

**OSH POLICY No. 2**

SUBJECT - Fitness for Work Policy

**OBJECTIVE**

The Shire of Jerramungup (or “the Shire”) is committed to the safety and health of its employees and has a duty of care under the Occupational Safety and Health Act, 1984 to provide a safe working environment. The Shire also recognises that this duty is incumbent on all employees that extends to co-workers and individuals alike in order to prevent their safety and health from being jeopardised through an act or omission of an employee who is unfit for work.

**SCOPE**

For the purpose of meeting our duty of care, employees who attend work under the influence of, in possession of or found to be cultivating, selling or supplying drugs and / or alcohol, or being in any other way impaired for work<sup>1</sup>, will not be tolerated by the Shire. In order to ensure that this duty is fulfilled, the Shire of Jerramungup has implemented this procedure in the interests of occupational safety and health.

Those who are suspected or found to be under the influence of drugs or alcohol at work will be submitted for a drug and alcohol test. If the test proves positive, the employee will subsequently be stood down from work without pay.

Those who fail to follow this procedure will be appropriately counselled and depending on the severity of their actions, may also stand the consequence of suspension without pay or instant dismissal.

**RESPONSIBILITIES**

It is the responsibility of the direct supervisor or manager to raise concerns with the Shire’s management if an employee is showing signs to be unfit for work.

It is the responsibility of employees to ensure they do not attend work in a manner which will affect their work performance that could endanger themselves, work colleagues, members of the public or cause damage to council equipment.

The Shire of Jerramungup believes that the health and wellbeing of an employee is of great importance to the organisation. An employee assistance program will be offered in order to support the effected employee.

All matters pertaining to fitness for work will be treated with the utmost confidentiality and any employee of the Shire of Jerramungup who is interested in receiving counselling services should seek approval from their Chief Executive Officer (CEO).

**Definitions**

For the purpose of this policy and procedure, the abuse of alcohol and / or other drugs includes:

- Impaired Work Performance - sudden or gradual deterioration in a person’s ability to function appropriately at work.

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<sup>1</sup> Other reasons for impaired work performance may include but are not limited to: fatigue, physical injuries etc.

- Unfit for Work – being impaired for work and therefore unable to perform duties in a safe manner.
- Use – eating, drinking, inhaling, injecting or dermal absorption of any substance or drug.
- Misuse – inappropriate use of a substance on the Shire premise or property, including overdose of a drug or the failure to take a drug in accordance with medical advice.
- Alcohol – Any beverage containing alcohol.
- Drugs – Amphetamines, Cannabinoids THC, Opiates, Barbiturates, Cocaine, methadone, Benzodiazepines, Alcohol and other narcotics, prescription drugs and non-prescription drugs.
- Substance – any drug that may have adverse effects causing impaired work performance.
- Fatigue – The inability to perform work effectively or safely due to lack of sleep. Or the adverse effects of medication, alcohol, drugs and / or other substances (including, “hangovers” and/or “come downs”).
- Fitness for Work/Duty – refers to a state (whether physical, mental and/or emotional), which enables an individual to perform an assigned task competently and safely.
- Physical impairment – musculoskeletal injuries, sprains and strains, major injuries etc.

## **APPLICATION**

### **Alcohol**

Being under the influence of alcohol will not be permitted whilst working on the premise or property of the Shire of Jerramungup. Employees who commence work whilst under the influence of alcohol including, working under the adverse effects of alcohol, will be stood down from their duties and taken to the nearest approved medical centre for a blood alcohol test. If a blood alcohol level is deemed to be 0.05 and over, employees will be sent home without pay for the remainder of the day. As the employee will be over the legal limit to drive, alternative transport will be required.

If the blood alcohol level is under 0.05, employees will be prohibited to operate machinery, plant or equipment until a blood alcohol content of 0.00 is reached. Sedentary duties, under direct supervision of the applicable supervisor/manager, will be offered until then.

If the blood alcohol test provides positive results on the first offence, the employee will receive a written warning.

There may be occasions where alcohol may be included as part of a work function or other recognised work event. Where the Chief Executive Officer has properly approved the consumption of alcohol, employees must continue to behave in a sensible and responsible manner with due care for their own and other people’s safety and wellbeing. Failure to behave in a sensible and responsible manner with due care, or any failure to follow any directions given by management with regard to the consumption of alcohol may result in disciplinary action. It is a condition of the Shire of Jerramungup that employees make alternative arrangements to get home. The Shire accepts no responsibility for employees during travel to and from the function.

## **Drugs and Prescription Medication**

### ***Illicit Drugs and Other Substances***

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

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

Refusal to a drug screen may result in instant dismissal.

If the drug screen proves positive results on the first offence, the employee will receive a written warning.

If an employee is found to give a positive result on the second offence, they will receive a second written warning. On the second offence, the employee must agree to be submitted for consequent drug testing (every fortnight or at random) for a (two month) period. The employee will be instantly dismissed if a subsequent test is undertaken with a positive result.

Any third offence will also result in instant dismissal.

### ***Prescription and Other Medication***

It is an employee's responsibility to inform their supervisor of any medication they are taking. It is also a requirement of employees to advise their supervisor of any adverse effects that may occur whilst taking such medication, including the amount of times at which the medication is taken per day. This information is to be recorded on their personnel file for reference in the event of an emergency. It is also necessary for the employer to record any known allergic reactions to any medication an employee may have (i.e. penicillin).

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

Failure to follow these requirements will result in disciplinary action, or instant dismissal.

## **Fatigue**

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

- Lack of sleep
- Voluntary Work
- External work commitments

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

It is the Shire of Jerramungup procedure to provide a safe place of work for its employees. It is an employee's responsibility to report to their supervisors any other work commitments or voluntary commitments outside of their employment with the Shire of Jerramungup which

may affect their fitness for work. Depending on the circumstances, the Shire may agree to come to a compromise with the employee to ensure there is an equilibrium between regular hours worked at the Shire, sleep / rest and additional hours worked elsewhere (including paid and voluntary work). If this agreement is abused by the employee, disciplinary action will result.

If deprivation of sleep is the cause of fatigue due to other external circumstances, a drug and alcohol screen will be required. If positive, disciplinary action will result.

In circumstances where the employee is unfit to remain at work as to the judgement of their manager, the employee will be stood down from work without pay, if the fatigue is self-inflicted, for the remainder of the day. Alternatively to being stood down without pay, the employee can choose to take a leave day.

In case of being stood down due to fatigue caused by work or volunteering related activities, the employee will be paid for a standard day (7.6 hours for admin staff, 8.5 hours for works department).

### **EMPLOYEE ASSISTANCE PROGRAM (EAP)**

The Shire of Jerramungup understands employees may be experiencing difficulties external to work that may influence their behaviour and health whilst at work. To assist with the recovery of the employee, the Shire has in place a confidential employee assistance program. For the purpose of this procedure, this program may be offered to first offence employees through ratification of the CEO. Otherwise this program will be offered on the second affirmed screening. The Shire will offer a total of 3 counselling sessions, if further sessions are required, approval is to be deemed by CEO.

If an EAP is offered as a result of a first offence and the employee declines the offer, they risk the consequence of instant dismissal on second offence.

Employees who have not failed to meet the guidelines of this procedure and feel an EAP would benefit them due to personal circumstances may utilise these services on ratification of the CEO. Such employees do not contravene the guidelines of this procedure if they volunteer for the EAP service.

### **DISCIPLINARY ACTION**

If this procedure is in anyway contravened by an employee the following will result.

#### **General Guidelines**

Any employee who tests positive to an alcohol breath screen or urine screen will be stood down from their work and will not be permitted to resume work until such time as they have proven they are fit for work. Any person who is found to be significantly fatigued will also be stood down from work without pay until such time as they have proven they are fit for work. Exemptions to this apply to emergency services volunteers as per individual agreement.

Employees fully returning to work after an injury or illness must provide the Shire of Jerramungup with a final medical certificate from their treating medical practitioner, showing no restrictions on their ability to work. Any other cases will be dealt with in accordance to the Shire's "Injury Management" policy (OSH Policy No. 6) and procedures.

**First Offence:**

- (i) The employee will be immediately suspended from duty without pay if found unfit to work.
- (ii) The employee will not be permitted to return to work until they have been tested again and proved negative for all prescribed substances.
- (iii) The employee will be given the opportunity to state their case. Unless there are convincing arguments to the contrary, this procedure will continue.
- (iv) The employee will be counselled by their supervisor that will focus on;
  - a. the unacceptability of the employee's behaviour
  - b. the risk that such behaviour creates for the safety of the individual and other employees or members of the public
  - c. the employee's responsibility to demonstrate that the problem is being effectively addressed;
  - d. that any future breach of the policy will result in second offence or instant dismissal.
- (v) The employee will be formally offered the opportunity to contact a professional counsellor. The decision to undertake counselling or other treatment for alcohol or other drug or substance problem is the responsibility of the employee and cannot be made mandatory. However, refusal to accept counselling may result in instant dismissal on second offence. The Shire of Jerramungup will insist that the employee provide satisfactory evidence that the effect of work performance and/or safety has been addressed before they are permitted to return to work.

**Second Offence:**

- (i) The employee will be immediately suspended from duty without pay if found unfit for work.
- (ii) The employee will be given the opportunity to state their case. Unless there are convincing arguments to the contrary, this procedure will continue.
- (iii) The employee will not be permitted to return to work until they have been tested again and proved negative for all prescribed substances.
- (iv) The employee will be counselled by their supervisor that will focus on;
  - a. the unacceptability of the employee's behaviour
  - b. the risk that such behaviour creates for the safety of the individual and other employees or members of the public
  - c. the employee's responsibility to demonstrate that the problem is being effectively addressed;
  - d. that any future breach of the policy will result in instant dismissal.
- (vii) Counselling will be offered, refer to *First Offence (v)*, if counselling was not used in the first offence.
- (vi) The employee will be instantly dismissed without notice if found to decline the offer to an EAP on second offence.
- (viii) The employee maybe submitted fortnightly or randomly for alcohol and / or drug screening for the period of two months paid by the Shire of Jerramungup. If tests confirm positive, instant dismissal will follow. If the employee refuses to comply, instant dismissal will follow.

**Third Offence:**

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

**Instant Dismissal:**

The following are guidelines to circumstances that will result in dismissal without notice:

- (i) Any attempt to falsify the drug and alcohol screen.
- (ii) Cultivating, selling or supplying drugs and / or other substances on or off the worksite.
- (iii) Unauthorised consumption of illicit drugs or alcohol whilst on the work site or during the working period.
- (iv) Unlawful behaviour.

**OTHER**

If an employee is found to be heavily intoxicated, above the legal limit to drive, or extremely fatigued and they are to be sent home without pay, it is a requirement of the supervisors to:

- a) Contact the employees next of kin to arrange pick up.
- b) If next of kin is unable to be contacted or unable to take employee home, a staff member authorised by the CEO will be appointed to take the employee home. The employee is to be advised that their vehicle must be collected that day.

**REFERENCE**

- Occupational Safety and Health Act 1984;
- Occupational Safety and Health Regulation 1996, and 2005 amendments;
- ISO 31000 Risk Management – Principles and guidelines