

Recreational and Medical Cannabis in the Workplace

On October 17, 2018, the recreational use of cannabis will be legal in Canada. There are many workplace implications that will need to be considered. The City of Regina's position on the legalization of cannabis is one that strikes a balance between the safety of our employees and residents, as well as the human rights of our employees.

The City of Regina is committed to providing a healthy and safe workplace. The inappropriate use of unauthorized, prohibited, illegal or controlled substances, including alcohol, drugs, medical cannabis or illegal or restricted chemicals (collectively referred to as "substances") compromises the health and safety of employees, the public and the environment, as well as, the security of City operations. We are under a legal obligation to ensure health and safety in the workplace. This includes taking appropriate measures to prevent workplace accidents arising from the inappropriate use of alcohol and other substances. Our legal duty arises from the *Occupational Health & Safety Regulations 1996*, which places responsibilities on employers to be duly diligent of preventing accidents by controlling work hazards in safety-sensitive and non-safety sensitive positions.

While the City has no intention of intruding into private lives, employees are expected to be in a condition (fit for work) to perform their duties safely, throughout their workday. The use of alcohol or drugs (including cannabis, medical cannabis and other prescription drugs), whether off-the-job or on-the-job, in a manner that negatively affects an employee's ability to perform his or her job duties, will have an impact on the workplace and our ability to accomplish our goal of a safe work environment.

The legalization of cannabis or an authorization/prescription for medical cannabis does not give an employee the right to use it in the workplace. Both the City and employee are subject to specific obligations with respect to the use of medical cannabis in the workplace. An authorization/prescription for medical cannabis does not entitle an employee:

- to be impaired at work
- to compromise his or her safety, of the safety of others.
- to smoke in the workplace. Smoking/vaping bylaws apply to smoking medical cannabis in the same way they do for cigarettes or vaporizers.
- to unexcused absence or late arrivals.

The City also appreciates that there will need to be a shift from the traditional view regarding the recreational use of cannabis, to one that does not include the stereotypical assumptions often associated with the use of medical cannabis or cannabis.

Impact on the Workplace

Like most employers, the City is concerned about how the legalization and subsequent increased use will affect the workplace. Post-legalization, it is expected that there will be a significant increase in the consumption of cannabis for recreational purposes.

Considering these changes, the City has current workplace policies and procedures to reflect the changes in the Cannabis Act. These changes include/reflect the recognition that cannabis will no longer be considered an illegal substance and “cannabis use” will no longer be characterized as an illegal activity (certain conditions apply, ie. at home and not in the workplace). Therefore, the emphasis for our employees is the concept of being Fit for Work/Duty regardless of the circumstance (sleep deprivation, mental health, diabetes etc).

Fit for Work, refers to an employee’s ability to safely and competently undertake the physical, psychological and cognitive demands of a job, in a manner which does not compromise or threaten the health and safety of others or themselves.

Workplace Safety

In preparation for the legalization of cannabis, workplace safety is paramount for the City. There are several new challenges being introduced with the legalization of cannabis as well as a concern that the increased use of Cannabis will result in higher incidences of impairment in the workplace.

There is no current consensus on the safe limits for consuming cannabis. The effects of cannabis vary widely depending on the THC content, frequency of use, dose and other factors. These effects have been shown to impact concentration levels, learning and memory, changes to thought formation & expression and drowsiness.

Medical Cannabis

Medical cannabis is an authorized medication/prescription used to treat substantiated medical conditions. The use of medical cannabis for associated medical conditions will be treated utilizing the same policies and procedures as applied to any other prescribed medication. Employees working in safety-sensitive positions (or duties) are required to immediately disclose the use of medical cannabis to their Manager or Supervisor. Failure to disclose the use of medical cannabis, will result in the termination of employment.

Upon confirmation of the initial disclosure process, employees (working in safety sensitive positions) are also required to immediately disclose changes in use (method of intake, type of cannabis, THC concentration, frequency of use, daily regimen, dose, side effects, etc.) to the associated Human Resources Representative – Employee Health & Wellness. This would also include the expiration for the authorization / prescription of medical cannabis.

Recreational Cannabis

Using or being under the influence of Cannabis prior to work, during work, or on City property, is strictly prohibited. This would also include during all breaks (lunch, coffee breaks, split shifts, etc.) where an employee is expected to return to duty within the same shift. City employees shall not consume, possess, distribute, offer or sell Cannabis while on duty or (whether on or off City premises or while operating a commercial vehicle owned, leased, used or controlled by the City entity, this also includes personal vehicles used for work purposes). Under the *Reasonable Suspicion Guidelines*, any employee whom is tested and confirmed to be positive for THC (psycho-active ingredient in cannabis) will be subject to an immediate Leave of Absence without pay pending a further assessment with a Substance Abuse Professional (SAP) and may be subject to the City of Regina Corrective Discipline Policy.

The recreational use of cannabis (in any form) twelve hours prior to work, during work, or in the workplace, will not be tolerated and will be subject to the City of Regina's Corrective Discipline Policy. Any violation of this guideline will result in the immediate removal from performing safety-sensitive and non-safety sensitive functions and may result in an immediate removal from work pending investigation and subject to the City of Regina Corrective Discipline Policy.

Duty to Accommodate

In Saskatchewan, employers are required by law to accommodate the disabilities of employees up until the point of undue hardship. This may include accommodating an employee's use of prescribed cannabis, as well as accommodating disabilities such as substance abuse dependencies. Accordingly, accommodating medical cannabis use must also be balanced with the broader duty under provincial occupational health and safety legislation, to provide for a safe workplace. This would also include accommodating employees with disabilities related to the use of medical cannabis as much as possible. The range of these accommodation efforts are based on the foundation for the safety.

In addition to accommodating employees with prescriptions for medical cannabis, the City will need to be prepared to deal with employees whose performance is affected by recreational cannabis use. If there are significant changes in an employee's performance because of substance abuse, part of the performance management process may involve determining whether the employee requires an accommodation.

Navigating through this process can certainly be a challenge, however each situation involving the use of medical cannabis in the workplace, will be managed on a case by case basis, unique to each of its own set of circumstances.

Accommodations for medical cannabis are assessed on an individual basis based on a thorough examination of the facts and circumstance (ie. type of work performed, nature of the work environment, medical assessment of the employee, type of medical cannabis used, THC concentration, frequency of use, method of intake, operational requirements etc.). The coordination of the assessment process will be managed by the assigned

Human Resources Representative – Employee Health & Wellness in collaboration with the associated Manager, Union Representative and Labour Relations & Client Services.

The City will attempt to accommodate employees with disabilities to the point of “undue hardship” which includes the use of medical cannabis as a treatment for various medical conditions. However, the use of medical cannabis is also governed by the Saskatchewan Occupational Health & Safety Regulations, 1996. Under section 12 (a): employers have the duty to, “...as far as reasonably practicable, the health, safety and welfare of the employer’s workers”. Therefore, employees do not have the right to be impaired in the work place, where their impairment may endanger their own safety or the safety of other employees or the public.

Drug Testing

Although the subject of drug testing in Canadian workplaces is controversial, the City has implemented a process for identifying impairment based on reasonable suspicion. It is the City’s position that testing should only confirm what is already known. Therefore, impairment is not determined solely based on a drug test but on an employee’s fitness for work.

The City’s current definition of impairment also addresses both medical cannabis and the conditions of its use, from a workplace perspective. Our Drug and Alcohol policy not only establishes what it means to be impaired but also provides the details on how the policy applies to medical cannabis. It is our goal to enforce the application of the policy in a uniform manner that pertains to all prescribed medications, including medical cannabis.