

# DRUG AND ALCOHOL PROCEDURE (WORKERS)



## 1 Scope

This procedure applies to all workers who carry out work in any capacity for Rockhampton Regional Council including work as an employee, contractor or subcontractor, an employee of a contractor or subcontractor, an employee of a labour hire company assigned to work for Council, an apprentice or trainee, work experience student or volunteer.

The Rockhampton Airport Drug and Alcohol Management Plan is excluded from this procedure. The DAMP applies to all Council employees or contractors participating in a Safety Sensitive Aviation Activity at Rockhampton Airport.

## 2 Purpose

The purpose of this procedure is to support Council's commitment to maintain a safe and efficient working environment for all workers.

## 3 Related Documents

### 3.1 Primary

Drug and Alcohol Policy

### 3.2 Secondary

*Anti-Discrimination Act 1991*

*Australian Human Rights Commission Act 1986 (Cwth)*

*Human Rights Act 2019*

*Industrial Relations Act 2016*

*Information Privacy Act 2009*

*Local Government Act 2009*

*Local Government Regulation 2012*

*Right to Information Act 2009*

*Transport Operations (Road Use Management) Act 1995*

*Work Health and Safety Act 2011*

*Work Health and Safety Regulation 2011*

Breath Alcohol Testing Devices (AS/NZS 3547:2019) Australian/New Zealand Standard

Code of Conduct

Consultation Policy and Procedure

Council's Certified Agreement/s

Discipline Procedure

#### LEGAL AND GOVERNANCE USE ONLY

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Health and Duty Statements – Workplace Health and Safety Procedure

Non-Work Related Injury Policy

Procedure for Specimen Collection and the Detection and Quantitation of Drug in Oral Fluid (AS/NZS 4760:2019) Australian/New Zealand Standard

Procedure for Specimen Collection and the Detection and Quantitation of Drugs in Urine (AS/NZS 4308:2023) Australian/New Zealand Standard

Relevant Australian Standards

Rockhampton Airport Drug and Alcohol Management Plan

Workplace Bullying, Discrimination and Sexual Harassment Policy

Workplace Health and Safety Policy

#### 4 Definitions

To assist in interpretation, the following definitions apply:

BAC	Blood alcohol concentration.
CEO	Chief Executive Officer A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> . This includes a person acting in this position.
Confirmatory Test	An analytical procedure conducted by a NATA accredited laboratory that unequivocally determines the presence of a specific drug and/or metabolite.
Contractor	A person, organisation or entity that performs a specific act or acts including the provision of services and/or materials to another person, organisation or entity under an agreement enforceable by law.
Council	Rockhampton Regional Council
DAMP	Rockhampton Airport Drug and Alcohol Management Plan.
EAP	Employee Assistance Program A confidential, professional counselling service available to Council employees.
Employee	Local government employee: (a) The CEO; or (b) A person holding an appointment under section 196 of the <i>Local Government Act 2009</i> .
Fit for Work	A state (physically, mentally and emotionally) to perform assigned tasks competently and in a manner which does not compromise or threaten the health, wellbeing and safety of themselves or others in the workplace.
GM	General Manager An employee appointed to a position with a corporate band 2 delegated in accordance with the Delegation and Authorisation Policy and detailed in the Delegations Corporate Register.
Impairment	A symptom of reduced quality, strength or effectiveness of a worker due to the effects of drugs or alcohol consumption whilst performing their usual duties.
Manager	An employee appointed to a position with a corporate band 3 delegated in accordance with the Delegation and Authorisation Policy and detailed in the Delegations Corporate Register.
NATA	National Association of Testing Authorities.

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Negative (Drug Test Result)	The result from the first test of a sample that indicates no presence of a substance being tested for.
Non-Negative (Drug Test Result)	The result from the first test of a sample that may indicate the presence of a substance being tested for.
Over the Limit (Alcohol Test Result)	The result from the test of a breath sample which indicates a BAC in excess of the limit.
Positive (Drug Test Result)	The result from a laboratory confirmation that the presence of a substance being tested for exceeds the limit specified in the relevant Australian Standard.
Random	Having no specific pattern, purpose or objective.
Reasonable Suspicion	An objectively justifiable suspicion based on specific facts or circumstances that justifies a request for testing at the time. The facts or circumstances are not necessarily medically based and are consistent with the published potential effects of being under the influence of drugs and/or alcohol.
Reasonable Suspicion Testing	Testing undertaken following a report of reasonable suspicion.
Supervisory Employees	An employee appointed to a position with a corporate band delegated in accordance with the Delegation and Authorisation Policy and detailed in the Delegations Corporate Register. Within Council, a supervisory employee includes supervisors, coordinators, managers and general managers.
Supervisor	An employee appointed to a position with at least a corporate band 5 delegated in accordance with the Delegation and Authorisation Policy and detailed in the Delegations Corporate Register.
Testing Provider	Council's preferred testing provider as selected by a tender process.
Under the Limit (Alcohol Test Result)	The result from the test of a breath sample which indicates a BAC less than the limit.
Volunteer	Any person, who of their own free will, offers to undertake un-paid work for Council and is accepted as a volunteer by the CEO and/or their authorised delegates.
Work Hours	Any time where a worker is at their usual workplace, or at another workplace and is claiming remuneration, including time where the on-call allowance is received.
Worker	Employee, contractor or subcontractor, an employee of a contractor or subcontractor, an employee of a labour hire company assigned to work for Council, an apprentice or trainee, work experience participant or a volunteer.
Workplace	A place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work.
Work Group	Two or more workers who routinely function as a team.

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## 5 Procedure

### 5.1 Responsibilities

#### 5.1.1 Workers

All workers have the responsibility to:

- (a) Adhere to and maintain knowledge of this procedure at all times;
- (b) Present to work in a fit for work state;
- (c) Attend training and education sessions as required;
- (d) Report any issues that may affect their or other worker's fitness for work;
- (e) Be available and participate in testing procedures; and
- (f) Cooperate in the process of determining fitness for work while using prescription or pharmacy medications in consultation with the treating medical practitioner/pharmacy.

#### 5.1.2 Supervisory Employees

All supervisory employees have the additional responsibility to:

- (a) Ensure they comply with all requirements of this procedure and the responsibilities contained within the relevant health and safety duty statement;
- (b) Ensure all workers are trained and educated in, and have access to this procedure;
- (c) Ensure corrective actions to manage the risks associated with fitness for work issues of workers under their supervision are undertaken;
- (d) Assist in organising random testing as required;
- (e) Monitor and report any issues that may affect workers fitness for work;
- (f) Request post-incident or suspicion testing;
- (g) Attend positive and over-the-limit test interviews, if requested, as part of the discipline process;
- (h) Ensure this procedure is implemented and applied consistently in their operational area; and
- (i) Treat all information collected with the strictest confidentiality.

#### 5.1.3 Managers

Managers have the additional responsibility to request GM or CEO approval for reasonable suspicion testing.

#### 5.1.4 Workforce and Governance

Workforce and Governance have the additional responsibility to:

- (a) Assist in the coordination of this procedure;
- (b) Assist with training and education programs for this procedure;
- (c) Request GM or CEO approval for post-incident and/or reasonable suspicion testing submissions;
- (d) Ensure all testing personnel are trained and competent;
- (e) Ensure testing procedures are followed according to the relevant Australian Standards; and
- (f) Ensure all information collected is maintained and treated with the strictest confidentiality.

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## 5.2 Consultation, Awareness and Training

### 5.2.1 Consultation

Council ensures the implementation and continual improvement of this procedure occurs in consultation with all relevant stakeholders including employees, management, relevant unions, nominated testing provider/s and health and safety representatives.

### 5.2.2 Awareness and Training

Council recognises that it is important to develop a workplace culture through awareness and training where employees are prepared to encourage each other to be safe and fit for work.

Employees will be required to complete drug and alcohol awareness training as part of Council's induction process and annually thereafter. In addition, a range of information on drug and alcohol consumption will be made available to employees including the different types of drugs and the risks they pose to peoples' health.

Drug and alcohol awareness and training for employees will cover, but not be limited to, the points below:

- (a) The importance of being fit for work;
- (b) The effects of the consumption of drugs and/or alcohol on health, safety and performance in the workplace;
- (c) What constitutes unacceptable drug or alcohol consumption;
- (d) How to recognise workers who may not be fit for work due to the consumption of drugs and/or alcohol;
- (e) Basic knowledge and understanding of the different types of drugs and their effects;
- (f) Ways of dealing with the consumption of alcohol and other drugs and assisting employees who are consuming drugs and alcohol to avoid developing further problems;
- (g) Counselling, treatment and rehabilitation services available to employees to enable those who have problems or concerns to seek effective solutions and suitable treatment of their choosing;
- (h) How an employee who has a problem with drugs and/or alcohol can self-disclose; and
- (i) Council's Drug and Alcohol Policy and Procedure.

## 5.3 Drug and Alcohol Testing Triggers

The following are the types of testing triggers.

### 5.3.1 Random Testing

Random drug and alcohol testing may be conducted for all workers.

Random selection will be based on work groups, not individuals, given the large geographical area that Council workers cover.

The methodology is to have a confidential random selection system which selects the work group to be tested.

A selection of workers is provided to the testing provider for drug and alcohol testing.

A union workplace delegate will be invited to attend the random selection undertaken by Workforce and Governance; however this will not be paid as overtime.

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### 5.3.2 Reasonable Suspicion

All workers have an obligation to submit a case for reasonable suspicion testing if they reasonably suspect that another worker is unfit for work due to drugs and/or alcohol during work hours. It is a worker's right to protect the health and safety of themselves and others. It should be noted that the worker submitting the case may also be tested. The GM or CEO will determine if the test will be completed or not.

Where a worker makes a submission based upon a reasonable suspicion that another worker is impaired and subsequently the submission is deemed to be vexatious or frivolous, appropriate action will be taken against the worker making the submission.

Testing will be conducted as soon as reasonably practicable, taking into consideration the timing of the report.

### 5.3.3 Post Incident

A drug and alcohol test may be conducted in accordance with this procedure for any worker who is involved in or may have contributed to an incident which:

- (a) Results in the death or serious injury of any person;
- (b) Involves significant damage to property;
- (c) Which involves the overturning of any plant or motor vehicle; or
- (d) Had the potential to cause death, significant damage or serious injury to any person.

The testing will be conducted as soon as possible following the incident however the workers' health and safety will always take precedence over a drug and alcohol test.

## 5.4 Testing Methods

Workers will be offered the choice of either urine or saliva testing for random, reasonable suspicion and post incident drug testing. If the worker cannot produce a sample, paragraph 5.10 will apply.

Where the testing provider deems that any testing equipment has malfunctioned during collection, a secondary test may be required.

Urine testing will be conducted in accordance with Australian Standard 4308:2023. Saliva testing will be conducted in accordance with Australian Standard 4760-2019.

Alcohol testing will be conducted in accordance with Australian Standard 3547-2019 and current random breath testing procedures in Queensland.

## 5.5 Authorised Drug and Alcohol Testing

The testing provider will be authorised in writing by the CEO to conduct drug and alcohol tests for all workers. Testing will only be carried out with site approved drug and alcohol testing equipment, which is regularly tested and calibrated to the standards specified by the manufacturer.

The testing provider arranges for non-negative drug test samples to be forwarded to an approved laboratory for independent analysis in accordance with NATA requirements.

## 5.6 Drug and Alcohol Testing

Workers are considered unfit for work if a sample collected and analysed in accordance with the guidelines set out in this procedure indicates the presence of a substance at or above the limits or the presence of alcohol above the limit as outlined below.

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### 5.6.1 Drugs

Urine testing will use the cut-off levels in the table below to determine a non-negative result for the class of drugs listed:

According to Australian Standard 4308:2023:

Amphetamine type substances	300µg/l
Benzodiazepines	200µg/l
Cannabis metabolites (THC)	50µg/l
Cocaine metabolites	150µg/l
Opiates (heroin)	300µg/l

µg/L = micrograms per litre

Saliva testing will use the cut-off concentrations in the table below to determine a non-negative result for the class of drugs listed:

According to Australian Standard 4760-2019:

Amphetamine-type substances	50ng/ml
Cannabinoids	15ng/ml
Cocaine and metabolites	50ng/ml
Opiates	50ng/ml
Oxycodone	40ng/ml

ng/mL = nanograms per millilitre

Drugs that may return a non-negative result for urine testing include (but are not limited to) heroin, cocaine, amyl nitrates (rush), PCP (angel dust), crack, ecstasy, LSD, speed, magic mushrooms and ice.

Drugs that may return a non-negative result for saliva testing include marijuana and other products containing THC and amphetamine related compounds.

It should be noted that these limits, as specified in the relevant Australian Standard, may change from time to time and as such the limits relevant at the time of testing will always apply.

### 5.6.2 Alcohol

All workers (with the exception of those included in paragraph 5.6.2.1) must provide, if tested, a BAC of less than 0.05g/100ml (0.05%) to be permitted on any Council workplace.

#### 5.6.2.1 Exception Activities

Any worker who conducts or is involved in any of the following activities must provide, if tested, a BAC of 0.00g/100ml (0.00%):

- (a) Construction and maintenance works;
- (b) Operation of plant requiring an LR licence or above to operate including trucks/buses;
- (c) Operation of plant or machinery that requires a statement of attainment or licence issued by Workplace Health and Safety Queensland to operate;
- (d) High risk construction activities as defined by the *Work Health and Safety Act 2011*;
- (e) Confined space work and rescue;

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- (f) Operation of vehicle loading cranes;
- (g) Traffic control;
- (h) Electrical work;
- (i) Operation of explosive power tools and firearms;
- (j) Operation of chainsaws;
- (k) Operation of dingo/stump grinders;
- (l) Operation of demolition saws;
- (m) Operation of wood chippers;
- (n) Welding, grinding or oxy acetylene activities
- (o) Workers who hold a learner or provisional licence;
- (p) Rail safety sensitive duties specified by the Department of Transport and Main Roads; or
- (q) Operation of a fly system in a theatre.

## 5.7 Drug Testing Results

### 5.7.1 Confidentiality

All drug testing results are treated with the strictest confidentiality.

### 5.7.2 Negative Test Result

If the sample records a negative result, the worker will be considered fit for work and return to normal duties.

In the case of post-incident testing, the supervisor and the worker will discuss the appropriateness of the worker returning to normal duties.

### 5.7.3 Non-Negative Test Result from Declared Prescription or Pharmacy Medication

If a worker declares the use of prescription or pharmacy medications prior to presenting for testing and tests non-negative for a substance known to be in that medication, the worker will be considered fit for work and allowed to continue normal duties if the actual medication does not cause any impairment, risk of impairment, or place them outside the legal limits for operating plant and motor vehicles.

The worker's sample will be sent to an approved testing laboratory for confirmatory testing. Should a laboratory result contradict the prescription or pharmacy medication declared by the worker, this will be treated as a positive result. If an employee returns a positive result they will be immediately suspended from the workplace and will be required to 'show cause' why their employment should not be terminated. The employee will remain on a suspension until the discipline process is finalised.

### 5.7.4 Non-Negative Test Result

If a worker tests non-negative following a drug test, the worker will be transported home.

The worker's sample will be sent for confirmatory testing to determine the presence of a specific drug in accordance with the cut-off levels or concentrations detailed at paragraph 5.6.1.

For an employee returning a non-negative sample result, they will be immediately suspended from the workplace until the results of the confirmatory test are received.

The worker will not be permitted to return to work until the confirmatory test results of the sample are returned to Workforce and Governance and they have been approved to return to work.

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If the final result of the confirmatory test is negative, the employee will return to work immediately or on their next ordinary working day.

#### **5.7.5 Positive Test Result**

If a worker returns a positive test to drugs, they will be advised of their situation and will not be permitted to return to work until such time a negative sample is provided. If an employee returns a positive sample the employee will be required to 'show cause' why their employment should not be terminated. The employee will remain on a suspension until the discipline process is finalised.

Any employee that tests positive to drugs will be advised of the EAP process.

#### **5.7.6 Option to Challenge Test Result**

A worker may, at their own expense, request a practitioner of their own choice to arrange an additional analysis of the sample provided by the worker at the time of testing by an approved laboratory that meets the Australian Standard. If this sample returns a negative result, the costs incurred by the worker for testing purposes are reimbursed by Council.

### **5.8 Alcohol Testing Results**

#### **5.8.1 Under the Limit**

If the sample returns a result which indicates a BAC is under the limit, the worker is considered fit for work and returns to normal duties.

In the case of post-incident testing, the supervisor and the employee will discuss the appropriateness of the employee returning to normal duties.

#### **5.8.2 Over the Limit**

A worker is assessed as unfit for work when they are breath tested and return a BAC of 0.05mg/100ml or greater, except those workers listed under paragraph 5.6.2.1 who must return a BAC of 0.00mg/100ml.

The worker will remain in the testing facility and is not permitted to commence work or any other activity until a second test is undertaken. If an employee returns an initial over the limit reading the employee will be immediately placed on a suspension. A second test will be conducted after a cooling off period of 20 minutes. This is in accordance with current random breath testing procedures in Queensland.

If the second test returns a BAC of 0.05mg/100ml or greater, or 0.00mg/100ml for those workers listed under paragraph 5.6.2.1, the worker is not permitted to remain at the workplace and is transported home as soon as reasonably practicable. If an employee returns a second test of over the limit, the employee is required to respond to a 'Notice of Proposed Discipline Action' letter. The level of the discipline action will be dependent upon the level of the reading returned. The employee is to remain on a suspension until the discipline process is finalised.

The worker will be breath tested prior to returning to work. The worker will then only proceed to work following a result that returns a BAC under the required limit.

### **5.9 Prescription and Pharmacy Medications**

Where a worker is taking prescription or pharmacy medications for a legitimate medical purpose, the worker will not breach this procedure by attending work, if the worker:

- (a) Takes the prescription and pharmacy medications in accordance with the instructions from their medical practitioner or pharmacist and normal directions applying to the use of those medications;
- (b) Does not misuse or abuse prescription and pharmacy medications;
- (c) Is aware of the effects (including potential effects) of consumption of alcohol while taking prescription and pharmacy medications;

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- (d) Checks with their medical practitioner or pharmacist about the effect of the medication on their ability to drive vehicles, operate machinery and generally perform their work duties in a safe manner. If a worker's ability to perform his/her work safely could be impaired by prescription and pharmacy medications, the worker must notify their manager or supervisor before undertaking their work. A worker is not required to disclose details of the condition/s being treated; and
- (e) Advises the testing provider of any prescription or pharmacy medication that may impact upon the result, prior to the test being undertaken.

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

#### **5.10 Inability to Produce a Sample for Drug and Alcohol Testing**

If a worker cannot produce a sample for drug and alcohol testing within a two hour period from an event triggering a test, the worker will be transported home as soon as practicable.

Within the two hour testing period, a maximum of three breathalyser attempts for an alcohol test will be performed. For drug testing, three of the preferred testing method and two of the alternative testing method will be attempted.

If an employee cannot produce a sample for drug and alcohol testing within a two hour period from an event triggering a test, the employee will be immediately placed on suspension.

The worker will return to work on their next ordinary working day and undertake a urine drug test and a breath test.

If an employee is unable to provide a sample after two requests the employee is required to 'show cause' why their employment should not be terminated. The employee remains on a suspension until the discipline process is finalised.

The worker only proceeds to work following a negative test result.

#### **5.11 Refusal to Undertake or Tampering with Drug and Alcohol Samples**

Any worker who refuses to be tested, found to be trying to evade a test or to have tampered with a sample, is considered to be in serious breach of this procedure.

If an employee initially refuses to undertake a test or found to be evading a test, the employee will be immediately placed on a suspension. If the employee refuses a second request the employee is required to 'show cause' why their employment should not be terminated. The employee remains on a suspension until the discipline process is finalised.

If there is conclusive evidence that an employee has tampered with a sample, the employee will be immediately placed on a suspension and required to 'show cause' why their employment should not be terminated. The employee will remain on suspension until the discipline process is finalised.

The worker is not permitted to recommence work until they have submitted themselves for testing and return a negative result.

#### **5.12 Discipline Process – All Other Workers (excluding employees)**

The following step/s will be taken for all other workers (excluding employees) who test positive for drugs and/or over the limit for alcohol:

- (a) Particular circumstances and the severity of each case, will determine the appropriate step to be taken with respect to all other workers (excluding employees) who test positive for drugs and/or over the limit for alcohol.
- (b) The worker (excluding employees) is required to show cause as to why their contract should not be terminated.
- (c) Council may terminate the contract immediately if Council reasonably considers the worker has committed a serious breach of contract.

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- (d) Any disputes arising from the application of this process for all other workers (excluding employees) may be progressed through the dispute resolution process in accordance with their contract.

## 6 Review Timelines

This procedure is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by the Deputy Chief Executive Officer.

## 7 Document Management

Sponsor	Chief Executive Officer
Business Owner	Deputy Chief Executive Officer
Policy Owner	Manager Workforce and Governance
Policy Quality Control	Legal and Governance



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