

Alcohol and Other Drugs Policy

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1. Purpose

The objectives of the Alcohol and Other Drugs Policy and the associated Alcohol and Other Drugs Procedure are to:

- create a safe and healthy work environment for all workers and other persons at the workplace, which is free from the hazards associated with the use of alcohol and/or other drugs;
- create a supportive workplace culture that acknowledges and encourages workers to accept individual responsibility for workplace health and safety and to acknowledge that participating in the nominating of workers who may be regarded as a risk to other workers is appropriate, encouraged by legislative obligations in the WHS Act and is supported by the Council and the unions.
- provide support for Council employees who seek help in addressing alcohol or other drug related issues;
- foster an attitude and culture amongst all workers that it is not acceptable to come to work under the influence or at risk of impairment from alcohol and/or other drugs that could prevent them from performing their duties in a safe manner;
- meet Council's legal obligations to ensure, so far as is reasonably practicable, the health and safety of workers, and other persons at the workplace;
- assist workers to comply with their work, health and safety obligations;
- foster an attitude and culture amongst all workers that it is not acceptable to come to work under the influence or at risk of impairment from alcohol and/or other drugs that may result in bringing themselves or Council into disrepute, not treating others with respect, not carrying out their duties in a professional and diligent manner, or impacting on the efficiency in which they undertake their duties or is detrimental to the level of customer service provided.
- ensure all disciplinary processes are consistently managed in accordance with relevant Council policies and procedures, and the State Government (Local) Award or any subsequent Award or Agreement.

2. Application

The Alcohol and Other Drugs Policy and the associated Alcohol and Other Drugs Procedure apply to the use of alcohol and/or other drugs which may affect a worker's ability to effectively and safely perform their duties.

This Policy applies to all workers as defined by the Work Health and Safety Act including all council employees, contractors, workers of contractors and volunteers in the workplace.

3. Definitions

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| <p>Person Conducting a Business or Undertaking</p> | <p>Has the same meaning as under Section 5 of the Work Health and Safety Act 2011 being:</p> <ul style="list-style-type: none"> • whether the person conducts the business or undertaking alone or with others, and • whether or not the business or undertaking is conducted for profit or gain. • A business or undertaking conducted by a person includes a business or undertaking conducted by a partnership or an unincorporated association. • If a business or undertaking is conducted by a partnership (other than an incorporated partnership), a reference in this Act to a person conducting the business or undertaking is to be read as a reference to each partner in the partnership. • A person does not conduct a business or undertaking to the extent that the person is engaged solely as a worker in, or as an officer of, that business or undertaking. • An elected member of a local authority does not in that capacity conduct a business or undertaking. • The regulations may specify the circumstances in which a person may be taken not to be a person who conducts a business or undertaking for the purposes of this Act or any provision of this Act. • A volunteer association does not conduct a business or undertaking for the purposes of this Act. • In this section, <i>volunteer association</i> means a group of volunteers working together for one or more community purposes where none of the volunteers, whether alone or jointly with any other volunteers, employs any person to carry out work for the volunteer association. |
| <p>Worker</p> | <p>Has the same meaning as Worker under Section 7 of the Work Health and Safety Act 2011, being:</p> <ol style="list-style-type: none"> (a) an employee, or (b) a contractor or subcontractor, or (c) an employee of a contractor or subcontractor, or (d) an employee of a labour hire company who has been assigned to work in the person’s business or undertaking, or (e) an outworker, or (f) an apprentice or trainee, or (g) a student gaining work experience, or (h) a volunteer, or (i) a person of a prescribed class. |

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| Workplace | A place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work. Place includes: (a) a vehicle, vessel, aircraft or other mobile structure, and (b) any waters and any installation on land, on the bed of any waters or floating on any waters, in accordance with Section 8 of the Work Health and Safety Act 2011 and subsection 4.7 of this Policy. |
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4. Principles

The key principles underlying this Policy are as follows:

- Safety is everyone’s responsibility. That responsibility includes immediately reporting any behaviour or circumstances that could potentially create a risk to health and safety due to alcohol and/ or other drugs;
- The sale and use of alcohol and illegal drugs and/or the possession of illegal drugs at work is not permitted.
- Attending work under the influence or at risk of impairment from alcohol and or other drugs is not permitted;
- A worker taking, or in possession of, a prescription drug must immediately notify management if the drug could impact or impair their work;
- There are limited exceptions to these rules (such as responsible and limited alcohol consumption at functions) but approval of the Council is required and it is expected that workers will behave professionally and comply with the law;
- A breach of this policy may make a worker liable to disciplinary action that could include dismissal;
- Council will conduct drug and alcohol testing at work. Workers are expected to cooperate with testing;
- Any worker that tests above the following limits will be in breach of this policy:

| | Limits |
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| Alcohol | <p>Blood Alcohol Concentration less than 0.02 grams per 100 Millilitres.</p> <p>If a worker’s occupation and/or motor vehicle licence requires a zero blood alcohol concentration as prescribed by law the worker must continue to comply with legal requirements.</p> |
| Drugs | <p>The presence of a specific drug or metabolic above the target concentration as specified in AS4760.</p> <p>Council’s testing program tests for the following classes of drugs: Opiates Amphetamine type stimulants Cocaine THC</p> |

- A worker can report to Council if they have a problem with alcohol and or other drugs and seek assistance before any breach or incident. Council will provide assistance and guidance to the worker to help them address their problem.
- Council will treat all matters with the appropriate confidentiality.

5. Obligations

5.1. Person Conducting a Business or Undertaking (PCBU)

As a PCBU, Council has a duty of care to ensure the health and safety of workers and other persons at the workplace (Section 19, Work Health and Safety Act 2011).

5.2. Managers & Supervisors

If a Supervisor or Manager is concerned that a worker (including contractor or volunteer) appears to be potentially affected by alcohol and/or other drugs they should not allow the worker to commence or continue their duties and should contact the HR and Organisational Development Unit or the WHS Team and request that a Fitness for Work Assessment is undertaken of the worker who is suspected of being potentially affected or impaired.

5.3. Workers

Workers have a duty to:

- take reasonable care for their own health and safety;
- take reasonable care that what they do or don't do, does not harm the health and safety of other persons;
- comply with any reasonable instruction given by Council to allow it to comply with WHS legislation; and
- co-operate with any reasonable Council policy or procedure relating to health and safety that has been notified to them (Section 28, Work Health and Safety Act 2011).

Workers are obliged to present themselves for work free from the influence or without risk of impairment from alcohol and drugs.

If a worker is concerned that another worker (including contractor or volunteer) on Council premises, or worksites, may be potentially affected by alcohol, illegal or legal drugs or other substances, they should immediately report their concern to the relevant Supervisor or Manager. Workers who genuinely report any concern must not be criticised or victimised for doing so.

5.4. Other Persons at the Workplace

Other persons at the workplace have a duty to:

- take reasonable care for their own health and safety;
- take reasonable care that what they do or don't do, does not harm the health and safety of other persons; and
- comply with any reasonable instruction given by Council to allow it to comply with WHS legislation (Section 29, Work Health and Safety Act 2011).

5.5. Offences

It is an offence under the Road Transport Act 2013 to drive or attempt to drive a motor vehicle, truck or mobile equipment when under the influence of alcohol and/or other drugs.

It is an offence to possess, sell or use illegal drugs under criminal law.

Employees may potentially face sanctions under the WHS Act or under criminal law.

5.6. Council's Code of Conduct

Council's Code of Conduct establishes the minimum requirements of conduct for Council officials in carrying out their functions. It is a requirement of the Code of Conduct that Council officials must not conduct themselves, when carrying out their functions, in a manner that is likely to bring the Council or holders of civic office into disrepute (clause 3.1 of the Code of Conduct).

A worker may be in breach of their general conduct obligations under the Code of Conduct if they:

- attend work whilst under the influence of alcohol and/or other drugs; or
- conduct themselves in an inappropriate manner whilst at work or a work related function, which may be due to the effects of inappropriate use of alcohol or other drugs.

6. Implementation

6.1. Confidentiality

Council will maintain confidentiality in the application of the Alcohol and Other Drugs Policy and associated Procedure.

6.2. Consultation and Communication

Council will ensure that the development of the Alcohol and Other Drugs Policy and associated Procedure occurs in consultation with all stakeholders, including the Local Government unions (USU, DEPA, LGEA, ETU), the Consultative Committee and the Committee of Safety Review.

Other communication processes in the workplace may include team briefs, toolbox meetings, newsletters, union meetings and the use of communication noticeboards and bulletin boards.

People and Culture has the overarching responsibility for implementing the provisions of this Policy and associated Procedure by ensuring that it is disseminated to all relevant staff.

6.3. Information, Training and Instruction

Council will provide information, training and instruction to its workers.

Existing workers, including contractors and volunteers, will receive information, training and/or instruction in the Alcohol and Other Drugs Policy and associated Procedure.

New workers will receive information, training and instruction through the Induction process or on commencement with Council.

Council will also provide practical guidelines and training to Managers and Supervisors for dealing with persons who may be affected by alcohol and/or other drugs.

It is the responsibility of workers to regularly review this policy to ensure they understand and comply with its requirements and should seek clarification from management if they do not understand their obligations under this policy

6.4. Alcohol and Other Drugs in the Workplace

The sale and use of alcohol and illegal drugs and/or the possession of illegal drugs at work is prohibited. This prohibition applies to Council's premises, parks, reserves, vehicles, plant, or any Council building or physical asset.

With prior approval, Council social activities such as celebrations, presentations, staff barbeques, farewells and Christmas functions etc. may allow alcohol provided they are undertaken in a managed environment that does not impact on, or affect the standard of Council's work performance, or the public perception of individuals involved.

Council workers in uniform or otherwise identifiable as Council workers, are requested to act responsibly when in public places outside work hours. The consumption of alcohol during meal breaks is not permitted when the worker is returning to work afterwards.

6.5. Prescribed Drugs or Medication

It is the worker's responsibility to advise their Supervisor if they are taking any prescribed drug or medication which may affect their fitness for duty or work performance.

The worker should ensure they consult their treating doctor or pharmacist on the effects that any prescribed drugs or medication may have on their ability to safely undertake their normal duties at work.

6.6. Alcohol and Other Drugs Testing Program

Council workers, including contractors and volunteers, are required to participate in the alcohol and other drugs testing program described in the associated Alcohol and Other Drugs Procedure.

The Alcohol and Other Drugs Procedure includes testing under the following conditions:

Post Incident - following a workplace health and safety incident as defined in the Alcohol and Other Drugs Procedure.

Reasonable Suspicion – where there is reasonable suspicion that a worker may be affected or impaired by alcohol and/or other drugs.

Random – where the workforce is tested on a random basis from time to time.

Limited Random – testing of a Council employee in the case where the employee:
(a) has previously given a confirmed positive test result for alcohol and/or other drugs; and/or

(b) has unreasonably refused a test for alcohol and/or other drugs as a result of a reportable incident or a random screening program.

7. Non Compliance

7.1. Rehabilitation

Council will assist employees with rehabilitation where possible, by providing appropriate support in conjunction with prescribed treatments. Examples of appropriate support may include granting extended leave or workplace flexibility to attend appointments.

However where an employee has previously been under a rehabilitation plan and subsequently breaches Council's Alcohol and Other Drugs Policy and Procedure or the employee's actions represent gross misconduct such as dangerous behaviour support for rehabilitation may not be available and supported by Council and Council reserves the right to take other appropriate action for such behaviour.

7.2. Consequences

A breach of Council's policy may also result in the following actions:

- Being stood down from the workplace; and/or
- Requirement to comply with a RTW Plan and ongoing limited random testing; and/or
- Disciplinary action that could include dismissal.

Workers may also be subject to consequences under the WHS Act, namely exposure to conviction and penalties and exposure under criminal and traffic law.

8. Employee Assistance Program

If a Council employee has issues of concern including those related to alcohol and/or other drugs, Council encourages the employee to make use of the Employee Assistance Program (EAP) and seek appropriate support and assistance. Services are free to Council employees and their immediate family, and are confidential.

Information about the effects of alcohol and other drugs and the EAP is available from People and Culture, Union Representatives and through Council's intranet.

9. References & Associated Documents

- Work Health & Safety Act 2011 (NSW)
- Work Health & Safety Regulation 2017 (NSW)
- Road Transport Act 2013
- Australian Standard AS3547:2019 – Breath alcohol testing devices for personal use
- Australian Standard AS4760:2006 - Procedures for specimen collection and the detection and quantitation of drugs in oral fluid

This policy should be read in conjunction with:

- Shoalhaven City Council's Alcohol and Other Drugs Procedure
- Shoalhaven City Council's Code of Conduct

- Shoalhaven City Council’s Managing Disciplinary Matters Procedure
- Shoalhaven City Council’s Grievance Resolution Procedure
- Shoalhaven City Council’s Incident Reporting, Investigation and Corrective Action Procedure

10. Review

This Policy and associated Procedure will be reviewed by People and Culture every three years, or earlier should circumstances arise to warrant revision.

Any proposed amendments will be made in consultation with interested parties including the local government unions (USU, DEPA, LGEA, ETU), the Consultative Committee and the Committee of Safety Review.