

# Procedure

<b>Name of Procedure</b>	<b>Alcohol and Other Drugs</b>		
<b>Document Register ID</b>	250.2016.64.3	<b>Date Approved</b>	01/08/2024
<b>Document Author</b>	WHS & RTW Officer		
<b>Authorised by</b>	Chief Workforce Officer		
<b>Applicable to</b>	All Snowy Monaro Regional Council workers including contractors, visitors, volunteers.		
<b>Purpose</b>	<p><b>The purpose of this document is to:</b></p> <ul style="list-style-type: none"> <li>• Deal with Alcohol and other Drugs and their effect on workers fitness for work whilst performing their duties and to ensure Council has a mechanism to appropriately manage the misuse of alcohol and other drugs in the workplace through training, education and where required, rehabilitation;</li> <li>• Eliminate the risks associated with the misuse of alcohol and other drugs, thereby providing a safer work environment;</li> <li>• Reduce the risks of alcohol and other drugs impairment in the workplace; and</li> <li>• Promote a supportive culture that encourages co-operative approach between management and workers and builds on the shared interest in workplace health and safety.</li> </ul>		
<b>Frequency</b>	This procedure must be followed at all times in accordance with Councils Work Health & Safety Policy		
<b>Hazard Identification</b>	Various hazards may be identified in the undertaking of this procedure. All hazards associated with each circumstance should be recorded, assessed and controlled in accordance with Councils enterprise risk management system.		
<b>Level of risk</b>	Various levels of risk may be determined in the analysis of identified hazards. Levels of risk identified in each circumstance should be managed in accordance with Councils enterprise risk management system.		
<b>PPE required for procedure</b>	<p>Various PPE may be required and should be considered on an individual assessment when undertaking this procedure.</p> <p>The following is required to undertake this procedure:</p>		

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## 1. Background

In July 2012, The Local Government and Shires Association of New Wales (LGSA); the New South Wales Local Government, Clerical, Administrative, Energy, Airlines and Utilities Union (USU); the Local Government Engineers Association (LGEA); and the Development and environmental Professionals Association (depa) developed the NSW Local Government Alcohol and Other Drugs Policy and Alcohol and Other Drugs Procedure.

“The LGSA, USU, LGEA and depa (the “**industry parties**”) recognise that the inappropriate use of alcohol and/or other drugs is a significant problem that can affect a workers performance and jeopardise their health, safety and welfare as well as that of their co-workers and other people in the workplace” (NSW Local Government Alcohol and Other Drugs Policy Statement of Intent)

Council recognises the adverse effects of alcohol and other drugs on workers and the community and is committed to eliminating the risks associated with the misuse of alcohol and other drugs.

This procedure outlines the key outcomes and compliance obligations regarding alcohol and other drugs for all Council workers including contractors. This procedure is drawn from the NSW Local Government Alcohol and Other Drugs Policy and Alcohol and Other Drugs Procedure.

Should any perceived ambiguity with policy or process arise, the NSW Local Government Alcohol and Other Drugs Policy and Alcohol and Other Drugs Procedure take precedence.

## 2. Aim

The aim of this procedure is to assist and encourage Councils to establish clear and consistent procedures for addressing risks to health and safety in the workplace associated with the inappropriate use of drugs and/or other drugs.

Council aims to be supportive and rehabilitative but acknowledges there will be occasions where disciplinary action is appropriate.

This procedure balances:

- a) Councils obligation as a person conducting a business or undertaking to ensure the health, safety and welfare of workers and other people in the workplace (Section 19, Work Health Safety Act 2011 and;
- b) Promoting a supportive culture in which workers feel able to seek the assistance of their employers in a non-threatening way.

## 3. Responsibilities

Under this procedure the duty of care, responsibilities of workers, Council, Officers and others at workplace are derived from the duties under the Work Health and Safety Act 2011.

## 4. Workers taking Pharmaceutical Medicines

- To avoid the possibility of any apparent breaches of Council’s stance on zero tolerance, employees taking pharmaceutical drugs or prescription medication which may affect the workers performance, are encouraged from a health and safety perspective to discuss their circumstances with their Manager/Coordinator and/or Supervisor.
- Workers should also adhere to any warnings detailed for any pharmaceutical and/or over-the-counter medicines; follow the recommended prescribed dose as well as any advice/directions from their General Practitioner (GP).

## 5. Zero Tolerance

This procedure provides for zero tolerance of any use of alcohol or illegal drugs which constitutes a criminal offence or has potential to adversely affect the health and safety of Council's workers and others in the workplace or the conduct of Council's operations.

Particularly:

**5.1** The consumption, use, sale or distribution of alcohol or illegal drugs in the workplace or within its perimeters is strictly prohibited.

**5.2** Attendance at the workplace by any worker who is adversely affected by alcohol or other drugs is strictly prohibited.

**5.3** The operation of any Council vehicle, plant or equipment by a worker who has a Blood Alcohol Concentration (BAC) in excess of the levels set out in **Section 7 Prescribed Blood Alcohol Concentration Limits** of this procedure is strictly prohibited.

The breach of any prohibitions in **Sections 5.1, 5.2 or 5.3** will result in the implementation of Council's disciplinary and administrative action which may include dismissal.

## 6. Confidentiality

The Council will endeavour to ensure that the highest levels of confidentiality are maintained in the application of this procedure.

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 Chief Executive Officer (CEO) is authorised under this procedure to access, delegate and assign authority for access and use of the information obtained under this procedure, including but not limited to authorised government agencies, insurers (for claims submissions, where applicable).

Where the Chief Executive Officer (CEO) has authorised the release of confidential test results to external parties who are legally able to access this information, the workers 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 workers involved with this notification. The notification must be given to the workers prior to information being released to the external parties

## 7. Prescribed Blood Alcohol Concentration (BAC)

There are three (3) BAC limits utilised in this procedure:

**7.1** zero

**7.2** under 0.02 and

**7.3** under 0.05

**7.1 BAC of zero applies to:**

- a) ALL Learner Drivers
- b) ALL Provisional 1 drivers
- c) ALL Provisional 2 drivers
- d) ALL visiting drivers holding an overseas or interstate learner, provisional or equivalent licence.

**7.2 BAC of under 0.02 applies to:**

- a) Drivers of vehicles of a Gross Vehicle Mass (GVM) greater than 13.9 tonnes
- b) Drivers of vehicles carrying dangerous goods
- c) Drivers of public vehicles such as taxi or bus drivers
- e) Any worker undertaking activities specified as High Risk Construction Work under the Work Health and Safety Regulation 2017 (Chapter 6 Construction Work - Part 6.1).

**7.3 BAC of under 0.05 applies to:**

- a) All other employees who do not meet any of the above criteria shall meet 0.05.

**8. Supportive Culture**

- Council will foster a supportive culture that encourages employees to accept individual responsibility for workplace health and safety consistent with their duties under the Work Health and Safety Act 2011 and Council's Health and Safety Administration Protocol and its subordinate Health and Safety procedures.
- A supportive culture will encourage a cooperative approach between management and workers and build on the shared interest in health and safety.

**8.1 Consultation Communication and Information**

- Council will ensure that the development of the Alcohol and Other Drugs Policy and Procedure occurs in consultation with the unions, all stakeholders including the Consultative Committee and Work Health and Safety Committee, which may make recommendations based on consensus.
- Other communication processes in the workplace may include toolbox meetings, newsletters, Union meetings and the use of communication boards.

## 8.2 Education and Training

- Council recognises that it is important to develop a workplace culture through education, where workers are prepared to encourage each other to be safe and not under the influence or impaired at work.
- Council will provide this education and awareness information to its workers at all levels.
- New workers will receive education at induction on commencement with Council. Council will also provide practical guidelines and training to Managers/Coordinators and Supervisors for dealing with workers who may be affected by alcohol or other drugs, including the correct application of disciplinary sanctions and the need for maintaining strict confidentiality.

## 8.3 Employee Assistance Program (EAP)

- If a worker has issues of concern including those related to alcohol and other drugs, Council encourages workers to make use of the Employee Assistance Program (EAP) and seek appropriate support and assistance.
- The service is provided on a confidential basis. Please contact Council's Workforce Management Team for further details.

## 8.4 Rehabilitation

- The workers Manager/Coordinator and/or Coordinator Workforce Management may assist the individual worker in developing a rehabilitation plan to manage their fitness for work issue/s.
- Using the Drug and Alcohol Rehabilitation Plan Form (**Appendix 2**) the details of the plan should be agreed between the parties and include the goal, the current issues, the steps and timeframes required to enable the employee to return to work.
- The parties may also include, at the workers request, their General Practitioner (GP), their Union representative or a representative of their choice to assist in the development of this plan.
- The Chief Executive Officer (CEO), on a case by case basis, will determine if Council will bear any rehabilitation program costs.

## 9. Disciplinary Action

- Any breach by a worker of any of the prohibitions referred to in this procedure is unsatisfactory work performance or conduct. As such, unsatisfactory work performance or conduct, will result in the implementation by Council of disciplinary and administrative action which may include dismissal.
- All disciplinary processes will be consistently managed in accordance with the current Local Government (State) Award 2020 or any subsequent Award or Agreement, Council's Code of Conduct Policy (250.2016.1.3) and Grievance Policy (250.2016.67.1).
- The worker is responsible for any criminal penalty which results from being under the influence of alcohol or drugs in the workplace.
- Workers are entitled to have a Union or other representative present at any discussions or disciplinary meetings of their choosing. If the worker has chosen to have a Union or other representative at any testing, that person must be able to attend the test location within a reasonable time (within 10 – 15 minutes.)
- If a worker is unable to perform normal duties during any period as a result of this procedure, it may result in a review of the workers' pay rate during this period which could result in a reduction in pay.
- If a worker has any future breaches of this procedure (further confirmed positive test results), each breach is a discrete event and will be considered unsatisfactory work performance or conduct. Subsequent disciplinary action would be initiated consistent Local Government (State) Award.

## 10. Assessors

Assessors conducting the visual assessment can either be:

- a) Chief Officer
- b) Manager/Coordinator
- c) Supervisor
- d) Workforce Management Representative

Assessors are to act in an ethical and professional manner and be consistent across all workers and on each occasion. When making assessments, they are to be made in the context of changes to an employee's behaviour and not to be made on assumptions based on a workers previous behaviour or work record.

## 11. Testing Procedure

### 11.1 Alcohol and Other Drugs Testing Program

Council will use breath analysis for alcohol testing and will use saliva testing (mouth swabs) and urine sampling (In certain circumstances) for other drugs.

Other drugs in the context of this procedure are:

- a) cocaine;
- b) opiates;
- c) methamphetamine (ICE) and
- d) tetrahydrocannabinol (principle active of cannabis).

**Council has established a program of testing that will:**

- a) provide people with information about the effects of alcohol and other drugs;
- b) discourage people from coming to work where they may be unfit for work because of alcohol or other drugs; and
- c) assist in identifying people who may be unfit for work.

### 11.2 Testing Options

There are four (4) testing options:

1. Voluntary
2. Random
3. Post reportable incident
4. Reasonable Suspicion

#### 11.2.1 Voluntary Testing

- Voluntary testing provides workers with the ability to volunteer to be tested for alcohol before attending work or resuming work activities following authorised breaks.
- An Alcolizer will be used in accordance with the Australian Standard. Workers should request a voluntary test if in doubt, prior to commencing duties.

#### 11.2.2 Random Testing

- Random alcohol and/or other drugs testing for a worker, work crew or Council Department may be conducted at any time throughout the work shift (including overtime) without prior notice.
- Random testing will be conducted in an appropriate area which contains adequate facilities for testing. The testing will be undertaken in private.
- Workers who are selected will be required to present themselves for testing immediately.

#### 11.2.3 Post Reportable Incident Testing



- Post reportable incident testing for alcohol and/or other drugs will be conducted where a worker has been directly or indirectly involved in a notifiable incident (Either regulatory ie SafeWork NSW or an internal notifiable incident).
- For the purpose of this procedure, a reportable incident is defined as any accident or event that occurs during the course of work/employment which results in personal injury, vehicle damage, property damage and/or any incident that has the potential for significant risk of harm or injury to persons, plant or equipment.
- Post reportable incident testing will take place no later than twelve (12) hours after the incident where a reportable incident falls within the following criteria. If an employee fails to report an incident, as defined, immediately and testing is unable to be undertaken within twelve hours as a result of this failure, the testing will be conducted under 11.2.4 Reasonable Suspicion.

Incident Type	Definition	Excluding
Injury	Any injury caused during the course of work/employment for which the employee requires treatment over and above first aid only treatment.	Testing will not be undertaken by Council where it is identified: <ul style="list-style-type: none"> <li>• the incident was not within the control of the employee involved and the correct procedures were followed;</li> <li>• first aid treatment only is required unless the employee develops a pattern of reporting first aid only injuries which subsequently require medical treatment;</li> <li>• journey accidents (before the start of the shift or after the shift has finished);</li> <li>• a member of the NSW Police Force attend an accident site, irrespective of whether or not the worker is tested for alcohol or other drugs by the police officer; and</li> <li>• the injury is hearing loss, skin cancer or other occupationally induced disease the injury is of a diagnosable psychological condition</li> </ul>
Vehicle	Any work related incident involving a Council vehicle (vehicle includes any type of road registrable plant) where damage to the vehicle and/or third party property is sustained.	Testing will <b>not</b> be undertaken by Council where it is identified: <ul style="list-style-type: none"> <li>• that the incident was not within the control of the worker involved;</li> <li>• journey accidents (before the start of the shift or after the shift has finished);</li> <li>• minor damage where the worker is not at fault (e.g. tail light, less than \$2,000, minor scratch) unless a pattern develops of minor incidents involving a specific worker; and</li> <li>• a member of the NSW Police Force attend an accident site, irrespective of whether or not the worker is tested for alcohol or other drugs by the police officer.</li> </ul>

Property damage	Any incident resulting in equipment, property or environmental damage.	<p>Testing will <b>not</b> be undertaken where by Council where it is identified:</p> <ul style="list-style-type: none"> <li>• that the incident was not within the control of the worker involved and the correct procedures were followed;</li> <li>• minor damage where the worker is not at fault (e.g. tail light, less than \$2,000, minor scratch) unless a pattern develops of minor incidents involving a specific worker; and</li> <li>• a member of the NSW Police Force attend an accident site, irrespective of whether or not the worker is tested for alcohol or other drugs by the police officer.</li> </ul>
Any incident that has the potential for a significant risk of harm or injury to persons or equipment.	Dangerous occurrences or behaviour that could have resulted in injury or property damage.	<p>Testing will <b>not</b> be undertaken by Council where it is identified:</p> <ul style="list-style-type: none"> <li>• that the incident was not within the control of the worker involved and the correct procedures were followed</li> <li>• the potential was for minor damage where the worker is not at fault (e.g. tail light, less than \$2,000, minor scratch) unless a pattern develops of minor incidents involving a specific worker; and</li> <li>• first aid treatment only is likely to have been required.</li> </ul>

- Where an incident occurs that falls within the above definitions, all workers directly involved in the incident may be tested.
- Where a subsequent investigation has identified that the true cause or causes of the incident were not properly reported and fell into the category requiring a test, then an alcohol and other drug test will be organised. Late or incorrect reporting of incidents will be investigated and similar action will be undertaken.
- In the event of post reportable incident testing being required the following process shall occur.

<b>Step 1</b>	Secure work area and if necessary direct the worker to move to a safe area that is supervised at all times.
<b>Step 2</b>	Injured persons receive immediate medical attention, if required (may only be tested when it is appropriate and will be determined in consultation with suitably trained medical personnel). In such cases, testing procedures other than breath or saliva may be used in accordance with the appropriate Australian Standards.
<b>Step 3</b>	The Supervisor must ask the worker if they have consumed any alcohol and/or drugs within the past 12 hours, or if they believe that any other worker involved in the incident may be impaired by alcohol or drugs.
<b>Step 4</b>	If yes to either of the Step 3 questions, worker to remain where they are and an alcohol or drugs test will be arranged by the Supervisor.
<b>Step 5</b>	Workers directly involved in the incident to undergo an initial alcohol and/or other drug test consistent with post reportable incident table.
<b>Step 6</b>	If test or tests are negative, proceed with normal incident investigation.
<b>Step 7</b>	If test or tests are non-negative confirmed, determine action according to Section 8 Supportive Culture and Section 9 Disciplinary Action, contained in this Procedure.

**11.2.4 Reasonable Suspicion**

- If there is reasonable suspicion that an employee is impaired following a visual assessment after using the Fitness for Work Assessment Form (**18.1 Appendix 1 – Fitness for Work Assessment**), the employee may be requested to undergo an initial alcohol and/or drug test in accordance with the relevant Australian Standards.
- If concerns are raised that an employee/s on Council premises, or worksites, is impaired, they should report their suspicion to their Manager/Coordinator or Workforce Management representative. The responsibility to make a formal assessment of a person's impairment remains with the assessors only.
- There is an obligation on management to be aware that changes in the normal appearance or behaviour of a person may indicate that the person is impaired by alcohol and/or drugs. It is not the responsibility of the assessors to diagnose personal or health problems or determine what the cause of impairment may be.
- The responsible person is to request a discussion with the worker in a private location away from other workers. The worker should be given an opportunity to have a Union delegate or other person attend the discussion. The privacy of the worker is a priority at all times.

**The responsible person should use wording such as:**

- I am concerned that you are behaving unusually today because I have observed [list indicators forming basis of reasonable suspicion]. Is there a reason for this?
- Responsible persons should speak assertively. Judgemental or confrontational language is not to be used and debate is not to be entered into with the worker.

In the event of reasonable suspicion test being required the following process shall occur.

<b>Step 1</b>	There is reasonable suspicion that an employee is impaired by alcohol and/or drugs.
<b>Step 2</b>	At least two assessors must participate in the assessment using the Fitness for Work Assessment Form ( <b>18.1 Appendix 1 – Fitness for Work Assessment</b> )
<b>Step 3</b>	Assessors establish reasonable suspicion (at least three (3) indicators including one (1) of the physical indicators with accompanying comments in the form must be satisfied and agreed upon by both assessors)
<b>Step 4</b>	Assessors are to request a discussion with the worker in a private location away from other employees, where possible. No judgemental, confrontational language or debate is not to be entered into with the worker.
<b>Step 5</b>	Assessors to clearly inform employee of the indicator or indicators upon which reasonable suspicion was based.
<b>Step 6</b>	The worker to be given an opportunity to explain their behaviour as there may be mitigating factors.

## 11.2 Testing Procedure – Alcohol

- Worker identified to participate in alcohol testing will be required to carry out a supervised alcohol analysis test, using a calibrated breath testing device as per the Australian Standard AS3547:1997 - Breath alcohol devices for personal use. The test will be administered by a suitably competent person.
- The worker may request a Union delegate or representative from work to be present during the testing procedure.
- Unless medically required, no food or drink is to be consumed for 15 minutes prior to the test. Smoking shall also not be permitted as it may distort the test results.
- In the event that a non-negative result is registered, a subsequent test will be carried out 15 minutes after the first test. During this 15 minute period, the worker is to be supervised continually at all times by the person conducting the tests.
- Workers with a second non-negative breath analysis test result will be presumed unfit for work and arrangements will be made to transport the person to their home.
- The worker will then be required to submit for a further test at the first available opportunity on the next working day before being able to resume their normal duties.

### 11.2.1 Negative Alcohol Result

Where a worker presents a negative result or result lower than the acceptable levels identified in this procedure, the worker will be permitted to commence or resume their normal duties.

**11.2.2 Non Negative Alcohol Result**

If an alcohol test returns a non-negative result, Workforce Management representative and/or relevant Manager/Coordinator shall apply the following:

<b>Step 1</b>	A subsequent test will be carried out 15 minutes after the first test.
<b>Step 2</b>	During that time, the employee will be supervised continually at all times by the person conducting the tests.
<b>Step 3</b>	If a non-negative second breath analysis test result is determined, the worker will be presumed unfit for work and is considered a breach of Council's Alcohol and Other Drugs Procedure.
<b>Step 4</b>	Arrangements shall be made to transport the worker to their home.
<b>Step 5</b>	Worker to submit for a further test at the first available opportunity on the next working day BEFORE being able to resume their normal duties.
<b>Step 6</b>	If the worker still poses a risk to their own health and safety and that of others, repeat Step 4 and 5 until a negative result is returned.
<b>Step 7</b>	Upon return to the work place, worker to meet with the relevant Manager/Coordinator and Workforce Management to discuss the breach of the Alcohol and Other Drugs Procedure and any subsequent further action (disciplinary and administrative).
<b>Step 8</b>	Timesheets to be amended to reflect the correct personal leave entitlements (either Annual Leave, Sick Leave, Time in Lieu, RDO or Leave With Out Pay) taken whilst the worker was stood down.
<b>Step 9</b>	All meeting documentation filed accordingly by Workforce Management.
<b>Step 10</b>	Worker resumes normal duties.

A confirmatory breath test equal to the limits established in **Section 7 Prescribed Blood Alcohol Concentration Limits** of this procedure, will be determined to be a positive alcohol test result.

Where a worker refuses to undertake an initial and/or second test, the procedure as listed in **Section 12 Refusal to undertake Alcohol or Other Drugs Testing** shall be followed.

### 11.3 Testing Procedure – Other Drugs

Workers identified to participate in a drug test will be required to undergo an oral swab or where required a urine sample testing process as per the *Australian Standard AS 4760:2019 – Procedures for specimen collection and the detection and quantitation of drugs in oral fluid*. The test will be administered by suitably competent persons within Council and/or an accredited external provider.

#### 11.3.1 Workers with Prescribed Medication

- It is recognised that certain prescription medication may return positive results during testing, and it is the responsibility for any worker, in accordance with Councils work health and safety policies and procedures, to inform their Supervisor if they are taking any prescription medication that may cause impairment whilst at work.
- Where practicable, the tester shall provide a list of medications which may provide a false positive result.
- Any worker required to undertake drug testing can choose to declare any medication taken immediately prior to the test being conducted or can declare following the initial test if an initial non-negative result is obtained. Such information is to be kept confidential and only to be used in determining if such medication has contributed to or caused a false positive.
- If the worker declares the medication prior to any testing being conducted, and the drug class(es) declared is consistent with the drug class(es) detected at the initial screening test, then a fitness for work assessment is to be conducted by two responsible persons.
- If the worker is assessed as being unfit to continue in their normal role, temporary re-deployment into alternate suitable duties may be available and Council will actively explore any opportunities that may be available at the time that would be suitable to the individual.
- If the worker is assessed to be fit for work, the worker will be permitted to return to work and will be allocated low risk tasks pending the results of the confirmatory test. There may be circumstances as a result of the fit for work assessment, where a worker who normally operates or drives a Council vehicle or heavy/mobile plant will be unable continue to do so.
- If the worker is assessed to be unsafe to continue to operate vehicle or heavy/mobile plant or work in their normal position, then arrangements will be made to transport the person to their home or a safe place unless an acceptable form of public transport is available.
- Council may request further information such as a medical certificate from the workers doctor.
- If the worker did not declare the medication prior to the testing being conducted, or if the drug class(es) declared is inconsistent with the drug class(es) detected, or there are methamphetamines present, then the person will be assessed as unfit for work and arrangements will be made to transport the person to their home or a safe place.

**11.3.2 Confirmatory Test Is Negative**

If a confirmatory test returns a negative result that is consistent with a worker's declared medication, the Manager Workforce Management and/or relevant Manager/Coordinator shall apply the following:

<b>Step 1</b>	The testing provider will forward the results to Workforce Management.
<b>Step 2</b>	Workforce Management will advise the worker and their Manager/Coordinator that the confirmatory test result was negative. If the worker has been stood down pending the outcome, arrangements will be made for the workers return to work.
<b>Step 3</b>	Worker returns to work.
<b>Step 4</b>	Timesheets to be amended to reflect the correct personal leave entitlements (Annual Leave, Sick Leave, Time in Lieu, RDO or Leave With Out Pay) if the worker was stood down.
<b>Step 5</b>	Workforce Management to notify Payroll to reimburse any loss of pay or reinstate any use of paid leave as a result of being stood down for the worker.



### 11.3.3 Confirmatory Test is Non-Negative and Consistent With Medication

If a confirmatory test returns a non-negative result that is consistent with a worker's declared medication, the Manager Workforce Management and/or relevant Manager/Coordinator shall apply the following:

<b>Step 1</b>	A confirmatory positive test result for other drugs will be determined by the Australian Standard <i>AS 4760:2019</i>
<b>Step 2</b>	The testing provider will forward all test results to Workforce Management in writing, identifying the confirmatory test was positive but consistent with medication declared.
<b>Step 3</b>	If the worker has previously been allocated low risk duties, their fitness for work will be reassessed by their unit Manager in consultation with Workforce Management.
<b>Step 4</b>	The worker will either return to normal duties or remain on low risk duties for the duration of the use of the medication, providing the duration of the use of the medication is a reasonable timeframe.
<b>Step 5</b>	If the worker has been stood aside pending the confirmatory test results, Workforce Management will contact the worker and request that they return to work once results have been received.
<b>Step 6</b>	On return to work, Workforce Management in consultation with either the Supervisor and/or Manager will reassess their suitability for duties.
<b>Step 7</b>	The worker will either return to normal duties or start on low risk duties for the duration of the use of the medication, providing the duration of the use of the medication is a reasonable timeframe.
<b>Step 8</b>	All documentation to be filed accordingly by Workforce Management.
<b>Step 9</b>	Timesheets to be amended to reflect the correct personal leave entitlements (Annual Leave, Sick Leave, Time in Lieu, RDO or Leave With Out Pay) if the worker was stood down.

**11.3.4 Confirmatory Test Is Non-Negative and NOT Consistent With Medication**

If a confirmatory test returns a non-negative result that is consistent with a worker's declared medication, the Manager Workforce Management and/or relevant Manager/Coordinator shall apply the following:

<b>Step 1</b>	The testing provider will forward the results to Workforce Management.
<b>Step 2</b>	Workforce Management will advise the applicable Manager/Coordinator in writing that the confirmatory test was non-negative and not consistent with the medication disclosed by the worker.
<b>Step 3</b>	The worker will be advised in writing: <ul style="list-style-type: none"> <li>• that the confirmatory test was non-negative and not consistent with the medication disclosed by the worker;</li> <li>• that the test result constitutes breach of the Alcohol and Other Drugs Procedure;</li> <li>• the need to discuss further action (including rehabilitation and disciplinary) with their relevant manager and Workforce Management</li> <li>• set nominated location, time and date for the discussion</li> <li>• of the option to have their Union or other representative attend as well</li> </ul>
<b>Step 4</b>	Discussion as detailed in Step 3 occurs.
<b>Step 5</b>	If the worker requests access to paid leave entitlements such as personal, annual or long service leave, as part of the further action discussion, agreement to access to relevant leave entitlements will depend on the circumstances and will be managed in accordance with the Local Government (State) Award 2014.
<b>Step 6</b>	All discussion documentation is to be filed accordingly by Workforce Management.
<b>Step 7</b>	Before worker can return to normal duties, a negative test result and clearance certificate from their nominated Doctor, obtained at their own cost, is to be presented to Workforce Management.
<b>Step 8</b>	Clearance certificate and negative test result must be presented to Workforce Management.
<b>Step 9</b>	Worker returns to normal duties.

## 12. Refusal to undertake Alcohol or Other Drugs Testing

If a worker refuses to take any alcohol or drug test, the Manager Workforce Management and/or relevant Manager/Coordinator shall apply the following:

<b>Step 1</b>	Worker will be informed that the refusal will have same consequences as a non-negative result i.e. under the influence of alcohol and/or drugs.
<b>Step 2</b>	The worker will be offered the test again (second request).
<b>Step 3</b>	If worker refuses a second time, the authorised collector will inform the relevant Manager/Coordinator and Workforce Management of refusal.
<b>Step 4</b>	Manager/Coordinator will discuss the refusal and likely consequences (disciplinary action) with the worker, try to determine the reasons for refusal and then re-offer the test (third and final request).
<b>Step 5</b>	If the worker still refuses, the refusal will be recorded as 'Refused Test' and deemed a non-negative result. This will be considered a breach of the Alcohol and Other Drugs Procedure and disciplinary action will be taken.
<b>Step 6</b>	Arrangements will be made to transport the person to their home or a safe place.
<b>Step 7</b>	Manager/Coordinator will inform their Chief Officer of the situation and ensure all documentation is forwarded to Workforce Management for recording and filing.
<b>Step 8</b>	The worker concerned will be stood down and entitled to access their accrued leave during this period.
<b>Step 9</b>	He/she can only return to work once a negative result has been obtained (at the worker's cost and performed by trained staff using equipment and methods that complies with current Australian Standards).
<b>Step 10</b>	Once a negative result has been obtained, worker to discuss with the relevant Manager/Coordinator, Workforce Management and representative. Worker returns to normal duties and meeting documentation, including the negative test results to be filed accordingly.
<b>Step 11</b>	Steps 8 and 9 to be repeated until the negative result is obtained.
<b>Step 12</b>	If step 11 is continually occurring, the worker will be issued with further disciplinary action as per Disciplinary Procedure.

### 13. Tampering with Alcohol or Other Drugs

Any attempt to tamper with or alter the concentration of samples (i.e. saliva, breath or urine) whether that being their own or another's will constitute a serious misconduct and be dealt with according to Council's disciplinary processes.

### 14. Aggressive or Abusive Behaviour

If a worker displays aggressive or violent behaviour when required to undertake an alcohol and/or other drug test, the Manager/Coordinator should remain calm and not argue with or mirror the worker's behaviour.

Emphasis should be placed on deescalating the situation and the discussion kept away from personal issues. The worker should be asked to comply with the management direction and be informed that the worker will have the opportunity to dispute the decision through the normal grievance process utilised by Council.

If the worker refuses to modify their behaviour, the worker should be advised that the discussion is terminated and that they must leave the workplace immediately. The worker should be reminded that acts of aggression or violence in the workplace are in breach of Council's Code of Conduct Policy (250.2016.1.3), not in line with Council's Values and may result in dismissal.

In the case of actual or apprehended violent behaviour, the worker is to be advised that the police will be called. This option is to be used as a last resort.

### 15. Review and Audit

The Office of Local Government "*Alcohol and other drugs policy 2013*" will be reviewed periodically by Council in consultation with interested parties including the Local Government unions (USU, DEPA, LGEA), Council's Health and Safety and Consultative Committees. It is understood that as new testing technology becomes available for alcohol and other drugs testing it should be considered in any review, provided it is based upon levels of drugs and alcohol which indicate impairment at work.

No alteration of this procedure is to occur prior to the conclusion of consultation and agreement being reached.

### 16. Grievances/Disputes relating to this Policy

Any dispute relating to the application of this procedure shall be settled in accordance with the Grievance and Dispute Settlement Procedure of the Local Government (State) Award 2014 and Council's Grievance Policy (250.2016.67.1).

### 17. Review of the Alcohol and Other Drugs Procedure

The industry parties had numerous discussions in the developmental phase of the Office of Local Government "*Alcohol and other drugs procedure 2013*" in relation to 'reportable offences' and 'risk assessments' for specific high risk duties. However, they were unable to reach agreement on these issues. The industry parties have undertaken to give further consideration to these issues, in the light of experience, when the Procedure is next reviewed.

## 18. Appendices

### 18.1 Appendix 1 – Fitness for Work Assessment

#### Observable Indicators of Impairment

Assessment of a person is to be made in accordance with this list of observable indicators in the context of changes to a person's behaviour. At least 2 responsible persons must participate in the assessment.

At least one (1) of the physical indicators must be satisfied and agreed between the responsible persons for reasonable suspicion to be established.

Emotional effects (the second part of the table) should not be used as indicators of reasonable suspicion but may be recorded as additional information.

<b>Name of person being assessed:</b>		<b>Name of Responsible Persons:</b>	
<b>Name of attending representative</b> (if requested):		<b>Date / Time:</b>	

#### Assessment Triggers

Behaviour / actions / observations reported prior to this assessment:

<b>Physical Indicator</b>	<b>Observed</b>
Strong smell of alcohol on breath	
Slurred, incoherent or disjointed speech	
Unsteadiness on the feet	
Poor coordination / muscle control	
Drowsiness or sleeping on the job or during work breaks	
Inability to follow simple instructions	
Nausea / vomiting	
Reddened or bloodshot eyes	
Jaw clenching	
Sweating / hot and cold flushes	

<b>Emotional Effect (Not a basis for reasonable suspicion)</b>	
Loss of inhibitions	
Aggressive or argumentative behaviour	
Irrational	
Intense moods (sad, happy, angry)	
Quiet and reflective	
Talkative	
Increased confidence	
Appearance or behaviour is "out of character"	

**Observation Checklist – Physical Indicators**

Breath	Smell of intoxicating liquor on breath: <input type="checkbox"/> Nil <input type="checkbox"/> Slight <input type="checkbox"/> Strong
Skin	<input type="checkbox"/> Sweating/hot and cold flushes
Eyes	<input type="checkbox"/> Reddened and bloodshot
Speech	<input type="checkbox"/> Normal <input type="checkbox"/> Disjointed <input type="checkbox"/> Slurred <input type="checkbox"/> Confused <input type="checkbox"/> Fast <input type="checkbox"/> Slow
Balance	<input type="checkbox"/> Unsteady <input type="checkbox"/> Swaying <input type="checkbox"/> Slumping <input type="checkbox"/> Falling
Movements	<input type="checkbox"/> Poor coordination/muscle control
Awareness	<input type="checkbox"/> Drowsiness or sleeping on the job or during work breaks <input type="checkbox"/> Inability to follow simple instructions
Other physical signs	<input type="checkbox"/> Nausea/vomiting <input type="checkbox"/> Jaw clenching

**Questions**

Questions:	Response:
Can you give any reason for your appearance and behaviour as noted above:	
Could you be under the influence of drugs and / or alcohol?	
Have you consumed drugs and / or alcohol since the commencement of the shift?	

**Assessment Result**

- No testing required (alternate action if applicable – note in comments section)  -
- Testing required – at least one (1) physical indicator in evidence
- Both Responsible Persons agree: Yes / No

**Comments**

Including mitigating factors noted or explained by the person, emotional factors identified, further actions to be taken etc.).

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Signature of Person being assessed: ..... Date: / /

Signature of Responsible Person (1): ..... Date: / /

Signature of Responsible Person (2): ..... Date: / /

Signature of attending representative: ..... Date: / /

<b>Indicator (Physical)</b>	<b>Alcohol</b>	<b>Cannabis</b>	<b>Amphetamines</b>
Smell on the breath	x		
Slurred speech/speech disjointed (lose track)	x	x	
Unsteadiness	x	x	x (dizziness)
Poor coordination/muscle control	x	x	
Drowsiness / sleepy	x	x	
Can't follow instructions	x	x	
Blurred vision	x	x	
Lack of judgement	x	x	
Confused	x	x	x
Nausea/vomiting	x		x
Reddened eyes		x	
More awake and alert			x
Jaw clenching			x
Sweating/hot and cold flushes			x
<b>Effect (Emotional)</b>	<b>Alcohol</b>	<b>Cannabis</b>	<b>Amphetamines</b>
Loss of inhibitions	x	x	
Aggressive or argumentative	x		x
Irrational	x	x	x
Intense moods (sad, happy, angry)	x	x	x
Quiet and reflective		x	
Talkative			x
Increased confidence	x		x
Appearance or behaviour is 'out of character'	x	x	



**18.2 Appendix 2 - Drug & Alcohol Rehabilitation Plan - Confidential**

The following Rehabilitation Plan has been developed for:

<b>Employee's Name:</b>	<b>Contact Number (Mob):</b>
<b>Goal:</b> To present to work and during work to be in a fit state without impairment that would prevent them from being able to undertake their duties in a manner that is safe and to current legislation	
<b>Current rehabilitation issues:</b> <i>can be what has been tested positive for, concerns or issues that they have with their addiction etc</i>	
<b>Steps that have been agreed:</b> <i>for example, to take time off for an initial review of their addiction, factors affecting their addiction, make appointments with EAP provider, seek further counselling/intervention from organisations that may provide more specific addiction counselling such as alcoholic anonymous, a time frame for these steps to be commenced, review and completion</i>	
<b>Agreed costs:</b> <i>what the council has agreed to fund, e.g fees for extra counselling above normal EAP sessions, type of leave to be accessed etc</i>	
<b>Persons involved:</b> <i>who are the personnel involved with this rehabilitation plan that will have access to information contained, who can authorise (with the person's permission) additional persons etc</i>	
<b>Comments:</b>	

The following parties have agreed to the above Rehabilitation Plan:

<b>Employee name:</b>	<b>Signature:</b>	<b>Date:</b> / /
<b>Manager name:</b>	<b>Signature:</b>	<b>Date:</b> / /
<b>Manager Workforce Management:</b>	<b>Signature:</b>	<b>Date:</b> / /
<b>Doctor's name (if attended):</b>	<b>Signature:</b>	<b>Date:</b> / /

## 19. Related Documents

This procedure should be read in conjunction with the following documents:

### Documentation

List the name and document reference number of any other document referred to in this document, including any related policies and procedures

250.2016.61.3 Work Health & Safety Policy

250.2016.67.1 Grievance Policy

250.2016.1.3 Code of Conduct

250.2018.435.1 Breath Alcohol Testing Procedure