



POLICY – 6.4 – Fitness for Work

Relevant Delegation

N/A

Objective

The aim of this policy is to ensure a safe workplace free from the effects of drugs and alcohol, emotional or personal problems, fatigue caused by illness or lifestyle issues, or any other matter which may impair an employee's Fitness for Work.

Policy Statement

The Shire of Menzies is committed to zero tolerance of alcohol and drugs in the workplace and will conduct random drug and alcohol screening to ensure compliance.

1. The following Policy Schedules are adopted, and form part of this Statement
 - a. 6.4 (a) – Fitness for Work Procedures
 - b. 6.4 (b) – Drug Testing: Additional Information
2. The policy is directed towards the welfare of the individual and the safety and health of other people. Although disciplinary action may be necessary, the focus is on preventative measures.
3. The use of drugs or alcohol in the workplace is forbidden. An employee being under the influence of alcohol, drugs or illegal substances is not acceptable.
4. Conduct by an employee while under the influence of alcohol or drugs is likely to be subject to disciplinary action including dismissal. Employees may be subject to testing for alcohol by breathalyser.
5. The Shire has a responsibility to maintain a safe and healthy workplace, and will take all reasonable steps to ensure that no-one is exposed to unnecessary risk arising from impaired work performance as a result of any of the following –
 - a. Alcohol and other drug use
 - b. Fatigue/Illness
 - c. Psychological impairment
6. 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 safety and health.
7. When a manager or supervisor has reason to suspect that an individual's work performance is impaired by substance related problems the manager is required to address the issue with the employee concerned. The employee will be entitled to natural justice and procedural fairness including –
 - a. the right to explain their apparent impairment
 - b. the right to be accompanied by a friend or advocate
 - c. the opportunity to address any issues identified
8. Employees are personally responsible for any civil or criminal penalty which results from being under the influence of drugs or alcohol in the workplace.

9. Employees experiencing problems with alcohol or other drugs, are encouraged to discuss this with their manager; and/or seek counselling or treatment
10. Employees displaying impaired work performance as a result of issues other than alcohol and or illicit drug use will be counselled on performance and, if appropriate, be offered alternate duties and requested to seek medical advice.
11. This policy applies to all Shire work sites, including mobile plant and vehicles.
12. This policy applies to all employees including office and managerial staff.
13. This policy applies to contractors undertaking works on behalf of Council.
14. This policy applies to the elected members of Council, to the extent permitted by law, specifically the Local Government (Rules of Conduct) Regulations 2007 r.3 (1)(h).
15.
 - 15a. Testing to be carried out is to be at random by an independent contractor or person, who is to independently determine all relevant matters such as –
 - a. date of testing
 - b. selection of persons to be tested, if not all,
 - c. method of testing used
 - d. need for additional testing,
 - e. laboratories to be used etc
 - 15b. Preliminary testing for alcohol may be carried out using local breathalyser.
16. To ensure confidentiality of results, and safeguard privacy –
 - a. results are to be emailed to the Chief Executive Officer only,
 - b. the documents password secured,
 - c. one copy only of the test results printed by the Chief Executive Officer and given to the employee personally,
 - d. an electronic version of the documents is to be retained in a secure location accessible by the Chief Executive Officer only.
 - e. as each employee's test is only reviewed by the Chief Executive Officer, the Chief Executive Officer's test should be reviewed by the President.
17. This Policy and Schedules are to be distributed to all new employees as part of their induction.

ADOPTED: 29 NOVEMBER 2012
REVIEWED: 31 AUGUST 2023

Policy Schedule 6.4 (a) – Fitness for Work Procedures

1. Testing individuals for presence of drugs or alcohol

Employees shall be notified of testing programs — not individual test dates — and the consequences.

These procedures are not intended to address general decline in performance unless there is some external factor affecting fitness for work. General performance issues will be dealt with through normal supervision, performance management and performance review processes.

If a Manager or Supervisor has justifiable cause to doubt an employee's fitness for duty, the Chief Executive Officer (or appropriate employee) may have the employee removed from the workplace and may initiate any reasonable action considered necessary. If it is believed that the use of drugs or alcohol renders risk to the health or safety of the employee, co-workers or the public, the Chief Executive Officer or delegate may remove the employee from duty pending an urgent medical examination to determine fitness for duty.

2. Purpose

The purpose of this procedure is to detail the guidelines and actions required to manage fitness for work within the workplace, including –

- a. Illicit drug use
- b. Alcohol use
- c. Prescription medication
- d. Other medication
- e. Fatigue
- f. Any other factors where concentration and agility of an employee is affected

The Shire recognises there are many factors that have the potential to affect a person's ability to concentrate or function appropriately whilst at work. This risk could adversely affect the safety and health of the employee, other employees and/or members of the public.

This procedure outlines guidelines and the expectations of the Shire to demonstrate their duty of care under the Occupational Safety and Health Act and control the incidence of risk of injury or accident as a result of an employee being unfit for work. Employees found to be under the influence of or suffering from the adverse effects of drugs, alcohol or any other substance whilst at work will be disciplined appropriately. Serious offences or recurrent behaviour may result in dismissal.

3. Definitions

For the purpose of this policy and procedure the following definitions apply–

Alcohol any substance containing alcohol

Drugs amphetamines, cannabinoids THC, opiates, barbiturates, cocaine, methadone, benzodiazepines, alcohol and other narcotics, prescription drugs and non-prescription drugs

<i>Fatigue</i>	the inability to perform work effectively or safely due to lack of sleep, or the adverse effects of medication, alcohol, drugs and/or other substances (including 'hangovers' and/or 'come downs', etc)
<i>Fit for Work</i>	not being under the influence of or affected by the adverse effects of drugs, alcohol or any other substance, or not being fatigued, ill or unduly stressed etc
<i>Impaired Work</i>	sudden or gradual deterioration in a person's ability to function
<i>Performance</i>	appropriately at work
<i>Misuse</i>	inappropriate use of a substance on the Shire premises or property, including overdose of a drug or the failure to take a prescribed drug in accordance with medical advice
<i>Substance</i>	any drug that may have adverse effects causing impaired work performance
<i>Unfit for Work</i>	being impaired for work and therefore unable to perform duties in a safe manner
<i>Use</i>	eating, drinking, inhaling, injecting or dermal absorption of any substance or drug

4. Objectives

The objectives of introducing a Fitness for Work procedure is to reduce the risk posed to the Shire employees by the abuse of alcohol, drugs and substances or impaired work performance.

This procedure is not aimed at regulating individual's private behaviour outside the workplace, providing that behaviour does not have a residual effect on work performance.

5. Guiding Principles

5.1 Employee Responsibilities

- a. Employees have a responsibility to ensure that when they attend work they are fit to undertake that work without impairment. This includes ensuring–
- b. that they are not affected by alcohol or illicit drugs
- c. that they are not impaired by prescription or over the counter medication
- d. they are not affected by fatigue as a result of illness or lifestyle issues
- e. they are not impaired by emotional or personal problems.

If an employee has a problem that will result in impairment they have a duty to ensure that they do not put themselves or others at risk and take appropriate steps to ensure that the problem is addressed.

Employees should seek advice or alternative treatment options if medication affects their capacity to perform their duties. If no alternative is available, it may be necessary to get an appropriate medical certificate and take sick leave.

Employees also have a responsibility to take appropriate action if they become aware that someone else in the workplace is affected by some impairment.

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

The employee should also find out from their doctor or pharmacist what the effects of the prescribed drugs are on work performance.

5.2 Employer Responsibilities

The Shire, through its elected members, Chief Executive Officer, senior staff and supervisors has a responsibility to ensure it maintains a safe and healthy workplace. The Shire has a responsibility to address any impairment by its employees that may put that employee or any other person at risk.

The Shire also has a responsibility to ensure that any employee found or suspected of being impaired in their capacity to perform their duties is afforded natural justice and procedural fairness.

A manager or supervisor may identify that an employee's performance is impaired in some way by –

- a. disclosure by an employee or family member
- b. report from another staff member
- c. observation of performance, or an increase in errors or mistakes.

6. Procedures

If a manager or supervisor has reasonable ground to believe that alcohol or drugs (including prescription or over the counter medications) affect an employee, either through observation or the results a random test, the employee will be sent home immediately and may not return to work that day.

Prior to any test, the employee should disclose to the person conducting the test, any prescription medication being taken that may cause a presumptive positive result.

Where there may be a time lapse between the tests being undertaken and the results being received the employee, if sent home, will be paid. However, if the test results are returned positive the pay for the relevant time may be forfeited.

6.1 Alcohol at work

Persons being under the influence of alcohol will not be permitted to work on premises, or with property of the Shire.

If an employee deems him/herself fit for work, commences work and subsequently appears impaired due to the influence of alcohol including working under the adverse effects of alcohol, they will be stood down from their duties and taken for a blood alcohol test. If the employee is found positive to having a blood alcohol level of 0.05 or over then dismissal may follow.

If an employee refuses a breath or blood alcohol test, then dismissal may follow.

If the employee is over the legal limit to drive, alternative transport will be required.

All persons in charge of Council vehicles may be breathalysed prior to operating a vehicle to assure compliance with the provisions of the Road Traffic Act 1974.

All employees may be breathalysed at the commencement of work or any other time at the discretion of the Manager of department.

6.2 Alcohol at functions

There may be occasions where alcohol may be included as part of a work function or other recognised work event. Where management has properly approved the consumption of alcohol, employees must continue to behave in a sensible and responsible manner with due care for their

own and other people's safety and wellbeing. Failure to behave in a sensible and responsible manner with due care, or any failure to follow any directions given by management with regard to the consumption of alcohol may result in disciplinary action. It is a condition of the Shire that employees make alternative arrangements to get home.

The Shire accepts no responsibility for employees during travel to and from the function.

6.3 Illicit Drugs and Other Substances

Illicit drugs and other substances are strictly prohibited by the Shire. Being under the influence of, suffering adverse effects or in possession of, or found to be cultivating, selling or supplying drugs or other substances whilst on the Shire property or premises will result in disciplinary action and possibly dismissal.

If demonstrating signs of the above, an employee must undergo a drug screen (paid by the Shire).

Refusal to a drug screen may result in dismissal.

Employees are required to determine their fitness for work prior to commencing their duties.

If an employee deems him/herself fit for work, commences work and subsequently appears impaired due to the influence of drugs including working under the adverse effect of drugs, they will be stood down from their duties and taken for a drug screen. If the employee's drug screen is found to be above the recommended threshold levels (as attached) then dismissal may follow.

6.4 Prescription and Other Medication

It is an employee's responsibility to inform their supervisor of any medication they are taking that is deemed to potentially affect their ability to perform their duties.

This information should be recorded on their personnel file for reference in the event of an emergency.

It is also recommended for the employer to record any information regarding an employee taking prescription medication or known allergic reactions to any medication an employee may have (e.g. penicillin) that may be useful in a medical emergency.

Any prescription and other medication must be used in accordance with medical advice. Any non-prescription or other medication must be used in accordance with the manufacturer's recommendations.

Failure to follow these requirements may result in disciplinary action.

6.5 Fatigue, Illness, Stress etc

Fatigue can be the result of many different situations. Accordingly, this procedure will directly reflect the implications of fatigue through the following external triggers (but are not limited to) –

- a. lack of sleep due to illness or other personal issues
- b. voluntary work
- c. external work commitments

In the interest of safety and health it is important that employees remain alert and function at full capacity whilst at work. When affected by fatigue, illness or stress etc, actions may be impaired through lack of concentration and poor judgement, therefore increasing the potential to cause injury or harm to themselves, personnel or members of the public.

It is Shire policy to provide a safe place of work for its employees. It is an employee's responsibility to report to their supervisors any other work commitments or voluntary commitments outside their employment with the Shire that may impact accordingly.

Depending on the circumstances, the Shire may agree to come to a compromise with the employee to ensure there is an equilibrium between regular hours worked at the Shire sleep/rest and additional hours worked elsewhere (including paid and voluntary work).

If deprivation of sleep is the cause of fatigue due to other external circumstances (that are not listed above), a drug and alcohol screen may be required. If a positive result occurs, disciplinary action may result.

If sleep deprivation is due to illness or personal issues the Shire will endeavour to find a short-term compromise and support the employee in whatever capacity is appropriate.

In circumstances where the employee is unfit to remain at work as to the judgement of their employer, the employee may be stood down from work for the remainder of the day and depending on the circumstances this may occur with or without pay.

7. Procedure for Dealing with Drug and Alcohol Use

The procedure for dealing with drug and alcohol use is divided into three levels, depending on seriousness, and is separate from any disciplinary action that may be taken—

- a. Level One – discussion between the employee and immediate Supervisor.
- b. Level Two – discussion between the employee, supervisor, manager and representative (optional).
- c. Level Three – disciplinary action.

7.1 Level One

The employee and immediate Supervisor should participate in Level One, although the employee may request a representative to be present. An observer should be present if an employee representative attends.

- a. Procedural fairness must be observed and the Supervisor must clearly state the performance-related reasons for the interview with the employee must be given the opportunity to respond. The Supervisor must clearly state what standards of performance are required or expected.
- b. The Supervisor should offer assistance by encouraging the employee to participate in an Employee Assistance Scheme, although the employee is not obliged to accept.
- c. A timeframe for a review should be established. The employee should be informed of expected changes, on-going performance monitoring by the supervisor and the compulsory interview at the end of the review period.
- d. The employee should be made aware of possible consequences if there is no significant improvement.
- e. The Supervisor should prepare a brief summary of the interview and give two copies to the employee. After reading the summary, the employee should sign one of the copies and return it to the Supervisor. This copy should be placed under confidential cover on file.
- f. The review interview should be held at the prescribed time. The points discussed should respond exactly to those raised at the first interview; improvements should be acknowledged. Continuing problems, such as continued decline in performance, and any

new performance-based problems should also be identified and discussed. The Supervisor should again prepare a summary of the interview.

7.2 Level Two

The participants at Level Two should be the employee, supervisor, manager, and at the option of the employee, a representative.

The second meeting should be held using the same procedure as the first, although the employee should be made fully aware of the possible consequences if there is no significant improvement and that this represents a final warning.

7.3 Level Three

If the issue is serious or remains a problem, the third level of the procedure is in accordance with the Shire's disciplinary procedure.

8. Disciplinary Action – Drugs and Alcohol

If the Fitness for Work procedure is in any way contravened by an employee, it is the supervisor's discretion as to the disciplinary action that may follow.

8.1 General Guidelines

Any employee who tests positive to an alcohol or drug screen may be stood down from their work and not permitted to continue or resume work until such time as they have proven they are fit for work.

Depending on the severity of the positive test, the provisions of clause 7 at any level may also be applied.

Any person who is found to be significantly fatigued may also be stood down from work with or without pay, depending on the circumstances, until such time as they have proven they are fit for work.

8.2 Pre-commencement of Work

Employees are expected to present themselves fit for work on all occasions. Should an employee present him/herself for work and prior to commencing their duties is observed to be unfit for work he/she may be required to undertake an alcohol or drug screen. If the screen proves positive they may be sent home without pay. This will act as the employee's warning and will be confirmed in writing. The employee will not be allowed to commence work again until they have proven themselves fit for work.

Following the warning if the employee continues to come to work unfit for work, further warnings or disciplinary action may follow.

8.3 Post-commencement of Work

If an employee deems himself or herself fit for work, commences work and subsequently appears impaired due to the influence of alcohol or drugs including working under the adverse effects of alcohol or drugs, they will be stood down from their duties and taken for a blood alcohol test or drug screen. If the employee is found positive to having a blood alcohol level above zero or a drug screen result above the cut off threshold limit (as attached) then they will be sent home without pay and dismissal may follow.

8.4 Minor Offence

- a. The employee may be immediately suspended from duty without pay if found unfit to work.

- b. The employee will not be permitted to return to work until they have been tested again and proved negative for all prescribed substances.
- c. The employee will be given the opportunity to state their case. Unless there are convincing arguments to the contrary, this procedure will continue.
- d. The employee will be counselled by their supervisor and will focus on:
 - 1. The unacceptability of the employee's behaviour
 - 2. The risk that such behaviour creates for the safety of the individual and other employees or members of the public
 - 3. The employee's responsibility to demonstrate that the problem is being effectively addressed
 - 4. That any future breach of the policy will result in a second warning or dismissal.
- e. The employee will be formally offered the opportunity to contact a professional counsellor. The decision to undertake counselling or other treatment for alcohol or other drug/substance problem is the responsibility of the employee and cannot be made mandatory.

It is required that the employee provide satisfactory evidence that the effect of work performance and/or safety has been addressed before they are permitted to return to work.

8.5 Significant Offence

- a. The employee will be immediately suspended from duty without pay if found unfit for work.
- b. The employee will be given the opportunity to state their case. Unless there are convincing arguments to the contrary, this procedure will continue.
- c. The employee will not be permitted to return to work until they have been tested again and proved negative for all prescribed substances.
- d. The employee will be counselled by their supervisor that will focus on:
 - The unacceptability off the employee's behaviour
 - The risk that such behaviour creates for the safety of the individual and other employees or members of the public
 - The employee's responsibility to demonstrate that the problem is being effectively addressed
 - That any future breach of the policy will result in dismissal.
- e. Counselling will be offered (refer to 6.2 (v)), if counselling was not used in the first instance.
- f. Alcohol and/or drug screen for a period of two months, paid for by the Shire. If screen testing confirms positive on any occasion, dismissal may follow.
- g. If the employee refuses to comply, dismissal may follow.

8.6 Major Offence

- a. The employee will be given the opportunity to state their case. Unless there are convincing arguments to the contrary, this procedure will continue.
- b. The employee will be immediately dismissed from duty without notice.

8.7 Dismissal

The following are guidelines to specific circumstances that may result in dismissal without notice-

- a. any attempt to falsify the drug and alcohol screen
- b. cultivating, selling or supplying drugs and/or other substances on the Shire's premises or

property

- c. consumption of illicit drugs or unauthorised consumption of alcohol whilst on the work site or during the working period
- d. unlawful behaviour.
- e. refusing a random drug or alcohol test.

9. Other

- 1 If an employee is found to be heavily intoxicated, above the legal limit to drive or extremely fatigued at work and they are sent home, it is a requirement of the supervisors to –
 - a. Contact the employee's next of kin to arrange pick up
 - b. If next of kin is unable to be contacted or unable to take employee home, alternative arrangements must be made. The employee is to be advised that their vehicle must be collected that day wherever practicable.
- 2 As part of their pre-employment medical all new employees may be required to undertake a drug and alcohol screen prior to commencing work at the Shire.
- 3 Any person who requires a Driver's License to perform their duties may be dismissed if they lose their license and are therefore unable to fulfil their duties.
- 4 The Shire's responsibilities extend beyond managing its own workforce. The Shire also has a role to play in community safety, crime prevention and community building. Any employee who is convicted of a criminal offence including drug offences may face disciplinary action that may include eviction from Shire housing (if provided) or dismissal. The test to be used will be –
 - If this offence was revealed on a police clearance prior to employment would the person be employed?

Acknowledgement

I have read understand this policy and have been provided with a copy.

Printed Name

Signature

Date

- End of Schedule

Policy Schedule 6.4 (b) – Drug Testing: Additional Information

Counselling and Assistance

Many agencies are able to assist including –

Alcohol and Drug Support line

The Alcohol and Drug Support Line is a confidential, non-judgemental telephone counselling, information and referral service for anyone in Western Australia seeking help for their own or another person's alcohol or drug use.

Website www.mhc.wa.gov.au

Parent and Family Drug Support Line

The Parent and Family Drug Support Line is a confidential, non-judgemental telephone counselling, information and referral service for anyone concerned about a loved one's alcohol or drug use. Callers have the option to speak to an experienced parent volunteer.

Ph: 1800 022 2221800 653 203 for country callers

Website: www.healthdirect.gov.au

Goldfields Alcohol and Drug Services

Based in Kalgoorlie and Esperance, the Goldfields Community Alcohol and Drug Services provides regular outreach services to communities around the Goldfields and Esperance region.

Ph: (08) 9021 3069 (Kalgoorlie)

Ph: (08) 9071 5169 (Esperance)

Extensive resources are available from the State Government's Drug and Alcohol treatment services

Website: www.wa.gov.au

Testing

The laboratory must comply with Australian Standard 4308.2001 and be NATA accredited for quality assurance.

A '*presumptive positive result*' on a screening test is if the result is above the recommended cut off threshold as stated in the Australian Standard 4308. If a presumptive positive result is found then a confirmatory test is performed.

Cut-off Thresholds

As recommended by Australian

Standard 4308. Examples –

Class	Individual Drug	Screening Test ($\mu\text{g/L}$)	Confirmatory Tests ($\mu\text{g/L}$)
Amphetamines (i.e. Speed)		300	300

Benzodiazepines (i.e. Valium)		200	200
Opiates (i.e. Heroin)		300	
	Codeine		300
	Morphine		300
Cannabinoids (i.e. Marijuana)		50	15
Cocaine	Cocaine	300	150

µg/L = microgram per litre

– *End of Schedule*