

COUNCIL POLICY

Title: Drug and Alcohol

Shire of
Kellerberrin

Responsible Officer: Deputy Chief Executive Officer

Version: Current

1. PURPOSE

The purpose of this policy commits the Shire of Kellerberrin to a zero tolerance of alcohol and drugs in the workplace and will conduct random drug and alcohol screening to ensure compliance

2. SCOPE

The scope of this policy is to:

- Provide a safe working environment free from occupational health and safety hazards associated with inappropriate use of drugs and/or alcohol;
- Set out the Council's requirements in relation to the abuse of drugs and alcohol so that everybody is aware of what is expected of them and how they can expect to be treated;
- Use the policy as a deterrent for employees considering alcohol/drug use that may affect their work performance and compromise safety;
- Provide assistance through a range of preventative, educational, and rehabilitative measures to overcome alcohol and other drug problems that could affect individual performance or fitness for work;
- Provide a working environment which is conducive to productivity and to the achievement of business objectives by minimising the potentially harmful impact of alcohol and other drug consumption;
- Ensure that people who are deemed unfit for work as a result of alcohol or other drug misuse are dealt with in a fair and constructive manner;
- Ensure that the Shire of Kellerberrin meets its obligations to employees, contractors and the general public to carry out its operations safely in accordance with relevant legislation.

This policy is applied to the Shire of Kellerberrin and its elected members and employees.

3. DEFINITIONS

Term	Meaning
Authorised person	means a person who has been trained and authorised by the CEO.
Authorised testing centre	means an accredited laboratory in accordance with Australian Standard 4308 (Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine) and as approved by the Council.
Confirmatory test	means a test conducted following the return of a positive screening test result to identify and quantitate the specific drug from the class of drug detected in the screening test
Council	means Shire of Kellerberrin

Cut-off level	in relation to alcohol and other drugs is a value at or above which the test result is considered to be positive and below which the test result is considered to be negative.
Employee	means any person employed by the Shire of Kellerberrin
Employer	Means the Shire of Kellerberrin
Invalid sample	is a urine sample which is adulterated and/or which does not conform to the requirements of Australian Standard 4308.
Negative confirmatory test result	means a result indicating the presence of no drugs or the presence of drugs below the cut-off levels prescribed in this Policy.
Other person in the workplace	means any person who performs work for or on behalf of the Shire of Kellerberrin or any person who performs work on the premises or property of the Shire of Kellerberrin
Policy	means the Shire of Kellerberrin Fitness to Work Policy as amended from time to time.
Positive confirmatory test result	means a result indicating the presence of drugs at or above the cut-off levels prescribed in this Policy and/or a test result and/or an action that is deemed by the Policy to be a positive confirmatory test result.
Positive screening test result	means a result indicating the presence of a class of drugs at or above the cut-off levels prescribed in this Policy.
Screening test	means an initial test to identify the presence of a class of drugs as prescribed in this Policy.
Valid sample	means an unadulterated urine sample that conforms to the requirements of Australian Standard 4308.

4. STRATEGIC CONTEXT

This policy links to key goal areas:

1. Relationships that bring us tangible benefits (to the Shire and our community)
2. Our lifestyle and strong sense of community
3. We are prepared for opportunities and we are innovative to ensure our relevancy and destiny

5. POLICY STATEMENT

Both the Council and individual employees have obligations under the duty of care responsibilities in Occupational Safety and Health Legislation and at common law.

As an employer the Council is obliged to provide a safe workplace so that employees are not subject to unnecessary hazards. Part of this duty to take reasonable care relates to taking reasonable steps to ensure employees are in a fit state to work safely and to minimise risks to both themselves and their work mates.

Employees and other persons in the workplace have a corresponding duty under legislation to take reasonable care so as not to expose themselves or their fellow employees to unnecessary risks.

Employees have an obligation to advise the employer if they:

- Are unfit to perform work as a result of alcohol or drugs
- Are taking any medication that might affect their work performance
- Believe another employee or person in the workplace is unfit to perform work as a result of alcohol or drugs.

The Alcohol and Other Drugs Policy applies to all the Shire of Kellerberrin employees or other persons performing work upon the premises or property of the Shire of Kellerberrin.

Misuse of Alcohol and Other Drugs

Everybody performing duties at the Shire of Kellerberrin is expected to act in a responsible manner and present themselves for work in a fit state. Accordingly, a person adversely affected by alcohol or drugs is not permitted on the premises.

Any person whose alcohol or other drugs test results exceed the limits set out in this Policy will be deemed unfit for work.

This Policy does not apply to prescription drugs which are used for their intended purposes as currently prescribed for the person using them and where use of such drugs does not adversely affect the person's ability to perform work in a safe and productive manner. All personnel who use prescribed drugs must report this to their manager and must also make the manager aware of any possible side effects.

This Policy does not apply to the moderate and responsible consumption of alcohol in accordance with the relevant Council procedure at Council business or social functions or in connection with business travel and entertainment.

Compulsory Drug and Alcohol Testing

Employees and other persons in the workplace are required to undertake alcohol and drug testing when, where and as required. This will include:

- Random testing
- Extraordinary testing
- Incident testing
- Fitness for Work testing
- Pre-Employment testing

Valid samples for the purposes of drug screening will comply with the requirements of Australian Standard 4308 for the collection, detection and quantitation of drugs of abuse in urine.

A screening test to identify the presence of alcohol will be conducted by breath analysing equipment that meets the requirements of Australian Standard 3547 (Breath alcohol testing devices for personal use) and the procedure used will be as recommended by the manufacturer of the device.

All drug testing shall be conducted at a Council approved testing facility. Authorised and trained persons will conduct all alcohol testing at the workplace.

Where an employee or other person in the workplace returns a positive screening test result a confirmatory test will be conducted.

A person who returns a positive screening test will not be permitted to remain in or return to the workplace pending the receipt by the employer of the confirmatory test result. Where a person is so required to leave the Council's premises or property the Council will ensure that it is in a safe and responsible manner.

A positive confirmatory test result will be dealt with in accordance with the "Action in Relation to Test Results" provisions as contained in this Policy.

A person who returns a negative confirmatory test result will be permitted to return to the workplace.

Random Testing

All employees and other persons in the workplace may be required to provide a sample for testing as a result of a random selection process. The Council reserves the right to amend and adjust the random selection process from time to time as appropriate.

All employees will be tested at least once in every twelve months.

Extraordinary Testing

An employee once found to have obtained a positive result in either drug or alcohol testing shall be required to undergo further urine testing at the rate of three extraordinary tests over six months not including normal selection for random testing.

The Council's Chief Executive Officer shall determine when extraordinary testing is to take place.

Incident Testing

Employees involved in significant incidents may be tested. Significant incidents may include, but are not limited to:

- Vehicle accidents
- Injuries treated by a medical practitioner
- Property/equipment damage
- Reportable near misses

Persons involved in such incidents will be tested for alcohol and/or drugs as per the procedures under this policy. They will not be permitted to commence work until a negative test result is returned and they are considered to be fit for work.

A person who is required to provide a post-incident sample will be on full pay until the testing process is completed at which time they will either return to work or be dealt with in accordance with the "Action in Relation to Test Results" provisions as contained in this Policy.

Fitness for Work Testing

Any employee who has reason to believe that another employee, a contractor's employee, or a visitor is under the influence of drugs or alcohol must report their suspicions to their supervisor/manager. If the supervisor/manager agrees that there is cause for suspicion they must arrange for the person to be removed from the workplace and undertake to provide a urine or breathalyser test. The employee reporting the suspicion will also be tested.

The person will not be permitted to commence work until a negative test result is returned and they are considered to be fit for work. The persons who are required to provide the sample will be on full pay until the testing process is completed at which time they will either return to work or be dealt with in accordance with the "Action in Relation to Test Results" provisions as contained in this Policy.

Employees have the opportunity to voluntarily self-test "without prejudice" at least 10 minutes prior to the commencement of work if they are in doubt of their fitness for work. An employee who removes themselves from the workplace prior to any incident or disciplinary action will do so either on annual or unpaid leave. Repeated events will be treated as a performance matter.

Pre-Employment Testing

All prospective employees shall be required to provide a urine sample that will be analysed for traces of prohibited or restricted drugs in accordance with Australian Standard 4308 as a pre-requisite for employment with the Council.

The prospective employee will be requested to declare to the person administering the test whether they are taking any medication, including prescription and/or non-prescription over the counter drugs.

Refusal to Undertake a Test

Refusal by an employee to submit to or cooperate fully with the administration of a drug and alcohol test will be deemed to be the same as a First Positive result and the employee will be sent home on either earned annual leave or unpaid leave at the employee's choice.

The employee will be given a verbal warning. This will be performed in accordance with the relevant Council procedure which requires a record to be kept including the full details of the misconduct, time and date of warning, and names of witnesses.

The employee will present themselves at an authorised testing centre within 24 hours of the first refusal and undergo a test. If the employee continues to refuse to take a test, it will be treated as a Second Positive result and the employee will be sent home on either earned annual leave or unpaid leave at the employee's choice. The employee will be given a final written warning assuming there are no mitigating circumstances.

The employee will present themselves for another test within 24 hours of the second refusal and undergo a test. If the employee continues to refuse to take a test, it will be treated as a Third Positive result. Formal disciplinary procedures will be invoked to ascertain if any mitigating circumstances exist and to allow the employee to state their case. Unless there are convincing arguments to the contrary, the individual may be dismissed without notice.

Provision of an Invalid Sample or Inability to Provide a Sample

An employee or other person in the workplace who provides an invalid sample for testing will be required to provide a valid sample for testing within 24 hours at an authorised testing centre and to comply with the instructions of the authorised testing centre to ensure the provision of a valid sample. In the absence of a medical explanation acceptable to the employer for the provision of an invalid sample, the provision of a second consecutive invalid sample will be treated as a Positive result for the purposes of this Policy.

Where an employee or other person in the workplace asserts that they are unable to provide a sample for testing, in the absence of an explanation acceptable to the employer and when given a reasonable timeframe, the person will be deemed to have returned a positive confirmatory test result for the purposes of this Policy.

Requirement to Declare Use of Drugs Prior To Testing

As part of the drug testing process where employees are on certain medication or prescriptions they are to provide a photocopy of same in a sealed envelope which is placed in the employees file and only opened if a positive reading is registered.

Where a positive test result is returned indicating the presence of a class of drugs consistent with the declared prescription and/or over the counter drugs no further action will be taken pending receipt of the confirmatory test results and provided the person is fit for work. If the confirmatory

test result is consistent with the proper and/or prescribed use of the declared prescription and/or non-prescription over the counter drugs it will not be considered a Positive result for the purposes of this Policy and no further action will be taken, provided that the person is fit for work.

Where the confirmatory test result is not consistent with the proper and/or prescribed use of the declared prescription and/or non-prescription over the counter drugs or where the use of prescription and/or non-prescription over the counter drugs has not been declared it will be considered a Positive result for the purposes of this Policy.

Testing Levels

Alcohol

Range zero to less than 0.02%

Where an individual, after the 20-minute break, records a Blood Alcohol Content greater than zero and up to and including 0.02% they will be stood down and provided with safe transport off site. Time off is to be taken as annual/unpaid leave.

For the first offence of a positive recording between zero and 0.02% the employee will be given a verbal warning by their supervisor.

Any subsequent positive test will result in formal disciplinary action being taken and a letter of warning issued.

Range 0.02%to 0.10%

Where an individual, after the 20 minute break, records a BAC greater than 0.02% and up to and including 0.10% they will be stood down and provided with safe transport off site. Time off is to be taken as annual/unpaid leave.

A formal written warning will be issued.

Range greater than 0.10%

A positive result greater than 0.10% will be stood down for 24 hours immediately with a view to termination of their employment at the discretion of the Chief Executive Officer.

Other Drugs

The screening test cut-off levels are:

Class of Drug	Cut-off Level
Methylamphetamine and Amphetamine	500
Cannabis metabolites	50
Cocaine metabolites	300
Benzodiazepines	200

The confirmatory test cut-off levels are:

Class of Drug	Cut-off Level
Opiates	300
Codeine	300
Amphetamine	300
Methylamphetamine	300
Methylenedioxyethylamphetamine	300
Phentermine	500
Ephedrine	500
Pseudoephedrine	500
11-nor- Δ^9 -tetrahydrocannabinol-9-carboxylic acid	15
Benzoyllecgonine	150
Ecgonine methyl ester	150
Oxazepam	200
Temazepam	200
Diazepam	200
Nordiazepam	200
7-amino-clonazepam	200
7-amino-flunitrazepam	200
7-amino-nitrazepam	200

As part of the drug testing process where Staff are on certain medication or prescriptions, they are to provide a photocopy of same in a sealed envelope which is placed in the employees file and only opened if a positive reading is registered.

Where a positive test result is returned indicating the presence of a class of drugs consistent with the declared prescription and/or over the counter drugs no further action will be taken pending receipt of the confirmatory test results and provided the person is fit for work.

If the confirmatory test result is consistent with the proper and/or prescribed use of the declared prescription and/or non-prescription over the counter drugs it will not be considered a Positive result for the purposes of this Policy and no further action will be taken, provided that the person is fit for work.

Where the confirmatory test result is not consistent with the proper and/or prescribed use of the declared prescription and/or non-prescription over the counter drugs or where the use of prescription and/or non-prescription over the counter drugs has not been declared it will be considered a Positive result for the purposes of this Policy.

Action in Relation to Test Results

First Positive

If an employee or other person in the workplace returns a positive confirmatory test result for the first time for other drugs then the following will apply:

- They will be provided with a copy of the laboratory drug and alcohol test results.
- The employee will be sent home on either annual leave or unpaid leave at the employee's choice.
- If management considers the test result to be a serious breach, management may commence appropriate disciplinary action in line with the recommended WALGA HR practices.
- This will be performed in accordance with the Council's relevant disciplinary procedure which requires a record to be kept including the full details of the misconduct, time and date of warning, and names of witnesses.
- The employee shall enter into discussions with their manager and the CEO regarding the positive result. The employee may request a representative to be present in a purely observatory capacity.
- The Council will recommend to the employee that they seek medical and/or counselling help.

In the event of the positive result being for drugs other than cannabis, the employee will present themselves within 48 hours at an authorised testing centre and undergo a further test. If the test is positive, it will be treated as a Second Positive.

Only if the test is negative will the employee be able to resume their normal duties. In the event of the positive result being for cannabis, the employee shall undertake weekly drug testing at an authorised testing centre. The employee will not be permitted to commence work until a negative result is achieved. This may continue for a maximum period of up to six weeks.

The cost of testing to provide a negative result shall be at the employee's own expense.

The employer will consider failure to undertake weekly drug testing as required and to return a test result that indicates a decline in the level of the drug which was found to be at or above the cut-off level prescribed in this Policy or to return a test result which indicates the presence of any other drug at or above the cut-off level prescribed in this Policy as evidence of the employee's intention not to return to work and may terminate the contract of employment accordingly.

In the case of any other person in the workplace they will be removed from Council premises and will not be permitted to perform work for or with the Council or to enter Council premises until a negative result is achieved. The cost of testing to provide a negative result shall be at the person's own cost and shall be conducted by an authorised testing centre approved by the Council.

On return to work the employee or other person in the workplace will be subject to extraordinary testing in addition to the usual testing programme. Further contravention of this Policy will result in disciplinary action up to and including termination of employment.

Disputed results will be dealt with in accordance with Australian Standard 4308 and at the employee's own cost. The referee sample will be made available for testing by an authorised testing centre and all records of the original test made available for re-examination. Due to possible degradation of sample over time, re-testing need only detect the presence of the drug or metabolite using mass spectrometry.

Second Positive

The below steps apply only if a first positive was not considered a serious breach, and the employee is not currently undergoing relevant disciplinary procedures. If a first positive is considered to be a serious breach, the HR process being undertaken will take precedence.

If an employee or other person in the workplace records a positive confirmatory test result for the second time for alcohol or drugs then the following will apply:

- They will be provided with a copy of the laboratory drug and alcohol test results.
- The employee will be sent home on either annual leave or unpaid leave at the employee's choice and given a final written warning.
- The employee shall present themselves as soon as possible to a panel consisting of;
- Direct Manager
- Chief Executive Officer, and
- Health and Safety Representative (employee's choice)

The objective of the panel is to discuss;

- Source of problem
- Explain the repercussions of a Third Positive test
- Reinforce the Fit to Work Policy
- Organise counselling and/or medical help

The employee shall undertake counselling and provide some proof or display an undertaking as to a change in lifestyle. The Counsellor shall decide when such proof or display is sufficient and when enforced counselling is over. Failure to complete enforced counselling or to provide sufficient proof of a change in lifestyle will result in disciplinary action up to and including termination of employment.

In the event of the positive result being for alcohol and drugs other than cannabis, the employee will present themselves within 48 hours at an authorised testing centre and undergo a further urine or breath test. If the test is positive, it will be treated as a Third Positive.

Only if the test is negative will the employee be able to resume their normal duties. In the event of the positive result being for cannabis, the employee shall undertake weekly drug testing at an authorised testing centre. The employee will not be permitted to commence work until a negative result is achieved. This may continue for a maximum period of up to six weeks.

The cost of testing to provide a negative result shall be at the employee's own expense.

The employer will consider failure to undertake weekly drug testing as required and to return a test result that indicates a decline in the level of the drug which was found to be at or above the cut-off level prescribed in this Policy or to return a test result which indicates the presence of any other drug at or above the cut-off level prescribed in this Policy as evidence of the employee's intention not to return to work and may terminate the contract of employment accordingly.

In the case of any other person in the workplace they will be removed from Council premises and will not be permitted to perform work for or with the Council or to enter Council premises until a negative result is achieved. The cost of testing to provide a negative result shall be at the person's own cost and shall be conducted by an authorised testing centre approved by the Council.

On return to work the employee or other person in the workplace will be subject to extraordinary testing in addition to the usual testing programme. Further contravention of this Policy will result in disciplinary action up to and including termination of employment.

Disputed results will be dealt with in accordance with Australian Standard 4308 and at the employee's own cost. The referee sample will be made available for testing by an authorised testing centre and all records of the original test made available for re-examination. Due to possible degradation of sample over time, re-testing need only detect the presence of the drug or metabolite using mass spectrometry.

Third Positive

The employee will be immediately suspended from work without pay pending an investigation of the incident or occurrence. Formal disciplinary procedures will be invoked to ascertain if any mitigating circumstances exist and to allow the employee to state their case.

Unless there are convincing arguments to the contrary, the individual may be dismissed without notice. Where a person in the workplace other than an employee returns a positive confirmatory test result for the third time The Shire of Kellerberrin may refuse to permit the person to perform work for or on behalf of the Council or to perform work on the premises or property of the Council.

Disciplinary Record

Where an employee has not breached this Policy for a period of not less than 24 months the individual will be regarded as successfully rehabilitated and any future incident or occurrence will be treated as a First Positive.

Misconduct

The following behaviours shall be deemed gross misconduct and will be subject to instant dismissal:

- The possession, cultivation, distribution, sale, purchase, or consumption of illegal substances;
- The unauthorised consumption, sale or supply of alcohol;
- The possession, sale, distribution or consumption of prescription drugs except as properly prescribed;
- The use of alcohol or any other drug such that a person's work performance or ability to work safely may be jeopardised;
- Breaches of confidentiality;
- Tampering with an alcohol or drug test sample.

Counselling and Rehabilitation

All personnel will be offered the opportunity to seek appropriate counselling and rehabilitation services where the need arises. The Council intends in appropriate circumstances to help employees with problems associated with the abuse of drugs and alcohol and to encourage their rehabilitation.

However, no part of this Policy or any related procedures is intended to affect the Council's right to manage its workplace and discipline its employees or to offer employment or continued employment, nor to make the Council liable for the costs associated with counselling and rehabilitation.

If an employee feels they require assistance with a substance abuse or dependence related issue they may bring this to the attention of their Safety Representative, Supervisor or CEO. No disciplinary action will result from such a request, even if it is obvious that the Policy must have been previously breached, provided that the request is made well in advance of and not as a result of a drug and alcohol test.

Counselling and Rehabilitation, if required, can be arranged on a strictly confidential basis.

This may be arranged through other agencies as listed below:

Service Provider	Metro No.	Toll Free
Occupational Services (WA)	9225 4522	1800 198 191
Alcohol and Drug Information Service (24hrs)	9442 5000	1800 198 024
Alcoholics Anonymous (24 hrs)	9325 3566	
Narcotics Anonymous	9227 8361	
Parents Alcohol and Drug Information Service	9442 5050	1800 653 203

Ensuring Confidentiality

All employee information generated as a result of the implementation of this Policy will be safeguarded according to normal requirements for confidential human resource and medical information.

The information will only be provided to those people in the Council who have a legitimate need to know to ensure safety, health, or performance. No information relating to this Policy and identifying a particular individual will be released to any third party except with the individual's consent or to obtain professional or legal advice or if required by law.

Statistics will be compiled from time to time and made available to all staff. Any published statistics will not identify individuals.

Breaches of confidentiality shall result in the termination of employment.

Council Premises

Alcohol is allowed on Council owned residential property or accommodation units that constitute an employee's private accommodation.

To monitor compliance with this Policy the Council reserves the right to conduct searches, inspections and tests on Council premises in accordance with applicable law and without prior notice of the clothing, personal effects, lockers, toolboxes, baggage, vehicles and quarters of any person subject to this Policy.

If it is intended to conduct such a search the person/s concerned will be informed of the reason and be allowed to have another person present. The person conducting the search should request another supervisor/manager to be present and all details must be fully documented.

Where any employee or other person in the workplace refuses to submit to a search, inspection or test the incident will be referred to the local authorities. Where any employee is found to be in possession of a prohibited item they will be subject to disciplinary action up to and including termination of employment. Any other person in the workplace found to be in possession of a prohibited item will not be permitted to perform work for or with the Council or to enter or remain on Council premises.

The possession, cultivation, distribution, sale, purchase or consumption of illegal substances on Council property, or while otherwise on Council business, will be considered a criminal matter, and be referred to the appropriate authorities. Such matters will be dealt with in accordance with the relevant Council procedure.

Client's Sites

Council employees on other clients' sites are required to abide by and cooperate with the requirements of the client's drug and alcohol policy and procedures. This includes, where required, undertaking alcohol and other drug screening and submitting to searches and inspections so long as they are conducted in accordance with applicable law.

In the event of an employee testing positive in these circumstances or being found in possession of a prohibited item, the employee should immediately contact their manager who will undertake to arrange safe transport of the employee to an appropriate location. The employee's manager should immediately contact the Council's Occupational Health and Safety representative. Council employees testing positive to alcohol or drugs on clients' sites will also be shown as a positive result on their drug and alcohol records at the Shire of Kellerberrin and the provisions of this Policy will apply.

Accountabilities

Chief Executive Officer and Executives

The Chief Executive Officer and Executives are accountable for ensuring the successful implementation and operation of the Alcohol & Other Drugs Policy. This will ensure that all employees understand and support the Policy and adequate resources are provided for appropriate education, training, counselling, and other requirements of the Policy.

Managers and Supervisors

Managers and Supervisors are accountable for ensuring that all individuals are aware of and comply with the provisions of this Policy and that the Policy is applied fairly and consistently to everybody in their areas of responsibility. This includes the provision of training, education, and other support programmes and periodic review of the implementation, application, and effectiveness of the Policy.

Managers and Supervisors also have responsibility for determining the fitness for work of individuals under their control and for taking prompt and appropriate action to address declining safety or work performance as a result of alcohol or other drug misuse. Failure to apply and enforce the Policy in a timely and effective manner will be treated as a performance matter.

All Managers and Supervisors will be appropriately trained to ensure their competency in handling these matters.

All Individuals

Everybody is accountable for:

- Ensuring that they are not in an unfit state for any reason, including the adverse effects of alcohol or other drugs;
- Raising any concerns about their own fitness for work;
- Raising any concerns about another person's fitness for work with their Manager or Supervisor;

Notifying their Supervisor or Manager of any situation in which this Policy may have been breached. This includes unauthorised possession or consumption of alcohol or other drugs on site or during work and failure to provide details of prescription medication and associated limitations to carry out normal duties. Medical confidentiality will be maintained as appropriate.

6. RELATED LEGISLATION/ DOCUMENTATION

Local Government Act 1995

Local Government (Rules of Conduct) Regulations 2007 r.3 (1)(h)

Occupational Safety and Health Act 1984

Occupational Safety and Health Regulations 1996

7. REVIEW DETAILS

Council Adoption	Date	15 Sept 2020	Resolution #	MIN146/20
Previous Adoption	Date	July 2017	Resolution #	MIN121/17