



# STAFF REPORT ACTION REQUIRED with Confidential Attachment

## Random Drug and Alcohol Testing Implementation

<b>Date:</b>	November 30, 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 or potential litigation, including matters before administrative tribunals, affecting the municipality or local board.</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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In March 2016, the Board agreed, in principle, to implement random drug and alcohol testing, on condition that Staff report back on implementation, program design and funding. This report is an update on the proposed implementation, program design and funding.

## Recommendations

It is recommended that the Board:

1. Approve the recommendations as set out in the Confidential Attachment;
2. Authorize the release of the information in the Confidential Attachment that is subject to labour-relations confidentiality upon staff communicating to the various TTC unions the program design; and
3. Not release the information as set out in the Confidential Attachment that is subject to solicitor-client privilege as that information remains privileged.

## **Financial Impact**

The approximate cost of program implementation is \$ 1.3 million annually. This amount has been included in the 2017 operating budget. There will be ongoing annual costs that will be in this range and that will likely grow marginally if the program prompts more employees to seek assistance with drug and/or alcohol abuse issues.

The Chief Financial & Administration Officer has reviewed this report and agrees with the financial impact information.

## **Decision History**

In 2008, the Board approved the introduction of post incident, reasonable cause, and certification new hire testing.

The Board in 2011 approved the introduction of random testing.

[https://www.ttc.ca/About\\_the\\_TTC/Commission\\_reports\\_and\\_information/Commission\\_meetings/2011/November\\_23\\_2011/Minutes/index.jsp](https://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2011/November_23_2011/Minutes/index.jsp)

In 2015 the TTC provided the Board an update including the TTC's experience in relation to existing caselaw.

In March 2016, the Board approved the implementation of random testing subject to certain details being reported on in advance of program implementation.

[https://www.ttc.ca/About\\_the\\_TTC/Commission\\_reports\\_and\\_information/Commission\\_meetings/2016/April\\_27/Minutes/index.jsp](https://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2016/April_27/Minutes/index.jsp)

## **Background**

In February 2010 certification alcohol and drug 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 after treatment received following either a voluntary disclosure of a substance abuse problem, or a violation of the Fit For Duty ("FFD") Policy that did not result in termination (for example, the employee is a first - time offender suffering from a confirmed disability), 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.

## **Accessibility/Equity Matters**

There are potential accessibility and equity matters relating to this report. More specifically, the introduction of random drug and alcohol testing directly impact persons suffering from alcohol or drug substance use disorders. The implementation of random drug and alcohol testing would hopefully incentivize such persons to come forward to get help. TTC has in place extensive support mechanisms available to individuals who are suffering or suspect they may be suffering from such disorders. Should such individuals decide not to come forward and get help, but later be found to be impaired at work due to a random test, then there could be employment ramifications for them, depending on the circumstances. The TTC has a duty to accommodate persons with a disability to the point of undue hardship, and the implementation of this program will not, in the TTC's view, negatively impact or in any way expunge the TTC of its obligations.

## **Contact**

Gemma Piemontese, Chief People Officer  
Brian Leck, Head – Legal Department & General Counsel  
Megan MacRae, Director Employee Relations

## **Attachment**

Attachment 1 - Confidential Attachment