

MEMORANDUM

TO: Cordelia Abankwa-Harris
Managing Director, Strategic Service Integration & Policy Branch
Community and Health Services Department

FROM: Barbara Bridle
Committee Coordinator

DATE: February 19, 2009

RE: **York Region Transit Mobility Plus
Appointments to Eligibility Appeal Panel**

Regional Council, at its meeting held on February 19, 2009, adopted, without amendment, the following recommendations of the Transit Committee regarding the above-noted matter:

1. Regional Council approve the amended Terms of Reference in *Attachment 1* for the Mobility Plus Eligibility Appeal Panel, changing the composition of the panel by removing the Manager, Mobility Plus and appointing a third citizen member.
2. The individuals identified in *Attachment 2* be appointed to the York Region Transit Mobility Plus Eligibility Appeal Panel.
3. The Regional Clerk forward this report to the Region's Accessibility Advisory Committee for information.

Attached please find the Council Extract of Clause No. 4, Report No. 2 of the Transit Committee.

Attachment (1)

Copy to: Don Gordon, General Manager, York Region Transit

Doc #869853

Clause No. 4, in Report No. 2 of the Transit Committee was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting on February 19, 2009.

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YORK REGION TRANSIT MOBILITY PLUS APPOINTMENTS TO ELIGIBILITY APPEAL PANEL

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council approve the amended Terms of Reference in *Attachment 1* for the Mobility Plus Eligibility Appeal Panel, changing the composition of the panel by removing the Manager, Mobility Plus and appointing a third citizen member.
2. The individuals identified in the private *Attachment 2* be appointed to the York Region Transit Mobility Plus Eligibility Appeal Panel.
3. The Regional Clerk forward this report to the Region's Accessibility Advisory Committee for information.

2. PURPOSE

This report recommends the amendment of the Mobility Plus Eligibility Appeal Panel Terms of Reference to revise the panel's composition, and also recommends the appointment of three new members to the panel.

3. BACKGROUND

The continuation of a formal eligibility appeal process is necessary to ensure fair and equitable application of Mobility Plus eligibility criteria

In May 2007, Regional Council authorized the introduction of a three-member panel to hear eligibility appeals from applicants who have been deemed ineligible to receive Mobility Plus service. This panel is intended to ensure transparency and that decisions are made in accordance with the established criteria.

The recommended make-up of the original panel was:

- A representative from the disabled community.
- A medical health practitioner.
- The Manager of Mobility Plus.

Advertisements to recruit members were placed in the local newspapers but only one application, from a member of the disabled community, was received.

Since there were no applications to fill the medical health practitioner's role on the panel, staff recommended that, as an interim measure, a staff member from the Region's Health Department be appointed to the position.

In October 2008, the member of the disabled community resigned his position on the panel for health reasons. The interim staff member from the Region's Health Department also asked to be relieved of her duties due to work commitments.

4. ANALYSIS AND OPTIONS

Appeal panel activity has been limited since its inception

Although the appeal panel was established in May 2007, there were no eligibility applications referred to it until May 2008. Since then, there have been four appeals, with an additional four currently awaiting panel review.

The most recent pending appeals are related to a May 2008 change in the definition of "appeal" to include applicants who have had their eligibility either terminated (e.g. after being audited and deemed ineligible) or changed (e.g. now requires an attendant) by Mobility Plus.

Every effort is made by YRT Mobility Plus staff to eliminate any unnecessary wait time for approval of the Mobility Plus service. Denied applicants have the opportunity to be assessed, in person, by a Regional Public Health Nurse, before filing an official appeal to the Panel. This is the same nurse that reviews all applications received by Mobility Plus.

A change in the composition of the appeal panel is required to ensure the appearance of a fair and transparent process

Staff has had discussions with the Human Rights Tribunal of Ontario and various stakeholders regarding the appeal panel composition. The Tribunal noted that there may be the appearance of bias since one panel member (the Manager of Mobility Plus) is an employee of the Region. The Tribunal also recommended that the Region should consider removing the Manager of Mobility Plus as a voting member of the panel, and instead, that the Manager participate in the hearing by providing evidence and responding

to inquiries from the panel members regarding services, policies, criteria, etc.

Staff, therefore, recommends that the composition of the panel be amended to remove the Manager, Mobility Plus, and replace that vacancy with a third citizen member, who is a person with a disability, as outlined in the amended Terms of Reference (see *Attachment 1*).

Eligibility Appeal Panel recruitment efforts have been undertaken to fill the two vacant positions

Advertisements to recruit panel members were placed in the York Region Newspaper Group newspapers throughout the Region in October 2008. Only two applications were received (one representing the disabled community and the other being a medical health practitioner). As a result, local medical associations were contacted and requested to place the advertisement in their periodicals for distribution to their members.

Hoping to solicit further interest in the panel, an ad was also placed in the 2009 Mobility Plus Calendar, which was mailed to all registered passengers in December 2008. In addition, all municipal Accessible Advisory Committees were made aware of the recruitment.

As a result, additional applications were received, and an interview panel, comprised of Don Gordon, YRT General Manager, and Joy Hulton, Regional Solicitor, was established. The applicants were interviewed on January 13, 2009, and it is recommended that the individuals named in *Attachment 2* be appointed to the appeal panel. Successful reference checks were completed for these individuals.

Relationship to Vision 2026

A goal of Vision 2026 is the need to have an effective, efficient and environmentally sensitive transportation system to improve transportation opportunities for residents within the Region. Action areas include the development of an integrated transportation network and making transit accessible. The appointment of members to the Eligibility Appeal Panel is supportive of this goal.

5. FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

6. LOCAL MUNICIPAL IMPACT

There are no local municipal implications associated with this report.

7. CONCLUSION

The Mobility Plus Eligibility Appeal Panel is an important initiative that will ensure an open, fair and transparent eligibility process for all applicants of the specialized transit service in York Region. It is, therefore, recommended that the appeal panel be appointed as noted in this report, including the necessary amendment to the panel terms of reference.

For more information on this report, please contact Sharon Doyle, Manager, Mobility Plus, at Ext. 5634.

The Senior Management Group has reviewed this report.

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TERMS OF REFERENCE**

1.0 MANDATE

The York Region Transit Mobility Plus Eligibility Appeal Panel shall be established to hear appeals from applicants who have been deemed ineligible to receive Mobility Plus service. The appeal process is intended to ensure that applications are dealt with in a fair and transparent manner, and decisions are made in accordance with established criteria.

1.1 York Region Transit Mobility Plus Mandate

YRT Mobility Plus provides specialized public transit services to individuals who, due to a physical or functional limitation, are unable to use conventional transit services.

2.0 DEFINITIONS

2.1 “appeal” means:

to apply for review of an application by the York Region Transit Mobility Plus Eligibility Appeal Panel after an applicant has been deemed ineligible or eligible with restrictions. The appeal must concern a decision regarding eligibility, level of eligibility, or type of assistance required. Three (3) conditions must be met before the Eligibility Appeal Panel accepts an application for review:

- (a) The appeal must be made within 40 days following receipt of the initial decision;
- (b) The appeal must be made by the applicant or his/her representative;
- (c) The decision contested must be based on the analysis of the complete file including the original application.

2.2 “conventional public transit” means:

Accessible fixed route public transit and includes the family of services offered by York Region Transit, including Viva.

2.3 “level of eligibility” means:

The level of Mobility Plus service (set out in Attachment 2) for which the applicant is eligible based on the information provided in the application.

2.4 “medical practitioner” means:

Someone who practices medicine as a licensed physician, or who is a licensed optometrist/optamologist, certified rehabilitation specialist, chiropractor, physiotherapist, registered occupational therapist, licensed physical therapist, registered nurse, certified psychologist, or a social worker.

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2.5 “person from the disabled community” means:

Someone with a physical disability, or functional limitation, including visual, sensory or cognitive disabilities.

2.6 “physical or functional limitation” means:

any condition, either short term or long term (e.g. paraplegia), that prevents the individual from using conventional transit services and may include physical, visual, sensory, and cognitive disabilities, as well as individuals undergoing dialysis treatments.

2.7 “shared-ride” means:

- (a) the linking of two or more passengers into a single vehicle;
- (b) other customers may be on board during the trip;
- (c) route of travel may be altered so other customers can be accommodated;
- (d) vehicle may stop and pick up other passengers as it travels to a destination all within the parameters set by the Region.

2.8 “specialized” means:

pre-booked, shared-ride, door-to-door transit services.

3.0 RESPONSIBILITY

The primary responsibility of the Eligibility Appeal Panel is to review applications for use of the Mobility Plus Service.

The Eligibility Appeal Panel will render its decision on an appeal on the basis of new information provided by the applicant and/or a clarification of previously submitted information.

3.1 Eligibility Criteria

Decisions of the Eligibility Appeal Panel must be based on the following eligibility criteria as approved by Regional Council:

An individual is eligible for Mobility Plus if he/she is unable to use conventional public transit due to a physical or functional limitation. Eligibility is considered on a case by case basis and is not based on a particular disability, nor is it based on income level or lack of accessible conventional public transit in the applicant’s area.

Applications who are otherwise ineligible for Mobility Plus because they are able to use the conventional public transit, may be eligible for trips to/from approved day programs/work placements. Written confirmation from a placement agency is required.

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The level of eligibility is to be determined based on the information in the application and any additional information provided to the Panel.

Appeals based simply on compassionate grounds will not be considered.

The Eligibility Appeal Panel may be asked to review the application form and suggest changes.

3.2 Declarations

Eligibility Appeal Panel members will be expected to carry out their duties in an objective manner and must declare any personal interests or potential conflicts when carrying out their duties. Members are required to maintain confidentiality with respect to Appeal Panel proceedings and to adhere to the provisions of the Municipal Freedom of Information and Protection of Privacy Act.

4.0 APPEAL PANEL APPOINTMENT ELIGIBILITY CRITERIA

The Eligibility Appeal Panel will consist of three (3) members: a Medical Health Practitioner (appointed), and 2 persons from the Disabled Community (appointed).

The three (3) appointees must be current residents of York Region, Canadian citizens, and at least 18 years of age.

They must also have the ability to meet at least once a month, including during business hours.

Appointees must have a demonstrated history of community service in York Region.

5.0 QUALIFICATIONS

Each appointee will have:

- (a) An understanding of the different types of disabilities and the functional characteristics of each.
- (b) An understanding of the eligibility criteria for York Region Transit Mobility Plus.
- (c) An awareness and understanding of the principles supporting the development and delivery of accessible conventional public transit and specialized public transit.
- (d) An understanding of the Appeal process.

6.0 TERM OF APPOINTMENT

The term of appointment will be one year, and may be renewed annually for a total term of four (4) years, in which case it shall coincide with the term of Regional Council. Vacancies will be solicited from the community at large, through an application process, with expertise and experience specific to the needs of the Eligibility Appeal Panel. Appointments shall be confirmed by Regional Council.

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Vacancies before the term is complete will first be filled from the review of prior applications and, if not successful, from an appeal to the community at large for further applicants. The Regional Chair shall have the authority to appoint individuals to vacant positions.

Membership will be reviewed annually by Regional Council, and will be evaluated based on the members' ability to carry out panel responsibilities and based on their attendance.

7.0 QUORUM

A quorum for a meeting shall be all three (3) of the appointed members.

8.0 CHAIR

The Chair will be on a rotating basis with each member of the Panel taking a turn.

9.0 VOTING

The decision(s) of the Eligibility Appeal Panel will be final and shall be based on a majority vote. Decisions will be rendered within 40 days of receiving the appeal request. The decision is without further appeal for one (1) year unless the Eligibility Appeal Panel receives additional information affecting the person's ability to access conventional transit (e.g. accident, surgery, dialysis, etc.) or there is a change in medical status that may affect the person's eligibility.

The Panel will endeavour to reach decisions by consensus but if consensus is not reached, a decision will be determined by majority vote.

A record shall be maintained of all Eligibility Appeal Panel meetings and decisions taken.

10.0 MEETINGS

Meetings are to be held at the South Services Centre located at 50 High Tech Road, Richmond Hill or the Administrative Centre at 17250 Yonge Street, Newmarket. Meetings are closed to the public.

10.1 Resources

Staff support for the Eligibility Appeal Panel will be provided by the Transit branch, Legal Services and the Regional Clerk's Office, which will maintain a record of all meetings. Other Regional departments and branches will be consulted on an as-needed basis.

11.0 ATTENDANCE AT MEETINGS

Attendance of all three (3) members is required in order for a hearing to proceed. Members are required to notify the Clerks office promptly if they are unable to attend a scheduled meeting due to unforeseen circumstances.

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12.0 AGENDAS

Agendas will be based on the Appeals requested. All Appeals will be numbered and will not be identified by name.

13.0 REIMBURSEMENT OF EXPENSES

- (a) Members of the Eligibility Appeal Panel serve without remuneration, but will be compensated by the Region for any approved travel expenses related to carrying out their duties as an appointee.
- (b) Members who are persons with disabilities will be provided with the resources related to their disability and that are deemed necessary for them to fully participate in the Panel (e.g. sign language interpretation services, Braille translation services, transportation, support care services, etc.).

14.0 EVALUATION AND REVIEW

The Terms of Reference for the Eligibility Appeal Panel shall be approved by Regional Council and will be reviewed after the first year with input from the Region's Accessibility Advisory Committee. They may be modified after the release of the regulations of the Accessibility for Ontarians with Disabilities Act, 2005, and/or the repeal of the Ontarians with Disabilities Act, 2001. Such modifications shall be approved by Regional Council.

Revised February 2009

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RECOMMENDATIONS 1, 2 and 3

1. Albert Ganesh be appointed to the York Region Transit Mobility Plus Eligibility Appeal Panel as a disabled community representative.
2. Keith Tse be appointed as the medical health practitioner representative on the Panel.
3. Lana Ricci be appointed to the York Region Transit Mobility Plus Eligibility Appeal Panel as a disabled community representative, replacing the Manager, Mobility Plus.