

# POLICY REGISTER

## ALCOHOL AND OTHER DRUGS POLICY

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Policy adopted: 26th October 2017 Minute No. 275.10.17

Reviewed:

File Ref: P13-1, S12-14.4

## DOCUMENT CONTROL

Issue	Prepared/Revised By and Date	Action/Amendment Description	Approved By and Date
1.0	Sarah Godwin	First Edition	Council Minute No. 275.10.17 (26th October 2017)

## ***I*** INTRODUCTION

Warren Shire Council is committed to the provision of a safe and healthy work environment for all our employees, volunteers, contractors, visitors and other persons through the elimination or minimisation of risks associated with the inappropriate use of alcohol and/or other drugs.

## ***II*** AIM

The aim of the drug & alcohol policy and subsequent procedure is to assist the Council in addressing risks to health and safety in the workplace associated with the inappropriate use of alcohol and/or other drugs. This will also assist the Council in having a process to manage the misuse of alcohol and other drugs in the workplace through training, education and where required rehabilitation.

The integration of the drug & alcohol policy and subsequent procedure into Council's Safety Management System will assist with the continual improvement of workplace safety. It will assist with the management and promotion of fitness for work of staff (including contractors and volunteers) to be part of the Council's standard processes.

## ***III*** SCOPE

This policy applies to all Council workers at workplaces under the management or control of Warren Shire Council and includes contractors and volunteers.

## ***IV*** DEFINITIONS

**Confirmatory test** - means a second analytical test performed to identify the presence of specific alcohol and/or other drugs. The confirmatory test is a retest of a second sample from an original collection if the initial test result is disputed.

**Negative result** - a result other than a positive.

**Unconfirmed results** - is where a potential result for drugs has been obtained on the initial oral swab and the collection is sent to a certified laboratory for further confirmation

**Over the counter medication** - this non-prescription type medication that if consumed before a test is undertaken may influence the result shown.

**Non Negative** - an initial positive test as yet unconfirmed by confirmatory testing by an accredited tester.

**Positive** - where the initial test result has been confirmed by further testing that the person is under the influence of alcohol and/or drugs above a prescribed limit as per current legislation and/or Australian standards

**Prescription medication** - medication that is prescribed by a doctor

**Random testing list** - persons will be added to this list who have either failed (tested nonnegative) a test or refused unreasonably a request for a drug and/or an alcohol test.

Individuals placed onto the limited random list can be targeted tested at any time, in addition to the standard random testing undertaken by the council.

**Responsible person** - A responsible person is a person who is appointed and trained in the identification of signs of impairment. The responsible person is able to make an assessment of reasonable suspicion impairment utilising the objective indicators

## **V RESPONSIBILITIES**

### **A. GENERAL MANAGER**

The General Manager accepts overall responsibility for the effective management of workplace health, safety and welfare by endorsing and fully supporting the alcohol and other drugs policy and its associated procedures for all Councillors, workers, contractors, volunteers and visitors.

### **B. SENIOR MANAGERS**

Officers have a duty, within the scope of their authority, for ensuring that:

- the objectives of this policy and its associated procedures are incorporated into work practices;
- the tasks required for the successful implementation of the alcohol and other drugs procedures are undertaken;
- adequate training, information, instruction and supervision are provided so that staff are aware of the requirements of being ‘fit for work’;
- contractors, volunteers and visitors are made aware of the requirements for being ‘fit for work’;
- immediate and appropriate steps are taken to investigate and take procedural action when a ‘fitness for work’ issue is identified; and
- all accidents/incidents and near misses are properly reported and recorded and an investigation is carried out.

### **C. ON SITE SUPERVISORS**

It is the duty of all Supervisors to ensure that no worker commences or continues duty if the worker appears to be affected by alcohol, illegal or legal drugs, or other substances which may reasonably be considered to lead to a safety risk or an inability to fulfil the requirements of the position or are not fit to work.

### **D. WORKERS**

All workers are responsible for presenting themselves for work in a fit state so that when carrying out their work activities they do not expose themselves, their co-workers or other people in the workplace to unnecessary risks to health and safety.

A worker may be in breach of their general conduct obligations under this policy if they:

- Present or carry out for work whilst under the influence of alcohol and/or other drugs; or
- conduct themselves in an inappropriate and/or unprofessional manner whilst at work or at a work related function (which may be due to the effects of inappropriate alcohol and/or other drugs use).

## **VI LEGISLATIVE REQUIREMENTS**

General employer/worker obligations in relation to workplace health and safety laws exist under:

- The Work Health and Safety Act 2011 (NSW), and
- The Work Health and Safety Regulations 2011 (NSW)

Workers who drive motor vehicles for work (including when travelling to or from work) must obey applicable road safety laws, including those relating to prescribed concentration levels for alcohol and other drugs. For further information in relation to prescribed concentration levels refer to:

- The Road Transport (Safety and Traffic Management) Act 1999 (NSW); and
- The Road Transport (Safety and Traffic Management Regulation 1999 (NSW)

Depending on the work environment, employers may have a positive legal obligation to conduct alcohol and other drugs testing in the workplace. Workplace procedures for managing risks in relation to alcohol and other drugs use must reflect these obligations if they apply. Examples include:

- The Rail Safety Act 2008 (NSW); and
- The Rail Safety (Drug and Alcohol Testing) Regulation 2008 (NSW);
- Civil Aviation Act 1988 (Cth); and
- Civil Aviation Safety Regulations 1998 (Cth)

## **VII TYPES OF TESTING**

There are five types of testing that may be undertaken, these are:

- **Voluntary Testing** – Workers can elect to submit to voluntary testing and seek assistance from Council to rehabilitate if they believe they have a substance abuse problem.
- **Random** – Workers will be selected using a random number generation system.
- **Post Reportable Incident** – certain criteria of incidents have been selected where testing will be completed, for example certain treatments by a doctor, where a vehicle has sustained damage, skylarking etc.
- **Reasonable Suspicion** – this is where a report has been received that a worker is exhibiting strange or unusual behaviour and there is suspicion that they may be under the influence of alcohol and/or drugs. Two Responsible persons will be involved in the determination on whether a test for alcohol and/or drugs is required.

- **Targeted Random** – for workers who have given a confirmed positive result for alcohol and other drugs.

Testing will be undertaken by external providers who meet the current requirements contained within AS4760 and AS3547.

## **VIII TESTING IN USE**

The Council in cooperation with the United Services Union and the Local Government and Shires Associations have adopted the use of oral swab testing (to be completed as per the requirements of AS4760) for drug testing as it will generally detect the presence of a substance that was consumed within a matter of hours as opposed to testing such as urine where a substance was consumed days or weeks ago.

A positive result in this case may not have a bearing on whether the person is unfit for work.

Drugs to be tested via the oral swab testing will be:

- Cocaine
- Opiates
- Methamphetamine
- Tetrahydrocannabinol (THC- Cannabis)

For alcohol testing a standard breathalyser meeting the requirements of AS3547 will be used. The following cut off points for blood alcohol content (BAC) will apply:

- 0.02 or greater for heavy plant operators (>13.9 tonne) or truck drivers (>4.5 tonne) or mobile plant operators. This will apply only for personnel who are undertaking these specific duties at the time of any testing.
- 0.05 or greater for all other staff to be in accordance with relevant state legislation.
- Where the person has a provisional licence (P plates) then the current BAC limits for P plates must be followed if they drive vehicles and/or trucks.

## **IX MEDICATION**

All workers who are taking a prescribed or over the counter pharmaceutical medications that may impact their performance, should review the potential for the medicine to have an impact on their ability to perform their job safely. If in doubt, they should consult with their personal doctor.

If after advice from their doctor, they believe the medication may impact their own and others' safety at work, they should seek an alternative medicine from their doctor. If no alternative medication is available, they should ask for a doctor's certificate and should discuss the circumstances with their manager.

Together, the worker and their manager will make an assessment of likely impact on the employee's ability to perform their work safely based on the doctor's advice and the particular circumstances of the individual worker.

During this discussion the worker is not required to disclose the nature of the medication or the reasons for its use and the workers privacy will be maintained. Based on the circumstances and discussions with the worker concerned, a decision will be made by the manager on whether the worker is able to perform their work safely.

Two options will be explored:

- Alternative duties to reduce the safety risk identified;
- Standing the employee down for that shift. Should this be required assistance will be given to the employee to ensure they arrive home safely;
- Access to sick leave as per the Local Government (State) Award 2014.

## **X REFUSAL TO UNDERGO A TEST**

Any person who refuses to undergo testing will be given the opportunity to explain their reasons, these will be discussed with the relevant manager, Human Resources and the external provider.

Where a worker refuses to undergo a reasonable request test three (3) times in succession, this will be recorded as a Refused Test and the worker will be treated as if they have provided a test result of an unconfirmed result (non-negative).

## **XI TAMPERING**

Any person found to be tampering or to have tampered with a test will constitute a serious breach of disciplinary standards and will be dealt with as per Section 36. Disciplinary Procedures- Local Government (State) Award 2014.

## **XII EMPLOYEE ASSISTANCE PROGRAM (EAP)**

EAP will be available under current guidelines for employees to seek support and assistance in regards to alcohol and/or drug use.

## **XIII DISCIPLINARY MEASURES**

While Council is prepared to support workers/officers in rehabilitation programmes in order to return work performance as well as workers health to satisfactory standards, it has a responsibility, as does the employee, under the WHS Act to maintain a safe working environment.

As such, a number of actions will constitute such a serious breach of disciplinary and WHS standards and will require immediate action:

- Any worker/officer undertaking the operation of a Council vehicle or plant found to have in excess of the prescribed concentration of alcohol in their bloodstream or to have operated a vehicle under the influence of an illegal drug shall be subject to Disciplinary Procedures under section 36. Disciplinary Procedures- Local Government (State) Award 2014.

- Any worker/officer found to be consuming alcohol in a Council workplace during normal working hours except at a recognised social event shall be subject to Disciplinary Procedures under section 36. Disciplinary Procedures- Local Government (State) Award 2014.
- Any worker/officer found to be using or under the influence of an illegal drug in a Council workplace during working hours shall be subject to Disciplinary Procedures under section 36. Disciplinary Procedures- Local Government (State) Award 2014.
- In addition, any worker/officer found to be in possession of illegal drugs or alcohol in a Council workplace during working hours shall be disciplined under section 36. Disciplinary Procedures- Local Government (State) Award 2014.

#### **XIV REHABILITATION**

Workers who have declared that they have a problem with the use of drugs (illegal and legal) and/or alcohol will be provided assistance by the Council as per the current EAP arrangements or as determined appropriate by their manager. This will involve the development of a confidential.

Drug & Alcohol Rehabilitation plan that will outline general treatment steps, assistance to be sourced, personnel to be involved etc. The plan will be used to assist the person to be able to present themselves at work in a state there is no impairment to them working safely.

Persons who have been found to have a positive result from a drug and/or alcohol test and who have not declared that they may have consumed a drug and/or alcohol or who have presented themselves to work in a state that is not safe to do so, will also have a confidential Drug & Alcohol Rehabilitation plan implemented.

#### **XV REFERRAL PROGRAM**

Workers who suspect that they or their work mates may have an early alcohol or drug abuse problem are encouraged to seek diagnosis and treatment. Workers will receive the same consideration and opportunity to undertake treatment as is presently extended to workers suffering from other illnesses.

Contact should be made initially with your Department Manager in matters of this nature. Confidentiality will be maintained.

Referral for treatment and requests for treatment will not jeopardise the workers the job security.

The decision to request diagnosis and accept treatment for an alcohol or other drug problem is a personal choice and responsibility of the individual.

Neither supervisors nor union representatives have the qualifications to diagnose an alcohol or drug problem. Council intervention for referral for diagnosis and treatment for an alcohol or drug problem will be based on job performance only. Once work performance and the workers' health have been restored and maintained the matter will cease as far as Council is concerned.

Refusal to accept diagnosis or to follow through in treatment, accompanied by further deteriorating job performance, will be dealt with in under section 36. Disciplinary Procedures- Local Government (State) Award 2014.

Persons participating in the programme will be expected, within a reasonable period, to re-attain satisfactory job performance levels and adhere to established work rules.

Nothing within this policy is to be taken as constituting a waiver of Management's duty to maintain discipline or the right to take disciplinary measures.

## **XVI CONFIDENTIALITY**

The Council will endeavour to ensure that the highest levels of confidentiality are maintained in the application of this policy. The following minimum conditions shall apply:

- All testing will be conducted in a private location that maintains the privacy and dignity of the individual.
- All testing will be conducted by trained staff and/or accredited providers in accordance with Australian Standards.
- Workers who record a non-negative result will be treated at all times in a respectful and non-judgemental manner by all involved in the management of the matter.
- Council records pertaining to test results shall be regarded as confidential information and use/access/dissemination of the results shall be restricted to those who have a genuine requirement to access the confidential results of the drug and/or alcohol test. No information related to drug and/or alcohol testing shall be disclosed to any person or persons other than those properly authorised officers of the Council and authorised worker representative/s.
- The General Manager is authorised under this policy to access, delegate and assign authority for access and use of the information obtained under this policy, including but not limited to authorised government agencies, insurers (for claims submissions, where applicable).
- Where the General Manager has authorised the release of confidential test results to external parties who are legally able to access this information, the worker/s that are involved are to be notified in writing detailing:
  - Who the information will be released to;
  - When and for what purposes the information will be released;
- A copy of all information released is to be provided to the worker/s involved with this notification. The notification must be given to the workers prior to information being released to the external parties.

## ***XVII REVIEW***

This policy shall be reviewed:

- Within 12 months immediately following a Council Election;
- Immediately if there is a significant change in the level or availability of technology associated with the testing for inappropriate alcohol and/or other drugs use; or
- Immediately if any provision is contrary to law.