



# KENTISH COUNCIL POLICY

## FITNESS FOR WORK POLICY

**Policy Number 02:30:2012**

<b>POLICY NUMBER</b>	02:30:2012
<b>OBJECTIVE</b>	Kentish Council is committed to providing a safe and healthy work environment at all sites and facilities as it recognises its responsibilities under Occupational Health and Safety Legislation.
<b>STATUTORY AUTHORITY</b>	Workplace Health & Safety Act 1995 Workplace Health & Safety Regulations 1998 Municipal Officers (Tasmania) Award 2002 Municipal Employees (Country Councils Tasmania) Award 2003 Local Government (Community Services) Tasmania Award 2002
<b>POLICY</b>	Adopted March 20 <sup>th</sup> 2012      Minute 11.1.2
<b>REVIEW</b>	This policy should be reviewed on an annual basis by the Safety Committee to ensure its suitability and effectiveness or if a breach occurs.

### **1. PURPOSE:**

Kentish Council is committed to providing a safe and healthy work environment at all sites and facilities as it recognises its responsibilities under Occupational Health and Safety Legislation.

This policy aims to set out the requirements that apply in relation to:

- The management of fatigue, mental illness and stress in the workplace.
- The consumption of alcohol at any Council site or facility.



- Workers whose performance is affected as a result of consuming drugs or alcohol.
- The possession and consumption of drugs at any Council site or facility.

## **2. SCOPE:**

This policy applies to all Council employees, volunteers, contractors and visitors at all Council sites and facilities.

## **3. POLICY**

Council acknowledges individuals can encounter factors that can affect them both inside and outside of work. It is well known that the consumption of alcohol and drugs may affect an individual's ability to perform tasks safely and productively. Fatigue, stress, mental illness and general health related issues can also affect an individual's ability to act safely.

All individuals have a responsibility not to endanger themselves or others. For clarity, this policy is specifically intended to include the consumption of alcohol or illegal drugs outside working hours, which could impact upon the individual during working hours.

### **3.1. Consumption of Alcohol**

Alcohol must not be consumed on any Council site or facility unless approved by the General Manager. The exceptions to this are as follows:

- Employees representing Council in circumstances where it is appropriate to consume alcohol.
- Social functions approved by the General Manager.

Consumption of alcohol by this policy must always be within the legal limits and appropriate standards of behaviour must be maintained at all times. Where work related social or business functions involve the consumption of alcohol, appropriate management of the situation must take place. This will include the following minimum requirements:

- An authorised function shall have a clearly defined purpose and must have approval of the General Manager.
- The provision of low-alcohol and non alcoholic alternatives to full strength drinks.
- The provision of appropriate food to reduce the effects of alcohol.
- Adequate monitoring by management of alcoholic intake of individuals at any functions.
- No service of alcohol to employee's under 18.
- Control of alcohol distribution at the function.
- Cessation of alcohol distribution at the designated time.
- Consideration of a participant's ability to return home safely.
- Arrange for alternative transportation (such as fellow workers, family members, buses or taxi) when leaving the function.

Council has set prescribed limits of alcohol and drugs that apply while at work.

- Employees who are in charge of a “prescribed vehicle” or who only hold a learners licence or provisional licence must have 0.00 concentration of alcohol in their blood. A “prescribed vehicle” has a gross vehicle mass exceeding 4.5 tonnes and would include Council vehicles such as backhoes, trucks, loaders and excavators.
- All other employees may not have a blood alcohol level higher than 0.02 concentration of alcohol in their blood. A breath testing device will be made available to employees who wish to self check before commencing duties, at selected sites.

Where there is a requirement for Council employees to perform duties within other organisation’s operational precincts e.g. Dulverton Regional Waste, then employees must be made aware and comply with that organisation’s required practices including being fit for work and drugs and alcohol in the workplace.

- *It should be noted that size, gender, body fat distribution and percentage as well as the use of other drugs, including over-the-counter preparations, will dramatically effect the reaction an individual has to the consumption of alcohol.*

### **3.2. Possession and Consumption of Drugs**

Illicit drugs (including, but not restricted to, marijuana, amphetamines, cocaine, hallucinogens and heroin) must not be brought onto, consumed or be offered to other employees, at a Council site or facility under any circumstances.

The sale, transfer or manufacture of illicit drugs by an employee at any site or facility will result in disciplinary action being taken in accordance with Council’s Disciplinary Procedures.

Legal drugs (including prescribed medication) reasonably required by a person for medicinal purposes may be brought to and consumed at a Council site or facility. Any consumption of legal drugs must be in accordance with the recommended dose or the prescribed dose or the person’s doctor. This does not imply that a person may take prescribed drugs regardless of their impact. They may only attend work where the medication does not cause them to react unsafely.

Illicit drugs are expressly prohibited. The use of illicit drugs will be treated with zero tolerance. Employees will be drug free unless they have declared prescription medication while at work.

### **3.3. Performance Affected by the Consumption of Drugs and Alcohol**

Employees and other workers have a responsibility to be fit for duty and to perform their work in a safe and responsible manner. They must ensure that their work performance is not affected (to the extent that the risk of injury to themselves or others is increased) as a result of the consumption of alcohol and other drugs, whether consumed at a Council site or facility or elsewhere.

Council reserves the right to arrange a drug and/or alcohol test should an employee be involved in an:

- Incident that puts members of the community at risk;
- Incident that puts themselves or their fellow workers at risk;
- Incident that puts property, plant or equipment at risk.

An incident could either be safety or behaviour related and a test may also be arranged following a near miss situation. Should the test return a positive result, the employee will be required to undertake counselling and rehabilitation. Also, as the employee knowingly compromised the health and safety of themselves or others around them by being unfit for work, they would be subject to disciplinary action.

Where an employee, contractor or volunteer is concerned that a person is impaired and presents a workplace safety hazard, they are to immediately notify their manager/supervisor.

The Manager/Supervisor who has:

*'reasonable grounds for believing that a person is incapable of safely performing his or her duties, or may present a risk to another employee, due to the effects of alcohol, drugs or illness',*

is required by law to: *'arrange for that person's removal from the workplace'*. 'Reasonable Grounds' is to be established through an objective assessment of impairment, using an **Impairment Checklist**.

If the manager/supervisor removes an affected individual from an area of risk:

- The manager/supervisor can arrange for a test to be conducted using Council's designated independent drug testing provider. The manager/supervisor must notify Human Resources that the test is being conducted and for what purpose. The employee may request the presence of another person such as an OH&S Representative, Union Delegate etc to witness the procedure. (If the breath test detects the presence of alcohol above the prescribed limits or the drug test returns a positive result then a re-test will be provided after 30 minutes.);
- The affected individual must cease working;
- If required, the individual will be sent home to recover (suitable transport will be arranged at Council's expense);
- If the individual is an employee of Council, then the time not worked will be recorded as Leave Without Pay..
- If the individual is not an employee of Council, then no payment will be made for the time not worked.
- If the individual is an employee of Council then they will be counselled upon return to work.
- The incident will be documented and disciplinary action (in the case of an employee of Council) or other action (in the case of volunteers, contractors and visitors) may be taken by Council.

### 3.4. Medication

If an individual is required to consume legal drugs (including prescribed medication) for medical purposes, then the following will apply:

- That person must notify their immediate manager/supervisor should the medical practitioner advise the prescription may affect the employee's ability to undertake their duties in a safe manner or of any warnings attached to the medication which may impact on the person's ability to work safely;
- If that person's performance is likely to be affected as a result of taking the medication to the extent that the risk to the individual or others is increased, then the manager/supervisor will consult with that individual to make adjustments to the work requirements, where practicable. It is recommended that an employee discusses, with their medical practitioner, what effects their prescription medication may have, if any;
- If it is not practicable to make adjustments to the work requirements, the individual will be sent home (suitable transport will be arranged at Council's expense);
- Drugs (including prescription and over the counter medication) must not be offered to another person, at a Council site or facility under any circumstances;
- The employee must only consume the dosage as prescribed by their medical practitioner;
- Over the counter medications must only be taken in accordance with the manufacturer's directions. If there is any doubt regarding the impact that this medication may have on an employee to undertake their duties in a safe manner then advice should be sought from the pharmacist. If the pharmacist indicates that the medication may impact on the employee's ability to perform their work safely then they must advise their manager/supervisor.

### 3.5. Drug or Alcohol Enquiry

A drug and alcohol rehabilitation program is available through CLS (Employee Assistance Program) to employees who have had a problem confirmed or who consider that they may have a dependency on drugs or alcohol. Details about this program can be obtained from the Human Resources Officer. All inquiries will be treated in the strictest of confidence.

The HR Officer will liaise with CLS (Employee Assistance Provider) to monitor the progress of the employee. CLS should provide regular reports to the Human Resources department on the employee's progress. Confidentiality of medical information shall be maintained.

Upon completion of a rehabilitation program, the HR officer in conjunction with the employee's manager/supervisor will determine the requirements for ongoing review after consideration of the nature of the initial problem and the work to which the employee will return to.

### **3.6. Enforcement**

A breach of this policy by an employee of Council may result in disciplinary action being taken by Council. Any disciplinary action will be in accordance with Council's Disciplinary Procedures.

#### **3.6.1. Refusal to Undertake a Test**

If an employee refuses to undertake either an alcohol or drug test when required to do so, they will be deemed to have returned a positive result and will immediately be removed from the workplace.

The employee will be stood down on Leave Without Pay. The employee will not be allowed to return to work until such time as they undertake the test and return a negative result.

### **3.7. Fatigue, Stress, Mental Illness and General Health and Well Being**

Should policies, procedures or forms be updated, created or altered, this must be communicated to relevant audiences.

#### **3.7.1. Fatigue**

Fatigue management is a shared responsibility between management and workers as it involves factors both inside and outside of work.

Fatigue is mental or physical exhaustion that stops a person from being able to function normally, however fatigue is more than just feeling tired or drowsy. It is normal to become tired through physical or mental effort.

Fatigue is caused by prolonged periods of physical or mental exertion without enough time to rest and recover. The level of fatigue varies and depends on work load, length or shift, previous hours and days worked, time of day or night worked.

Where legislation prescribes fatigue management strategies, appropriate procedures will be developed to meet compliance requirements.

#### **3.7.2. Stress**

Stress is a feeling that is created when you react to certain events. Up to a point, stress can be a positive contributor to achievement and success; however negative stress can create immediate and long term problems, with physical, emotional and behavioural issues arising. Negative stress affects how you cope with day to day life. To help manage the stress it may be helpful to talk to somebody about what is upsetting you. This may be simply managed by discussing the issue with a work colleague, your manager/supervisor or Employee Assistance Provider.

It may not be possible to remove the stress from your life, however managing your stress may help with physical strain injuries, emotional control and corresponding behavioural responses.



### **3.7.3. Mental Illness**

Mental disorder is a term used to describe a range of clinically diagnosable disorders that significantly interferes with an individual's thinking, emotional or social ability. This includes people with mental disorders arising from but not limited to eating disorders, alcohol and drug use, sleep problems, panic disorder, depression, obsessive compulsive activities anxiety and other unexplained complaints.

If you believe you suffer from any of the above symptoms please seek medical advice.

If you have been diagnosed with any illness you should advise your manager/supervisor of the nature of the illness and discuss any alternative or change in work conditions if required.

### **3.7.4. General Health and Well Being**

#### **(a) Blood Donation**

While staff are encouraged to become blood and plasma donors there is a hazard associated with donating that may affect the donor for up to twenty four hours. Loss of blood in this way may cause the donor to become dizzy and/or feel faint. It is recommended that drivers of heavy equipment refrain from this activity twelve hours following a donation; therefore employees who fall into this category should schedule their donation as close as possible to the end of their shift to allow ample time for recovery and not compromise their capacity to fulfil their work role.

For other staff it will depend on how the body copes with the blood loss. In all instances, staff are advised to exercise caution following blood donations to ensure the safety of themselves and others.

#### **(b) Influenza/Contagious Illness**

Influenza symptoms include fever, chills, headache, muscle aches, sore throat, stuffy or runny nose, sneezing, dry cough, tiredness and difficulty breathing. As both common colds and influenza can spread quickly, health authorities recommend workplaces support social distancing by staff, in order to reduce the spread of such contagious diseases.

### **3.7.5 Smoke Free Workplace**

The General Manager has declared all enclosed Council workplaces (including vehicles) to be smoke free areas. It is also an offence under the Public Health Act to smoke in an area within 3 metres of an entrance or exit from a non-domestic building

### 3.8. Communication

Should policies, procedures or forms be updated, created or altered, this must be communicated to relevant audiences.

## 4. LEGISLATION

### 4.1 Duty of Care Responsibilities

Council management, employees, volunteers, contractors and visitors have obligations under the **Workplace Health and Safety Act 1995** and **Regulations 1998**, and obligations or risk under Common Law.

#### 4.1.1 Workplace Health and Safety Act 1995 Section 19 (Consumption of alcohol and drugs) of the Act requires that:

A person must ensure that he or she is not, by the consumption of alcohol or a drug, in such a state as to endanger his or her own safety at a workplace or the safety of any other person at a workplace.

#### 4.1.2 Workplace Health and Safety Regulations Section 26(1) (Alcohol, drugs and smoking in the workplace) requires that:

“Except with the permission of the employer or for legitimate medical reasons, an employee must not consume drugs or alcohol in the workplace.”

- An employee must notify his or her employer if the employee’s taking of, or failure to take, medication is likely to affect the safety of the employee or any other person at the workplace.
- An accountable person who has reasonable grounds for believing that a person is incapable of safely performing his or her duties, or may constitute a risk to another employee, due to the effects of alcohol, drugs or illness, must arrange for that person’s removal from the workplace.
- An accountable person may, by written notice displayed prominently in the relevant area, declare a part, or the whole, of a workplace to be a smoke free area.
- A person must not smoke in an area declared to be a smoke free area.

#### 4.1.3 Workplace Health and Safety Act 1995 Section 9(1)(a)(i) (Duties of Employer) requires that:

Kentish Council is accountable for providing a safe working environment and eliminating hazards in the workplace. Part of this responsibility involves taking steps to ensure that all people on site are both competent and in a fit state to work safely.

#### 4.1.4 Workplace Health and Safety Act 1995 Section 16 (Duties of Employees) requires that:

All employees have a corresponding duty of care to take reasonable care for their own health and safety and for the health and safety of other persons.

#### **4.1.5 Alcohol & Drugs Act 1970 Section 6(1) (Driving with excessive concentration of breath or blood alcohol) requires that:**

Any person who drives a motor vehicle while alcohol is present in his or her breath, or blood in a concentration greater than the prescribed concentration, is guilty of an offence. "Prescribed concentration" means a concentration of 0.05 of a gram of alcohol in 210 litres of breath or a concentration of 0.05 of a gram of alcohol in 100 millilitres of blood.

## **5. EDUCATION AND TRAINING**

### **5.1 Employees**

Employees will be required to attend education/information sessions as requested.

Sessions shall include:

- Information on health implications of misuse of drugs and alcohol;
- Early detection of a problem;
- Council's policy on drugs and alcohol;
- Understanding what to look for in terms of behaviour of someone affected by drugs and alcohol or other illnesses;
- New employees will receive induction training on this policy;
- Regular education/information sessions shall be provided as part of ongoing promotion and awareness programs.

### **5.1 Managers & Supervisors**

Managers and Supervisors will be trained in their responsibilities for the implementation of this policy:

- Recognition and documentation of performance or behavioural problems suggestive of problems relating to the misuse of drugs or alcohol, including the recognition of behaviour consistent with a person being acutely impaired by drugs and alcohol;
- Referral procedures for specialist assistance;
- Confidentiality and disciplinary procedures;
- Re-integration of an employee into the workforce upon completion of rehabilitation;
- Employee benefits while participating in the rehabilitation program;
- Understanding potential causes for behavioural and performance issues including workplace stressors, personal and relationship issues, environment etc.



## **6. RETAINING RECORDS**

Records are maintained by the personnel department. Information obtained in the process of conducting tests will be treated in the strictest confidence. Individual test results shall not be released to anyone who is not directly involved in the testing process without written authorisation by the employee.

Exceptions may be:

- The employee authorises the transfer of information;
- The employee has signed a release form for rehabilitation or a return to work program in which the results of the test must be known to facilitate further action concerning the employee;
- When the results of the test become the subject of a dispute, the information may be released to other parties on a “need to know” basis;
- When complying with any legal requirement;
- The employee’s manager may require access to information pertinent to likely management issues such as duty of care to the individual and other employees and required knowledge to assist in the decision making process.

Every effort will be made to carry out all actions under this policy in a manner which respects the dignity and confidentiality of those involved.

## **7. OBSERVATION OF FITNESS FOR WORK**

Every employee has the authority and responsibility to report to their manager/supervisor if in their opinion, they are or any other employee may be under the influence or be affected by any other substance or be suffering an illness that affects the ability of an employee to perform their duties safely.

Should an employee volunteer that they may not be fit for work, their employment will not be jeopardised, but they will be tested and if they return a positive result, they must participate in a rehabilitation program.

## **8. CONFIDENTIALITY**

When addressing issues relating to alcohol and drug misuse, all parties should be sensitive to the individual’s right to confidentiality, privacy and dignity.