



Hamilton

INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	April 25, 2016
SUBJECT/REPORT NO:	Bill 163, <i>Supporting Ontario's First Responders Act (Post-Traumatic Stress Disorder)</i> , 2016 (HUR16009) - (City Wide)
WARD(S) AFFECTED:	City Wide
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Council Direction:

To provide Council with an update on the Government of Ontario's recently passed Bill 163 – *Supporting Ontario's First Responder's Act (Post-Traumatic Stress Disorder)*, 2016. Once passed, the Bill will amend the *Workplace Safety and Insurance Act, 1997* and the *Ministry of Labour Act*.

Information:

On April 5, 2016, following the leads of Alberta and Manitoba, the Government of Ontario passed Bill 163 – *Supporting Ontario's First Responders Act (Post – Traumatic Stress Disorder)*, 2016.

The core purpose of Bill 163 is to create a presumptive entitlement to workers' compensation benefits under the *Workplace Safety and Insurance Act, 1997* for first responders who develop post-traumatic stress disorder (PTSD). First responders include police, firefighters, paramedics, emergency dispatchers, correctional workers, and members of emergency response teams. The PTSD must be diagnosed by a psychologist or psychiatrist in accordance with the *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)* diagnostic criteria.

Bill 163 creates a rebuttable statutory presumption that the PTSD arose out of and in the course of employment when a first responder is diagnosed with PTSD by a psychiatrist or psychologist, as follows:

“The post-traumatic stress disorder is presumed to have arisen out of and in the course of the worker’s employment, unless the contrary is shown”.

A worker will not be entitled to benefits for post-traumatic stress if the disorder was caused by his or her employer’s decision or actions relating to the worker’s employment, including a decision to change the work to be performed or the working conditions, to discipline the worker or to terminate the worker’s employment. This is consistent with other alleged work-related injuries under the *Workplace Safety and Insurance Act, 1997*.

In order to rebut the presumption of work-relatedness when first responders are diagnosed with PTSD, the onus will be on the City to prove that:

- (a) The worker is not suffering from or has been incorrectly diagnosed with PTSD; or
- (b) The PTSD did not arise out of and in the course of the worker’s employment.

Bill 163 would also amend the *Ministry of Labour Act* to provide the Minister of Labour with the authority to request information about an employer's plans to prevent PTSD from employers of workers covered by the proposed PTSD presumption and to publish those plans.

The table below provides an overview of mental health-related Workplace Safety & Insurance Board (WSIB) claims for first responders within the City’s emergency services. While mental health-related claims do not necessarily involve diagnoses of PTSD, these statistics give us the best indication of the potential effect of critical incidents on staff attendance.

Department	2014		2015	
	Shifts lost	# of employees	Shifts Lost	# of employees
Fire	255	5	95	4
HPS	298	8	391	9

Implications for the City of Hamilton:

Bill 163 presents four key challenges for the City as an employer of first responders and workers involved in the dispatch of first responders:

1. The potential cost consequences of the presumptive entitlement.
2. The practical difficulties of rebutting the statutory presumption of work-relatedness.
3. Aligning our trauma response supports with streamlined access to treatment offered by the WSIB to avoid duplication and promote early and safe return to work.
4. Ensuring we have robust PTSD prevention plans supported by the respective Joint Health and Safety Committees (JHSC) that provide first responders with the supports they need to remain mentally healthy.

WSIB claims for mental health-related claims, including PTSD, will be potentially costly for the City as it may result in extended periods of loss of earnings benefits. In addition, return to work attempts can often be prolonged and challenging. This is likely to occur, in part, because of the nature of the condition itself. Early recognition and access to treatment will greatly mitigate these effects on employees.

Bill 163 applies not only to claims established after the Bill comes into force, but will also provide a window for claims currently in the objection or appeals process (both at the WSIB and the Workplace Safety and Insurance Appeals Tribunal) to be adjudicated with the benefit of Bill 163's statutory presumption.

The City must evaluate its preparedness for helping workers with PTSD reintegrate into the workplace with suitable modified work. Having suitable modified work available for those with PTSD will assist in containing claim costs and help first responders reintegrate into the workplace sooner.

Current City of Hamilton Initiatives to Prevent and respond to PTSD

- Fire Services has a dedicated team of employees trained in crisis intervention to support their colleagues.
- A small group of paramedics and supervisors have been trained by the International Critical Incident Stress Foundation (ICISF) in how to function as a CIS debriefer and in how to "defuse" personnel following an incident.
- The Corporate Critical Incident Peer Support (CIPS) team is available to respond to traumatic incidents.
- A Paramedic Critical Incident Stress Management (CISM) team is in the process of being assembled and training will be provided to ensure peer crisis support. The team format and process will be based on a model similar to both Hamilton Police Services and the Hamilton Fire Department.

- The Employee & Family Assistance Program (EFAP) is available for our employees and their families to provide necessary support.
- Fire Services has engaged a third-party provider (including a Psychologist specializing in treatment and prevention of PTSD).
- The WSIB provides access to longer term and specialized counselling support where the employee has identified their challenges through that process.
- Employees are brought back to work on modified duties following PTSD or mental health challenges to facilitate their reintegration and return back to the workforce for full and normal duties.
- Fire Services is implementing new mental health awareness training into its new recruit program.
- Three Paramedic Clinical Education Supervisors have been trained and qualified in the `Road to Mental Readiness` (R2MR) training which has been adapted for Paramedics. Hamilton Paramedic Services is one of the first trial sites nationally to adopt this program, with training scheduled to be introduced to all Paramedics commencing in April, 2016.
- Discussions are underway with our EFAP provider, Homewood Health, about making additional PTSD counselling available for staff on request.
- It is unclear whether the presumptive legislation will result in any increased claims for PTSD amongst emergency responders. Policies and practices are already in place to ensure the proper reporting of incidents where employees believe they have been exposed to a traumatic incident or situation which may result in challenges.

Next Steps

The City will also need to consider the potential for third party claims or cost allocations to a different employer where the first responder suffers from a cumulative series of incidents resulting in the diagnosis of PTSD. This is particularly true where our first responders work for other employers concurrently, or where they have been exposed to incidents in employment prior to their employment with the City of Hamilton.

Accordingly, the City will continue to review its policies and procedures with a goal of reducing incidents of PTSD, assist workers with PTSD and determine if suitable modified work can be made available to workers diagnosed with PTSD. Human Resources, Return to Work Services, will work closely with both management and affected employees through early intervention strategies, with a view to return employees to work in a safe manner.