

Random drug and alcohol testing at the TTC

Employee guide

May 2017



Employee guide

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Random drug and alcohol testing

Purpose of random testing:

Random testing is a new component of the TTC's existing Fitness for Duty policy that has been in place since 2010. This policy outlines the expectation that we report for work, and remain fit for duty.

Random drug and alcohol testing is an important part of the TTC's comprehensive commitment to ensuring the safety of our employees, our customers and all road users.

The TTC cares about your health, as well as your safety. Anyone who believes they have a drug or alcohol use disorder is encouraged to seek assistance through Occupational Health, EFAP or their personal physician. If you have any questions, please ask your manager or supervisor, or turn to page 26 of this guide for a list of resources.

The main objectives of this program are:

- to encourage those who require support with a substance use disorder to seek assistance
- to deter employees from attending work while they are in an unfit state to do so
- to remove those from the workplace who come to work while unfit for duty.

Random drug and alcohol testing is common practice for transit systems around the world to protect employees and the public.

Random testing program details

Why do random testing?

The TTC is implementing random drug and alcohol testing as part of its comprehensive commitment to safety. Moving to this level of testing is also in response to an increased concern about the impacts of drugs and alcohol on the workplace.

Who does random testing apply to?

Random testing applies to all employees who have been deemed to be in a designated position (safety sensitive, specified management and designated executive).

All employees are required to report to work fit for duty regardless of whether or not you are eligible for testing. All employees are subject to the TTC policies regarding workplace conduct and collective agreement where applicable.

Who determines employee selection for random testing?

Employees will be selected for testing at random by a computer program that is run by the TTC's third party Fitness for Duty provider, DriverCheck Inc. The TTC has no input into who is selected for testing. Each week, the randomly selected list of employees will be provided to the TTC's FFD Group within the Human Resources department.

What are the designations?

The FFD policy defines safety sensitive positions as those that play a direct role in a job function where performance could be impacted by drug and alcohol use. This means anything from causing a significant incident to a failure to adequately respond to an incident, affecting the health, safety or security of employees, the public, property or the environment. All employees, including managers and supervisors, who may be required to perform safety sensitive duties – even temporarily – are included in this category.

Specified management positions are ones considered to be risk-sensitive because that person has significant involvement in decisions or actions that directly affect safe operations. This includes all individuals who directly supervise individuals who hold a safety sensitive position.

Designated executive positions are held by senior management, including, but not limited to department heads and above.

How are positions designated?

The designation process typically takes place when a job description is updated. The updated job description and position assessment form that has been filled out by the department is provided to the FFD Group for review and consideration. The FFD Group then provides a designation recommendation and justification to the Safety Department. A designation will be agreed upon between the FFD Group and the Safety Department and written confirmation will be sent to compensation.

Who is responsible for managing the program?

Human Resources administers the Fitness for Duty policy. Specifically, the Program Lead and the Program Assistant, or their designate, are responsible for consistent administration of the policy and will:

- resolve any questions of interpretation
- co-ordinate development and delivery of employee education and supervisor training programs
- schedule and co-ordinate all forms of testing, including the random program.

How do I know if I am in a designated position?

The management at your work location has information about your position and its designation.

The Fitness for Duty website has a list of all designated positions at the TTC.

Additional questions about position designations can be directed to the Program Lead - Fitness for Duty at 416-206-3169 or the Program Assistant – Fitness for Duty at 416-397-8896.

How will I be notified if I'm selected for a random test?

Each employee will be notified by a member of their management team that they have been selected for a random drug and alcohol test.

Where will random tests take place?

The vast majority of random drug and alcohol tests will be administered at the work location of the selected employee. In some instances, employees may be required to travel to another TTC location or travel to clinics located around the city to have their random test administered. This will be factored into the employee's regular shift and they will be paid for this time.

How does the actual random **alcohol** test work?

Employees who are selected to undergo an alcohol test will be expected to provide a breath sample for analysis in an Evidential Breath Testing Device or breathalyzer. Samples will always be collected by a certified breath alcohol technician. The employee will immediately receive a printed copy of the result. The results will also be provided to the Medical Review Officer at DriverCheck to report compliance or non-compliance to the Fitness for Duty Program Lead.

How will the random **drug** test be administered?

Random drug testing is conducted using a non-invasive oral fluid test. It is the same technology and process currently used for the post-incident and reasonable cause testing at the TTC. Participants will be required to place an oral fluid collection pad in their mouth between their lower gums and cheek.

What happens to these tests?

'Chain of custody' is the process and documentation that exists to protect the integrity of your sample when it is collected, transported, analyzed and reported. Chain of custody starts when you provide your oral fluid sample collection; each oral fluid sample is assigned a specimen ID. After collection, both the collector and the employee confirm that the specimen ID matches the forms and the seals that are affixed to the sample vial. A copy of the chain of custody form is sent with the sample to the laboratory. It is documented on this form every time the sample changes location and records who handled the sample.

Confidentiality is maintained throughout the process and the lab never knows the tested individual's name, only the specimen ID and their initials on the vial seals.

What happens after my random drug and alcohol test?

Random testing does not assume that the employee is impaired. If impairment is suspected during the testing process, then reasonable cause procedures are enacted. Provided there is no reasonable cause, employees who are fully compliant with the breath alcohol test and who provide an oral fluid sample for drug testing will be returned to the workplace immediately.

Employee Requirements and Expectations

All employees have the responsibility to be fit for duty during their shift and while on TTC business, premises and worksites, whether they're in a safety sensitive position or not.

The policy also applies when an employee is wearing an issued uniform or identifiable clothing in public, regardless of whether they are on or off duty.

All individuals on scheduled stand-by are expected to abide by the above standards and report fit for duty for any and all required work.

Behaviour not allowed under the policy includes:

- anyone being unfit for work because of extreme fatigue, or due to the use or after-effects of alcohol from any source, illicit drugs and medications the use, possession, distribution, offering or sale of alcohol, illicit drugs or illicit drug paraphernalia
- the illegal possession, distribution, offering or sale of medications and their intentional misuse
- consuming any product containing alcohol during the work day, including during meals and other breaks, and
- reporting for or remaining on duty under the influence and/or following a positive alcohol or illicit drug test result at or above the cut-off levels established in the policy.

Employees who are under the influence or behave inappropriately due to the consumption of alcohol or drugs, including medications, can threaten their own personal safety and that of their co-workers and the public.

Responsibilities of employees:

- To report fit for duty and remain fit for duty throughout the work day or shift
- To inform your supervisor if you believe you are unfit for any reason
- To seek advice and follow treatment for any issue that may affect Fitness for Duty
- To report prescription medication.
- To seek advice and follow appropriate treatment for a current or emerging alcohol or drug problem, and follow recommended monitoring programs after attending treatment
- To co-operate with any work modification related to safety concerns and
- To co-operate with any investigations into potential violations of the policy, including any requests to participate in the testing program.

Responsibilities of supervisors

Under the FFD policy, supervisor refers to the non-unionized individual accountable for a particular area or shift who are directly responsible for the performance of employees. In addition to their ongoing performance management responsibilities, supervisors are expected to:

- notify employees when and where they have a random test
- ensure that appropriate space is made available for testing at the work location
- take any employee questions about testing
- in the case of a refusal, advise employees of the consequences
- guide employees who seek assistance for a personal problem to appropriate resources like EFAP or Occupational Health while maintaining confidentiality under the circumstances
- require an employee to meet with Occupational Health if, in the course of a performance management meeting, an employee says they have an alcohol or drug problem
- act when an employee discloses their prescription medication use
- take immediate steps to investigate any possible violation of the Fitness for Duty policy.

Managers can contact the Employee Relations team for advice on the determination and administration of any disciplinary action resulting from a policy violation.

Can I drink at events where alcohol is being served, such as conferences, workshops and other off-site work functions?

Under the TTC's Fitness for Duty policy, consuming alcohol or drugs during work hours and the time leading up to working hours (where the negative effects would still be experienced in work hours) is strictly prohibited.

Section 2.1 of the policy outlines that all employees must be fit for duty/work, which means mentally and physically fit to perform their assigned tasks while on duty. Being fit for work includes being free from the negative effects of drugs and alcohol.

Section 3.10 of the policy outlines for employees what is meant by the term on duty. On duty includes time spent at a work session or a conference, and lunch and break times.

There are no situations where consuming alcohol while on duty is acceptable. Employees who are on duty and at a function where alcohol is being served must not consume the alcohol. They must wait until after a function is over, and after their work time is done.

Employees may consume alcohol after the workday, for example, when on travel status, at a training event or seminar, or in any other similar business-related situation provided that the formal business is completed, they are not on TTC property, they are not wearing official TTC-issued uniform or clothing, they use alcohol responsibly, and they are not returning to work that day.

Drug and alcohol testing general details

What is defined as a drug under the policy?

The policy defines a drug as being any substance, including, but not limited to, alcohol, illicit drugs or medications that have the potential to change or adversely affect the way a person thinks, feels or acts. Drugs of concern are those that inhibit someone's ability to perform their job safely and productively. For example,

- Alcohol refers to beer, wine and distilled spirits, and includes the alcohol found in medicines or other products
- Illicit drug means any drug or substance that is not legally obtainable and whose use, sale, possession, purchase or transfer is restricted or prohibited by law
- Medication refers to a drug obtained legally, either over-the-counter or through a doctor's prescription designed to remedy, control or prevent illness.

What drugs is testing done for?

The random testing program will test for the same classes of drugs that the TTC currently tests for in post-incident and reasonable cause, including:

- Alcohol
- Marijuana/cannabis
- Cocaine
- Amphetamines/methamphetamine
- Opiates (indicating use of heroin or illegal use of opiate products)
- Phencyclidine (PCP)
- Oxycodone

If the TTC concludes that there is justification to include additional drugs in this list, employees will be advised of the change.

What are the random alcohol test cut-off levels?

The random testing cut off levels are the same levels that are used for post-incident, reasonable cause and certification testing.

Alcohol readings between 0.02 – 0.039 are considered to be a policy violation at the TTC and are subject to progressive discipline.

Alcohol readings of 0.04 and over are considered to be non-compliant and are subject to discipline up to and including dismissal.

How were the random drug test cut-off levels determined?

The TTC drug cut off levels were determined by experts. The levels only determine recent usage and therefore likely impairment. Essentially, these cut-off levels are low enough to confirm recent use of the drug, but high enough to eliminate side issues like consumption of poppy seeds or normal use of a codeine-containing product in the opiate category, or recent second-hand marijuana smoke.

To be clear, the TTC is not interested in your recreational use of drugs, provided it does not affect your work performance, i.e. You are fit for duty when at work in accordance with the TTC's established cut off levels.

What is the role of the Medical Review Officer (MRO)?

The MRO is a licensed physician who receives laboratory results of the drug test in question. The MRO uses medical training, and MRO specific training, to determine if there has been a policy violation or if the result should be reported as negative or safety sensitive flag to the Program Lead or designate.

In order to make this decision, the MRO, upon receiving any positive result from the lab, will make efforts to contact the employee and discuss any medical reasons for the result before reporting the result to the FFD Group.

How do I know that the alcohol test results is accurate?

- When there is an alcohol test reading over 0.02 we always do a second reading to confirm and that the second confirmation test is used as the official result.
- Before a test is conducted, employees are shown the machine is calibrated to 0.00 readings
- The test is administered by trained/qualified collectors
- An experienced MRO reviews and confirms all positive alcohol results.

How do I know that my drug result is accurate?

The TTC assures the accuracy of the testing process by using:

- trained/qualified collectors
- chain of custody, the comprehensive documentation process that follows the sample and documents who and what equipment come in contact, and
- an experienced MRO reviews and confirms all drug positive and safety sensitive flag results.

In addition to all of these protections, the laboratory that processes TTC samples is held to the highest standards set out in the US Department of Transportation drug and alcohol testing standards. Part of this high standard is the lab being “blind sampled.” This means that the lab itself is randomly tested for accuracy. This ensures the high level of accuracy for all TTC sample analysis.

Can employees go to their own doctor if they are required to be tested?

No. The system in place for employee testing has considerable checks, balances and necessary accreditations to ensure the integrity of the process and accuracy of results. These checks and balances are put in place to protect employees and the integrity of the TTC's testing program.

Medications

What if I need to take a medication?

If you take prescription medications, you are responsible for checking with the prescribing doctor or pharmacist to learn of any possible side effects that might affect your safety or the safety of those around you. It is important that whomever you consult with understand the work that you do so that you can receive proper advice. You are expected to report the use of any medication that may negatively affect your performance or fitness for duty to Occupational Health. You are also expected to advise Occupational Health or your supervisor of any need for modified duties associated with medication use.

If you are taking over-the-counter medication, it is your responsibility to use the drugs responsibly and use a safe alternative (e.g. non-drowsy) if available.

Do I have to tell my supervisor what medication I am taking?

No. You do not have to tell them the specific medication you are taking, or the underlying medical condition that you need the medication for. However, you are required to notify your supervisor of any accommodation that may result from the use of that medication. Once you have notified your supervisor, they may ask you to meet with Occupational Health.

My doctor has told me that it is okay for me to do safety sensitive work while on my medication. Do I still need to tell the TTC's Occupational Health Department?

Yes. It is important to have this information in your confidential medical file at the TTC for random testing purposes. If a result comes back from the Medical Review Officer with a safety sensitive flag, it is important that the TTC can verify your prescription. You are expected to report the use of any medication that may negatively affect performance or fitness for duty to Occupational Health.

Support through the fitness for duty program

How will the TTC help employees under the Fitness for Duty policy?

At the TTC we are committed to promoting a safe and healthy working environment. Early identification of substance use issues are a priority for us, as well as ensuring employees have access to confidential assessment, counselling, treatment and aftercare services if required. The TTC will continue to provide access to the Employee and Family Assistance Program, which is available on a confidential basis to all employees and their dependent family members. Employees can contact the EFAP at any time for assistance with any personal problem, not just alcohol or drug issues. See page 26.

How does the EFAP work?

EFAP is a confidential service available to employees and their dependent family members 7 days a week, 24 hours a day. All calls are confidential. You will be asked for some basic information, and then a counsellor will contact you to arrange an appointment at a mutually convenient time and location. If you need help right away, counsellors are available to provide immediate assistance.

What assistance is available to me if I have a substance use disorder?

Any employee who believes that they may have a substance use disorder should contact Occupational Health and book a meeting prior to their work being affected. Reporting to work negatively impacted by drugs and/or alcohol is considered a policy violation and is subject to discipline up to and including dismissal.

Where appropriate, employees who come forward voluntarily to Occupational Health for assistance with an alcohol or drug problem will meet with a substance abuse professional. The employee will be supported through any required treatment and the aftercare program with available benefits.

What should I do if I think I have an alcohol or drug issue?

Seek help immediately. Employees are expected to seek assistance before reporting to work under the influence.

The TTC recognizes that alcohol and drug substance use disorders are treatable illnesses and that early intervention greatly improves the chances of lasting recovery. Individuals who suspect they have a substance use disorder or emerging alcohol and drug problem are expected to seek help through the TTC's Occupational Health Department, EFAP, their personal physician, or community services and to follow appropriate treatment.

The request for assistance can be made through the internal EFAP counsellor or Occupational Health. Confidentiality is maintained. If there is a risk that you are harming yourself or others, then the TTC is obliged to take appropriate action.

You will not be exempt from alcohol and drug testing or discipline policy by making a request for assistance or by disclosure that you are already involved in a treatment program. Employees should also understand that accessing assistance or declaring a substance use disorder does not mean that you do not have to comply with the FFD policy.

When would a Substance Abuse Professional (SAP) assessment be required?

A referral for an assessment by a substance abuse professional may be triggered through a performance management meeting if an employee suggests they may have an alcohol or drug use disorder. A referral may also be triggered in a post-violation situation to determine whether the person's employment will continue.

This is not an assistance or counseling function. The substance abuse professional is contracted independently to:

- provide a comprehensive face-to-face assessment and clinical evaluation to determine what level of assistance the employee needs in resolving problems associated with alcohol or drug use
- recommend a course of education and/or treatment where the employee must demonstrate successful compliance prior to returning to work
- confirm if the employee has demonstrated successful compliance with recommendations
- develop a follow-up testing program, and
- provide the employee and employer with recommendations for aftercare – continuing education and/or treatment needed after return to work.

Refusals to test and the policy

Consequences of a violation:

While education and assistance are the preferred responses when an employee is deemed unfit for duty, the TTC reserves the right to take all appropriate disciplinary action, up to and including dismissal, if an employee violates the terms of the Fitness for Duty policy.

What constitutes refusal to submit to an alcohol test?

A refusal includes: refusal to be tested, failure to co-operate with the collection process, failure to remain readily available for testing, or refusal to agree to disclose the result to the FFD Group.

A refusal would also occur if the employee alleges there is a medical reason for not being able to provide an adequate sample, but is later unable to verify this through medical documentation.

A refusal to test includes failure to co-operate with the collection process, failure to remain readily available for testing, a confirmed attempt to tamper with a sample, and refusal to agree to disclose the test result to the program administrator or designate.

Is a positive result grounds for discipline?

A positive test result is a violation of the policy and grounds for disciplinary action up to and including dismissal. In all situations there will be an investigation to verify that a violation has occurred before disciplinary action is taken. The severity of the consequences depends on the nature of the circumstances. You may be referred to a substance abuse professional for an assessment.

The TTC's discipline process always considers the individual facts of each case.

Are there any circumstances when a negative result would result in discipline?

In some cases, negative results can result in discipline, such as when an alcohol result is between 0.02 and 0.04, or when it becomes known that an employee has been taking impairing medication in the workplace and has not reported it to Occupational Health.

Contact for further Information

Any questions about the Fitness for Duty policy should be directed to the Program Lead – Fitness for Duty, Human Resources at 416-206-3169, The FFD Program Assistant at 416-397-8896 or the Employee Relations Section, Human Resources, at 416-393-4362.

If you require assistance with a personal problem contact EFAP 7 days a week, 24 hours a day by telephone at 1-800-572-0039.