## Human Resources

### Substance Use Procedure

| **PURPOSE** | The City of Hamilton (“the City”) has adopted this Procedure to specify the operational steps to implement the *Substance Use Policy*. |
| **SCOPE** | This procedure applies to all employees while at a City workplace or while conducting city business (whether at a city workplace or elsewhere). All City Contractors are expected either to adopt this Procedure as their own or to develop and enforce their own Substance Use Procedure as it relates to their and their subcontractors’ employees (if any) when engaged in work on behalf of the City or while at any City Workplace. For Employees in safety-sensitive positions, the “*Substance Use for Safety Sensitive Positions Procedure*” shall also apply. |
| **STEPS** | **IDENTIFYING IMPAIRED BEHAVIOUR** Impairment may negatively impact employee performance and compromise an Employee’s health and safety. Examples of behaviour that would give rise to reasonable cause to believe that an Employee is Impaired/Unfit for Duty and may be unable to perform their job safely, competently and efficiently include, but are not limited to: |
| | • slurred speech; |
| | • glassy eyes; |
| | • flushed face or neck; |
| | • disorientation, unsteadiness, or lack of coordination; |
| | • smell of alcohol or drugs (on breath, or clothing, or in the air surrounding the employee); |
| | • uncharacteristic or abnormal behaviour (e.g. euphoria, frequent or rapid mood swings, excitement, confusion, irritability, aggressiveness, remoteness); |
| | • diminished performance (e.g. sporadic work pace, neglect of duty, increase in mistakes, difficulty communicating or recalling instructions); |
| | • memory problems. |
Warning signs of possible Substance Use Disorder include, but are not limited to:

- frequent lateness or absences;
- dishevelled or inconsistent appearance (e.g. always wearing long sleeves on very hot days, possibly intended to cover track marks on the arms);
- financial problems;
- unexplained weight changes;
- unexplained tremors;
- frequent but unspecified medical complaints;
- diminished motor coordination, perceptual abilities, or physical or mental capacity;
- increase in accidents or near accidents;
- blackouts (alcohol-induced amnesia);
- an increase in risk-taking behaviour.

**IF IT IS SUSPECTED THAT AN EMPLOYEE IS IMPAIRED/UNFIT FOR DUTY**

Employees must advise their supervisor if they reasonably believe that another employee has a substance use disorder or that another employee is or has been impaired while at work, while conducting City business (whether at a City Workplace or elsewhere).

Supervisors and managers are required to exercise good judgement and to seek the advice of Human Resources when required since each situation will be different. For unionized positions, consult with a Labour Relations Officer; for non-union positions, consult with the Director of Employee and Labour Relations.

The steps to be taken if you suspect that an employee is impaired/unfit for duty will depend on the behaviour giving rise to reasonable cause to believe that an employee is impaired/unfit for duty and may be unable to perform their job safely, competently and efficiently. For example, if the employee has been involved in an accident and the police have been called, you may wish to defer speaking to the employee until the police are on the scene.

If you suspect that an employee is impaired or unfit for duty:

(a) Call 911 if the employee is in need of immediate medical care
(b) If there is reasonable cause to believe that an employee is impaired and unfit for duty, the employee **must** be immediately removed from the workplace.

(c) Remove the employee to a private and safe location and seek his or her explanation for the behaviours or circumstances that gave rise to your belief that he or she is impaired/unfit for duty. Ask the employee if he or she has consumed alcohol or cannabis, has taken drugs, or is on any medication.

(d) A second supervisor or manager’s opinion and observation of the employees behaviour that gave rise to the belief that the employee is impaired/unfit for duty should, where possible, be sought. Notwithstanding the desirability of obtaining a second opinion, do not wait to take action if a witness is not readily available.

(e) Document the date, time, and location of the incident, the employee’s behaviour, the circumstances surrounding that behaviour, the basis for your belief that the employee is impaired/unfit for duty and the employee’s responses to your questions and/or explanation for his or her behaviour.

(f) Where after questioning you continue to believe that the employee is impaired/unfit for duty, suspend the employee from duty until follow-up action is initiated. This includes providing the employee with safe transportation home or, if the condition is more severe, to an appropriate medical facility.

**Under no circumstances should the employee be permitted to drive any vehicle or to leave the workplace without assistance.**

- In the event that the employee leaves the workplace, any supervisor, manager or any other employee present is responsible for taking all reasonable steps, in the circumstances, to discourage the employee from operating a vehicle and to obtain the employee’s co-operation.

- If the employee refuses the offer of safe transportation, and leaves the workplace without co-operating, the supervisor, manager or any other employee present shall record the licence plate number, colour, make and model of the vehicle being operated by the employee and report this information immediately to the police along with their reasons for believing that the employee is impaired.
(g) The supervisor or manager is expected to follow up with the employee prior to or on their next scheduled work day to arrange a formal interview. If the employee is in a unionized position, the supervisor or manager shall ensure that a union representative is available to be present at that formal interview. Depending on the nature of the incident, consultation with a labour relations officer prior to conducting the formal interview may be necessary with the employee. For non-union employees, consultation with the director of employee and labour relations may be necessary.

(h) The supervisor or manager shall question the employee about the employee’s behaviour and the circumstances of the incident that led to the employee being removed from the workplace. The supervisor or manager should attempt to determine whether the incident was an isolated instance of the employee reporting to work impaired/unfit for duty or if this is a regular, repeat, habitual and ongoing occurrence. In this case, the employee should be encouraged to self-disclose any conditions or concerns including substance use or substance use disorder. The employee should be asked if there are other problems that may have caused the behaviour. Suggest that the employee access the employee and family assistance program (EFAP), if appropriate. Document the employee’s responses to all questions.

(i) If as a result of the interview you no longer believe that the employee was impaired/unfit for duty, but the employee has identified that they are experiencing other problems, discuss the appropriate support for the employee including but not limited to the EFAP; or

(i) If as a result of the interview you continue to believe that the employee was impaired/unfit for work or where the employee has confirmed that they were impaired and the instance is one that appears to be an isolated incident and the employee states that he/she isn’t experiencing other problems, the employee must be advised that disciplinary consequences will have to be determined which will be communicated to the employee at a future meeting. Repeat step (e) above. Consider whether or not step (f) above remains warranted.

(ii) If during the interview the employee discloses that he/she has a substance use disorder, indicate that they are being removed from their position pending a decision on next steps to assist the employee. In the interim, suggest that the employee immediately contact the EFAP and/or consult with return to
work services with respect to the appropriate follow-up steps.

(iii) If there is a need for further investigation, tell the employee that they are being placed on a non-disciplinary suspension/leave with pay pending completion of the investigation.

(j) After the interview, prepare a written, confidential report for the department’s general manager or designate setting out:

(i) The facts, behaviour, and circumstances that gave rise to the incident and your reasonable belief that the employee was impaired;
(ii) Any written statements from witnesses to the incident and their recollection of the behaviour and circumstances;
(iii) The employee’s responses when asked about the incident, their behaviour and the circumstances giving rise to the incident;
(iv) The degree and nature of potential or actual danger, harm or risk posed or damages incurred during the incident as a result of the employee’s behaviour;
(v) The results of the interview process, including the employee’s responses and any information or suggestions provided to the employee;
(vi) The employee’s length of service, attendance record and disciplinary record, if any;
(vii) Any other appropriate information about the incident; and
(viii) Recommendations for further action.
(ix) A copy of the report shall be forwarded to human resources to be kept in the employee’s file.

### STEPS TO TAKE AFTER THE INITIAL INTERVIEW

The steps that you will take after the initial interview with the Employee will depend on the nature of the incident and the Employee’s responses during the initial interview. Given the serious nature of a violation of the Substance Use Policy, it is critical to take consistent action across the City. Notwithstanding, the steps to be taken will depend on the individual facts and circumstances giving rise to that violation. It is important to ensure that the City meets its obligations under both the *Ontario Human Rights Code* and the *Occupational Health and Safety Act*.

After the Initial Interview, a Supervisor will:

(a) Consult with a Labour Relations Officer prior to taking any further
action after the initial formal interview is necessary to ensure that consistency is maintained across the City and that the City meets its legal obligations. For non-union employees, consult with the Director of Employee and Labour Relations.

(b) Provide the Labour Relations Officer or Director of Employee and Labour Relations with your written report and recommendations.

(c) Seek advice from the Labour Relations Officer or Director of Employee and Labour Relations based on the individual facts and circumstances involved in the incident.

(i) If the employee is experiencing temporary side effects from the use of medication, determine if the duties of the position can be modified on a temporary basis and whether this is reasonable in the circumstances. If the position cannot be modified, determine if there is another position available for the employee. Seek the assistance of Return to Work Services if necessary.

(ii) If the incident is an isolated one (i.e. the employee has not disclosed a substance use disorder,) determine the appropriate disciplinary consequences in consultation with the Labour Relations Officer or Director of Employee and Labour Relations. Proceed with a discipline meeting as you would with any other policy violation.

(iii) If the Employee disclosed during the formal interview, about the incident that he or she has a substance use disorder, consult with Return to Work Services with respect to the appropriate follow up steps.

EMPLOYEE ACCESS TO TREATMENT AND WORK ACCOMMODATION

If the Employee has indicated that they have a substance use disorder, they should be referred to Return to Work Services to discuss the options for assessment, treatment and rehabilitation. The treatment options will depend on the individual circumstances of the employee. Options for work accommodation will also be canvassed as per the Work Accommodation Policy.

RETURN TO WORK

(a) An employee is not to be returned to their position (without accommodation) until the City has received confirmation of their
successful completion of a treatment program and information with respect to rehabilitative prognosis. The employee must receive a “return to work clearance” from a substance abuse professional in a form and manner that is satisfactory to the City.

(b) Prior to returning to his/her position, the employee must enter into a “Rehabilitation Agreement” incorporating the substance abuse professional’s recommendations for continuing rehabilitation and follow-up programs.

(c) If the employee is in a unionized position, the union will be involved in the discussions about a safe and productive return to work for the employee.

(d) Prior to returning to their position, the employee’s supervisor is only advised of the employee’s rehabilitation status, on a “need-to-know basis” as assessed by Return to Work Services. In this instance, information is only provided to the employee’s supervisor to the extent necessary to allow for an appropriate level of support for re-entry by the employee to their position and for monitoring of the employee’s performance in the position on their return to work. The supervisor shall ensure that all information that is shared is kept in the strictest of confidence.

(e) As part of a Return to Work program, the employee shall be required to:

   (i) agree to total and sustained abstinence from any form of substance use; and/or
   (ii) provide evidence to Return to Work Services that rehabilitation actions are ongoing based on the recommendations of the substance use disorder professional’s recommendations; and/or
   (iii) agree to self-disclose if there is a reoccurrence or relapse, whether such reoccurrence or relapse occurs at work or while the employee is off duty; and/or
   (iv) accept that there may be enhanced workplace monitoring of the employee’s performance which would include the identification of any risks to health and safety; and/or
   (v) agree to any other individualized conditions necessary to ensure that the employee’s workplace performance is not impaired or that health and safety is not compromised.

(f) As part of the Return to Work program, the employee will be required to meet the established performance standards of the position to
which he or she is returning. Under no circumstances will the employee be required to meet higher performance or attendance standards than that which is required of any employee that does not have a substance use disorder. There may, however, be a higher level of workplace monitoring of the employee by his or her supervisor.

**RECURRENCE OR RELAPSE**

Despite an employee’s best intentions, the possibility of a recurrence or relapse exists. In such situations, the supervisor must repeat steps 3(a) to 3(i) above.

However, prior to taking any further action including conducting a formal interview with the employee (steps 3(g) and (h) above), the supervisor must consult with Return to Work Services and a Labour Relations Officer (or the Director of Employee and Labour Relations for non-union Employees) in order for a determination to be made as to whether or not further steps by the City would constitute undue hardship to the City. Where such steps would constitute undue hardship to the City, as assessed on a case by case basis considering the specific employee’s history and performance, a decision may be made to terminate the employee.

**SELF-DISCLOSURE WITHOUT A PRECIPITATING INCIDENT**

There may be situations where an employee self-discloses a substance use disorder to someone other than his or her supervisor or manager, such as a co-worker or a human resources staff member.

In such cases, the individual to whom the information was disclosed must take all reasonable steps to ensure that the health and safety of the employee, co-workers, the general public and the community are not at risk, while also safeguarding the employee’s right to privacy and confidentiality.

These steps may include encouraging the employee to self-disclose to his or her supervisor, assisting the employee to access treatment, rehabilitation and follow up programs through a referral to Return to Work Services.

**COMPLIANCE**

No employee with a substance use disorder will be disciplined for requesting help to overcome the problem or because of involvement in a rehabilitation effort.

However, if an employee violates the provisions of this procedure, or as a result of his or her substance use disorder, is unable to satisfactorily meet established standards of safety or work performance, where possible
appropriate action will be taken through the Work Accommodation Policy or where necessary, disciplinary action will be taken.

Disciplinary action may be taken as assessed on a case-by-case basis. Once disciplinary action is initiated, it cannot be avoided by a request at that time for rehabilitation or by a disclosure that an employee is already involved in treatment. the nature of an employee's job, previous instances of reporting for work in an impaired/unfit for work state and whether or not an error or accident has occurred as a result of that impaired/unfit for work state will be considered in the determination of an appropriate disciplinary measure.

**RELATED DOCUMENTS**

The following related documents are referenced in this Procedure:
- Substance Use Policy
- Work Accommodation Policy
- Substance Use for Safety Sensitive Positions Policy
- Substance Use for Safety Sensitive Positions Procedure
- Code of Conduct for Employees Policy
- *Ontario Human Rights Code*
- *Occupational Health and Safety Act*

**HISTORY**

This Procedure was developed by Human Resources and reviewed in consultation with the Corporate Policy Review Group.

This Procedure replaces the Substance Abuse Prevention Procedure dated (4 May 1996)

**APPROVAL**

Human Resources Leadership Team Approved: 2012 -11-13

Updated:
2014-05-16
2018-11-29
APPENDIX I: REPORT OF MEDICATIONS  
(Source: CAMH: Substance Use Policy Development Worksheet)

- Employees are expected to manage potential impairment during working hours due to the use of medications. The following drug categories have been associated with performance impairment and are provided as a guideline. This is not exhaustive; there are numerous other over-the-counter and prescription drugs that may negatively affect performance.

- Employees are expected to consult with their physician or pharmacist to determine if medication use will have any potential negative effect on job performance. They are required to report to their manager/supervisor if there is any potential risk, limitation or restriction for whatever reason that may require short-term modification of duties or temporary reasonable accommodation. Due to privacy considerations, details of the medications or health reason prompting the short-term request do not need to be disclosed to the supervisor/manager. For protracted or cyclical accommodation, then Return to Work Services should be involved.

- Antihistamines - widely prescribed for hayfever and other allergies (e.g. Chlor-Triplon, Dimetane). They are also found in many cold medications.

- Motion Sickness Drugs - are used to prevent motion sickness and nausea (e.g. Gravol, Antivert).

- Barbiturates, Sedatives, Hypnotics, Tranquilizers, Benzodiazepanes, Antidepressants - (e.g. Phenobarbitol, Valium, Halcion, Librium, Elavil, Anafranil, Paxil, Prozac). Some of these ingredients are also found in medications taken for digestive and other disorders.

- Narcotics - (e.g. Demerol, Codeine). Codeine is often found in combination drugs such as 222s or 292s or Tylenol 123s.

- Stimulants - medication used for central nervous system stimulation and for appetite suppression can produce sensations of well being which have an adverse effect on judgement, mood and behavior (e.g. amphetamines or medications sold as "diet pills").

- Anticonvulsants - used to control epileptic seizures and can cause drowsiness in some patients (e.g. Dilantin).

- Analgesics (e.g. Darvon, Indocid).

- Cold Tablets/Cough mixtures - (e.g. Sinutab, Contac, Triaminic, Tussionex and preparations containing dextromethorphan (DM) or codeine).

- Muscle Relaxants - (e.g. Flexeril, Robaxisal).