



## **STAFF REPORT ACTION REQUIRED with Confidential Attachment**

### **Fitness for Duty**

<b>Date:</b>	March 23, 2016
<b>To:</b>	TTC Board
<b>From:</b>	Chief Executive Officer
<b>Reason for Confidential Information:</b>	<ul style="list-style-type: none"><li>• This report is about labour relations.</li><li>• This report is about litigation, including matters before administrative tribunals, affecting the TTC.</li><li>• This report contains advice that is subject to solicitor-client privilege, including communications necessary for that purpose.</li></ul>

### **Summary**

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The purpose of this report is to provide the Board with an update further to approval received in October 2011 to introduce random alcohol and drug testing, and to seek further direction.

### **Recommendations:**

It is recommended that the Board:

1. Approve the recommendations set out in the Confidential Attachment; and
2. Authorize that the information in the confidential attachment remain confidential in its entirety as it contains information or communication that is subject to solicitor-client privilege.

### **Financial Summary**

There is no financial impact with this report.

### **Accessibility/Equity Matters**

There are no accessibility/equity impacts with this report.

## **Decision History**

In September 2008, TTC staff recommended (in part) that the Board approve in principle a Fitness for Duty (“FFD”) Policy that would include, in addition to a variety of assistance programs and prevention measures alcohol and drug testing. This was to be limited to employees in safety sensitive, specified management and designated executive positions and such employees would be subject to reasonable cause, post incident, post violation, post treatment, applicant and random testing. The Board approved this recommendation save and except for the introduction of random testing.

In October 2011, TTC staff came forward to the Board, again, with a recommendation to approve the implementation of random alcohol and drug testing, and the Board approved the addition of this to policy and directed TTC, when it reported back, to comment on the feasibility of including Board Members in this policy.

[http://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2011/October 19 2011/Supplementary Reports/Fitness For Duty Pol.pdf](http://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2011/October%2019%202011/Supplementary%20Reports/Fitness%20For%20Duty%20Pol.pdf)

[http://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2011/November 23 2011/Minutes/index.jsp.](http://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2011/November%2023%202011/Minutes/index.jsp)

The FFD policy is currently the subject of an on-going grievance arbitration. In February 2015 and September 2015 TTC staff provided the Board with additional updates on random alcohol and drug testing in the context of the arbitration proceedings on the FFD policy.

## **Issue Background**

The safety of passengers and employees is of paramount concern to the TTC. Doing all it can to ensure that employees are fit for work is important to assuring the public of their safety. Effective February 2010 certification testing for new hires entering into a safety-sensitive, specified management and designated executive (collectively referred to as “designated positions”) and for existing employees transitioning from a non-designated position into a designated position, came into effect.

Post Incident and Reasonable Cause testing for designated positions came into effect in October 2010. Furthermore, effective October 2010, in any situation where an employee is returning to work further to treatment received following either, 1) a voluntary disclosure of a substance abuse problem, or 2) a violation of the FFD Policy that did not result in termination, such employee, whether in a designated position or not, is required to pass a “Return to Duty” alcohol and drug test. In such cases, the employee is also subject to “Post Treatment Monitoring”. In this situation, dates for testing are selected on a random basis through our independent testing service.

## **Comments**

Litigation continues with respect to the TTC's Fitness for Duty Policy. Thus far there have been a total of approximately 43 arbitration dates with many more scheduled into 2017. The matter is expected to continue for at least several more years.

## **Contact**

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## **Attachments:**

Confidential attachment: Fitness for Duty