hockey Canada's and the young woman's legal counsel to work together to agree on a resolution that met the young woman's needs in a way that respected her wish for privacy and did not revictimize her. Litigation would require the young woman to pursue the claim and expose her to a protracted court process.

Recent media reports publishing the contents of videos and text messages shared by anonymous players has revealed how challenging a court process can be for a complainant. We did not think that a prolonged lawsuit would be in the best interests of the complainant. Even if the court dismissed the claim, the process would have subjected the complainant to immense public scrutiny and pressure. We decided to settle the claim without litigation.