

POLICY:-	
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PROCEDURES/GUIDELINES:-	
Date procedure/guideline was developed;	N/A
Procedure/guideline reference number:	N/A

RESPONSIBILITY:-	
Draft Policy Developed by:	Human Resources Coordinator
Committee/s (if any) consulted in the development of this policy:	Consultative Committee
Responsibility for implementation:	General Manager
Responsibility for review of Policy:	Human Resource Coordinator

Aim

Upper Lachlan Shire Council is committed to providing a safe and healthy work environment in which all workers are treated fairly, with dignity and respect. The use of drugs and alcohol may impact on an individual's capacity to perform work safely, efficiently and with respect, thereby posing a risk to the health and safety of the individual and others at the workplace.

This policy outlines the Council's commitment to a safe workplace and is aimed at preventing, or minimising, any risk of injury or harm to the health and safety of its workers, or others at the workplace, from the use of alcohol or drugs. It describes the standards of behaviour expected in relation to the use of drugs and alcohol, the responsibilities of the Council, workers and others at the workplace, and the consequences of breaching the policy.

Commencement of the policy

This policy will commence on or after adoption. It replaces all other drug and alcohol policies.

Scope

This policy applies to:

1. all employees of the Council (whether full-time, part-time or casual) and all persons performing work at the direction of, or on behalf of the Council (for example contractors, subcontractors, agents, consultants, and temporary staff) (collectively referred to as "workers");
2. all of the Council's workplaces and to other places where workers may be working or representing the Council for example, when visiting a customer, client or supplier (collectively referred to as "workplace"); and to
3. all work related functions, for example, work lunches, conferences, Christmas parties and client functions.

This Policy has been developed and implemented in consultation and co-operation with the Council's workers and/or the work, health and safety representatives. It does not form part of any employee's contract of service, nor does it form part of any contract for service.

Definitions

The following are terms used in policy:

"drugs" - include illegal drugs, prescription or pharmacy drugs, or synthetic drugs as defined below.

"illegal drugs" - includes:

- any drug prohibited by Australian State, Territory or Federal law or any other laws (including foreign and international laws) to which the Council is subject or which apply to the work performed at or for the Council;
- prescription or pharmacy drugs (as defined below) which are used without the necessary prescription, or for non-medical purposes;

- any synthetic drug (whether prohibited by law or not), being a psychoactive herbal and/or chemical product which, when consumed, mimics the effects of a prohibited drug, for example synthetic cannabis (aka 'Kronic').

“management” means the Council’s managers, supervisors, team leaders (whichever are relevant) and all employees with supervisory responsibilities.

“prescription drugs” - means lawful drugs which are prescribed by a medical practitioner for a diagnosed medical purpose and issued by a pharmacist.

“pharmacy drugs” – means drugs which are lawfully available at Australian pharmacies (without a prescription) and are required for a legitimate medical purpose.

“under the influence” – means that a person’s faculties are impaired by the use of drugs or alcohol to the extent that the person is unfit to be entrusted with a duty they perform, or may be called on to perform, with efficiency and safety to themselves and others.

Responsibilities

Workers responsibilities

1. All workers must:
 - (a) comply with this policy;
 - (b) observe all directions from the Council in regards to this policy;
 - (c) recognise that performance of duties could be affected by alcohol or drugs; and
 - (d) immediately notify management if they are aware of any breach of this policy by another worker. Subject to any disclosures required by law, any notifications received by management will be treated confidentially. Failure to report any breach of this policy by another worker may itself constitute a breach of this policy.
2. Except as set out in this Policy, workers must not:
 - (a) attend work, commence work, continue work or return to work having consumed alcohol and/or drugs;
 - (b) consume drugs and/or alcohol at the workplace;
 - (c) must not possess, distribute, sell, use or consume illegal drugs in the workplace. Such conduct constitutes serious misconduct. It may also constitute a criminal offence, in which case the Council may notify the police, or other appropriate government authority;
 - (d) work while under the influence of drugs or alcohol;
 - (e) attend work, commence or return to work while under the influence of alcohol and/or drugs;

- (f) consume alcohol and/or drugs during work, or at the workplace (note qualification for prescription and pharmacy drugs below);

Responsibilities of Management

Management is responsible for ensuring that this policy is implemented in their area. This includes ensuring that:

- (a) all workers are made aware and understand this policy;
- (b) risk assessments are undertaken on work tasks in consultation with workers and/or work health and safety representatives;
- (c) the behaviour of workers is observed to ensure adherence with the policy;
- (d) any concerns or issues are addressed proactively and expediently to ensure the health and safety of all workers;
- (e) support is provided to workers where appropriate; and
- (f) any suspected breaches of this policy are acted on promptly and in accordance with this policy.

Some Specific Situations

Prescription and Pharmacy drugs

1. Where a worker is taking prescription or pharmacy drugs for medical purposes, the worker will not breach this policy by attending work, if the worker:
 - (a) takes the prescription and pharmacy drugs in accordance with the instructions of their medical practitioner and normal directions applying to the use of those drugs;
 - (b) does not misuse or abuse the use of prescription or pharmacy drugs;
 - (c) ensures they are able to perform their work effectively, competently and safely;
 - (d) informs themselves of the impact of consumption of alcohol with prescription and pharmacy drugs and they limit consumption accordingly; and
 - (e) checks with their medical practitioner or pharmacist about the effect of the drug on their ability to drive vehicles, operate machinery and safely perform their normal work duties. If a workers ability to perform work competently, efficiently and safely is affected, the worker should obtain this advice in writing from the medical practitioner, or pharmacist, and provide it to their manager or supervisor as soon as possible and before undertaking their work.
2. If the Council suspects that the workers ability to safely perform work is affected, the Council may take steps to address the issue in accordance with this policy.

Consumption of alcohol-workers responsibilities

1. The Council recognises that at some work related functions responsible consumption of alcohol is allowed, for example, at a staff function, Christmas party or customer function.

In these circumstances, the following restrictions apply at all work-related functions:

- workers must consume alcohol responsibly;
 - workers must not become drunk. As set out above, it is a condition of waiving the prohibition on alcohol that workers consume alcohol responsibly. Inebriation does not diminish a workers responsibility for misconduct;
 - workers must uphold an appropriate standard of behaviour at all times, consistent with the Council's codes of conduct and workplace policies;
 - the restrictions set out below in relation to Council vehicles and machinery continue to apply; and
 - workers must ensure a safe means of transport from such functions. Workers must not drive any vehicle if they are over the legal blood alcohol limit. Workers who do not have a safe means of transport should advise management so that such transport may be arranged.
2. If a worker is required to return to work, or continue working after the function, and the consumption of alcohol could adversely affect their ability to perform work effectively and safely, consumption of alcohol by those workers is not permitted.
 3. If a worker breaches this policy at a work related function and acts inappropriately, the worker may be subject to disciplinary action, and may not be permitted to consume any alcohol at future work related functions.
 4. The prohibition relating to drugs will not be waived in any circumstances, except in relation to prescription and pharmacy drugs as set out in this policy.

Consumption of alcohol- the Council's responsibilities

When the Council provides alcohol at a work related function, it will do so responsibly, ensuring that:

- (a) workers will be reminded of this policy prior to the work related function, where appropriate and practicable;
- (b) food will be made available during the service of alcohol;
- (c) light alcohol and non-alcoholic beverages will be available at all times;
- (d) alcohol will not be provided to anyone under the age of 18 years;
- (e) alcohol will not be provided to anyone who is drinking excessively, or is (or appears to be) intoxicated;
- (f) alcohol service is supervised, whether held at the workplace or other locations, by a suitably qualified person, who holds a certificate in responsible service of alcohol; and
- (g) workers are reminded of the dangers of driving under the influence of alcohol and promote the use of alternative transport (eg taxis, public transport).

Driving Council vehicles and machinery

Alcohol and illegal drugs

1. The Council has a legal obligation to provide a safe and healthy working environment for its workers and others in the workplace. To ensure a safe environment, no machinery is to be operated or used by anyone who is under the influence of alcohol, or used or consumed illegal drugs.
2. Workers must comply with alcohol concentration limits applicable to particular duties they perform, or may be called on to perform.
3. The Council will not accept liability for any damage to a Council vehicle, an injury to another person, or damage to other property caused by a worker's use of a Council vehicle while intoxicated from alcohol or illegal drugs. The worker will be personally liable in such circumstances.

Prescription and pharmacy drugs

Where a worker is taking prescription or pharmacy drugs that contain a warning that the person should not drive a vehicle or operate machinery, then that worker must not drive a Council vehicle or any vehicle, or operate machinery unless contrary specific medical advice is obtained and confirmed in writing, from the workers medical practitioner.

If a worker is taking prescription or pharmacy drugs and feels that their ability to safely drive a vehicle or operate machinery is affected, the worker must not drive a Council vehicle, or any vehicle, or operate machinery and must notify their manager or supervisor immediately.

Smoking

Smoking is not permitted at any of the Council's workplaces, except in specifically designated areas.

What will the Council do if it suspects a worker is affected by drugs or alcohol?

If the Council suspects, on reasonable grounds, that a worker is under the influence of drugs or alcohol in breach of this policy, the Council will take steps to address the issue. Reasonable grounds may include (but are not limited to) where the worker:

- is unable to co-ordinate their actions;
- has red or bloodshot eyes, or dilated pupils;
- smells of alcohol;
- acts contrary to their normal behaviour;
- exceeds alcohol concentration limits applicable to the task they perform or may be called on to perform;
- is not behaving in a professional and competent manner and in accordance with the Council standards; or
- otherwise appears to be impaired or affected by drugs or alcohol.

In such circumstances, the Council may take the following actions (but is not limited to these actions):

- direct the worker to go home. Suitable arrangements for safe transport will be made by the relevant manager; or
- direct the worker to attend a medical examination to determine whether the worker is fit to perform their duties effectively and safely. The medical examination may include a drug and/or alcohol test, such as a breath test, blood test, urine test or oral swab. In relation to prescription or pharmacy drugs, the Council may require evidence as part of the medical examination about the effects and proper use of the drug. The worker may be directed to go home following the medical examination.
- If the worker refuses to attend a medical examination, they will be directed to go home. Refusal to attend a medical examination, refusal to go home, or providing false information constitutes a breach of this policy and may result in action being taken against the worker, including action as set out below under 'Breach of policy'.
- Where a worker is sent home, or required to attend a medical examination, the worker must report to Management (or as directed) on the next working day, or as soon as possible once the worker is no longer under the influence of drugs or alcohol. The Council will deal with the issue as set out below under 'Breach of policy'. Failure to report constitutes a breach of this policy.

What will the Council do if it finds drug or alcohol at the Council's workplace?

If the Council finds drugs or alcohol at the workplace in breach of this policy, the Council may take the following action, which includes but is not limited to:

- investigate the matter in order to attempt to determine who is responsible, including by conducting searches, as set out in this policy;
- require some, or all workers, to undergo a medical examination in order to test for the presence of drugs or alcohol.

Workers are required to co-operate in any investigation. Failure to co-operate, or providing false information in an investigation, constitutes a breach of this policy and may result in action as set out below under 'Breach of this policy'.

What will the Council do if it suspects a worker has drugs or alcohol in their possession at work?

If the Council suspects that a worker has drugs or alcohol in their possession at work, the Council may take the following action, which includes but is not limited to:

- investigate the matter to attempt to determine whether the worker does have such drugs or alcohol in their possession;
- request the worker to open their locker, bag, or vehicle or to empty their pockets or jacket for the purpose of locating any drugs or alcohol.

Workers are expected to permit such inspection and co-operate with the Council's investigation. Failure to co-operate, or providing false information in an investigation, may result in action being taken against the worker, as set out below under 'Breach of this policy'.

Breach of this policy

Workers must comply with this policy at all times.

If an employee is found to have breached this policy, they may be subjected to disciplinary action. The type and severity of the disciplinary action will depend upon the circumstances of the case and the seriousness of the breach. In serious cases, this may include termination of employment.

Examples of disciplinary action that may be taken include (but are not limited to):

- performance counselling;
- a formal warning;
- suspension;
- demotion;
- termination of employment.
- referral to an Employee Assistance Programme ("EAP") and/or some other referral source, for counselling, treatment or rehabilitation for drug or alcohol dependency.

Agents or contractors (including temporary contractors) of the Council who are found to have breached this Policy may have their contracts with the Council terminated, or not renewed.

In circumstances where a worker's behaviour or conduct may involve a breach of any Australian law, the Council may notify the police or other relevant government authority.

Access to support services

The Council provides an EAP for employees with drug and alcohol dependency problems. This is a confidential service and details of assistance sought will not be communicated to the Council. For details of the EAP please contact Human Resource Coordinator.

Any employee who voluntarily requests assistance in dealing with a personal drug/and or alcohol problem may do so through the EAP without jeopardising their employment, provided that this assistance is sought before work performance has deteriorated or disciplinary problems have begun.

It is the responsibility of the employee to seek assistance before the drug or alcohol problem causes a risk to the health, welfare or safety of that employee and other workers.

If an employee notifies the Council that they have a drug or alcohol problem, they will be encouraged to complete a rehabilitation programme or under counselling.

Education and training

The Council will inform and conduct training or information sessions for all employees, relating to:

- (a) this policy, including but not limited to the consequences of breaching this policy;
- (b) the effects of alcohol and drug use (including prescription and pharmacy drugs);
- (c) the risks to the health and safety of workers and others by the use of alcohol and drugs in the workplace; and
- (d) the EAP (if applicable) and any other referral sources for counselling, treatment or rehabilitation, which are available to employees.

Where appropriate, the Council will conduct induction sessions for agents, contractors and their respective employees when they undertake work for the Council in the workplace. These induction sessions will cover:

- (a) this policy, including but not limited to the consequences of breaching this policy;
- (b) the effects of alcohol and drug use (including prescription and pharmacy drugs);
- (c) the risks to the health and safety of workers by the use of alcohol and drugs in the workplace.

Worker Acknowledgement

Individual responsibilities relating to this policy will be explained during an employee's induction and the Drug and Alcohol Policy Acknowledgement Form (in the form of Annexure A) is to be signed as a condition of employment.

More information

If a worker is unsure about any matter covered by this Policy, they should seek the assistance of the **Human Resource Coordinator**.

Review

This procedure will be reviewed annually, through consultation with workers and health and safety representatives, or when legislative requirements change, or in the event of a serious occurrence involving bullying.

ADDITIONAL ASSISTANCE

Confidential advice etc can be obtained from the following:

Alcohol & Drug Information Service

24 hour/7 days a week

Advice/Information/Referral

Toll free: 1800 422599

www.health.nsw.gov.au

Local agencies will be utilised where appropriate or where requested.

Safety in the workplace and fitness for work

Employees are obliged to present themselves for work in a fit state so that in carrying out normal work activities they do not expose themselves, their co-workers or the public to unnecessary risks to health and safety.

Welfare of the individual

Upper Lachlan Shire Council's policy will be directed towards the welfare of the individual and the health and safety of other people. Although disciplinary action may be an end result of failure to comply, this policy will focus on preventative measures.

Testing individuals for presence of drugs or alcohol

The privacy committee of NSW (1993) report stated that drug and alcohol testing should be limited to certain justifiable circumstances including:

- (i) Where an employee's impairment by drugs and/or alcohol poses a substantial and demonstrable safety risk to the employee or to other people;
- (ii) Where there is reasonable cause to believe that the employee to be tested maybe impaired by drugs and/or alcohol.
- (iii) Where the type of drug test to be used can identify the presence of a drug at concentrations, which may cause impairment.

REFERENCE DOCUMENTS

Relevant Legislation

Australian Standards

- AS3547:1997 - Breath alcohol devices for personal use. ('AS3547:1997')
- AS4760:2006 - Procedures for specimen collection and the detection and quantity of drugs in oral fluid. ('AS4760:2006')

Road Transport (Safety And Traffic Management) Act 1999

Work Health and Safety Act 2011(NSW)

Work Health and Safety Regulation 2011 (NSW)

Local Government Act 1993;

Local Government (General) Regulations 2005;

Local Government (State) Award 2017;

Anti Discrimination Act 1977;

Industrial Relations Act 1996;

Independent Commission against Corruption Act 1988;

Workplace Relations Act 2008;

Fair Work Act 2009;

Equal Employment Opportunity Act 1987;

Government Information (Public Access) Act 2009

Privacy and Personal Information Protection Act 1998;

Civil Liabilities Act 2002;

Environmental Planning and Assessment Act 1979;

NSW State Records Act 1998;

Trade Practices Act 1974;

Public Interest Disclosures Act 1994; and

Crimes Act 1900.

Related Council Policies and Procedures

The following Council Policies and documents that are relevant to this Policy include:-

Code of Conduct for Councillors, staff, contractors and delegates of Council;

Council's Code of Meeting Practice;

Upper Lachlan Shire Council Community Strategic Plan;

Upper Lachlan Shire Council Resourcing Strategy documentation;

Upper Lachlan Shire Council Delivery Program and Operational Plan;

Human Resource Training Plan;
Staff Training Policy;
Human Resource Succession Plan;
Equal Employment Opportunity (EEO) Management Plan;
Public Interest Disclosures Policy;
Recruitment and Selection Policy;
Complaints Management Policy;
Grievance Policy;
Disciplinary Policy;
Harassment Policy;
Secondary Employment Policy;
Service Delivery Policy;
Interaction between Councillors and Staff Policy;
Bribes, Gifts and Benefits Policy;
Fraud and Corruption Prevention Policy;
Purchasing and Acquisition of Goods Policy and Procedures;
Rehabilitation Procedure and Practice Policy;
Time in Lieu of Overtime Policy;
Employee Assistance Program (EAP) Policy;
Trauma Management Policy;
Employment and Retention Policy;
First Aid Policy;
Work Health and Safety Policy;
Injury Incident Management Procedures;
Protective Clothing and Equipment Policy;
Smoking in the Workplace Policy;
Private Use of Council Motor Vehicles Policy;
Sun Protection - Council Employees Policy;
Volunteers Policy; and
Payment of Expenses and Provision of Facilities Policy.

12. Variation

Council reserves the right to vary or revoke this policy.

ANNEXURE A

Drug and Alcohol Policy Worker Acknowledgement

I acknowledge that:

- I have received a copy of the Council's Workplace Drug and Alcohol Policy and understand its effect;
- I must comply with the policy; and
- There may be disciplinary consequences if I fail to comply with the policy, which may result in the termination of my employment, or the cancellation of my engagement, or the loss of my position.

Your name: _____

Signed: _____

Date: _____

