





Murrumbidgee
COUNCIL

Alcohol and Other Drugs Policy (Revision 2)

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Document Revision History	
Previous Policy	Jerilderie Shire Council Drug & Alcohol Policy
Revision Number:	1 - Murrumbidgee Council Drug & Alcohol Policy
Date adopted by Council:	26 October 2021
Minute Number:	163/10/21
Revision Number:	2
Review Date:	July/October 2022
Date adopted by Council:	18 October 2022
Minute Number:	148/10/22
Next Review:	See item 8 of this Policy
Revision Number:	
Review Date:	
Date adopted by Council:	
Minute Number:	

October 2022

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1. How This Policy Was Developed

This policy has been adopted from the model policy prepared by the former Local Government and Shires Associations of New South Wales (LGSA); the New South Wales Local Government, Clerical, Administrative, Energy, Airlines and Utilities Union (USU); the Local Government Engineers Association (LGEA); and the Development and Environmental Professionals' Association (DEPA) in 2012, updated where appropriate and changed to include Murrumbidgee Council's expectations in terms of risk management.

2. Policy Scope

Murrumbidgee Council recognise that the inappropriate use of alcohol and/or other drugs is a significant problem that can affect a worker's performance and jeopardise their health, safety and welfare, as well as that of their co-workers and other people in the workplace.

The scope of this policy is to establish clear and consistent approaches for addressing risks to health and safety in the workplace associated with the inappropriate use of alcohol and/or other drugs. It is intended that the policy and procedural framework is supportive and educational for employees, whilst enabling Council to manage risks in the workplace arising from inappropriate use of alcohol and other drugs. It also provides for appropriate disciplinary action where and when appropriate.

3. Definitions

Alcohol	Legal or illegal substances specifically containing alcohol. Alcohol is a depressant drug, which slows brain activity and responses in the central nervous system, which means it slows messages going between the brain and the body. Alcohol can cause loss of balance and coordination and reduces the ability to judge speed and distance. It can also impair a person's ability to process and respond to situations, make decisions and take actions. Alcohol also increases confidence and aggression in some people.
BAC	Blood Alcohol Concentration
Council	Murrumbidgee Council
Employees	Paid workers, volunteer workers, contractors, sub-contractors and others assigned to work with or under the supervision of Council staff
D & A Testing	Drug and Alcohol Testing
Drugs	Legal (prescribed by a medical practitioner and over-the-counter) and illicit substances (drugs deemed to be illegal pursuant to current State Legislation, such as cocaine, cannabis, methamphetamines etc.). There are a range of drugs and medications that can produce unsafe work performance,

e.g. confusion and/or impaired motor coordination. Some of these may include pain relievers, sleeping pills, tranquilisers, and anti-histamines.

Duty of Care: Persons Conducting a Business or Undertaking (PCBU) are to ensure the health, safety and welfare of their workers and other people at the workplace. Every worker must take reasonable care in relation to the health and safety of people at the workplace and must cooperate with all reasonable requests made by the PCBU under the WHS Act and Regulations 2011.

Intoxication: In general, intoxication is the temporary loss of control, due to alcohol or drug abuse, over mental and physical powers. Absolute standards set by the Government exist for particular activities such as driving motor vehicles. Referral for testing, diagnosis and treatment should be based on work performance and related issues.

Reportable Incident: Is defined as any accident or event that occurs in the course of work which results in personal injury, vehicle damage, property damage and/or any incident that has the potential for significant risk of harm or injury to a person or equipment.

Plant: means large and small plant items, trucks and motor vehicles operated on Council worksites or on behalf of Council.

Prescribed Concentration Levels:

Alcohol Alcohol – 0.02 or greater for heavy plant operators (> 13 tonne) or truck drivers (> 4.5 tonne) or mobile plant operators. This will apply for personnel who are undertaking these specific duties at the time of any testing. 0.05 or more for all other staff to be in accordance with relevant state legislation. Where the person has a provisional licence (P plates) then the current BAC limits for P plates must be followed if they drive vehicles and/or trucks

Other Drugs: All employees must be below the cut off levels contained in AS4760:2019 – Procedures for specimen collection and the detection and quantitation of drugs in oral fluid.

Prescription Drugs: Are those drugs which are prescribed by a medical practitioner. Prescribed medications will be subject to a risk assessment and certification by the medical practitioner that they do not adversely affect the employees work performance or ability to operate plant and equipment in a safe manner.

Tester: Means a person authorised by Council and trained to conduct breath analysis, urine or oral swab testing in accordance with Australian Standard (AS) AS 3547:2019 (Breath alcohol testing devices for personal use), AS4760:2019 (Procedure of specimen

collection and detection and quantification of drugs in oral fluid). and AS4308:2008 (Procedure of specimen collection and detection and quantification of drugs of abuse in urine)

Initial Test: Is defined as a valid method used to exclude the presence of alcohol and/or other drug or a class of drugs as provided by AS 3547:2019 (Breath alcohol testing devices for personal use), AS4308:2008 Procedure of specimen collection and detection and quantification of drugs of abuse in urine) and AS4760:2019 (Procedure of specimen collection and the detection and quantitation of drugs in oral fluid).

Certified Laboratory: A laboratory that meets the minimum Australian performance standards set, an accredited agency being the National Australians Testing Authority (NATA).

4. Policy Objective

4.1 Safety in the workplace and fitness for work

Employers have a duty to ensure the health, safety and welfare of their employees and other people in the workplace (s19, Work Health and Safety Act 2011 (NSW)). Employees have a duty to take reasonable care for their own health and safety, as well as for the health and safety of other people in the workplace and to co-operate with their employer in providing a safe working environment (s28, Work Health and Safety Act 2011 (NSW)).

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

The welfare of the individual and the health and safety of other people in the workplace needs to be considered.

There are penalties, under legislation for employers and the Award for workers who fail to take their occupational health and safety responsibilities seriously.

The primary objective of an Alcohol and Other Drugs Policy is to ensure WHS obligations are met, and to educate workers on the effects of the misuse of alcohol and/or other drugs within the workplace.

4.2 Establishing a supportive culture

Alcohol and other drugs procedures promotes a supportive culture in which workers are able to seek the assistance of their employer in a non-threatening environment.

Murrumbidgee Council fosters a supportive culture that encourages employees to accept individual responsibility for workplace health and safety and participation in disclosing to management the identity of employees who may be regarded as a risk to others.

A supportive culture encourages a co-operative approach between management and workers, and builds on the shared interest in workplace health and safety.

A supportive culture may be achieved by:

- recognising that the inappropriate use of alcohol and/or other drugs can be due to illness (e.g. dependency) or symptomatic of an illness (e.g. depression);
- providing non-threatening assistance to workers who recognise that they have alcohol and/or other drug related problems (e.g. reminding workers of the availability of an Employee Assistance Program);
- ensuring that clear and consistent processes are in place for addressing risks to health and safety in the workplace; and
- respecting the privacy of workers by ensuring that appropriate systems are in place to maintain confidentiality.

4.3 General conduct obligations

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

The *Murrumbidgee Council Code of Conduct for Council Staff* establishes the minimum requirements of conduct for Council officials (including all employees) in carrying out their functions.

It is a requirement of the *Murrumbidgee Council Codes of Conduct for Council Staff* that Council officials must not conduct themselves, when carrying out their functions, in a manner that is likely to bring the Council or holders of civic office into disrepute Part 3 (clause 3.1 of the Code). Council officials are expected to maintain high standards of professional conduct and service to the community and must act honestly and exercise a reasonable degree of care and diligence when carrying out their functions.

By way of example, an employee may be in breach of their general conduct obligations under the Code if they:

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

4.4 When is disciplinary action appropriate?

Murrumbidgee Council is supportive and rehabilitative, but there will be occasions when disciplinary action is appropriate.

Procedures for managing workplace risks associated with the use of alcohol and/or other drugs should balance:

- the employer's obligation to ensure the health, safety and welfare of workers and other people in the workplace, and
- promoting a supportive culture in which workers feel able to seek the assistance of their employer in a non-threatening environment.

Although disciplinary action may be necessary, it should be viewed as a measure of last resort that is reserved for serious breaches of the Council's Codes of Conduct or where a worker has repeatedly failed to respond to warnings about their work performance or work conduct. Where appropriate, disciplinary action should be complimented by offers of support to the worker, through Council's Employee Assistance Program or other external agencies, such as specialist units at public hospitals.

5. Policy Statement - Alcohol and Other Drugs Testing

Workplace alcohol and other drugs testing (D&A testing) is a complex issue.

- **System Concentrations**

- Alcohol – 0.02 or greater for heavy plant operators (> 13 tonne) or truck drivers (> 4.5 tonne) or mobile plant operators. This will apply for personnel who are undertaking these specific duties at the time of any testing.

0.05 or more for all other staff to be in accordance with relevant state legislation.

Where the person has a provisional licence (P plates) then the current Blood Alcohol Concentration (BAC) limits for P plates must be followed if they drive vehicles and/or trucks

- Other drugs – all employees must be below the cut off levels contained in AS4760:2019 - Procedures for specimen collection and the detection and quantitation of drugs in oral fluid.

- **When to Test** – Council will test employees for Alcohol and Other Drugs;

- **Upon reasonable suspicion that a person may be impaired (reasonable suspicion testing)** - If a worker suspects another employee of being under the influence or affected by either drugs or alcohol, they should report their concerns to their immediate supervisor who will monitor the suspected workers behaviour. The supervisor will complete a Fitness for Work - Observation Form (Appendix 1) and submit this to Council's accredited Drug and Alcohol Testers for further investigation and action. If the employee is not deemed fit for work following an assessment, the employee will be requested to undergo a drug and/or alcohol test.
- **Following a workplace health and safety incident (post incident testing)** - Where there is reasonable cause to believe that an employee covered by the scope of Council's Drug and Alcohol Policy has been involved in an accident or incident as defined, drug and alcohol screening

will be compulsory. Such screening will occur as soon as possible after the incident and not later than four (4) hours post incident where possible. An injured employee who requires immediate medical attention will be screened when it is deemed appropriate to do so. This will be determined in consultation with appropriate medical personnel and may be performed by the medical practitioner at the request of Council or by the Police at their own discretion.

- **Randomly (random testing all employees or selected employees)** - Council reserves the right to conduct random drug/alcohol testing as regular screening, with Management reserving the right to select groups of employees for random testing, and the frequency of random drug/alcohol testing.

The People and Culture Officer will monitor the preparation and implementation of the process to ensure that workers are not being targeted or victimised. Results are recorded and kept confidential between the employee, drug and alcohol tester, People and Culture Officer, and the General Manager.

- **Voluntary testing (where an employee requests testing)** - Council employee will have the opportunity to self-test for alcohol and/or drugs and will be required to voluntarily withdraw from duties up to and including 15 minutes after presentation at work. Council will make reasonably available breath analysis disposable alcohol breath screen and drug testing equipment where a worker wishes to self-test following contact with their Manager or Overseer.
- Where an employee presents for more than three self-tests for alcohol and/or drugs within a 12 month period, Council will reserve the right to initiate further discussions and fitness for work assessment and/or ongoing testing with that worker. Workers who present and disclose to the People and Culture Officer, Overseer or Manager that they have an alcohol and/or drug issue, will be managed on a case by case basis.

- **Types of tests** – For managing workplace risks associated with the use of alcohol and/or other drugs, Council will:
 - where practicable, only use D&A testing methods that detect ‘recent use’, as this is likely to be more reliable in detecting whether a worker is unfit for work, and
 - avoid using D&A testing methods that unreasonably intrude upon the private/personal affairs of workers,
 - use breath analysis for alcohol testing.
- Testing will be conducted by breath analysis using a device which complies with AS 3547:2019 (breath alcohol testing devices for personal use) that the prescribed concentration levels for alcohol for all employees of Council is 0.02 or greater for heavy plant operators (> 13 tonne) or truck drivers (> 4.5 tonne) or mobile plant

operators. This will apply for personnel who are undertaking these specific duties at the time of any testing.

0.05 or more for all other staff to be in accordance with relevant state legislation.

Where the person has a provisional licence (P plates) than the current Blood Alcohol Concentration (BAC) limits for P plates must be followed if they drive vehicles and/or trucks.

Where an employee returns a blood alcohol concentration (BAC) of the prescribed concentration levels for alcohol, the test will be deemed as negative and no further action will apply.

Where an employee returns a breath alcohol reading greater than prescribed concentration levels for alcohol, the following procedure will apply.

- **Initial reading greater than prescribed or certified:**

- The employee is required to sit for a period of 20 – 30 minutes prior to being re-tested.
- If an employee is found to have a breath alcohol level greater than the acceptable rate, after having rested for the required time, the employee shall then be placed on leave without pay or any accrued leave, and appropriate transportation will be arranged to return them to their normal place of residence.
- The employee may wish to participate in a confirmatory analysis (blood test) at a pathology laboratory within 24 hours. The costs associated with this confirmatory test are to be paid by the employee.
- If the confirmation blood test is negative, the worker will be reimbursed leave taken and resume work with no follow-up actions.
- If the confirmation breath alcohol test is greater than the employee's prescribed acceptable level, the employee will remain on leave without pay or utilise any accrued leave until they can submit an acceptable Blood Alcohol Concentration (BAC) level. A positive test will be deemed as a second positive (as per below)
- The employee will be offered counselling and an initial warning will be issued as per Clause 36 of the Local Government (State) Award 2020 and performance monitoring, along with a rehabilitation program, will continue over a three month period.

- **Second reading greater than prescribed or certified:**

- Council may initiate disciplinary actions in accordance with Clause 36 of the Local Government (State) Award 2020 if the worker returns a second or third positive test within a two year period. The worker will be required to

participate in performance monitoring, along with a rehabilitation program, which will continue over a further six month period.

- Use saliva testing for other drugs - An initial drug test will be conducted using an oral swab (saliva) as per AS4760:201 (Procedures for specimen collection and the detection and quantitation of drugs in oral fluid).
- However, if deemed necessary following consultation, a urine collection as per AS4308:2008 (Procedure of specimen collection and detection and quantification of drugs in oral fluid) may also be conducted. The test will be administered by a suitably qualified tester.

Drugs to be tested:

Drug	Common Names
Cannabis Jane, Dope	Marijuana, Pot, Weed, Grass, Joint, Reefer, Mary
Oxycodone	Oxy
Opioids	Codeine, Morphine, Heroin,
Amphetamines	Ecstasy, Speed, Meth, Chalk, Glass, Ice
Cocaine	Crack, Coke, Blow
Benzodiazepines Mogadon, Serepax	Sedatives such as Valium, Librium, Ativan, (not tested for in saliva)

Where a worker returns a drug test reading that is deemed negative, no further action will apply.

Where a worker returns a non-negative result to drugs, the following procedure will apply:

Initial drug test identified as non-negative:

If an employee records a non-negative test result for the first time for drugs, then the following will apply:

- If the presence of drugs is detected, the employee will be placed on leave without pay or any accrued leave can be accessed, and appropriate transportation will be arranged to return them to their normal place of residence. The employee can request the sample to be sent for further confirmatory laboratory analysis. The costs associated with this confirmatory test are to be paid by the employee. If the confirmatory Laboratory test is negative, the employee will be reimbursed leave taken and resume work with no follow-up actions.
- If confirmation Laboratory test is positive, the employee will remain on leave without pay or any accrued leave until they can submit a negative test for drugs. A positive test will be deemed as a second positive (as per below)

- The employee will be offered counselling and an initial warning will be issued as per Clause 36 of the Local Government (State) Award 2020, and performance monitoring, along with a rehabilitation program, will continue over a three month period.

Second drug test identified as positive:

A second drug test confirmed as positive following laboratory confirmation will result in disciplinary procedures as per Clause 37 of the Local Government (State) Award 2020. The employee will be required to participate in performance monitoring, along with a rehabilitation program, which will continue over a further six month period.

As a general rule, Council will not use urine testing unless it is to confirm a test result (i.e. a confirmatory test) or unless the employee requests that a urine test be undertaken.

Prescribed Medication (by a Medical Practitioner)

It is recognised that certain prescription medication may return positive results during testing, and it is the responsibility for any employee, in accordance with Council's Work Health & Safety Policy and Procedures, to inform their Supervisor if they are taking any prescription medication that may cause a non-negative result.

Any employee required to undertake drug testing can choose to declare any medication taken immediately prior to the test being conducted or can declare any medication following the initial test if an initial non-negative result is obtained. Such information is to be kept confidential and only to be used in determining if such medication may have contributed to or caused a false non-negative result.

Council may request further information such as a medical review and certificate from the worker's medical practitioner. Further ongoing testing may be required and fitness for work assessments, depending on the medical practitioner's advise and the worker's individual work role.

- **Employee's privacy** – Some D&A testing methods may be considered more intrusive than others. Inappropriate alcohol and/or other drugs use may have been in response to an underling illness or personal concern (e.g. depression, family pressures, etc). Council will put in place requirements to protect confidential information and a worker's privacy, within its control.
- **Who to test** – Council is adopting and implementing Alcohol and Other Drug Testing based upon WH&S risk assessment(s) and organisational risks. Where random testing is undertaken, all workers are eligible to be tested (all workers may be tested or selected workers may be tested).

6. Legislative requirements

General employer/worker obligations in relation to Workplace Occupational Health and Safety Laws exist under the:

- Work Health and Safety Act 2011 (NSW), and
- Work Health and Safety Regulations 2017 (NSW)

Employees who drive motor vehicles for work (including when travelling to or from work) must obey applicable road safety laws, including those relating to prescribed concentration levels for alcohol and other drugs. For further information in relation to prescribed concentration levels refer to the:

- Road Transport (Safety and Traffic Management) Act 1999 (NSW), and
- Road Transport (Safety and Traffic Management Regulation 1999 (NSW)

7. References

- Murrumbidgee Council - Our Vision, Purpose & Values
- Murrumbidgee Council - Codes of Conduct
- Local Government Act 1993
- Local Government (State) Award 2020
- Murrumbidgee Council WH&S Policy and Procedures
- Work Health and Safety Act 2011 (NSW)
- Work Health and Safety Regulations 2017 (NSW)
- Road Transport (Safety and Traffic Management) Act 1999 (NSW)
- Road Transport (Safety and Traffic Management Regulation 1999 (NSW)

Australian Standards

- Standards Australia 2019 - AS3547:2019 – Breath alcohol testing devices for personal use.
- Standards Australia 2019 - AS4760:2019 – Procedures for specimen collection and the detection and quantitation of drugs in oral fluid.
- Standards Australia 2008. AS4308:2008 – Procedure of specimen collection and detection and quantification of drugs of abuse in urine

8. Policy Review

This Policy:

- To be reviewed within the first year of the new Council term;
- May be reviewed and amended at any time at Council's discretion (or if legislative or State Government policy changes occur).

APPENDIX 1



FITNESS FOR WORK ASSESSMENT

Observable Indicators of Impairment

Assessment of a person is to be made in accordance with this list of observable indicators in the context of changes to a person's behavior. At least 2 responsible persons must participate in the assessment.

At least one (1) of the physical indicators must be satisfied and agreed between the responsible persons for reasonable suspicion to be established.

Emotional effects (the second part of the table) should not be used as indicators of reasonable suspicion but may be recorded as additional information.

Name of person being assessed:		Name of Responsible Persons:	
Name of attending representative (if requested):		Date/Time:	

Assessment Triggers

Behaviour/actions/observations reported prior to this assessment:

Physical Indicator	Observed
Strong smell of alcohol on breath	
Slurred, incoherent or disjointed speech (losing track)	
Unsteadiness on the feet	
Poor coordination / muscle control	
Drowsiness or sleeping on the job or during work breaks	
Inability to follow simple instructions	
Nausea/vomiting	
Reddened or bloodshot eyes	

Jaw clenching	
Sweating/hot and cold flushes	

Emotional Effect (Not a basis for reasonable suspicion)	
Loss of inhibitions	
Aggressive or argumentative behavior	
Irrational	
Intense moods (sad, happy, angry)	
Quiet and reflective	
Talkative	
Increased confidence	
Appearance or behavior is 'out of character'	

Observation Checklist – Physical Indicators

Breath	Smell of intoxicating liquor on breath: Nil <input type="checkbox"/> Slight <input type="checkbox"/> Strong <input type="checkbox"/>
Skin	Sweating/hot and cold flushes <input type="checkbox"/>
Eyes	Reddened or bloodshot <input type="checkbox"/>
Speech	Normal <input type="checkbox"/> Disjointed <input type="checkbox"/> Slurred <input type="checkbox"/> Confused <input type="checkbox"/> Fast <input type="checkbox"/> Slow <input type="checkbox"/>
Balance	Unsteady <input type="checkbox"/> Swaying <input type="checkbox"/> Slumping <input type="checkbox"/> Falling <input type="checkbox"/>
Movements	Poor coordination/muscle control <input type="checkbox"/>
Awareness	Drowsiness or sleeping on the job or during work breaks <input type="checkbox"/> Inability to follow simple instructions <input type="checkbox"/>
Other physical signs	Nausea/vomiting <input type="checkbox"/> Jaw clenching <input type="checkbox"/>

Questions:	Response:
Can you give any reason for your appearance and behaviour as noted above?	
Could you be under the influence of drugs and/or alcohol?	
Have you consumed drugs and/or alcohol since the commencement of the shift?	

Assessment Result

No testing required (alternate action if applicable – note in comments section)

Testing required – at least one (1) physical indicator in evidence

Both Responsible Persons agree: Yes / No

Comments (including mitigating factors noted or explained by the person, emotional factors identified (refer to Appendix 1 - Observable Indicators of Impairment), further actions to be taken etc.):

Name of person being assessed _____
Please print

Signature

Date

Name of responsible persons _____
Please print

Signature

Date

Signature

Date

Name of attending representative _____ (if present)
Please print

Signature

Date