

**Procedures and Advice for
Addressing Impairment in the Workplace**

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Yukon government employees have a number of responsibilities under the Substance Use and Impairment Policy. The most critical responsibility is to be fit for duty when one is at work. The following procedures and advice focus on how supervisors and managers should address possible and actual impairment in the workplace, in collaboration with human resources staff, and what employees may expect when they do.

A. Recognizing the signs of impairment

Managing impairment in the workplace starts with recognizing the signs of impairment, while keeping in mind there may be other explanations for what is observed.

The Signs of Possible Impairment list attached to these procedures (p. 2 of the Appendix) is meant to assist supervisory and human resources staff in making observations related to possible impairment in the workplace. Users of the list should note that (a) it does not include all recognized signs of impairment, nor sort the signs by cause of impairment, and (b) the appearance of a single sign of impairment is less persuasive than the appearance of several signs that are logically connected.

1. Supervisory staff should prepare for their role in managing substance use and impairment issues by taking impairment in the workplace training available through the Public Service Commission.

B. Responding to possible impairment and taking precautionary action

2. Where an employee exhibits signs of possible impairment to the extent there is a reasonable concern the employee may be unfit for duty (i.e., unable to work safely or competently),
 - **Supervisory staff** should pay close attention to the situation and make some careful observations of what they are witnessing. One purpose in making these observations is to assess whether there is an immediate safety risk to the employee or others, and thus a need for “precautionary action” to maintain safety. Depending on the circumstances and where practical, the supervisor in charge may request a second person (supervisor, manager or HR staff) to also make observations and provide an opinion on the situation.
 - **Other staff** should not make it their business to carefully assess whether a colleague may be unfit for duty, but should report any concern they may have and the reasons for it to an appropriate supervisor or manager. However, when an intervention is necessary to keep someone from immediate and probable harm, staff who are not in a supervisory relationship with a potentially impaired employee may take action as necessary to avoid harm or injury.
3. If after assessing the situation, a supervisor or manager believes that impairment is unlikely, or that there is no or minimal risk to the health or safety of the employee or others, their next-step options are to continue monitoring the situation, talking with the employee to learn more and determine any next steps (as described in Sections C and E of this document), and/or documenting what they have seen and heard reported (as described in Section F).

4. If a supervisor or manager believes there is an immediate risk to the health or safety of the employee or others, they should promptly and discreetly remove the employee from duty, or from any location or task that is safety-sensitive, providing reasons for their actions. (See Section D for more details about removing an employee from duty.)
5. When the workplace safety risk is low, or when the supervisor or manager has removed an employee from a safety-sensitive location or task, the supervisor or manager may, in consultation with the employee, implement temporary measures (such as having the employee refrain from driving, operating equipment or carrying out complex tasks) to manage a situation until the end of the work day.
6. If an employee being removed from duty or specific duties is uncooperative to the point where the supervisor or manager feels unsafe to proceed, the supervisor or manager should seek the advice and assistance of others (such as HR staff, or medical or law enforcement professionals).
7. Supervisory staff do not have to prove an employee is unfit for duty in order to take precautionary action; having reasonable grounds for suspecting a degree of impairment that could lead to harm or injury is sufficient justification. However, supervisory staff taking precautionary action must exercise good judgement, provide the employee with reasons for any action taken, be respectful of the employee's dignity and privacy, and be mindful that their assessment of impairment could be incorrect.

C. Talking to employees about possible impairment

8. When taking precautionary action (as described above) or otherwise talking to an employee about possible impairment, the supervisor should always give the employee the opportunity to provide their own version of events. Information provided by the employee may alter the supervisor's initial assessment of the situation and intended response to it.
9. Conversations about fitness for duty and possible impairment may include HR staff and should take place in a location that assures an employee's privacy.

Initial Inquiries

10. Best practices for supervisors making initial inquiries about possible impairment include the following:
 - Be factual. Describe what has been observed or reported. (For reference, see Signs of Possible Impairment on p. 2 of the Appendix.)
 - Avoid making assumptions or accusations (e.g. "I think you're high" or "you're drunk").
 - Give the employee the opportunity to explain events or observed behaviour from their perspective.
 - If the explanation involves health details, advise the employee that they are not obliged to disclose their specific health condition or the product name of any medication they are taking. The employer's interest lies in the employee's "restrictions and limitations" owing to their health condition and any impairing side- and after-effects of medication or therapeutic substances.

- Practice active listening when hearing the employee’s account.
 - Use the conversation as an opportunity to note any additional signs of impairment.
 - Be respectful, non-judgemental and empathetic.
 - Explain next steps (if any), which may include one or more follow-up meetings. A written summary of next steps is helpful in the event the employee, if impaired, may be unable to accurately recall what is explained to them.
11. If after an initial inquiry with the employee the supervisor is satisfied the employee is fit for duty, no follow-up meetings are required.
 12. If after an initial inquiry the supervisor believes that an employee is or may be unfit for duty the supervisor may, depending on the circumstances, remove the employee from duty or implement temporary measures (such as restricted duties) until the end of the work day. Regardless of the immediate response chosen by the supervisor, a follow-up meeting will be required.
 13. If the employee is in a state where they are unlikely to participate meaningfully or competently in a discussion, an initial inquiry should be brief or not attempted, and a follow-up meeting planned.
 14. If the employee is a member of a bargaining unit and their conduct may result in formal discipline, the supervisor should keep an initial inquiry brief and not allow it to take on the character of an investigation. **In addition, the supervisor must advise the employee of their right to be represented by their union in any further meetings, and plan a follow-up meeting with sufficient notice for union representation to be arranged.**

Follow-up Meetings

15. Follow-up meetings are held when a matter cannot be resolved in a single session. This applies in the cases described above (under items 13 and 14) and when, for example, more information is needed, the supervisor needs an opportunity to consult with or involve HR staff, the parties involved need time to calm down or reflect, or the employee may be subject to discipline.
16. When preparing for a follow-up meeting with an employee regarding possible or actual impairment, supervisors are advised to consult with and invite the participation of HR staff, who can advise on best practices, relevant policies and legislation, and collective agreement requirements (including the obligation to inform employees of their right to union representation at the meeting).
17. Best practices for conducting a follow-up meeting are the same as those described above for an initial inquiry (with the exception of watching for other signs of impairment), and include the following additional steps as appropriate to the situation:
 - After describing the observed behaviours, explain how they are affecting or may affect the workplace.
 - Explain the legal obligation of both employers and employees to take all necessary precautions to ensure workplace safety. (See Section 1.4 of the Substance Use and Impairment Policy.)
 - Express concern about the employee’s well-being, safety and/or success at work.
 - Exercise the “duty to inquire.” (See Section E below.)

- Identify available support for the employee, such as confidential counselling through the Employee and Family Assistance Program or their extended health benefits, and services available from health professionals and the Mental Wellness and Substance Use Services branch of the Health and Social Services department.
- Explain what you expect going forward, including an expectation of fitness for duty.
- Explain next steps (if any).
- Recap the conversation just held to ensure all parties agree on the key points.
- Follow-up with the employee in writing, outlining any decisions that were made during the meeting, expectations of the employee, and any next steps. HR staff can provide support with this documentation.

D. Removing an employee from duty

18. When an employee is removed from duty on suspicion of impairment, the supervisor should offer to make arrangements for transportation or an escort for the employee to their residence or, if warranted, to a medical facility.
- Available transportation options will vary depending on the work location and circumstances, and may include use of a taxi service or work vehicle, or transportation voluntarily provided by a family member or friend of the employee (who is contacted by the employee or with the employee's consent).
 - Use of a personal vehicle owned by a government employee may be considered. However, as is the case for any use of personal vehicles for work-related purposes, the use is entirely at the owner's risk. Vehicle owners should be aware there may be insurance or liability implications of work-related use of their vehicle, and are strongly advised to consult their insurance company in advance to determine if they have coverage for the intended use.
 - If there is any concern that an employee being offered transportation may be uncooperative and disruptive to the person driving, seeking assistance from the RCMP should be considered.
 - When appropriate (i.e., there is immediate concern about the employee's health and well-being), transportation to a medical facility may be arranged by ambulance service.
 - If an employee who is removed from duty indicates they intend to depart work as the driver of a motor vehicle, the supervisor should attempt to dissuade them, citing safety reasons. If the employee insists they will drive, the supervisor should then seek assistance in dissuading the employee from HR staff or a senior manager. If these attempts fail, the staff involved at this point must make a judgement call, based on the circumstances and assessed risk, as to whether to call 911 to seek professional support in preventing or stopping the employee from driving while potentially impaired. Before making such a call, the supervisor should advise the employee of their intent to call 911 and offer any viable alternatives (such as remaining in the workplace, or contacting a friend or family member of the employee). If a call to 911 is made, the supervisor should provide any known details about the employee's vehicle, location and route.

19. When an employee is removed from duty, or voluntarily agrees it is best they discontinue work for the day, they may be required to take the time off using appropriate leave. HR staff can advise on the kind of leave that is appropriate given the specific circumstances. When appropriate, the employee may be given paid leave for the remainder of the work day.

E. Carrying out the duty to inquire

In the course of following up on suspected impairment in the workplace, an employer has a legal “**duty to inquire**” as to whether there may be a disability (such as a substance use disorder or health condition) that is affecting the employee’s ability to meet expectations at work. When such a disability exists, the employer has a “**duty to accommodate**” the disability up to the point of undue hardship. The accommodation process typically begins with confirmation by a health professional that a disability exists. (Note: the health professional does not share the specific diagnosis with the employer.)

20. Supervisors, managers or HR staff may exercise the “duty to inquire” by explaining the duty to the employee, describing the employer’s “duty to accommodate” a disability, and then asking the employee if there is any information in this regard they would like to make known. In framing the question, supervisory and HR staff should advise the employee that they are not obliged to reveal specific health information (such as a diagnosis) or the product name of any medication they are taking. Any personal information shared by the employee about substance/medication use or a health matter must be kept confidential as described in the Substance Use and Impairment Policy.
21. If an employee discloses they have or may have a health condition, an issue with substance or medication use, or a disability that is affecting their performance at work, this disclosure triggers the first steps of the disability accommodation process. If not already working with HR staff, supervisors should contact their HR unit/branch to pursue next steps. These may include working with a Disability Management Consultant at the Public Service Commission.
22. Further advice on the duty to inquire and the process for accommodating an employee with a substance use disorder is provided in the Substance Use Disorders Supplement to the guidelines of the Disability Management and Accommodation Framework.

F. Documenting observations, meetings and actions taken

23. Supervisors who take precautionary or other immediate action, or who decide to document observations of possible impairment, should record the details as close to the time of observation as possible. The more detailed and accurate the notes are, the more useful they will be to support any following inquiries or actions.
24. A supervisor may record observations in a Fitness for Duty Report (see Appendix) or less formally as appropriate. Informal documentation would only be made when the supervisor believes there are no immediate safety risks to address and chooses to monitor the situation for a period of time. Any observations that may be relied upon to support a disciplinary decision must be brought to the employee’s attention during initial or follow-up meetings held prior to the

decision being made. (See Section H for further information on the use of informal documentation.)

25. Many of the signs of possible impairment outlined on p. 2 of the Appendix have alternative explanations. Supervisors completing the Fitness for Duty Report should:

- be sure to read the instructional note about impairment signs at the top of p. 2 of the Appendix.
- take care not to use the Report for a management purpose other than good faith documentation of suspected impairment or behaviour patterns suggestive of a substance use problem or ongoing health condition.
- recognize that employees will care deeply about how their physical appearance, behaviour and work performance are perceived and interpreted.
- remain open- minded about plausible, alternative explanations.

26. Details to record about possible impairment include the following:

- the date, time and location of the incident or observed behaviour.
- a factual description of what was observed, and by whom. (For reference, see Signs of Possible Impairment on p. 2 of the Appendix).
- name and position of any person providing a third-party account.
- safety risks (e.g. safety-sensitive work) to be considered.
- name(s) and position(s) of any officials contacted to seek advice.
- details and rationale of any precautionary action taken.

27. When receiving information about an employee from a third party, the supervisor should advise the person providing the information that:

- the information must not be discussed with anyone else (such as colleagues or friends) to protect the employee's privacy.
- the supervisor may need to act on the information provided.
- the third party's name will be noted as the source of the information, and may appear in a record that is eventually provided or shown to the employee.
- any negative reaction or retaliation from the employee about a third party report should be promptly reported to the supervisor, who will address it. (All employees have a duty to report unsafe working conditions and retaliation will not be tolerated.)

28. When a supervisor has held an initial inquiry or follow-up meeting with an employee to discuss possible impairment or address actual impairment (as described in Sections C and E above), the following details of the meeting should be documented:

- the date, time and location of the meeting and the names of those in attendance, including any HR staff or union representatives.
- the main points of discussion including the details of observations made or reported, questions asked, responses given, decisions made (if any) and any employer expectations that were set out for the employee.
- next steps to be taken (if any) or what the employee can expect following the meeting.

It is important to remember that initial inquiries are to be brief and should not take on the character of an investigation. As noted above under best practices for follow-up meetings, the employee should be provided with a written summary of decisions, employer expectations and next steps.

G. Discipline for policy breaches

29. When considering whether an employee's conduct may warrant performance management or discipline under the Substance Use and Impairment Policy, supervisors should consult and work closely with their HR unit/branch. They may also learn more about the principles and process of administering discipline by reading the following documents:
- [Discipline and Investigation Guidelines and Framework](#)
 - [Discipline Assessment Checklist](#)
 - [Application Guidelines Series #23 "Performance Development, Support and Management"](#)
 - [Application Guidelines Series #24 "Discipline and Union Representation"](#)
30. Supervisors and HR staff considering discipline should take note of Article 27.03 in the collective agreement with the Public Service Alliance of Canada, which says the employer will not "introduce as evidence in a hearing relating to a disciplinary action any document ... from the file of an employee of which the employee was not made aware at the time of filing, or within a reasonable period thereafter."

H. Privacy protection and records management

31. Records created under the Substance Use and Impairment Policy are considered confidential information, and may only be used and shared for authorized purposes which include: administering human resources policy, managing employee performance and mitigating risks to workplace safety. Supervisory and HR staff may only disclose records or related information to those who have a legitimate need to know the information, and only to the extent that is necessary.
32. Records must be kept secure from unauthorized access or accidental loss. Methods to achieve this may include locking file cabinets and drawers, and password protected electronic files and devices.
33. Informal documentation and notes related to possible impairment are temporary records created to assist the author in accurately recalling details for later use (e.g. during inquiries and meetings, and in the development of substantive records). Substantive records include – but are not limited to – Fitness for Duty Reports, documentation of meetings, correspondence, fact-finding notes, Letters of Expectation and disciplinary letters.
34. Whenever a supervisor or manager fills out a Fitness for Duty Report, they must provide a copy of the report to the employee in question and to the employee's HR unit/branch.

Appendix 1: Fitness for duty report

Report Date:
Employee's Name and Position:
Supervisor's Name and Position:
Branch and Department:
Date, Time and Location of Incident or Observed Behaviour(s):
Description of Incident / Signs of Impairment Observed: <i>(Consult list on reverse when noting observed signs. Use the space below for incident details or additional information.)</i>
Employee's Account (if inquiry is made):
Safety Risks Considered:
Name and Position of Other Official(s) Contacted to Seek Advice:
Precautionary Action Taken (if any) and Rationale:
Planned Follow-up (in brief):
Supervisor's Signature:

Additional pages may be used as needed. The information appearing on this form is collected under the authority of s.29(c) of the *Access to Information and Protection of Privacy Act*. It is used for administering human resources policy, managing employee performance and mitigating risks to workplace safety. Questions about the collection of this information can be directed to the Director or Manager of Human Resources of the employing department.

Appendix 2: Signs of possible impairment

Workplace impairment can result from a number of causes including substance use, medication use, or an emergent or temporary health condition such as fatigue or stress. The following list is meant to assist its user in recognizing possible signs of impairment, but should be used with some caution. Most notably, a number of the signs listed below are not stand-alone indicators of impairment, but may be present when observed alongside other signs. The appearance of a number of signs that are logically related can be more persuasive than the appearance of only one or a few signs. Work Performance Signs that are not accompanied by other types of impairment signs may not warrant write-up of a Fitness for Duty Report, but should still be addressed as work performance issues.

Some of the signs listed below are patterns of behaviour that occur over time. While they may not indicate current impairment, they could suggest a recurring issue (such as a substance use disorder).

Physiological Signs	
<ul style="list-style-type: none"> • Glassy or red eyes • Unusual pupil size (large or small) • Flushed face or neck • Sweating • Tremors or shaking hands • Unsteady or staggering gait • Stumbling or falling 	<ul style="list-style-type: none"> • Lack of coordination • Delayed reaction time • Drowsiness, excessive yawning • Dry mouth • Nausea or vomiting • Dizziness or fainting • Breathing irregularly or difficulty breathing
Cognitive Signs	
<ul style="list-style-type: none"> • Delayed or slurred speech • Disorientation, confusion • Poor concentration, lack of focus • Hallucinations 	<ul style="list-style-type: none"> • Poor memory or recall • Slow or inadequate processing of information • Rambling train of thought • Poor judgement
Behavioural Signs	
<ul style="list-style-type: none"> • Euphoria • Boisterousness, overly animated behaviour • Anxiety, fearfulness, lack of confidence • Mood swings, personality changes • Crude or inappropriate speech or gestures • Irritability, edginess or aggressiveness • Over reaction to comments from others • Interpersonal conflicts • Risk-taking, high rate of accidents/near misses • Moving to a position/location where there is less visibility or supervision 	<ul style="list-style-type: none"> • Isolation from colleagues • Non-compliance with policies or rules • Sleeping on the job • Lying and/or giving implausible reason(s) for behaviour • Other erratic or inappropriate behaviour <p>Emotional signs of stress:</p> <ul style="list-style-type: none"> • Depressed mood • Increased anxiety • Seeming overwhelmed
Work Performance Signs	
<ul style="list-style-type: none"> • Frequent lateness or unscheduled absence(s) • Excessive absenteeism (e.g. calling in sick, frequent absences on Monday or Friday) • Improbable account(s) for lateness/absence(s) • Reduced or varying rates of productivity 	<ul style="list-style-type: none"> • Doing enough work to just ‘get by’ • Reduced quality of work (e.g. sloppy, incorrect or incomplete work) • Missed deadline(s) • Lack of attention to detail
Signs of Substance Use	
<ul style="list-style-type: none"> • Odour of alcohol or drugs on the breath, clothing or in the air surrounding the person • Use or presence of alcohol or drugs in the workplace, or use prior to or during work hours 	<ul style="list-style-type: none"> • Possession of paraphernalia • Frequent use of breath mints, gum or mouthwash • Frequent trips to restroom or outdoors • Puncture marks or “tracks” on skin