

Toronto Transit Commission

POLICY/INSTRUCTION

SUBJECT	CLASSIFICATION	DATE APPROVED	P/I NUMBER
Use of Discretion Policy	Customer Experience		(New) 13.19.0

1.0 INTRODUCTION AND POLICY STATEMENT

- 1.1 The Toronto Transit Commission (TTC) is committed to providing equitable and non-discriminatory service to all Individuals, including Indigenous, Black, and other racialized Individuals, and acknowledges its obligations under the *Human Rights Code* (Ontario), and the *Canadian Charter of Rights and Freedoms*.

The TTC Anti-Racism Framework, TTC 10-Point Action Plan on Diversity and Inclusion, and TTC Respect and Dignity Policy reflects the TTC's commitment to a more diverse and inclusive organization.

- 1.2 Any Special Constable, Fare Inspector, Protective Services Guard, or Supervisor must apply training, including a Racial and Social Equity Approach when using Discretion towards the delivery of their duties.

2.0 RESPONSIBILITY

- 2.1 The Chief Strategy and Customer Experience Officer or designate is responsible for the ongoing management of this policy.

3.0 PURPOSE

- 3.1 This policy is intended to:
- a) outline the framework of guiding principles when using Discretion; and
 - b) establish and detail reporting responsibilities for when Discretion is used.

4.0 DEFINITIONS

Definitions to be used in the interpretation of this policy:

Term	Definition/Reference
Caution Form	A written warning of an offence.
Discretion	Refers to the authority given to an Individual to make independent judgments and decisions within the scope of their responsibilities and based on their professional knowledge, expertise, and understanding of the situation at hand. These decisions shall be in accordance with training and with section 7.2.

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Discrimination	Discrimination is an action or decision that is intentional or unintentional that results in an adverse impact to a person or group, where the adverse impact is related to a characteristic that is protected under the <i>Human Rights Code</i> (Ontario).
Document	A written or electronic record that provides information or evidence, or serves as an official record. This includes Caution Forms and Provincial Offence Notices.
Fare Inspector	A person employed by the TTC in Revenue Protection and designated as a Provincial Offences Officer.
FISCC Office	Fare Inspector and Special Constable Complaints Office.
Individual	All persons who are on, using, entering or exiting the Transit System.
Protective Service Guard	A security guard licensed under the <i>Private Security and Investigative Services Act, 2005</i> , S.O. 2005, c. 34 and employed by the TTC.
Provincial Offence Notice	A provincial certificate of offence served to Individuals found in contravention of <i>TTC By-law No. 1, Trespass to Property Act</i> , and <i>Liquor Licence and Control Act</i> .
Racial and social equity approach	Applying systemic fair treatment to all people in support of achieving equitable opportunities and outcomes for everyone, particularly for Black, Indigenous, and racialized persons. This also applies to systemic fair treatment in support of achieving equitable outcomes in accordance with the Ontario Human Rights Code's protected grounds, which include the following: citizenship, race, place of origin, ethnic origin, colour, ancestry, disability, age, creed, sex/pregnancy, family status, marital status, sexual orientation, gender identity, gender expression, receipt of public assistance (in housing) and record of offences (in employment).
Racism	Belief that one group is superior or inferior to others (i.e. of lesser importance or value). Racism can be openly displayed in racial jokes, slurs or hate crimes. It can also be more deeply rooted in attitudes, values and stereotypical beliefs, which in some cases, people do not even realize they have. Racism consists of assumptions that have evolved over time and have become part of systems and institutions. Acts of

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	racism are a violation of the Code, may constitute harassment and/or violence under the <i>Occupational Health and Safety Act</i> (OHSA), and may constitute an offence under the <i>Criminal Code of Canada</i> .
Special Constable	A person employed by the TTC and appointed as a Special Constable in accordance with Section 53 of the <i>Police Services Act</i> , R.S.O. 1990, c. P.15, as amended.
Supervisor	An employee of Special Constable Service or Revenue Protection that has the responsibility and/or accountability for the conduct, discipline, and performance of Special Constable or Fare Inspector, respectively.

5.0 POLICY REVIEW PROCESS

- 5.1 This policy applies to any Special Constable, Fare Inspector, Protective Service Guard, or Supervisor, and complements all other policies and procedures.
- 5.2 This policy is subject to a review every three years by a review team and may be modified with TTC Board approval, at any time as deemed necessary to respond to current and evolving laws and regulations, as well as relevant judicial decisions related to the use of Discretion.
- 5.3 As part of the policy review process, the Special Constable Service and Revenue Protection Department will engage with representative(s) from the following groups:
- TTC Advisory Committee on Accessible Transit
 - TTC Commission Services
 - TTC Community Customer Racial Equity Advisory Committee or any successor committee
 - TTC FISCC Office
 - TTC Information Technology Services.
 - TTC Racial Equity Office
 - TTC Revenue Protection.
 - TTC Special Constable Service
 - TTC Video Services Unit
 - TTC Legal
 - TTC Audit, Risk and Compliance

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- CUPE Local 5089
- City of Toronto Confronting Anti-Black Racism Unit or any successor department or unit
- City of Toronto Indigenous Affairs or any successor department or unit
- Ombudsman Toronto
- Any other stakeholder, as appropriate, to inform the review of the policy

6.0 GUIDING PRINCIPLES

- 6.1 Aligned with the TTC Code of Conduct, Special Constables, Fare Inspectors, Protective Service Guards and Supervisors are expected to adhere to the following guiding principles when using Discretion:
- a) Through training, instill anti-racism practices, particularly with respect to disproportionately impacted groups, including Black and Indigenous peoples.
 - b) To respect the safety, dignity, and rights of others without Discrimination.
 - c) To form and nurture community relationships and partnerships to promote and build pride and trust in the TTC.
 - d) To align compliance action to the nature of the infraction.
 - e) To increase transparency and accountability.

7.0 APPLICATION

- 7.1 Special Constables, Fare Inspectors, Protective Service Guards and Supervisors are trained to use Discretion while inspecting fares, enforcing bylaws and engaging in other enforcement actions
- 7.2 The following examples include, but are not limited to, factors that Special Constables, Fare Inspectors, Protective Service Guards and Supervisors shall be trained to consider when using Discretion:
- a) The seriousness and nature of the offence.
 - b) The relevant context in which the offence takes place (e.g. the person's familiarity with the transit system, person's experiencing homelessness, etc.).
 - c) The likelihood that the person could be deterred from future violations with a written warning or a formal charge.
 - d) The role and impact of both conscious and unconscious bias on decision-making.

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- e) Any other factors that are appropriate to consider as being consistent with the TTC Code of Conduct, TTC 10-Point Action Plan on Diversity and Inclusion, and the Guiding Principles as per section 6.1 as set out in this policy.

9.0 TRAINING

9.1 Special Constables, Fare Inspectors, Protective Service Guards and Supervisors shall not engage in fare non-compliance enforcement, safety and security matters without completing the mandatory training.

9.2 Training will be in accordance with TTC training standards, which include de-escalation techniques, mental health awareness, anti-racism, unconscious bias and trends on customer demographics.

10.0 REPORTING RESPONSIBILITIES

10.1 Special Constables, Fare Inspectors, Protective Service Guards and Supervisors who engage in fare non-compliance enforcement, safety and security matters shall:

- a) At the earliest opportunity, complete the required Documents, as applicable, including the collection of demographic information.
- b) At the earliest opportunity, independently document details of the incident in their memorandum book.

10.2 Supervisors shall regularly review the required Documents to inform training and to ensure compliance with this policy.

10.3 Any potential breach of this policy shall be reported to the Supervisor as soon as possible and the Manager will report this breach to the FISCC Office.

11.0 COMPLIANCE

11.1 Any breach of this policy by Special Constables, Fare Inspectors, Protective Services Guards, or Supervisors may result in disciplinary action.

12.0 RECORDS RETENTION

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12.1 All records, including Caution Forms, Provincial Offence Notices, the datasets, and memorandum books, shall be retained in accordance with TTC retention policies and procedures.

13.0 REFERENCE SOURCES

- *Accessibility for Ontarians with Disabilities Act, 2005, SO 2005, c.11*
- *Constitution Act, 1982 (79), Schedule B, Constitution Act, 1982, Canadian Charter of Rights and Freedoms*
- *Human Rights Code, RSO 1990, c H.19*
- *TTC Anti-Racism Strategy*
- *TTC Code of Conduct*
- *TTC Demographic Data Collection Procedure*
- *TTC Information Management*
- *TTC 10-Point Action Plan on Diversity and Inclusion*
- *TTC Respect and Dignity Policy*