



## TRANSIT POLICE

### FITNESS FOR DUTY

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## POLICY

The Metro Vancouver Transit Police (“Transit Police”) has established policy to help maintain a safe work environment, free from impairment by Drugs, alcohol or other causes. The Transit Police “Fit For Duty” standard will help to ensure that Employees have the capacity, and are free of impairment that could hinder their ability, to competently and safely perform the duties of their position, and do not pose a safety risk. The Transit Police is committed to helping Employees who are dealing with a Substance Use Disorder.

### Definitions

Premises – Includes but is not limited to any property permanently or temporarily coming under the jurisdiction of the Metro Vancouver Transit Police, including any land, building, facility, parking lot or vehicle, whether owned, leased or used by the Metro Vancouver Transit Police and wherever located. For the purposes of this policy, the worksite of a seconded Sworn Member is considered Metro Vancouver Transit Police Premises.

Authorized – Having an unexpired medical document authorizing the use of Cannabis for medical purposes under the *Access to Cannabis for Medical Purposes Regulations*.<sup>1</sup>

Cannabis – Has the same meaning as defined in the Federal *Cannabis Act*. Cannabis affects the brain by producing a sense of euphoria, as well as impairment in memory, attention and motor response time, thus impairing a person’s ability to perform their job safely and productively. Unlike alcohol or other Drugs, Cannabis can remain in the body for a long time and can have lingering effects on users’ cognitive and motor functioning many hours and even days after use. Its main active ingredient is tetrahydro-cannabinol, or THC. There is a wide range of THC potency among Cannabis products which can be consumed in a myriad of ways, including by smoking, vaping, eating, drinking and by absorbing through the skin. Cannabis can have potentially harmful and addictive effects on its users, as well as expose others in the workplace and the public realm to unsafe and harmful consequences. For the purpose of this policy, any Cannabis product which does not contain THC and is non-impairing in its effect on users is not included.

Continuing Care – A continuation of formal treatment designed to prevent relapse which may include monitoring and unannounced or random drug and alcohol testing in accordance with the recommendations of the treating Specialist.

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<sup>1</sup> [Medical Document Authorizing the use of Cannabis for Medical Purposes under the Access to Cannabis for Medical Purposes Regulations](#).

Drug(s) – Includes but is not limited to any substance which affects a person’s physical or mental capacity or functioning, which causes a marked change in consciousness, or which has a physiological effect when ingested into the body. This includes both legal and illegal forms of such substances, but does not include medications taken pursuant to a valid prescription or Cannabis pursuant to a valid medical authorization when taken in accordance with a physician’s directions.

Impaired or Impairment – A deterioration or diminishment of a person’s physiological ability, functioning, judgment, or condition, including but not limited to being unable to function as that person does under normal or usual conditions, or to function safely.

Fit For Duty – For the purposes of this policy only, means a state (physical, mental and emotional) which is unimpaired and which allows the individual to perform their tasks competently, without any limitations and in a manner which does not compromise or threaten the safety or health of that individual or others, or Metro Vancouver Transit Police Premises. Impairment that may render an Employee not Fit For Duty may result from, e.g., the use of alcohol, Drugs, including Cannabis whether subject to medical Authorization or not, medication, or the effects of fatigue, stress, mental illness or injury.

Metro Vancouver Transit Police (“Transit Police”) – The operating name of the South Coast British Columbia Transportation Authority Police Service.

On Duty – The hours an Employee works, is scheduled to work, is called in, or otherwise requested or required to work, and includes but is not limited to paid and unpaid breaks, and any overtime hours the Employee is required to, offers to, or does work. This includes where an Off Duty Sworn Member puts him/herself On Duty and identifies him/herself as a Police Officer in order to carry out an arrest or perform other duties.

Police Act – The *BC Police Act*, [RSBC 1996], c. 367, and the regulations thereto, including the *South Coast British Columbia Transportation Authority Police Service Complaints and Operations Regulation*, all as amended from time to time.

Return To Work/Last Chance Agreement – An agreement confirming the Employee’s commitment to a specific treatment plan, including a Continuing Care program, designed to return the Employee to work safely and prevent relapse and which may include the acknowledgement that if the Employee does not adhere to the agreement, their employment may be terminated.

Substance Use Disorder – A condition in which the recurrent use of alcohol, Drugs or any other substance causes clinically and/or functionally significant impairment, such as health problems, disability, and undue interference with responsibilities at work or home.

Sworn Member – Designated Constable (all ranks), the Chief Officer or a Deputy Chief Officer of the Metro Vancouver Transit Police.

TransLink Security Management Ltd. (“TSML”) – A subsidiary of the South Coast British Columbia Transportation Authority and the legal entity/employer for the Metro Vancouver Transit Police.

## Preamble

1. The Transit Police is committed to the health and safety of its Employees, and encourages all Employees to maintain physical and mental fitness to perform their assigned duties.
2. The Transit Police, as a public safety and law enforcement agency, is a Safety-Sensitive workplace. It is widely recognized that being impaired by stress, fatigue, Drugs, alcohol, or medication while on the job poses serious safety and health risks, not only for the individual involved but for all those who work with or otherwise come into contact with that individual. The Transit Police believes that maintaining a Drug and alcohol free workplace, preventing impairment in the workplace and minimizing work-related incidents are crucial steps to ensuring the safety and well-being of Employees and the public.
3. The Transit Police is committed to establishing and enforcing a Fit For Duty standard that ensures that Employees have the capacity, and are free of impairment, that could hinder their ability, to competently and safely perform the duties of their position, and do not pose a safety risk.
4. The Transit Police recognizes its duty to accommodate Employees with disabilities, including Substance Use Disorders, to the point of undue hardship. The Transit Police believes that these disorders are treatable diseases and will promote self-awareness and voluntary referral for assistance to enable Employees with Substance Use Disorders to get well. Information regarding the Transit Police's Employee and Family Assistance Program and extended health care benefits program are available to all Employees on the Transit Police intranet.
5. Transit Police Employees have an obligation to voluntarily disclose their own Substance Use Disorder, and are encouraged to report a suspected Substance Use Disorder in co-workers, before job performance is affected, or violations of WorkSafeBC Regulations<sup>2</sup> or this policy occur.
6. The Transit Police is committed to protecting Employee privacy in accordance with the *Freedom of Information and Protection of Privacy Act* of B.C. The Transit Police will ensure that any intrusion into an Employee's personal life is proportional, the minimum necessary to accomplish the policy's goals, and justified under this policy as necessary to ensure the safety of Employees and the public, and for the purposes of enforcing this policy.

## Scope

7. This policy applies to all Transit Police/TSML Employees, students, and volunteers.
8. Independent contractors engaged by the Transit Police are expected to enforce this policy with their employees, sub-contractors, and agents. Any contravention of this policy by an independent contractor or any person acting for, or engaged by, an independent contractor will be considered a breach of contract and may result in the removal of the personnel involved, and/or termination of the contract.

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<sup>2</sup> WorkSafeBC OHS Regulations [4.19 and 4.20 Impairment](#)

9. This policy does not apply to employment applicants required to undergo pre-employment screening for Drugs, including Cannabis, for suitability and job selection purposes. Such testing will be in accordance with recruitment and selection policies and occupational standards of the Transit Police, and subject to applicable laws and regulations.

## General

10. Employees must report to work Fit For Duty and remain Fit For Duty at all times while engaged in Transit Police business and/or on Transit Police Premises.
11. Unless required by their duty, or as authorized by the Chief Officer, or otherwise permitted pursuant to this policy, Employees will not:
  - (1) consume alcohol, Drugs or Cannabis, or misuse medications (physician-prescribed or over-the-counter) while:
    - a. On Duty;
    - b. on or in Transit Police Premises;
    - c. wearing a Transit Police uniform; or
    - d. otherwise engaged in Transit Police business;
  - (2) possess Drugs, Cannabis, or unsealed containers of alcohol while:
    - a. On Duty;
    - b. on or in Transit Police Premises;
    - c. wearing a Transit Police uniform;
    - d. otherwise engaged in Transit Police business;
    - e. except that, Employees are permitted to store sealed alcohol or Cannabis, strictly for purposes of transport, in their private vehicles parked in Transit Police parking lots.
  - (3) purchase alcohol or Cannabis, including medically Authorized Cannabis, while:
    - a. On Duty;
    - b. on or in Transit Police Premises;
    - c. wearing a Transit Police uniform; or
    - d. otherwise engaged in Transit Police business.

## PROCEDURES

### Employee Obligations

12. Employees are responsible for understanding and complying with this policy.

13. Employees must inform their supervisor immediately if they feel they are not Fit For Duty. The Employee must not wait until a breach of this policy has occurred prior to doing so.
14. Where an Off Duty Employee is called out to perform work for the Transit Police and they are not Fit For Duty for any reason, they must refuse the call out.
15. Where an Employee recognizes that they have a developing or existing Substance Use Disorder, they must disclose this to their supervisor or the Manager of Human Resources (or designate). The Employee must not wait until a breach of this policy has occurred prior to doing so.
16. An Employee with a Substance Use Disorder is expected to access counselling and treatment services available through Human Resources or their benefits provider.
17. Employees are encouraged to report a suspected Substance Use Disorder in other Employees. Maintaining a safe workplace is the responsibility of all Employees.
18. Any Employee observing what appears to be an unsafe or harmful condition or act by any person (including but not limited to an Employee reporting to work Impaired or otherwise not Fit For Duty) must report it as soon as possible to their supervisor or to the Manager of Human Resources (or designate). The individual receiving the report must investigate the reported unsafe condition or act and must ensure that any necessary corrective action is taken without delay.<sup>3</sup>
19. Any Employee observing what is, or appears to be, a breach of this policy is obligated to report this breach to their supervisor or to the Manager of Human Resources (or designate) without delay.
20. Any Employee who is charged or convicted of a criminal offence where use of alcohol, Drugs or Cannabis was a factor, or has lost their driving privileges for any length of time as a result of the use of alcohol, Drugs or Cannabis, will immediately notify their immediate supervisor who will notify Human Resources. The Employee may be placed on administrative leave with pay or reassigned pending further investigation.
21. Employees are required to cooperate fully with any investigation conducted under this policy, including complying with any alcohol and Drug testing as permitted under this policy. A refusal to cooperate with this policy constitutes a violation of this policy and is subject to discipline up to and including termination.
22. Tampering with or otherwise attempting to falsify alcohol or Drug test results also constitutes a violation of this policy and is subject to discipline up to and including termination. It is considered tampering for an Employee who has been required to submit to Drug and alcohol testing to consume alcohol or Drugs prior to the test being administered.

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<sup>3</sup> WorkSafeBC OHS Regulations [3.10 Reporting Unsafe Conditions](#)

23. Employees are required to be familiar with and abide by the TSML/Transit Police policy with respect to consumption of alcohol and Cannabis at Transit Police sponsored events and related events ([TSML Policy No. 008](#) as amended from time to time).

### **Transit Police Obligations**

24. The Transit Police will communicate this policy to all Employees, contractors, and other individuals working on behalf of the organization.
25. The Transit Police will investigate any violation or report of non-compliance with this policy, including any situation where Off Duty actions involving Drugs or alcohol as defined in this policy may have implications for the workplace, and will take appropriate actions under the circumstances.
26. Following any workplace accident or incident, or when there is reasonable cause to suspect that an On Duty Employee is not Fit For Duty, the Transit Police will investigate and may conduct testing for alcohol and Drugs, including Cannabis.
27. The decision to conduct testing will be made by a supervisor in consultation with the Manager of Human Resources (or designate) or Watch Commander. The decision to require testing where there is reasonable cause to suspect that an On Duty Employee is not Fit for Duty will be based on specific documented observations.
28. A positive test for the presence of alcohol and/or Drugs in the Employee's body may result in the Employee being temporarily relieved from duty (if not already relieved from duty), and may, subject to further investigation, result in discipline up to and including termination or referral to accommodation under [TSML Policy No. 023](#).
29. The Transit Police will provide education for Employees on the harmful effects of alcohol and Drug use, including the potential for Substance Use Disorders.
30. The Transit Police will ensure that the privacy of Employees is protected and that supervisors and co-workers of an affected Employee will only be informed on a "need-to-know" basis and where accommodation requirements or safety concerns dictate.

### **Reporting and Relieving From Duty**

31. Any Employee who observes or reasonably believes that another Employee is not Fit For Duty will immediately report this to a supervisor.
32. Supervisors have the authority to assess whether or not an Employee is Fit For Duty. Any supervisor who becomes aware that an Employee is suspected of not being Fit For Duty will immediately investigate the situation. The supervisor will seek the assistance of Human Resources and document the circumstances which led to a Fit For Duty assessment and basis for a determination.

33. The Transit Police will relieve from duty any Sworn Member reasonably believed to be not Fit For Duty. The authority to relieve a Sworn Member from duty will rest with the Watch Commander or a higher ranking officer. The Sworn Member will be placed on administrative leave with pay or reassigned pending further investigation under this policy or any other applicable Act, e.g., the *Police Act*, or policy.
34. The Transit Police will relieve from duty any civilian Employee reasonably believed to be not Fit For Duty. The authority to relieve a civilian Employee from duty will rest with the Manager of Human Resources or, if the matter arises after regular business hours, the Watch Commander or a higher ranking officer. The Employee will be placed on administrative leave with pay or reassigned or placed on sick leave as appropriate pending further investigation under this policy or any other applicable policy.
35. When an Employee is reasonably believed to be not Fit For Duty and placed on administrative leave or reassigned, the Transit Police will make any necessary arrangements for the immediate safety and well-being of the Employee.
36. The Union will be informed of any administrative leave or reassignment involving a unionized Employee under this policy.

#### **Potentially Impairing Medications and Medically Authorized Cannabis**

37. Employees are required to report any use of medication or medically Authorized Cannabis that could render them not Fit For Duty or otherwise prevent them from being able to comply with this policy.
38. Employees will provide medical information and authorization to the Transit Police Occupational Health Nurse or Medical Advisor to consult with the Employee's physician to determine whether the prescribed use of medication or medically Authorized Cannabis will render them not Fit For Duty.
39. Accommodation to allow use of medication or medically Authorized Cannabis by Employees will be considered to the point of undue hardship.
40. Where use of prescription medication or medically Authorized Cannabis by an Employee is permitted, it will be pursuant to an accommodation agreement setting out strict conditions to ensure the Employee is Fit For Duty at all times, and including limiting, to the extent possible, workplace consumption.
41. Any violation by the Employee of any conditions of an accommodation which renders the Employee not Fit For Duty, or where an Employee does not possess a valid/unexpired Cannabis Authorization, will result in the Employee being placed on administrative leave with pay or reassigned subject to investigation.

### **Substance Use Disorder Treatment**

42. Employees are encouraged to self-report if they have a Substance Use Disorder and the Transit Police will handle such self-reports in a confidential and non-disciplinary manner except where the *Police Act* or any other statute or regulation dictate.
43. Where an Employee has an identified Substance Use Disorder, the Transit Police will determine an appropriate course of action, including placing the Employee on administrative leave with pay or reassignment and requiring them to attend an independent medical examination (“IME”) for an assessment.
44. In the absence of an IME, the Transit Police will determine the appropriate action based on all the available information, including any information provided by the Employee’s Physician.
45. Employees will be supported to undergo treatment for Substance Use Disorder where this is medically recommended by a Substance Abuse Specialist.
46. Sick leave or disability plan benefits may be available to Employees during treatment periods that require the Employee to be absent from work.
47. The Transit Police may, as permitted by policy or the collective agreement if applicable, provide supplemental monetary support to an Employee for an approved treatment program. The Transit Police will have the right to recover monies from Employees who fail to complete treatment.
48. Employees are required to follow all treatment and Continuing Care programs as recommended by the treating Substance Abuse Specialist or Physician or any other expert involved (e.g., Psychologist) as a condition of their continued employment and before a return to work/duty is granted.
49. Employees may be required to enter into a Return To Work/Last Chance Agreement as a pre-condition of returning to work.
50. Employees may be required to complete required certification or training necessary to resume their position and duties.
51. Employees on a Return To Work/Last Chance Agreement will be required to adhere to all Transit Police policies and standards of performance and will not be exempted from disciplinary action where appropriate.

### **Performance Management and Discipline**

52. Poor work performance or misconduct that is connected to the consumption of alcohol, the use or misuse of Drugs, medication, Cannabis or any other substance, but which is not due to disability, is subject to regular performance management and discipline protocols.



53. Where the Transit Police has reason to believe that poor work performance or misconduct is due to disability, even in part, then the Transit Police will apply Human Rights principles in determining a response to the resulting poor work performance or misconduct.
54. Employees who violate this policy may be subject to a range of consequences, and may be placed on administrative leave or reassigned pending investigation and subject to disciplinary action up to and including termination of employment.

**References:**

*BC Police Act*, [RSBC 1996], c. 367

BC WorkSafeBC Occupational Health and Safety Regulation

*Cannabis Act*, Health Canada [2018]

Medical Document Authorizing the use of Cannabis for Medical Purposes under the Access to Cannabis for Medical Purposes Regulations – Health Canada [2018]

TSML – Transit Police Consumption of Alcohol Policy No. 008

TSML – Transit Police Accommodation Policy No. 023