



# WUJAL WUJAL ABORIGINAL SHIRE COUNCIL

## Drug and Alcohol Policy

### Document Control

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### Version History

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1	13 January 2023		Created – Chief Executive Officer
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3	19 January 2023		Executed by Chief Executive Officer 19/01/2023

## **PURPOSE OF POLICY**

The purpose of this policy is to outline Wujal Wujal Aboriginal Shire Council's (Council) expectations regarding the consumption of alcohol and/or drugs which can impair an employee's ability to perform work in a safe manner, creating a risk to their health and safety as well as other workers and members of the public. Impairment, as a result of alcohol and/or drugs, can also lead to unacceptable behaviour towards others and impact productivity and efficiency.

## **COMMENCEMENT OF POLICY**

This Policy will commence on and from 19 January 2023. Implementation of this policy will be at the discretion of the Chief Executive Officer. It replaces all other policies dealing with alcohol and or other drugs (whether written or not).

## **APPLICATION OF THE POLICY**

This policy applies to all employees, agents, labour hire employees and contractors (including temporary contractors or subcontractors) of Council (and its related entities), collectively referred to in this policy as 'workers'.

This policy does not form part of any employee's contract of employment. The Policy is not intended to override the terms of any award, certified agreement or contract that applies to an employee.

Council undertakes to regularly review this policy to take account of changes in legislation, activities, services, and products. As a result of this review, changes may be made to this policy from time to time and all workers are required to comply with those changes.

This policy is not restricted to the workplace or work hours. The obligations contained in this policy extend to all functions and places that are work-related or where the employee can be identified as a Council representative. A "work-related function" is any function that is connected to work. For example, conferences, work lunches or meetings, Christmas parties, client functions etc. Workers must comply with this Policy at all work-related functions. Any reference to work in this Policy includes a work-related function.

This policy also applies to workers travelling to and from the workplace and when workers go to other workplaces in connection with their work duties, for example when visiting a customer, client or supplier.

## **POLICY STATEMENT**

In this Policy:

**“Council”** includes the Chief Executive Officer, Directors, Managers or line Supervisors.

**“Drugs”** includes Illegal drugs and Prescription and Pharmacy Medications as defined below.

**“Illegal drugs”** includes synthetic drugs and 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 workers for Council. For the purposes of this policy, marijuana or synthetic/medical marijuana is an illegal drug. In this Policy, “Illegal drugs” includes Prescription and Pharmacy Medications (as defined below) which are used without the necessary prescription or for purposes for which they were not intended.

**“Prescription and Pharmacy Medications”** Council recognises that workers may have legitimate medical reasons for taking some medications. This includes where a medical practitioner has properly prescribed lawful medications for a diagnosed medical purpose or where the medication is lawfully available at Australian pharmacies (without a prescription) and is required for the treatment of a legitimate condition.

**“Council Supervisor”** includes CEO, Directors and Managers.

### **1. RESPONSIBILITIES**

Except as set out in this Policy, workers are not permitted to do the following:

- 1.1 work while under the influence of drugs and/or alcohol;
- 1.2 commence or return to work while under the influence of drugs and/or alcohol;
- 1.3 bring, sell, dispense, possess, or consume alcohol and/or illegal drugs at work or at a worksite.

Council does not accept liability for the consequences (property damage, injury etc) of any illegal or inappropriate actions of any workers whilst he/she is affected by drugs and/or alcohol. The worker will be held liable for the consequences of their actions.

### **2. PRESCRIPTION AND PHARMACY MEDICATIONS**

Where a worker is taking prescription and pharmacy medication/s for a legitimate medical purpose, the worker will not breach this policy by attending work, if:

- 2.1 the worker takes the prescription and pharmacy medication/s in accordance with the instructions of their medical practitioner and normal directions applying to the use of those drugs;

- 2.2 the worker does not misuse or abuse prescription and pharmacy medication/s;
- 2.3 the worker is aware of the effects (including potential effects) of consumption of alcohol while taking prescription and pharmacy medications;
- 2.4 the worker seeks advice and direction from their medical practitioner;
- 2.5 the worker informs their manager or supervisor prior to undertaking work, if the medication has the potential adversely influence their capacity to work safely and efficiently or create the perception of such; and
- 2.6 the worker must produce a certificate from their medical practitioner certifying that they can work safely (considering the employee's position requirements).

Workers are not required to disclose the nature of the condition being treated or the type of medication, for the purpose of notification under this policy.

If Council suspects that a worker's ability to safely perform work is impaired (or likely to be impaired), Council may take steps to address the issue in accordance with this policy.

### **3. CONSUMPTION OF ALCOHOL**

Council may waive the prohibition on the consumption of alcohol in certain circumstances such as for special functions, Christmas parties, client functions etc. The decision to waive this prohibition is at the sole discretion of Council's Chief Executive Officer. Prior to the relevant function, the organiser of the function or manager of the work area, is responsible for seeking approval to waive the prohibition on the consumption of alcohol, from the Chief Executive Officer.

Where the Chief Executive Officer waives the general prohibition on consumption of alcohol, the following restrictions continue to apply at all work-related functions, with the function organiser or manager responsible for monitoring compliance:

- 3.1 Workers who consume alcohol should do so in a responsible manner;
- 3.2 Workers must not become intoxicated or drunk;
- 3.3 Workers must uphold an appropriate standard of behaviour at all times, in accordance with Council's Code of Conduct and policies. Intoxication will not be accepted as an 'excuse' for inappropriate conduct or misconduct;
- 3.4 The restrictions set out below in relation to the operation of vehicles and machinery continue to apply;
- 3.5 Workers must not drive any vehicle if they have consumed any alcohol or drug that could impair the ability to safely operate the vehicle, in accordance with applicable laws. Workers who do not have a means of transport should advise their supervisor or manager in order to arrange transport.

#### **4. VEHICLES AND MACHINERY**

Workers must not, in any circumstances, operate machinery if they have consumed alcohol, illegal drugs or prescription and pharmacy medication/s which may impair their ability to drive the vehicle or operate the machinery in a safe manner.

Council, as the worker's employer, does not accept liability for any damage to any machinery or vehicle, any injury to any person, or damage to any other property caused by a worker's use of a vehicle or machinery while under the influence of alcohol and/or drugs. The worker will be liable for the consequences of their actions.

Where a worker is taking prescription and pharmacy medication/s, the worker must comply with any warnings or cautions with respect to those medications. Further, if a worker is taking prescription and pharmacy medication/s and feels that their ability to safely drive a vehicle or operate machinery is impaired (regardless of whether or not the drug contains a relevant warning), the worker must not drive any vehicle or operate any machinery and must promptly notify their manager or supervisor of this fact.

#### **5. DRUG AND ALCOHOL TESTING**

Workers must be fit for work in order to perform their duties safely and diligently. Workers will be required to participate in drug and alcohol testing as outlined below:

#### **6. PRE-EMPLOYMENT TESTING**

Applicants for a position with Council may be required to participate in pre-employment drug testing. Where an applicant tests positive to illicit drugs during the recruitment process, this will be considered in determining whether an applicant will progress further in the recruitment process. Refusal to undertake a drug test, where required, will draw an adverse inference from Council.

#### **7. REASONABLE SUSPICION OF BEING UNDER THE INFLUENCE OF DRUGS AND/OR ALCOHOL**

Workers, whose behaviour or actions generate a reasonable suspicion of being under the influence of drugs and/or alcohol, may be required to undergo immediate drug and alcohol testing.

What constitutes a 'reasonable suspicion' of being under the influence of drugs and/or alcohol will depend on the specific situation. It is important to exclude other factors such as stress, fatigue or

other known medical conditions. A non-exhaustive list of factors that may give rise to a 'reasonable suspicion' of being under the influence of drugs and/or alcohol may include:

- An admission of being under the influence of drugs and/or alcohol;
- Uncharacteristic and unexplained changes in speech, movement and appearance;
- Erratic behaviours or mannerisms;
- Alcohol smelling breath or bloodshot eyes; and
- Possession of drugs and/or alcohol.

Where a worker has a reasonable suspicion that another worker is under the influence of drugs and/or alcohol, they are obligated to report their suspicion to their supervisor immediately.

## **8. POST INCIDENT TESTING**

Council may require a worker to undergo a drugs and/or alcohol test following a significant incident.

## **9. RANDOM TESTING**

Random drug and alcohol testing may be undertaken by Council, without notice. A worker or a group of select workers may be required to undergo testing at random.

## **10. TESTING METHODS**

Council will arrange for testing to be conducted by a qualified independent collector or medical/health practitioner. All methods of testing will be in accordance with Australian Standards. A worker undergoing testing may request to be accompanied by a support person or a union representative, where they are readily available.

## **11. REFUSAL TO UNDERTAKE TESTING**

A worker 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. To ensure the safety of others and themselves, workers who refuse a test or tamper with a test, will be immediately suspended on full pay, until they agree to undertake testing. Employees who refuse to undertake a test or tamper with a test may also be required to show cause via a disciplinary process in accordance with Council policy.

## **12. DRUG TEST OUTCOME**

### **12.1 Negative Result**

If a worker produces a sample which records a negative result they will be considered fit for work and will be required to return to normal duties.

### **12.2 Non-Negative Result – Declared Medication being Taken**

Workers will be given an opportunity to declare medication prior to testing being undertaken.

If following a declaration by a worker, a worker produces a sample which records a non-negative result for a substance known to be contained in the declared medication, the worker will be considered fit for work and will return to normal duties. Where appropriate, confirmation from the worker's medical practitioner, may be required, to ensure the worker is fit to work safely, whilst taking the declared medication.

Non-negative samples will be sent to an accredited laboratory to confirm the presence of the declared medication. Should the testing confirm other illicit drugs present in the sample of a worker, the worker may be required to show cause via a disciplinary process in accordance with Council policy.

### **12.3 Non-negative/Positive Result – No Medication Declared**

If a worker produces a sample which returns a non-negative result for a substance not known to be in the declared medication or the worker has not declared medication, they will be immediately suspended for work on full pay until confirmation testing by an accredited laboratory is undertaken.

Arrangements will be made for the worker to return home safely, as they will not be permitted to drive a Council or personal vehicle.

If the confirmation test provided to Council confirms a negative result, the worker will be able to return to work immediately. If confirmation testing returns a positive result, the worker will not be eligible to recommence work until they have achieved a negative result. Where there is a confirmed positive result, the Chief Executive Officer may decide to suspend the employee on full pay, pending a disciplinary process being followed.

Council will work with the worker to develop a return to work plan for their return to the workplace, where appropriate. A worker may also be required to show cause via a disciplinary process in accordance with Council policy.

### **13. ALCOHOL TEST OUTCOME**

#### **13.1 Under the limit**

If a worker produces a sample which indicates a blood alcohol content (BAC) result less than 0.05 the worker will be considered fit for work and will return to normal duties.

Where workers are performing duties or operating machinery or vehicles that require a 0.00 BAC, they will be treated as if they have produced a sample which is deemed over the limit.

#### **13.2 Over the limit**

If the worker produces an initial sample which indicates a BAC that is considered over the limit ie. in excess of 0.05, 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 worker's second test indicates a BAC that is still over the limit, they will be immediately suspended on full pay.

If the worker's BAC indicates they are not able to drive a Council or personal vehicle, arrangements will be made for the worker to return home safely.

#### **13.3 Return to work**

The worker may return to the workplace on the next ordinary working day, however, they will be required to provide a sample demonstrating they are under the limit prior to recommencement of work duties. The Chief Executive Officer may also decide to suspend the employee on full pay pending a disciplinary process being followed.

A confirmed test indicating a BAC in excess of 0.05 is considered a breach of this policy and may result in a worker having to show cause via a disciplinary process in accordance with Council policy.

### **14. CONFIDENTIALITY**

Test results will be dealt with confidentially and samples will be destroyed, as appropriate, by the external independent collector in accordance with relevant laws and regulations.



## **15. DRUGS AND/OR ALCOHOL ON COUNCIL'S PREMISES**

If Council finds drugs and/or alcohol on any work premises in breach of this policy, Council may take any or all of the following steps:

15.1 Investigate the matter to attempt to determine who is responsible. For this purpose, searches may be conducted, as set out in this policy;

15.2 require some, or all, workers to be tested for the presence of drugs and/or alcohol.

Workers are required to co-operate in any investigation process. Failure to co-operate or providing false information in an investigation constitutes a breach of this policy and will be considered misconduct and will be dealt with in accordance with 'Breach of this Policy'.

## **16. POSSESSION OF DRUGS AND/OR ALCOHOL AT WORK**

If Council suspects that a worker has drugs and/or alcohol in their possession at work, Council may take any or all of the following steps:

16.1 Investigate the matter to attempt to determine whether the worker does have drugs or alcohol in their possession;

16.2 Require the worker to give access to all of Council's property such as any locker or vehicle;

16.3 Obtain authorisation from the worker to inspect their personal property, that is present in the workplace, such as bag, personal vehicle or contents of their pockets or jacket. Workers are expected to permit such inspections and co-operate with the investigation.

Failure to co-operate or providing false information in an investigation will be considered to be misconduct and will be dealt with in accordance with 'Breach of this Policy'.

## **17. BREACH OF THIS POLICY**

Where an employee or group of employees has been found to have breached this policy, Council may determine to take disciplinary action against the employee/s, in accordance with Council policy.

Where a worker, other than an employee, breaches this policy, the responsible person for the worker will be contacted by Council immediately and provided with all relevant information to address the breach appropriately. Where the worker, other than an employee, is directly engaged via Council, Council may decide to cease or suspend the contract arrangement with the worker, as appropriate.

Further to the consequences for breach of this policy already outlined, where it is confirmed that a worker is, or where there is a reasonable suspicion that a worker may be, in possession, selling

or dispensing illegal drugs and/or alcohol at work, Council maintains its right to report the matter to the police.

#### **18. MORE INFORMATION**

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

#### **VARIATIONS**

Council reserves the right to vary, replace or terminate this policy from time to time.

#### **ASSOCIATED DOCUMENTS**

- Local Government Act 2009
- *Local Government Regulation 2012*
- *Work Health and Safety Act 2011*
- Code of Conduct for Employees
- Performance, Misconduct and Disciplinary Procedures Policy