

### Drug and Alcohol Procedure

These procedures outline Banyule City Council's (Council) organisational approach and commitment to the management of Drugs and Alcohol.

These procedures should be read and implemented in conjunction with CD17376 Drug and Alcohol Policy and CD5104 OHS Policy. Combined, they set out the minimum requirements to meet mandatory Occupational Health & Safety obligations.

#### 1.0 Purpose

The purpose of the Drug and Alcohol policy is to ensure employees are fit for work and able to carry out their duties in a safe manner unimpaired by drugs or alcohol.

This Procedure includes information regarding education/awareness training, employee assistance programs, and processes for Alcohol and other Drug (AOD) testing where suspicion and cause arises. If an employee is found to be in contravention of the Policy the matter will be managed in accordance with CD5196 Managing Conduct and Performance Policy.

#### 2.0 Objectives

- Ensure employees are fit for work and carry out their duties in a safe manner unimpaired by drugs or alcohol.
- Assist employees at all levels in understanding how the use (and/or abuse) of these substances can impact health, safety and work performance of individuals and their colleagues.
- Provide appropriate support to employees who identify with health problems related to the use of alcohol or drugs.
- Ensure the health and safety of employees and members of the community is not compromised.

#### 3.0 Scope

This Procedure and associated Policy applies to all Council Employees (including casual's, interns and apprentices), contractors, labour hire, agency staff, volunteers, and students on work-placement. This policy is not limited to the workplace or work hours, and extends to work related functions and events. For example, work lunches, conferences, Christmas parties and functions.

The guidelines marked as Appendices A-C at the rear of this procedure and the CD17381 Guidance on BAC Levels for Roles, Sites and Activities form part of the Procedure and Policy .

#### 4.0 Procedure

This Procedure may not cover all potential situations relating to Employees being fit to work. Where the procedure is silent in these situations it is expected Employees will be guided by Council's Code of Conduct.

#### **4.1 Complying with Legal Obligation**

Employees must not report to work, if impaired by alcohol and/or drugs (including prescription drugs) to the extent that their ability to safely and legally fulfil the requirement of their position is impaired. This includes their ability to meet all relevant statutory requirements regarding the safe and lawful operation of vehicles, plant, equipment and/or machinery. See CD17381 Guidance on Blood Alcohol Content (BAC) levels for Activities and Sites.

#### **4.2 Fit for Work**

Whilst the Policy and Procedure is around AOD, Council is aware that impairment can arise from a number of other causes such as hangovers, stress, fatigue, feeling unwell, mental health issues and medications that are not prescribed or over the counter (OTC) (e.g. antihistamines/cough mixture). These causes can create a number of side effects such as drowsiness and poor judgement.

Employees need to ensure they do not attend work when impaired or undertake work tasks that can place themselves and others in harm's way. It is also the employee's responsibility to make sure they are aware and have advised their Supervisor of any medical conditions or medications that may impair their ability to perform their role safely.

Employees who have concerns about another individual's fitness for work should inform their supervisor immediately.

#### **4.3 Liability and Workers Compensation**

Council will not accept liability for any damage to a company vehicle, an injury to another person, or damage to property if an employee's use of alcohol and/or drugs contributed to the incident. The employee will be personally liable in such circumstances. Employees should be aware that under the Workers Compensation and Rehabilitation Act 2013 (VIC) they may be prevented from claiming worker's compensation (or their payments could be reduced) if they sustain an injury whilst being under the influence of alcohol or drugs.

#### **4.4 Loss of Driver's Licence due to BAC and/or Drug Testing**

Employees must hold a valid driver's licence to undertake roles which require driving responsibilities or to drive Council vehicles. If an employee with these requirements loses their licence for any reason this must be reported to their Supervisor.

Council will assess each circumstance individually, however employees where driving is an inherent requirement of their role and lose their licence will not automatically be provided alternative duties.

#### **4.5 Authorised Functions and Council Events**

There may be occasions during authorised Council functions and/or events, when alcohol may be served. It is expected alcohol will be served and consumed responsibly. If consuming alcohol at an authorised function or event, employees must not return to or commence working if they are over the relevant BAC level as identified in CD17381 Guidance on BAC levels for Roles/Activities/Sites. An authorised function or event where alcohol is to be served shall comply with each of the following requirements:

1. An authorised function shall have a clearly defined purpose and be authorised in writing by the CEO.
2. An authorised function shall normally be limited to a maximum of 4hrs in duration.
3. Alcohol shall not be displayed, made available or offered in a manner which encourages excessive consumption (eg unsupervised self service).
4. Alcohol will not be served to persons under the age of 18.
5. Appropriate food should be provided to reduce the effects of alcohol.
6. In addition to alcohol, non alcoholic beverages and low alcohol beverages shall also be available.
7. An authorised function shall be personally supervised by a member of the relevant Management Team (or their delegate) who shall be responsible for:
  - ☐ Control of alcohol distribution at the function;
  - ☐ Monitoring the alcohol intake of individuals and ceasing service if required
  - ☐ Cessation of alcohol distribution at the designated time; and

- ❑ Consideration of a participant's ability to return home safely and arranging transportation where required. The offer of safe transportation should not be unreasonably refused by an employee.
- 6. Drinking contests or games of any sort which involve the consumption of alcohol are expressly prohibited at authorised functions.
- 7. Illegal drugs are expressly prohibited at authorised functions.
- 8. Employees whose duties include the selling and/or serving of alcohol at authorised Council functions must hold a Responsible Serving of Alcohol (RSA) certificate.

When attending conferences/events on behalf of Council, employees are expected to be guided by Council's Values and the Code of Conduct. Employees must not return to or commence working if they are over the relevant BAC level as identified in CD17381 Guidance on BAC levels for Roles/Activities/Sites.

#### **4.6 Information, Advice and Education**

Regular information and/or training shall be provided as part of ongoing Health and Wellbeing Programs. Training will be offered to all employees to assist their ability to identify and address concerns relating to the misuse of AOD.

#### **4.7 Seeking Assistance**

Council recognises that the misuse of AOD are often treatable conditions. Where a problem related to AOD misuse is confirmed, the employee is encouraged to work with Council and their doctor who will assist by connecting them with other external specialist treatment providers. This includes being referred to an organisation with recognised expertise in the assessment, treatment and rehabilitation of people suffering from misuse of AOD. Assistance may also be provided through the Employee Assistance Program (EAP), the supervisor, People and Culture team and/ or other members of Council.

Such management processes shall not detract from Council's ability, at any time, to apply disciplinary procedures where applicable if contravention of the Policy and Procedure has occurred.

#### **4.8 Testing for Alcohol and Other Drugs**

The testing method that Council will use for AOD is saliva and breath testing. This type of testing is not invasive and is about recent use therefore addressing the question of 'is the person currently fit for work'.

All tests will be managed by an accredited external provider.

Employees can be tested for AOD in the following circumstances:

- ❑ Following any incident, or where an employee has breached safety processes or procedures. (This is known as an Incident Test).
- ❑ Where there is reasonable suspicion;
  - based on observations by a responsible supervisor of any abnormal conduct or behaviour which leads to a suspicion an employee is impaired by AOD. For more information refer to Appendix A.
  - based on evidence of possible illegal drug use (suspected drugs and or drug related equipment apparent).
- ❑ Periodic testing of employees may also be undertaken following satisfactory completion of a rehabilitation program or following a confirmed positive test result for the misuse of AOD for a period of up to two years. (This is known as Cause Testing).

Where a supervisor believes testing is required advice may be sought by the People and Culture team. Refer to Appendix B and C which outlines the guidelines and process for testing. The Manager (or their delegate) must provide authorisation to conduct testing.

#### **4.8.1 Drug Types that are tested for**

- |  |   |
|--|---|
| <input type="checkbox"/> Alcohol                       | <input type="checkbox"/> Opiates, Codeine, Morphine, Heroin |
| <input type="checkbox"/> Amphetamines, Methamphetamine | <input type="checkbox"/> THC (Cannabis)                     |
| <input type="checkbox"/> Cocaine                       |   |

#### **4.8.2 Refusal to be Tested**

The refusal of an employee to participate in a drug or alcohol test will be deemed to be a refusal of a lawful management direction and will be managed in accordance with CD5196 Managing Conduct and Performance Policy.

#### **4.8.3 How Presumptive Positive or Non-negative tests will be managed**

If a presumptive positive or non-negative Alcohol result is returned above the persons prescribed BAC level retesting may be completed if the alcohol reading is between 0.01 and 0.02 above their prescribed BAC level.

- A secondary test may be conducted using the same device (using a new mouthpiece) after a 15-20-minute period.
- The time and result of the test must be recorded.
- The employee, manager (or delegate) and person conducting the test will sign to acknowledge the result and time

Where an employee has returned a non-negative test (or retest) above their prescribed BAC level Council will arrange for the employee to return safely home.

If a presumptive positive or non-negative Drug result is returned:

- Further testing will be conducted by the provider to confirm the test results.
- Where an employee has returned a non-negative test Council will arrange for the employee to return safely home. The employee will remain off work on pay until the test results have been finalised.

Any positive results may be managed in accordance with Council's CD5196 Managing Conduct and Performance Policy.

#### **4.9 Returning to work**

Before recommencing work following a non-negative test result the employee may be tested and must return a negative test result. Such testing must be undertaken by the Independent Testing Provider.

If a contractor returns a presumptive positive or non-negative test result they should be taken to a safe location (i.e. lunchroom/office) and their manager/supervisor should be advised and ensure the contractor is removed from the site as soon as possible. The contractor will not be allowed to re-enter the Council controlled site until such time as Council are satisfied the risk to safety has been adequately controlled.

#### **4.10 Vehicle Interlocks**

Council will not fit interlock devices to its fleet, including private use vehicles.

#### **4.11 Prescribed and Over the Counter Medications**

Employees taking Prescribed or OTC must be taken in accordance with the manufacturer's recommended dose, directions and warnings. Employees and contractors must seek advice from their pharmacist (and doctor) with respect to the impact any Prescribed or OTC may have on their ability to work safely.

Employees only need to advise their supervisor if they are taking Prescribed or OTC medication that may impair their ability to safely perform their role. They are not required to disclose why they are taking the medication. If the employee's capacity is impaired they should take appropriate leave until the medication is finished.

#### **4.12 Testing Program, Handling Test Results, Retaining Records, Privacy and Confidentiality**

##### **4.12.1 Testing Program and Handling Results**

Council will carefully select and monitor all persons responsible for administering the testing program, and will implement measures to ensure appropriate standards are maintained. Samples will only be used for the purpose of testing for the presence of AOD.

##### **4.12.2 Privacy and Confidentiality**

Council will not use personal information collected from Employees or, contractors in a manner that contravenes the Privacy Act or this Procedure. Any relevant records will be confidentially recorded.

#### **4.13 Compliance and Disciplinary Action**

##### **Employees**

The primary focus of this Procedure is to ensure employees are fit for work and unimpaired by AOD. However, where testing suggests a breach of the Policy or Procedure has occurred, the matter will be managed in accordance with CD5196 Managing Conduct and Performance Policy and disciplinary action may apply.

##### **4.14 Testing costs**

The cost of drug and alcohol testing will be allocated against the tested employee's work area.

##### **4.15 Grievance Procedure**

If an employee wishes to dispute any decisions arising from this procedure, they may do so in accordance with the Dispute Resolution procedure outlined in the Enterprise Agreement.

### **5.0 Roles and Responsibilities**

#### **People and Culture Responsibilities**

- Provide drug and alcohol training sessions (online or face to face).
- Ensure drug and alcohol is listed as an item in the Corporate Induction Checklist.
- Manage any notification/advice from employees regarding alcohol/drug dependency in accordance with the Procedures.
- Manage any breaches of the Policy and Procedure in accordance with Council's Managing Conduct and Performance Policy
- Provide EAP for staff where necessary.
- Ensure testing results are managed confidentially.

#### **Manager, Supervisor Responsibilities**

- Ensure all employees and contractors under their supervision are aware of the terms of the Drug and alcohol Policy and this procedure.
- Ensure appropriate action is taken in the event of an issue arising.
- Provide and maintain a safe working environment that is without risks to the health and safety of employees, as is reasonably practicable.
- Manage any change in an employees work performance that may be due to alcohol or other drug use issues.
- Where it is suspected an employee or contractor is impaired due to AOD, instruct the employee or contractor to stop their work immediately and, if necessary, move them to a location that is low risk and private. Assess as per the guidelines outlined in Appendix A. Where this situation requires it, request a drug/alcohol test immediately via the People & Culture team.

- If concerned that a contractor is impaired, contact their employer/supervisor to advise of the concerns. Seek advice from the People & Culture team.

### **Employee Responsibilities**

- Arrive at work unimpaired by alcohol or other drugs and carry out your normal work activities without exposing yourself or others to health and safety risks.
- Comply with legal BAC where this is required and/or in compliance with the Victorian Road Rules, or other legislation or regulations. Employees are to refer to the Guidance on BAC levels for Roles/Activities/Sites for full clarification.
- Clarify with your doctor or pharmacist if the medication you have been provided could impair your ability to safely perform your role. Advise your manager or supervisor if you or your doctor believes your prescribed/over-the-counter (OTC) medication may affect your work or you are experiencing unexpected side effects. This information will be managed confidentially.
- Report any concerns to your supervisor immediately if you think alcohol or other drug use by another Employee may affect theirs and/or others safety. This information will be managed confidentially.
- Comply with any drug and alcohol testing as required by the organisation in line with this Drug and Alcohol Policy and the related Drug and Alcohol Procedures document.
- Immediately notify your supervisor of any change in your licence or permit for vehicles/plant that may affect your ability to undertake your allocated tasks.

### **Independent Contractors and Agency Labour Hire Employees, Students, Interns Apprentices and Volunteers**

- Must comply with this procedure.

## **6.0 Legislation & Standards**

Employer and Employee responsibilities under the OHS Act 2004.

Road Safety Act 1986 v185 Part 5 - Offences involving alcohol or other drugs.

## **7.0 Documentation**

### **Related Documents & Templates**

Documents relevant to this Procedure include, but are not limited to:

- ☐ CD17376 Drug and Alcohol Policy
- ☐ CD5104 OHS Policy and Guidelines
- ☐ CD17381 Guidance on BAC levels for Roles/Activities/Sites
- ☐ CD5196 Managing Conduct and Performance Policy (Including Disciplinary Guidelines)
- ☐ CD15753 Staff Code of Conduct
- ☐ CD5376 Fleet Policy and Guidelines
- ☐ CD5081 Incident/Injury Illness Reporting Form / Elumina online portal
- ☐ Working Together, Working Better values
- ☐ CD10571 Rehabilitation Procedures
- ☐ Banyule Enterprise Agreement No.7, 2017, and succeeding Agreements
- ☐ AS4760- 2006 Procedure for Specimen Collection and the detection and Quantitation of Drugs in Oral Fluid

### **Documentation Requirements**

- ☐ Service Unit Risk Analysis

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## 8.0 Definitions

**Alcohol** The intoxicating constituent in a beverage (e.g. beer, wine and spirits).

**Approved Rehabilitation Program** means a rehabilitation program provided by an organisation with recognised expertise in the assessment, treatment and rehabilitation of people suffering from misuse of AOD.

**Authorised Function** means a function usually conducted in a Council controlled workplace where alcohol can be served.

**Blood Alcohol Content** or BAC Refers to the amount of alcohol present in the bloodstream.

**Causal Testing** Periodic testing of Employees will also be undertaken for a period of up to two years following completion of a rehabilitation program or following a confirmed positive test result for the misuse of AOD.

**Council Vehicle** means a vehicle owned or hired by Council and is used to conduct Council business

**Contractor** means any person who performs work for Council either as an independent contractor, an employee of an independent contractor or through an employment agency.

**Drugs** Refers to all legal and illegal substances such as pharmaceutical and psychoactive substances or synthetic drugs.

**Employee** means employees, contractors, volunteers, work experience/placements, apprentices and trainees and any other person who is representing Council in its delivery of services.

**Employee Assistance Program (EAP)** A program incorporating established procedures for the referral to specialist counselling service of Employees with personal, family, or work related concerns or problems which may impact upon work performance, health, or quality of life.

**Fit for Work** means that the employee is in a fit and proper condition to work safely and legally.

**Hangovers** means the experience of various unpleasant physical and/or psychological effects following the consumption of alcohol. The specific effects of hangovers will depend on what and how much was drunk and how your body responded. The effects of alcohol can sometimes last for several days, even following your body reaching a zero blood alcohol concentration.

**Illegal (illicit) Drugs** means any drugs defined and specified as prohibited or illegal under any Federal, State or Territory legislation and drugs for which a medical prescription has not been issued to the person using the drug

**Incident (Testing)** following an incident or where an Employee may have breached or has breached safety precautions or procedures

**Independent Testing Provider** means the specialist testing provider engaged by the Council to administer the Alcohol & Other Drug (AOD) testing regime.

**Misuse of alcohol and/or drugs** means a substances aren't used responsibly. For example, being impaired at work, having alcohol in your blood while working as a driver, or not taking medication in accordance with health practitioner guidelines.

**Not fit for work** means an employee whose physical, mental or emotional state is adversely affected and they are therefore unfit to perform their duties satisfactorily or safely.

**Positive** means the result of sample confirmed as positive by a National Association of Testing Authorities (NATA) accredited laboratory.

**Presumptive Positive/Non Negative** means the initial test is positive and requires further laboratory tested to confirm the result.

**Prescription medication** means drugs/medication that, by law, must be prescribed by a medical practitioner.

**Over-the-counter drugs/medication** means medication sold directly to a consumer without a prescription from a health care professional.

**Reasonable Suspicion** where a supervisor has an opinion that there are reasonable grounds to believe that an individual is impaired by alcohol or drugs and is therefore not fit for work.

**Impaired** – Functioning poorly or inadequately due to alcohol and/or drugs: this can be the result of consuming alcohol, hangovers, taking drugs (illegally/legally), as well as from taking medication such as anti-histomines, cough mixture as well as fatigue, stress and mental health.

## APPENDIX A

### Guidelines to determine whether an Employee may be affected by alcohol and/or drugs (Reasonable Suspicion)

Where a supervisor/manager has been made aware of someone potentially being under the influence of drugs or alcohol, or they have the opinion that there are reasonable grounds to test an individual for AOD, the supervisor/manager must, in the first instance;

Request the Employee to meet at a designated location/ office, ensure the Employee is aware of the reason for meeting and ask if they would like to have a support person present.

When investigating the circumstances regarding the Employee's behaviour, it is recommended that another management representative is present.

Ask the Employee if they are;

- ☐ Unwell today or over the last couple of days
- ☐ Suffering from a head injury
- ☐ Are they experiencing any mental health issues, stress, or fatigue
- ☐ Have they taken any prescribed or OTC medication (including non-prescribed medication or OTC, such as antihistamines/cough mixture) the previous night or that morning
- ☐ Have they taken any alcohol or drugs in the last 36hrs

Where an Employee has answered no to drugs and alcohol in the last 36hrs, but your observations give cause to believe that one or more of the below is evident, then there are reasonable grounds to conduct an AOD Test.

May include, but is not limited to:

<ul style="list-style-type: none"><li><input type="checkbox"/> Work performance and work patterns</li><li><input type="checkbox"/> High number of mistakes</li><li><input type="checkbox"/> Extremes in performance</li><li><input type="checkbox"/> Difficulty in remembering instructions or handling complex situations.</li></ul>	<b>Absenteeism and Personal Health:</b> <ul style="list-style-type: none"><li><input type="checkbox"/> Increase in absence especially before and after weekends</li><li><input type="checkbox"/> Consistently late</li><li><input type="checkbox"/> Disappear from job regularly</li><li><input type="checkbox"/> Signs of nervousness or emotional distress</li></ul>
<b>Physical Symptoms or Conditions:</b> <ul style="list-style-type: none"><li><input type="checkbox"/> Weariness</li><li><input type="checkbox"/> Exhaustion</li><li><input type="checkbox"/> Excessive blinking</li><li><input type="checkbox"/> Blank stares</li><li><input type="checkbox"/> Unusual efforts to cover arms</li><li><input type="checkbox"/> Wearing sunglasses at unusual times</li><li><input type="checkbox"/> Slurring of words</li><li><input type="checkbox"/> Smelling of alcohol</li><li><input type="checkbox"/> Unable to stand up straight without assistance</li></ul>	<b>Social interaction on the job:</b> <ul style="list-style-type: none"><li><input type="checkbox"/> Withdrawing or avoiding peers</li><li><input type="checkbox"/> Overly sociable</li><li><input type="checkbox"/> Unusual outbursts of emotion eg angry or irritable</li></ul>
<b>Accidents and Concentration:</b> <ul style="list-style-type: none"><li><input type="checkbox"/> Highly accident prone on and off the job</li><li><input type="checkbox"/> Taking unnecessary risks or needlessly endangering others</li><li><input type="checkbox"/> Difficulty concentrating</li><li><input type="checkbox"/> Appear to be confused</li></ul>	

## **APPENDIX B**

### **Guidelines for conducting alcohol and other drug (AOD) tests**

#### **Method of Testing**

Council will use saliva and breath analysis procedures for all incident and cause testing. Testing will be conducted in a manner designed to protect employees and contractors privacy and safeguard the integrity of the testing process, to ensure the validity of the test results. The initial drug test will perform a technical analysis of the saliva provided. A positive test result only occurs if the concentration of the drug exceeds a certain cut off point that is calibrated into the instrument. When a non-negative/presumptive positive test is sent off to the lab, the laboratory can identify what these levels are in greater detail (including prescription medication & OTC).

#### **Identification of the Employee or Contractor**

The Accredited Technician shall ensure the individual from whom the sample is collected is positively identified through photo identification or identification confirmation by a Manager. The sample collection will not proceed if the individual's identity cannot be established.

#### **Right to have another Person Present**

An employee or contractor may request the presence of another person to witness the testing procedure. Such requests must be facilitated provided the other person can attend the site within a maximum of half an hour (½) hour of the request being made.

#### **Sample Collection**

Samples for alcohol and drug tests should be collected privately at a site designated by the Council utilising standard sampling procedures for the particular test used. If the Independent Testing Provider has a reason to believe that an adulterated or substitute sample has been provided, the employee or contractor will be required to submit a second sample.

#### **Additional Samples**

Where the onsite test result is a non-negative test result, additional samples will be obtained immediately.

#### **Chain of Custody**

An appropriate chain of custody procedure will be followed in the administration of all AOD testing by the Independent Testing Provider.

#### **Laboratory Confirmation**

The Independent Testing Provider shall ensure the appropriately sealed and labelled non negative sample is forwarded immediately to a NATA accredited laboratory for laboratory analysis on the GCMS or LCMS testing device. Verbal results shall be advised to the Manager, People and Culture (or their delegate) as soon as they become available with written confirmation provided thereafter.

#### **Challenging lab test results**

Where the employee challenges a lab test result, additional testing will be at the employees expense.

#### **Storage of Samples**

Any samples which are confirmed positive for AOD will be retained in appropriate storage by the laboratory conducting the analysis for a minimum of three (3) months. This is in case the employee decides to challenge the results.

## APPENDIX C

**Flowchart for Alcohol and Other Drug (AOD) Testing**

