



# Risk of Employee Impairment Leading to a Catastrophic Event

**Date:** May 29, 2018

**To:** Audit and Risk Management Committee

**From:** Chief Safety Officer

## Summary

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The TTC has identified the risk associated with alcohol and drug use affecting its employees' ability to work safely as a Corporate Risk. Alcohol or drug impairment by TTC employees while on duty can significantly impede the TTC's ability to provide safe transportation and has the potential to result in a catastrophic event. In the past, the TTC has had serious incidents and near misses where alcohol or drug use was a factor.

The Fitness for Duty (FFD) policy is the most significant control the TTC has to mitigate the risk of employee impairment. The policy allows for six forms of alcohol and drug testing: reasonable cause, post-incident, post-treatment, post-violation, pre-employment and, most recently, random testing.

On May 8, 2017 the TTC implemented random drug and alcohol testing, which is the most significant control under the FFD policy. In the first 11 months of the program, alone, the TTC saw a reduction of positive random test rates of 43%. This reduction speaks to the effectiveness of instituting a random testing program to control the risk of employee impairment.

In addition to testing, the FFD policy also contains support and rehabilitation for employees experiencing issues with alcohol or drugs, which is an important part of prevention and maintaining a healthy workplace.

Presently, TTC contractors are not subject to alcohol and drug testing and this represents the only notable gap in the TTC's mitigation strategy. The feasibility of post-incident and reasonable cause testing is currently being explored for contractors such as Wheel-Trans and service line contractors.

The attachments contain a full analysis of the risk of Employee Impairment Leading to a Catastrophic Event.

## **Financial Summary**

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This report has no financial impact. Ultimately Enterprise Risk Management (ERM) will be used to prioritize funding requirements. The business case process will be used should additional resources be required.

## **Equity/Accessibility Matters**

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The TTC recognizes that an alcohol or drug dependency is a treatable illness. Employees who request help with an alcohol or drug addiction will be accommodated consistent with recommendations from Occupational Health and Claims Management and with requirements under the Ontario Human Rights Code.

## **Decision History**

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On December 13, 2017, the Risk Management Office presented the list of Corporate Risks to the TTC's Audit and Risk Management Committee (ARMC). During discussion, interest was expressed to receive further details regarding the risks identified in the list.

## **Issue Background**

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The TTC applies ERM to support the achievement of its five-year Corporate Plan. The TTC uses a structured approach for the identification, assessment and treatment of risk.

The TTC has identified 56 Corporate Risks that represent the highest risks facing the organization and which comprise the TTC's Corporate Risk Register. All will benefit from in depth assessment, risk mitigation and review by the TTC's internal Executive Committees as well as the ARMC.

## **Contact**

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## **Signature**

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John O'Grady  
Chief Safety Officer

## **Attachments**

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Attachment 1 - Risk Summary: Employee Impairment Leading to a Catastrophic Event

Attachment 2 - Presentation: Employee Impairment Leading to a Catastrophic Event

# TTC Risk Summary & Listing

## Employee Impairment Leading to a Catastrophic Event

RISK IDENTIFICATION		TTCRK17060001
<b>Register</b> Human Resources	<b>Risk Owner</b> Chief People Officer	
<b>Description</b>		
<p>Alcohol or drug use can impair an employee's ability to perform work safely and can lead to catastrophic events including serious injury or fatality, financial losses due to civil claims and major asset damage and significant reputational harm to the TTC. In the past, the TTC has had serious incidents and near misses where alcohol or drug use was a factor. In its 2017 decision to uphold the TTC's random testing policy, the Ontario Superior Court of Justice found that the TTC has "a demonstrated workplace problem with alcohol and drugs" that warranted expanding its testing program to include random testing.</p>		

RISK MITIGATION	
<p>The Fitness for Duty (FFD) policy is the most significant control the TTC has to mitigate the risk of employee impairment. The policy allows for six forms of alcohol and drug testing: reasonable cause, post-incident, post-treatment, post-violation, pre-employment and, most recently, random. Where employees fail or refuse a test they are subject to discipline up to and including termination and in the case of job applicants, offers of employment will be revoked. Since 2010, when the policy was first introduced, the TTC has been able to screen out 246 job applicants as being unfit for safety-sensitive positions based on positive test results. For post-incident, reasonable cause and post-treatment/violation testing there have been 132 incidents where employees have either tested positive or refused testing. With a significant spike in incidents occurring in 2015 the TTC took greater steps to control the problem by implementing the random drug and alcohol testing component which came into effect on May 8, 2017.</p> <p>Of the six testing types, random testing is the most powerful deterrent. Under this program, 20% of all safety-sensitive, specified management and designated executive employees are subject to random alcohol and drug testing every year. The TTC has seen a reduction of random testing non-compliance from 3.3% to 1.8% over the first eleven months of the program. The track record of other random programs also prove their effectiveness. In the two years after implementation of random testing at the London Underground, positive test results fell from 3.42% to 1.18% representing a 65% decrease. Driver Check, the company that performs random testing for over 3000 different employers including the TTC, reports a 75% reduction in positive test results.</p> <p>Prior to the implementation of random testing employees were given a three week amnesty period where they were free to disclose the use of any medication without fear of discipline. During the amnesty period Occupational Health and Claims Management (OHCM) received approximately 300 calls / inquiries relating to FFD and drug impairment. 50% of all the calls (150) resulted in action taken by OHCM due to the concern relating to the potential for</p>	

RISK ASSESSMENT						
	Minimal	Minor	Moderate	Major	Catastrophic	Disastrous
Frequent	Yellow	Orange	Red	Dark Red	Black	Dark Brown
Probable	Yellow	Light Orange	Red	Dark Red	Black	Dark Brown
Occasional	Light Green	Yellow	Light Orange	Red	Dark Red	Dark Brown
Remote	Light Green	Light Green	Yellow	Light Orange	Red	Dark Brown
Improbable	Light Green	Light Green	Light Green	Yellow	Light Orange	Orange
	● Residual		● Current		● Inherent	
Assessment Type	Likelihood		Impact	Risk Score		
Inherent Overall Assessment	Occasional		Catastrophic (I)	48		
Residual Overall Assessment	Remote		Major (II)	16		
Current Risk Score				24		

# TTC Risk Summary & Listing

## Employee Impairment Leading to a Catastrophic Event

impairment from the use of medication. All employees who require treatment are provided support to get into a suitable program, and subsequently are required to participate in the post-treatment monitoring program after they are cleared to return to work.

All operators (bus, streetcar, Wheel-Trans and subway) report to a supervisor or wicket clerk prior to starting their shifts. Route Supervisors are able to visually observe operators at various points along a route. Any operators who are observed to be under the influence are removed from duty and asked to submit to testing as part of a complete investigation. The requirement to report for work fit for duty is well communicated through a FFD Communications Campaign which involves both continuous information for existing employees as well as information in an orientation package for new employees. Materials include several handbooks, policy and procedures as well as onsite posted communications. TTC contractors are not subject to the FFD policy. The feasibility of post-incident and reasonable cause testing for contractors is currently being explored. If an accident were to occur causing multiple catastrophic injuries or fatalities, the potential financial impact may be mitigated by the TTC's liability insurance policy which covers insured losses excess of a \$5 million retention. With respect to reputational impact, the TTC can confidently communicate its position as a leader in the field of alcohol and drug testing programs and point to a significant reduction in the rate of impairment since the implementation of random testing. By having in place a FFD program that goes above and beyond minimum standards, the TTC can reduce the impact to its reputation.

### AREAS ASSESSED

Bus & Wheel Trans Operators Impaired While on Duty  
Maintenance Employee (heavy equipment operation) Impaired While on Duty  
Contract Employee Impaired on Duty  
Streetcar Operator Impaired While on Duty  
Subway Revenue Vehicle Operator Impaired While on Duty  
Designated Employee With Substance Abuse Problem  
Wheel-Trans Contractors Impaired While on Duty  
Workcar Operator Impaired While on Duty



# Risk of Employee Impairment & Mitigation Strategies

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May 29, 2018



# | Background

The TTC has identified the risk associated with alcohol and drug use affecting its employees' ability to work safely.

Alcohol and drug use can lead to a number of serious and costly consequences for the TTC.

The TTC has had serious incidents and near misses where drug and alcohol use was a factor.

The TTC's response to this risk can reduce fatalities, serious harm/injury, decrease future asset damage, reduce financial loss, boost employee morale, decrease reputational harm, and increase customer confidence.



# Risk Mitigation Strategy

The primary risk reduction comes through the TTC's Fitness for Duty (FFD) Policy which came into effect in 2010.

Other controls include:

1. Communications strategies to employees;
2. Continuous training for supervisory staff;
3. Customer Identification;
4. Work place peer and manager identification; and
5. Discipline, assistance, restrictions & monitoring:
  - 1) Last Chance Agreements
  - 2) Operational restrictions
  - 3) Post-treatment testing
  - 4) Discipline
  - 5) Mandated Employee and Family Assistance Program (EFAP)





# Risk Mitigation: The Fitness for Duty Policy

The Fitness for Duty Policy is the strongest control in place. It allows for:

- Pre-employment drug testing to screen out high risk applicants;
- Testing measures through post-incident and reasonable cause testing; and
- A strong deterring effect through random drug and alcohol testing.



# Risk Mitigation: The Fitness for Duty Policy Continued

- 254 high risk candidates have been identified through pre-employment drug screening;
- 14 confirmed incidents where alcohol or drugs were a contributing factor to a serious incident or near miss;
- 27 individuals have been identified through reasonable cause testing as unfit for duty; and
- 40 individuals have been identified through random testing as unfit for duty.



# Risk Mitigation: The Fitness for Duty Policy Continued

Random testing as a control:

- Tests designated employees at a rate of 20% annually;
- The TTC has seen a reduction of random testing non-compliance from 3.3% to 1.8% over the eleven months of the program;
- The London Underground experienced a decrease in their non-compliance over time, decreasing from 3.42% to 1.18%; and
- From 1996 to 2015, DriverCheck Inc. reports a 75% decrease in positives test results for their clients who have DOT regulated testing programs.



# Risk Mitigation: Communication Strategies

Since the implementation of the TTC's Fitness for Duty Program in 2010, the TTC has continually communicated with employees by providing them with information, key dates, reminding them of expectations, and informing them of the avenues for getting assistance if they think that they may have a substance use disorder.

- The recent amnesty period for employees to disclose any impairing substances that could potentially affect their fitness for duty;
- Information on random testing implementation; and
- FFD Information being sent to all employees' homes.



# Risk Mitigation: Communication Strategies

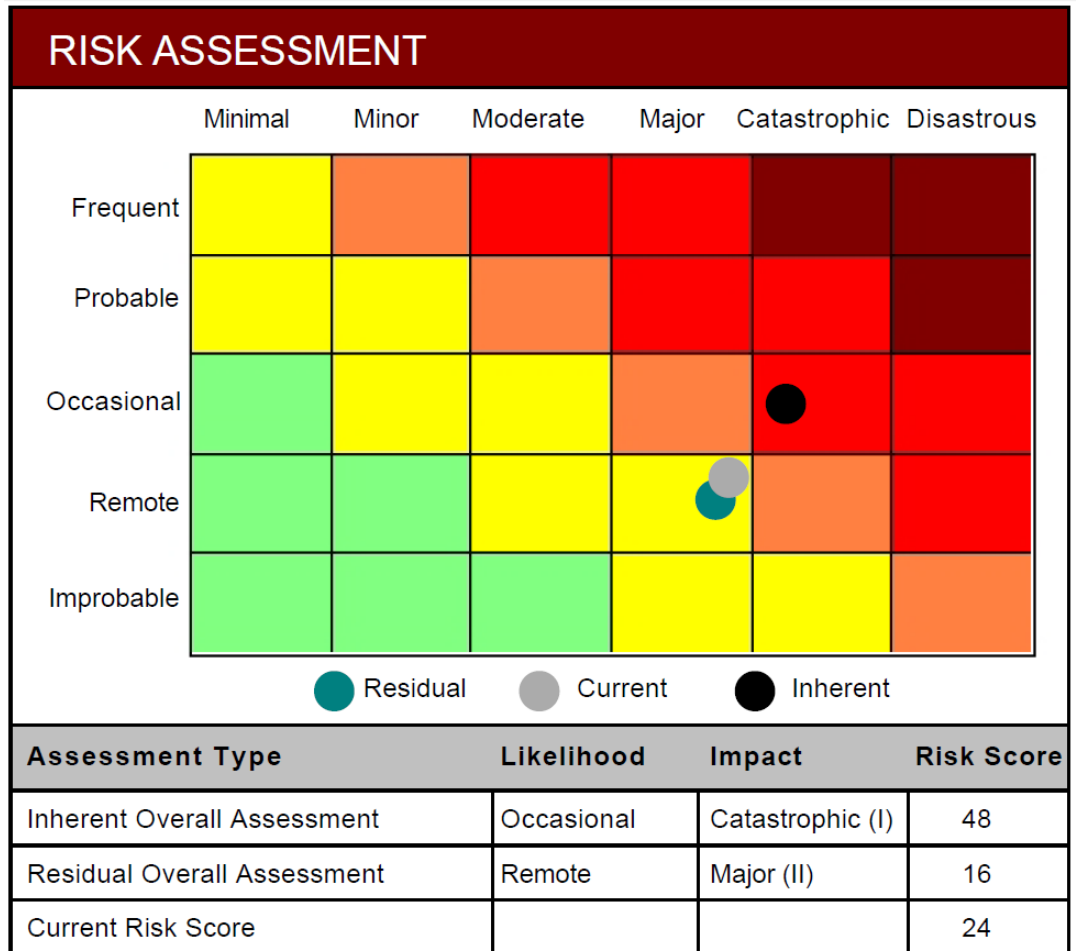
## Amnesty Period

The three week amnesty period communications plan proved to be very successful.

- Occupational health received over 300 calls, 50% required follow up on concerns with medication;
- Two employees were referred to a Substance Abuse Professional (“SAP”) for assessment; and
- Since the union’s injunction was not granted, there have been 26 voluntary SAP referrals.



# Risk Assessment



# Risk Mitigation: Contractors

The TTC currently has expectations for the appropriate contractors to report and remain fit for duty while performing work for the TTC.

The expectations outline for contractors the investigation process into significant incidents, their responsibilities, and the consequences of violation. Consequences can be permanent removal from performing TTC work.

The TTC does not currently test contractors.

# | As Low As Reasonably Practicable

In the absence of legislated testing in Canada, the TTC has implemented random drug and alcohol testing as part of its comprehensive safety program to reduce the risk of a catastrophic incident caused by employee use of drugs or alcohol.

The TTC's decision to implement random drug and alcohol testing was supported by a ruling at the Ontario Superior Court in the spring of 2017. While the ruling was based on an application for injunctive relief, findings of material fact were made and the TTC could proceed with random testing.

Random testing is a best practice, and often a legislated requirement, for other major transit agencies around the world, such as in England, USA, and Australia.



## Next Steps & Conclusion

The TTC takes the safety of its workers and the public very seriously and has taken many steps to ensure that the risk associated with drug and alcohol usage is minimized.

The TTC is taking further steps to minimize risk by exploring post-incident and reasonable cause testing for contractors.

The next step is to meet with various department heads to study the implications, and logistics of implementation.



May 23, 2018