

<b>Policy Name:</b>	<b>FIT FOR DUTY</b>		
<b>Policy #:</b>	AD 5.4	<b>Last Updated:</b>	2021-10-26
<b>Issued By:</b>	SUPPORT SERVICES BUREAU	<b>Approved By:</b>	SURREY POLICE BOARD
		<b>Review Frequency:</b>	AS REQUIRED

**RELATED POLICIES**

AD 2.2 Complaints and Professional Standards

AD 5.7 Human Rights and Respectful Workplace

**1. PURPOSE**

- 1.1. To establish requirements for Surrey Police Service (SPS) Employees, Volunteers, Practicum Students, and Contractors to be Fit for Duty, including their responsibilities regarding the existence of a medical condition (physical or psychological) that may render them not Fit for Duty, impair performance, or cause risk of harm to the health and safety of the Employee, Volunteer, Practicum Student or Contractor or to the public, including the use of alcohol, medication, or controlled drugs and substances.
- 1.2. To ensure SPS Employees, Volunteers, Practicum Students and Contractors support a safe Workplace, understand their role in achieving a safe Workplace, and understand the consequences which may result from breaches of this policy.
- 1.3. To support a healthy, safe, and effective environment for Employees, Volunteers, Practicum Students, Contractors, and for those with whom these individuals interact.

**2. SCOPE**

- 2.1. This policy applies to all SPS Employees, Volunteers, Practicum Students, and Contractors.

### **3. POLICY**

- 3.1. All Employees, Volunteers, Practicum Students, and Contractors must report to the SPS for work, or for volunteer work, Fit for Duty. These individuals must remain Fit for Duty, while on duty, on SPS business, and/or while on SPS premises.
- 3.2. The SPS is committed to promoting a healthy, safe, and effective working environment.
- 3.3. Employees, Volunteers, Practicum Students, and Contractors must report circumstances that adversely affect their ability to perform their work safely and competently to their Supervisor and/or Employee Services Section (ESS). These circumstances include, but are not limited to, pre-existing medical conditions, fatigue, physical or psychological injury, workplace stress, etc.
- 3.4. Employees are responsible for any controlled drug or substance use, medication use, or alcohol use issues, or Substance Use Disorders, that may risk or cause their failure to comply with this policy, and to seek and follow appropriate treatment to address the issues or disorder. An Employee's refusal or failure to disclose associated relevant information may impede the SPS' ability to accommodate any disability.
- 3.5. In accordance with its policies and legal requirements, SPS will accommodate Employees' medical disabilities, including those adversely affected by alcohol, controlled drug and substance use or Substance Use Disorders and manage the associated risks.
- 3.6. In accordance with its policies and legal requirements, SPS will resolve Volunteers', Practicum Students' and Contractors' medical circumstances that result in them not being able to comply with this policy.

### **4. PROCEDURE**

- 4.1. Employees, Volunteers, Practicum Students, and Contractors must:
  - i. report to the Workplace Fit for Duty and remain so while on-duty/at the Workplace;
  - ii. not perform work if not Fit for Duty;
  - iii. inform their Supervisor or the Inspector, ESS, if the individual has reason to suspect that they are not Fit for Duty;
  - iv. notify their Supervisor, if called upon to work at a time when they are not Fit for Duty, or otherwise would be in breach of this policy; and
  - v. as soon as practicable, report to a Supervisor, any unsafe behaviour or an unsafe action by another individual, resulting from the other individual not being Fit for Duty.

- 4.2. A Supervisor witnessing or receiving a report of unsafe behavior or an unsafe action by an Employee, Volunteer, Practicum Student, or Contractor must investigate without delay and must ensure that any necessary corrective action is taken without delay, and report the matter to the Inspector, ESS.
- 4.3. An Employee or Volunteer who believes they have, or who have been diagnosed with a medical condition that makes them not Fit for Duty, must disclose the situation to the Inspector, ESS.
- 4.4. An Employee who suspects that a Contractor, Volunteer, or Practicum Student is in contravention of this policy must report the same to a Supervisor, the Duty Officer or Inspector, ESS.

#### **Alcohol and Controlled Drugs and Substances Use and Possession**

- 4.5. Unless required by their duty, authorized in writing in advance by the Chief Constable or designate, or in the case of alcohol consumption while representing SPS at a sanctioned social event, Employees may not consume or use alcohol or controlled drugs and substances while:
  - i. on-duty or on a break during on-duty hours;
  - ii. on SPS premises;
  - iii. while wearing an SPS uniform; or
  - iv. otherwise engaged in SPS business.
- 4.6. Possession of alcohol and controlled drugs and substances while on duty is only permitted when:
  - i. the alcohol or controlled drug or substance is unopened and contained in its original packaging and is safely stored, or stored for a temporary purpose including but not limited to transportation away from the Workplace; or
  - ii. possession is required as a function of an Employee's work, such as seizing, transporting, or securing alcohol, and controlled drugs and substances.

#### **Fitness for Duty**

- 4.7. An Employee assessed to be not Fit for Duty must be temporarily relieved from duty and may be removed from the premises by the Duty Officer or delegate, an Inspector, their Supervisor, or a Member of higher rank than the Employee.
- 4.8. The Duty Officer or delegate, an Inspector, an Employee's Supervisor or an Employee of higher rank than the Employee has the authority to assess whether or not an Employee is Fit for Duty.
- 4.9. The basis for an assessment that an Employee is not Fit for Duty, along with the actions taken in response, must be documented in writing, and forwarded to the Inspector, ESS.

- 4.10. If a Member is on duty or reporting for duty and found to not be Fit for Duty, a Supervisor shall immediately relieve the Member from duty and seize the Member's firearm and use of force options (e.g., CEW, O.C. spray, baton, restraints). The firearm and use of force options tools shall be taken to the Operational Skills Unit and properly secured.
- 4.11. The Supervisor is responsible to ensure the Employee receives the appropriate/supportive medical treatment when they are determined to be not Fit for Duty due to a medical condition and to ensure the Employee is safely transported to their home.
- 4.12. A Supervisor is required to take similar steps if a Volunteer, Practicum Student, or Contractor is assessed to be not Fit for Duty.

### **Medications**

- 4.13. Employees must use Medication responsibly, whether over the counter or prescribed by a registered and regulated healthcare professional, to ensure they are Fit for Duty. Employees are expected to consult their personal physician or pharmacist to determine if use of Medication will have any potential adverse effect on their ability to be Fit for Duty. Employees must notify their Supervisor, the Inspector, ESS or designate of any potential impairment or other adverse effect associated with the use of Medication which affects their Fit for Duty status, so that appropriate workplace accommodation may be considered.

### **Alcohol and Controlled Drugs and Substances Testing**

- 4.14. SPS will not engage in random or blanket alcohol or controlled drugs and substances testing of an Employee, Volunteer, Practicum Student, or Contractor, except when the testing protocol is a part of a treatment or monitoring program.
- 4.15. SPS may require Employees in safety sensitive positions to undergo alcohol and controlled drugs and substances testing in the following situations:
- i. for reasonable cause, where an Employee exhibits, or evidence points to, behaviour sufficient to give reason to believe that the Employee may not be Fit for Duty (observed behaviours may include slurred speech, smelling of alcohol/cannabis, abnormal behaviour, lack of coordination, etc.); and
  - ii. following a significant Workplace accident or incident where the involved Employee's Fit for Duty status is a reasonable line of inquiry as part of the preliminary investigation.
- 4.16. The decision to require an Employee to undergo alcohol or controlled drug or substance testing for reasonable cause will be based on personal observations by, or reports of observations made to, a Supervisor or a Member of higher rank than the Employee, in consultation with the Inspector, ESS, if available.

- 4.17. An Employee who has been directed to submit to alcohol or controlled drugs and substances testing for reasonable cause shall not, after being so directed, consume alcohol or controlled drugs or substances prior to the test being administered.
- 4.18. A positive test for the presence of alcohol or controlled drugs and substances, in the circumstances noted in s. 4.15 may lead to the Employee being temporarily relieved from duty and may result in discipline up to and including termination of employment.
- 4.19. An Employee may not refuse to comply with a request to submit to an alcohol or controlled drugs and substances test, made pursuant to this policy. A refusal to test by an Employee will be deemed a positive result for not being Fit for Duty.
- 4.20. An Employee shall not tamper with or otherwise attempt to falsify the results of an alcohol or controlled drugs and substances test.
- 4.21. Alcohol or controlled drugs and substances testing is only to be conducted by a qualified service provider or in accordance with an Employee's individual Return to Work Agreement or other plans.
- 4.22. Where alcohol or controlled drugs and substances testing confirms an Employee is not Fit for Duty, the Employee will be given an opportunity to seek medical attention, if applicable, prior to being relieved of duty. The Supervisor is responsible to ensure the Employee is safely returned home.

#### **Substance Use Disorder**

- 4.23. Although Employees are not required to disclose personal medical information, failure to do so when an Employee has been found to be not Fit for Duty may adversely affect an Employee's ability to remain at, or return to work, or entitlement to benefits or any accommodation processes.
- 4.24. The SPS will work with the Employee and the Employee's medical services or treatment providers to address the adverse effects of the Substance Use Disorder on the Employee's work duties to:
- i. determine whether or how their Substance Use Disorder can be accommodated by SPS to the extent required by law; and
  - ii. address the adverse effects of a Substance Use Disorder on the Employee's work duties.

#### **Confidentiality**

- 4.25. SPS is committed to protecting Employee privacy in accordance with the *Freedom of Information and Protection of Privacy Act* and to ensuring any intrusion into an Employee's personal life is

proportional to what is necessary to accomplish this policy's goals, is necessary to ensure the safety of Employees and the public, and is for the purpose of enforcing this policy.

4.26. Medical information is the sensitive personal information of the Employee. However, in some cases, failure to provide this information may adversely affect an Employee's Return to Work, Stay at Work, entitlement to benefits, or the accommodation process. SPS recognizes that denial and lack of self-awareness may be a symptom of Substance Use Disorder.

4.27. Unless the Employee otherwise provides consent, SPS will:

- i. protect the confidentiality of the information obtained under this policy and will use the information only for the purposes of administering this policy, where disclosure is necessary for related health and safety concerns (e.g., where there is deemed to be a potential for risk to self, others or SPS), or as required by law; and
- ii. ensure the Supervisor and co-workers of an Employee impaired by, or dependent on, any Substance will be informed of the impairment or dependency and any applicable work restrictions, only when accommodation requirements or safety concerns dictate, or when necessary for a legitimate work purpose.

4.28. Employees with a Substance Use Disorder or who experience difficulty as a result of Substance Use, are encouraged and expected to take the initiative and responsibility to address the matter, including seeking advice and counselling, and following appropriate and prescribed treatment promptly, before work performance is affected, or a violation of this policy or applicable laws and regulations occurs.

4.29. In accordance with Workers Compensation (WorkSafe BC) regulations, Employees must report to a Supervisor any circumstance where a co-worker's ability to work without risk to their personal health or safety, or to the health or safety of another, is in jeopardy.

### **Expectations**

4.30. Employees who violate this policy may be subject to disciplinary action, up to and including termination of employment. Volunteers, Practicum Students, and Contractors who violate this policy may have their relationship with SPS terminated.

4.31. Employee non-compliance with SPS policies, applicable laws and regulations, inappropriate behaviours, or unsafe performance of work duties is not excused because of Substance Use or dependency.

### **Performance Management**

4.32. Poor work performance or misconduct that is connected to Substance Use, but which is not due to disability, is subject to regular performance management and discipline protocols.

- 4.33. Accommodation and treatment are the preferred course of action for Employees with Substance Use Disorders. Discipline may result where there has been failure to disclose a disability resulting in impairment at work, or where impairment at work is not related to a disability.
- 4.34. Employees are required to cooperate fully with any investigation conducted under this policy. A refusal to cooperate with this policy constitutes a violation of this policy and is subject to discipline.
- 4.35. Nothing in this policy should be interpreted as amending the rights of unionized Employees covered under collective agreements between SPS and their unions.
- 4.36. Contractors engaged by SPS are expected to ensure compliance with Workers Compensation (WorkSafe BC) Regulations, which prohibit a person from entering or remaining at a Workplace if their behaviour is affected by Substance Use that creates an undue risk to workers. Additional standards are identified in the SPS Procurement Standards for Contractors.
- 4.37. Employees who have been charged or convicted of a criminal offence where use of alcohol or controlled drugs and substances was a factor, and Employees who know they are under investigation regarding such an offence or have lost their driving privileges for any length of time as a result of the use of alcohol or drugs, must immediately notify their Supervisor of such circumstances.

## APPENDIX A: DEFINITIONS

“Alcohol” means wine, beer, distilled spirits, and any liquid containing ethyl alcohol, whether or not intended as a beverage. It is not intended to include other products containing alcohol which are not intended for consumption, provided these products are being used as intended.

“Contractor” means a person or persons who has access to SPS premises, systems or equipment, as defined in this policy, for the purpose of providing services or supplies to SPS on a contractual basis.

“Drug” means any substance, other than alcohol, medication, or food, which impairs physical or mental capacity or functions, the possession, use, or sale of which is prohibited, restricted, or controlled by the *Controlled Drugs and Substances Act* or the *Cannabis Act*.

“Duty Officer” means the Frontline Policing Inspector on duty at any given time.

“Employee” means any employee of SPS (including Members and civilian staff).

“Fit for Duty” means a state (physical, mental and/or emotional) which is unimpaired and which allows the individual to perform their work competently, without any limitations and in a manner which does not compromise or threaten the safety or health of the individual, others, or SPS. Impairment that may render an Employee not Fit for Duty may result from (but not limited to) the use of alcohol, drugs (whether subject to medical authorization or not), medication, or the effects of fatigue, stress, mental illness or injury.”

“Impaired”, “Impairs” or “impairment” means being subject to deteriorated or diminished mental or physical ability, functioning, judgment, or condition, including but not limited to being unable to function as the Employee would under normal or usual conditions, or unable to function safely.

“Medication” means a drug that was obtained as either an over-the counter drug, or through prescription by a registered and regulated healthcare professional and is intended by the manufacturer or a healthcare profession to the treatment of a physical or mental conditions, whether or not the drug is prescribed or authorized by a physician.

“Member” means a sworn Police Officer appointed by the Surrey Police Board.

“Safety sensitive position” means a work position in which incapacity due to impairment could result in direct and significant risk of injury to the Employee, others, or the environment.

“SPS premises” includes, but is not limited to, any property permanently or temporarily under the jurisdiction of SPS, including land, building, job sites, facilities, parking lots, equipment, vehicles, whether owned, leased or used by SPS and wherever located. The work site of a seconded Employee is considered an extension of the SPS Workplace, and therefore SPS premises. For the purposes of this policy, this includes a Member’s worksite and vehicle.



“Substance Use Disorder” means a condition in which the recurrent use of alcohol, drugs or any other substance causes clinically and functionally significant impairment, such as health problems, disability, and failure to meet responsibilities at work, school or home (as defined in by the *Diagnostic and Statistical Manual of Mental Disorders (DSM–5)*).

“Supervisor” means a Team Leader, Manager, Sergeant, Staff Sergeant, Inspector, Superintendent, Deputy Chief Constable, Chief Constable, and any other person acting in a supervisory capacity who is accountable for a particular area or shift on behalf of the SPS.

“Use” in relation to medication, alcohol, or controlled drugs and substances, means, but is not limited to, smoking, vaping, eating, ingesting, consuming, drinking, injecting, inhaling, absorbing through the skin, or otherwise introducing a drug into or onto the body.

“Volunteer” means a person serving SPS who is not an Employee, Practicum Student, or Contractor, as defined in this Policy, and includes those individuals serving on any board(s), commission(s) or committee(s) established by SPS.

“Workplace” means anywhere activities directly related to the business of SPS occur, including social events where there is potential for adverse effect on SPS or the Workplace or any location travelled to for a work-related reason.

“Work hours” mean the hours an Employee works, is scheduled to work, is called in, or otherwise requested or required to work or be available for 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 when an off-duty Member puts themselves on duty and identifies as a Police Officer in order to carry out an arrest or perform other duties.

## **APPENDIX B: REFERENCES**

American Psychiatric Association. (2013). *Diagnostic and Statistical Manual of Mental Disorders* (5th ed.).

*Cannabis Act*, S.C. 2018, c. 16

*Controlled Drugs and Substances Act*, S.C. 1996, c. 19

*Criminal Code*, R.S.C. 1985, c. C-46

*Workers Compensation Act*, R.S.B.C. 2019, c. 1