

Drug & Alcohol Policy

Head of Power

Local Government Act 2009

Related Legislation

Work Health & Safety Act 2011

Work Health & Safety Regulation 2011

Industrial Relations Act 2016

Information Privacy Act 2009

Objective

The objectives of this policy are to:

1. Ensure that no person's health and safety is adversely affected by any employee working while Under the Influence of Drugs or Alcohol; and
2. Assist Moreton Bay Regional Council fulfil all relevant legal obligations in regard to employee safety.

Definitions

Accredited Laboratory means a testing facility accredited by the National Association of Testing Authorities to conduct testing under AS/NZS 4308:2008.

Alcohol means liquor as defined in the *Liquor Act 1992*.

Authorised Officer means an Employee's manager, or the Manager Human Resources (or his/her delegate).

BAC means Breath Alcohol Concentration.

CEO means the Council's Chief Executive Officer and includes the Chief Executive Officer's delegate.

Confirmed Positive Result means the result from an Accredited Laboratory confirming that the presence of a substance being tested for exceeds the target concentration specified in AS/NZS 4308:2008.

Drug means any Illegal Drug or Medication.

Employee means all employees of Council, whether employed on a permanent, temporary, casual, or part-time basis and includes volunteers, Councillors, job applicants and employees of businesses and entities contracted to provide services to, or on behalf of Council.

High Risk Activities includes but is not limited to the following activities:

- a) High risk construction work as defined by the *Work Health & Safety Regulation 2011*;
- b) High risk work as defined by the *Work Health & Safety Regulation 2011*;
- c) Operating vehicles requiring a LR licence or above;
- d) Operating earthmoving equipment;
- e) Traffic control;
- f) Handling hazardous chemicals;
- g) Electrical work;
- h) Operation of chainsaws;
- i) Operation of demolition saws;
- j) Operation of stump grinders and/or wood chippers;

- k) Welding and/or grinding activities;
- l) Operation of a fly system in a theatre.

Illegal Drug means any drug prohibited by any State, Territory or Federal law in Australia or any other laws (including foreign and international laws) to which Council is subject or which apply to the work performed by Employees and includes prescription or over the counter medications which are used without the necessary prescription or for purposes for which they are not intended.

Law includes Council policies and local laws.

Medication means a prescription or over the counter medication which may impact upon an Employee's ability to perform their role safely or efficiently, or may return a Non-Negative Result if subjected to a Drug test. In this policy, Medication does not include prescription or over the counter medications which are used without the necessary prescription or for purposes for which they are not intended.

Negative Result means the result from the first test of a Drug test sample that indicates no presence of a substance being tested for.

Non-Negative Result means the result from the first test of a Drug test sample that indicates that there may be a presence of a substance being tested for.

Over the Limit means the result from a breath sample which indicates a BAC correlated with being Under the Influence of Drugs or Alcohol.

Qualified Collector means a person from the Testing Provider who has been trained and assessed as competent in the use of Drug and/or Alcohol testing equipment in accordance with the Australian Quality Training Framework (AQTF) requirements.

Reasonable Suspicion of being under the Influence of Drugs or Alcohol means where an Authorised Officer forms the belief that an Employee shows signs of being Under the Influence of Drugs or Alcohol.

Significant Incident means an incident that did or could have resulted in serious injury or illness to people, danger to health, and / or damage to property or the environment.

Testing Provider means collecting agency as defined in AS/NZS 4308:2008 and AS 4760:2006.

Under the Influence of Drugs or Alcohol means:

- a) For all Employees:
 - A Confirmed Positive Result; or
- b) For Employees who in their role may be required to undertake High Risk Activities:
 - A BAC greater than 0.00; or
- c) For Employees not covered under (b) above:
 - A BAC greater than or equal to 0.05

Under the Limit means the result from a breath sample which indicates a BAC correlated with not being Under the Influence of Drugs or Alcohol.

Work Hours means core working hours, during call out activities, break times, the period of travel to and from work from the Employee's residence, and attendance at Council functions or functions where the Employee has been invited as a Council representative.

Application

This policy applies to all Employees.

Policy Statement

Moreton Bay Regional Council (Council) recognises its obligation to provide a safe and healthy working environment for all Employees through the provision of safe systems of work and safe plant and equipment. Council's safety management system, SafetyFirst1, is implemented throughout Council with a risk management focus and with the aim of eliminating hazards associated with unsafe work practices as a result of inappropriate Drug or Alcohol use.

Council considers that Employees who are Under the Influence of Drugs or Alcohol during Work Hours present a potential risk to their own safety, other Employees, and members of the public especially considering Council's broad range of activities and significant number of Employees. Therefore, all Employees have a responsibility not to be Under the Influence of Drugs or Alcohol during Work Hours.

Council has an Employee Assistance Program (EAP), which provides Employees with access to professional counselling in relation to Drugs and Alcohol. Details regarding Council's EAP are available from the Human Resources Department.

Whilst Council is committed to supporting Employees through its EAP, Council recognises the need for appropriate and consistent action where an Employee is found to be Under the Influence of Drugs or Alcohol that may adversely affect their safety or productivity, or the safety, productivity or morale of other Employees during Work Hours.

Accordingly, as set out in this Policy, Council intends to conduct Drug and Alcohol testing of Employees to ensure that the objectives of this Policy are met.

1. Drug and Alcohol Testing

Council Employees must have the capacity to perform their duties safely. Therefore, Council intends to conduct Drug and Alcohol testing as outlined below.

1.1 Pre-employment

All applicants for employment with Council may be required to participate in pre-employment Drug and Alcohol testing. An applicant who through testing is deemed to be Under the Influence of Drugs or Alcohol will not be able to progress in their application for employment.

1.2 Reasonable Suspicion of being under the Influence of Drugs or Alcohol

Employees whose behaviour or actions generate a Reasonable Suspicion of being under the Influence of Drugs or Alcohol may be required to undergo immediate Drug and Alcohol testing.

Employees who believe that another Employee is Under the Influence of Drugs or Alcohol during Work Hours must notify the other Employee's Authorised Officer as soon as practicable.

What amounts to a Reasonable Suspicion of being Under the Influence of Drugs or Alcohol will depend on the specific situation, and it is important to exclude other factors such as stress or fatigue or another medical condition. However, a non-exhaustive list of factors that may give rise to a Reasonable Suspicion of being Under the Influence of Drugs or Alcohol may include:

- an admission of being Under the Influence of Drugs or Alcohol;
- uncharacteristic and unexplained changes in speech, movement or appearance;
- erratic behaviour or manner; and
- possession of Drugs or Alcohol.

1.3 Post Incident

An Employee may be required to undergo Drug and Alcohol testing following a Significant Incident.

1.5 Random

Any Employee, or select group of Employees, may be required to undergo Drug and Alcohol testing at random.

1.6 Target

An Employee who has returned to work following a Confirmed Positive Result will be required to undergo targeted testing at random for a period of 2 years following their return to the workplace.

2. Testing Methods and Procedures

Council will arrange for testing to be conducted by a Qualified Collector. All methods of testing will be in accordance with the relevant Australian Standards. The Employee undergoing testing may request to be accompanied by a support person or a union representative.

3. Drug Test Results

3.1 Negative Result

If an Employee produces a sample which records a Negative Result, they will be considered fit for work and will return to normal duties.

3.2 Non-Negative Result - Declared Medication

Employee's will be given an opportunity to declare Medication prior to the test being undertaken.

If following a declaration by an Employee, they produce a sample which records a Non-Negative Result for a substance known to be in the declared Medication, the Employee will be considered fit for work and will return to normal duties provided they have medical evidence from a medical practitioner stating they are able to work safely (considering the Employee's position requirements) whilst taking the Medication. The Employee must also declare that they are not taking any substance other than the declared Medication as intended.

If the Employee has declared the use of Medication prior to testing, however is not able to produce clearance from a medical practitioner stating that they are able to safely work whilst taking the Medication, they will have 48 hours to provide the medical evidence. The Employee will be stood down from work duties without pay until the documentation is produced.

The initial non-negative sample will be sent to an Accredited Laboratory to confirm solely the presence of the declared Medication. If a result is returned not consistent with the declared Medication, the Employee will be immediately stood down and will be required to show cause as to why their employment should not be terminated.

3.3 Non-Negative Result

If the Employee produces a sample which returns a Non-Negative Result for a substance not known to be in the declared Medication or the Employee has not declared Medication, they will be immediately stood down from work without pay.

The non-negative sample will be sent to an Accredited Laboratory for confirmatory testing.

Arrangements will be made for the Employee to return home safely, as they will not be able to drive a Council or personal vehicle. The Employee is responsible for collection of their personal vehicle if applicable.

3.3.1 Return to Work - Confirmed Negative Result

If subsequent confirmatory testing of the non-negative sample returns a Negative Result, the Employee will be eligible to return to work immediately and no loss of pay will apply for the time stood down.

3.3.2 Return to Work - Confirmed Positive Result

If subsequent confirmatory testing of the non-negative sample returns a Confirmed Positive Result, the Employee will be required to provide a sample returning a Negative Result prior to returning to work. The Employee will remain stood down without pay and will not be eligible to recommence work until they achieve a Negative Result. Council will work with the Employee to develop a return to work plan for their return to the workplace where appropriate.

The Employee may then be subject to appropriate disciplinary measures as determined by the CEO.

4. Alcohol Test Results

4.1 Under the Limit

If an Employee produces a sample which indicates a BAC that is considered Under the Limit, the Employee will be considered fit for work and will return to normal duties.

4.2 Over the Limit

If the Employee produces an initial sample which indicates a BAC that is considered Over the Limit, they are to remain in the testing facility and will not be permitted to recommence work or any other activity until a second test is completed. A second test will be conducted after 20 minutes.

If the Employee's second test indicates a BAC that is still Over the Limit, they will be immediately stood down from work without pay.

If the Employee's BAC indicates they are not able to drive a Council or personal vehicle, arrangements will be made for the Employee to return home safely. The Employee is responsible for collection of their personal vehicle if applicable.

4.3 Return to Work

The Employee may return to the workplace on the next ordinary working day, however will be required to provide a sample demonstrating they are Under the Limit prior to recommencement of work duties.

The Employee may be subject to appropriate disciplinary measures as determined by the CEO.

5. Refusal to Undergo Testing

An Employee who refuses to undergo Drug and/or Alcohol testing or has been found to have tampered with a sample, will be considered in breach of this Policy.

If the Employee initially refuses to undertake a Drug and/or Alcohol test the Employee will be advised of the consequences of refusing to undertake the test, and again requested to undertake the test.

If the Employee refuses a second request, after being advised of the disciplinary process for a second refusal they will be immediately stood down and will be required to show cause as to why their employment should not be terminated.

If the Employee is found to have tampered with a sample, the Employee will be immediately stood down and will be required to show cause as to why their employment should not be terminated.

Confidentiality of Test Results

Employee test results constitute personal information under the relevant legislation. As such, test results will be dealt with in accordance with the principles outlined in the relevant legislation and Council's Information Privacy Plan.

7. Prescription and Over the Counter Medications

Employees using Medications must:

- seek advice and direction from their medical practitioner; and
- inform their department manager immediately prior to undertaking work if the Medication has the potential to adversely influence their capacity to work safely and efficiently; and
- produce a certificate from their medical practitioner certifying that they are able to work safely (considering the Employee's position requirements).

Employees are not required to disclose the nature of the condition being treated or the type of Medication.

Upon being notified, and prior to undertaking work, the department manager, in consultation with the Rehabilitation and Return to Work Coordinator must ensure tasks allocated to the Employee for the duration of the effect of their Medication are suitable and will not jeopardise the safety of the Employee or others. The department manager must monitor the Employee's performance to ensure tasks are undertaken safely. If it is deemed that there are no suitable duties available for the Employee, the Employee is able to access leave entitlements until they are able to return to work without restrictions.

If the Medication is determined by a medical practitioner to place the Employee or others at risk, the Employee may be stood down from work and required to use accrued leave entitlements until the risk has passed. The Employee's department manager may offer the Employee the opportunity to transfer to an alternative position if available, having regard to the Employee's skill set, ability and capacity, as well as the directions of the medical practitioner.

Where an Employee has been advised that the Medication will not adversely influence their capacity to work safely and efficiently, however it may return a Non-Negative Result through Drug and/or Alcohol testing, they must still produce a certificate from their medical practitioner certifying that they are able to work safely (considering the Employee's position requirements) if requested.

8. Complaints and Grievance Procedure

If an Employee is aggrieved as a result of procedures initiated as a result of drug or alcohol related matters, they may arrange an interview with an Authorised Officer and be accompanied by their support person or union representative if desired.

9. Policy Dissemination

Implementation of this Policy is to be preceded by a program of training involving Council Managers, Supervisors and other Employees. Thereafter, the subject matter is to be included in work health and safety induction training, code of conduct training and information for all new Employees as well as refresher training. Availability of EAP and other general information is to be widely distributed via noticeboards, Council's website and Employee newsletters as necessary.

Related Documents

This policy complements and is to be implemented in conjunction with other Council policies and directive which includes but is not limited to:

- Employee Code of Conduct
- Information Privacy Plan

Review Triggers

This Policy will be reviewed for applicability, continuing effect and consistency with related documents and the Law when any of the following occurs:

- (1) The related documents are amended.
- (2) The related documents are replaced by new documents.
- (3) Amendments affecting the scope and effect of a Policy of this nature are made to the Law.

Otherwise, this Policy is to be reviewed at least once every two years for relevance and effectiveness.

Responsibility

This policy is to be:

- 1) Implemented by the Executive Management Team of Moreton Bay Regional Council; and
- 2) Reviewed and amended in accordance with the Review Triggers by the Manager Human Resources and the Executive Management Team.

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