

Policy Owner/Responsible Officer	Enterprise Risk Management Coordinator
Department	People and Performance
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## Policy Statement/Objectives

Kiama Municipal Council is committed to ensuring all workers are provided with a safe, healthy and productive workplace free from the adverse effect of any drugs and/ or alcohol. Council takes a zero tolerance stance of any use of alcohol or illegal drugs which constitutes a criminal offence or has the potential to adversely affect the health and safety of council's workers and others in the workplace or the conduct of council's operations.

The objectives of this Policy are to:

- create a safe and healthy work environment for all workers, contractors and visitors which is free from the hazards associated with the inappropriate use of alcohol and/or other drugs;
- create a supportive culture that acknowledges and encourages workers to accept individual responsibility for workplace health and safety;
- provide support for workers who may have difficulty addressing alcohol and/or drug related issues;
- foster an attitude and culture amongst all workers that it is not acceptable to come to work under the influence of alcohol and/or drugs that will prevent them from performing their duties in a safe manner; and
- ensure all disciplinary processes are consistently managed in accordance with the Kiama Municipal Council's Code of Conduct for Councillors and Procedures for the Administration of the Code of Conduct, if any disciplinary action is required.

## Scope

This Policy applies to the Mayor, Councillors and Chief Executive Officer (referred to as 'worker' throughout this Policy for consistency with standard Work Health and Safety (WHS) practice and legislation within Kiama Municipal Council.

## References

This Policy should be read in conjunction with the following:

- Alcohol and Other Drugs Procedure for Councillors
- Work Health and Safety Act 2011
- Work Health and Safety Regulations 2017
- Code of Conduct for Councillors
- Procedures for the Administration of the Code of Conduct
- Road Transport Act 2013
- Narcotics Drugs Act 1967 (Cth)
- Australian Standards:
  - AS3547:1997 and any subsequent editions – breath alcohol testing devices for personal use
  - AS4760:2006 and any subsequent editions – procedures for specimen collection and the detection and quantitation of drugs in oral fluid

## Consultations

- Internal – councillors, Human Resources, Governance, Risk Team; External – LG NSW, public exhibition

## Definitions

Term	Definition
Alcohol	Includes all food, beverages, medications and any other product containing alcohol
Authorised function	A Mayor approved social event or function
Authorised organisation	An appointed organisation that can demonstrate it meets the Australian Standard requirements for collectors who will be used for the collection of specimens for alcohol and other drug testing and further analysis of results will require an independent National Association of Testing Authorities (NATA) certified collection agency
Chain of custody	The chronological documentation or paper trail, showing the collection, transfer, receipt, analysis, storage and disposal of the sample taken
Delegated Responsible Person	A person who is appropriately trained in the Alcohol and Other Drugs Policy and Procedure for Councillors and in the assessment of fitness for work.
Drug	Every substance or article which is a dangerous drug under and within the meaning of the <i>Narcotics Drugs Act 1967</i> (Cth) or any other substance, article, preparation or mixture (with the exception of alcohol) whether gaseous, liquid, solid or in any other form which may alter the fitness for work of a person
Negative	The result at or below the nominated or target concentration used for initial testing
Non-negative	The initial positive test as yet unconfirmed by confirmatory testing by a designated collector
Over the counter medication	Medicines available through a pharmacy without prescription
Social events	Any endorsed event by the Mayor, Chief Executive Officer or Council, including Council meetings.
Suitably qualified person	A person from the authorised organisation who has been trained and assessed as competent in the use of alcohol and/ or drug testing equipment in accordance with the Australian Quality Training Framework (AQTF) requirements. For drug screening a designated collector also needs to hold NATA certification.
Workers	Mayor, Councillors, Chief Executive Officer undertaking work for, with, or on behalf of Council. This excludes any person, volunteer, contractor undertaking work for, with or on behalf of Council. Please refer to Alcohol and Other Drugs Protocol and Procedure.

## Variation and review

This Policy was formally adopted by Council on 25 June 2019 and also reviewed in November 2019.

The most recent administrative review of this Policy was undertaken in July 2024 and endorsed by Council on XXXX.

Council reserves the right to review or vary this Policy in consultation with workers affected by this Policy.

## Review History

Date reviewed	Date adopted/endorsed	Brief detail of amendments
	25 June 2019	New Policy adopted (version 1)
7 November 2019	19 November 2019	Administrative changes to clause 4h(i) and 4h(ii) with the addition of the words “and any subsequent editions” to follow the reference to AS3547:1997 and AS4760:2006
1 August 2021	19 October 2021	Administrative changes to 2.1(e), 2.1(f), 2.1(g), 4.1(a), 4.1(d), 4.1(e), 4.1(f), 4.1(h) and 5.1. Reference to General Manager changed to Chief Executive Officer to reflect correct title. (version 3)
April 2024	XXXX	Administrative changes made – new template with different numbering and layout between Procedure and Policy

## POLICY

### 1. Duty of care, responsibilities and obligations

Council recognises its responsibility to ensure the health, safety and welfare of workers and is committed to providing a safe, healthy and productive workplace that is free from hazards relating to alcohol and drug use.

The Alcohol and Other Drugs – Councillor Procedure which accompanies this Policy (to be read together) describes the standard behaviour expected in relation to the:

- a) use of alcohol and other drugs;
- b) responsibilities of its workers and others in the workplace;
- c) actions and processes that Kiama Council will take to ensure that the purpose of the Policy are met; and
- d) consequences of a breach.

#### 1.1. General requirements

The following **general requirements** apply to all workers on a Council worksite:

- a) At all times workers will present themselves for work, or resume duties in a 'fit for work' condition, that is, not under the influence of alcohol or other drugs except where the drug is legally prescribed by a doctor for the purposes of treating a medical condition and their work is not likely to be affected by the drug;
- b) No worker will ingest, inhale or inject any drug at work except where the drug is legally prescribed by a doctor (or able to be purchased legally over the counter). All workers have a duty of care to ensure that any prescribed/ over the counter medication will not affect their ability to work safely; and
- c) All workers will refer any alcohol and/ or drug related and/ or welfare concerns likely to pose a safety hazard to any person or property to the Mayor. If the issues are not resolved it should be referred to the Chief Executive Officer.

## 1.2. Specific requirements

### 1.2.1. Mayor:

- a) Report to work in a fit state, unimpaired by any substance, including when they return to work following scheduled breaks.
- b) Ensure the implementation and adherence of the alcohol and other drugs procedure throughout the Councillor workplace.
- c) Ensure workers are aware of their responsibilities and are provided with adequate information, instruction and training.
- d) Ensure compliance with the requirements of this procedure.
- e) Ensure the provision of confidentiality are adhered to.
- f) Advise the Chief Executive Officer if they, or any other worker is known to be, or suspected of being unable to perform their duties due to the effects of alcohol and/ or drugs.

### 1.2.2. Councillors:

- a) Report to work in a fit state, unimpaired by any substance, including when they return to work following scheduled breaks.
- b) Ensure the law is adhered to in relation to the possession and consumption of any substances including alcohol.
- c) Advise the Mayor if they, or any other worker, including the Chief Executive Officer is known to be, or suspected of being unable to perform their duties due to the effects of alcohol and/ or drugs.
- d) Question their doctor or pharmacist in regard to the effect or side effect, if any, their medications may have on work and/ or safety performance.
- e) Recognise that performance of their duties could be affected by alcohol or drugs and instigate appropriate risk control measures if required.
- f) Not undertake duties if their ability to perform their duties safely, competently and professionally is affected by alcohol or drugs.
- g) Observe all directions from the Mayor in regards to this procedure.
- h) Not possess, distribute or otherwise consume any prohibited substance or deliberately misuse substances while on duty or on Council's premises.

### 1.2.3. Chief Executive Officer:

- a) Report to work in a fit state, unimpaired by any substance, including when they return to work following scheduled breaks.
- b) Ensure the implementation and adherence of the alcohol and other drugs procedure throughout Council workplace and operations.

- c) Make all workers aware of, and understand, the alcohol and other drugs procedure and the provision therein.
- d) Ensure provisions of confidentiality in this procedure are adhered to.
- e) Address concerns or issues relating to the procedure, promptly and proactively to ensure the health and safety of all workers.
- f) Ensure support is provided to workers who request/require assistance with issues around substance abuse as appropriate.

### 1.3. Usage of Council Vehicles

In circumstances where workers are required to operate Council vehicles, workers have an obligation not to drive these vehicles whilst under the influence of alcohol, illegal drugs or prescription/ over the counter medication (if their side effects of the prescription/ over the counter medication prohibit safety usage of vehicle/ plant).

Workers may be personally liable where their actions in these circumstances lead to injury or property damage.

All legal limits for the operation of vehicles will be adhered to.

### 1.4. Approved work related social events

The Mayor may grant permission for the consumption of alcohol at social events, meetings or civic functions.

Workers attending any Council approved function will demonstrate moderation, maintain professional conduct at all times and ensure they and other workers are not adversely affected by alcohol.

No worker will ingest, inhale or inject any drug at work except where the drug is legally prescribed by a doctor (or able to be purchased legally over the counter). All staff have a duty of care to ensure that any prescribed/ over the counter medication will not affect their ability maintain professional conduct.

### 1.5. Approved work related social event at a Council worksite

In the event that the Mayor permits alcohol to be consumed at a Council owned facility the function must be held away from any machinery or vehicles that are being, or may be, operated.

Council approved work related social events at a Council worksite are to occur at the end of the working day away from the immediate work area.

### 1.6. Conferences, training courses or seminars

Workers attending a Council approved function or representing Council at conferences, training courses or seminars must ensure they act in a reasonable and responsible manner when consuming alcohol.

No worker will ingest, inhale or inject any drug at work except where the drug is legally prescribed by a doctor (or able to be purchased legally over the counter). All workers have a duty of care to ensure that any prescribed/ over the counter medication will not affect their ability to work safely.

## 2. Education and training

Council recognises that it is important to develop a safe workplace culture in relation to the use of alcohol and other drugs, through education; where workers are prepared to encourage each other to be safe and not under the influence or impaired at work.

### 2.1. Information for Mayor and Chief Executive Officer

Council will provide practical guidelines and training for:

- a) responsibilities for the implementation of alcohol and other drugs protocol and procedure;
- b) management of strict confidentiality of test results and/or referral for assistance;
- c) communication with persons who may be affected by alcohol and other drugs;
- d) correct application of disciplinary action;
- e) reintegration of a worker into the workplace upon completion of rehabilitation; and
- f) creation and maintenance of suitable records.

## 2.2. Information for workers

Workers will receive information through further training, intranet and Council briefings on the following topics:

- a) Alcohol and Other Drugs Policy and Procedures for Councillors; and
- b) Council's management of privacy and confidentiality of test results and referrals for assistance.

## 3. Supportive culture and employee assistance

A key feature of the way alcohol and other drug use (as it impacts upon the workplace) is managed is by providing supportive culture where open and honest conversations on this subject can be had between the Mayor and Councillors.

It is vital all Kiama Council workers understand that first and foremost Council's preferred option is to provide assistance to workers with an alcohol and/ other drug dependence. It should be noted however that this procedure does provide a process for disciplinary action should repeated non-adherence occur.

### 3.1. Identifying other workers whose behaviour is risky to themselves and others

- 3.1.1. It is recognised that there may be reasons why workers feel uncomfortable about identifying fellow workers whose behavior is risky to themselves and others.
- 3.1.2. Council supports workers and will provide assistance through a rehabilitative approach to manage these issues.
- 3.1.3. Under no circumstances is it permissible to discriminate against a worker who raises a safety issue relating to alcohol and other drug use; nor a worker suspected of breaching this procedure. Refer to Appendix 1 – Self Disclosure Flowchart.
- 3.1.4. At all times the matter of alcohol and other drug use (as it impacts upon the workplace) is to be managed in a confidential and sensitive manner.

### 3.2. Rehabilitation

- 3.2.1. The Mayor may where appropriate work with the worker to develop a rehabilitation plan to manage their fitness for work issue.
- 3.2.2. The details of the plan should be agreed between the parties and may include the aim of the plan, the actions to be taken, the progress reporting procedure, the review date and timeframe for return to work.
- 3.2.3. The parties may also include a representative of their choice to assist in the development of this plan.
- 3.2.4. With the approval of Council, unpaid leave may be available to the worker undertaking alcohol and/ or other drugs rehabilitation or counselling. Such approval shall not be unreasonably withheld.
- 3.2.5. A rehabilitation plan template is included in this procedure. See Appendix 2.



3.2.6. If a worker has previously been under a rehabilitation plan and subsequently breaches Council's Alcohol and Other Drugs Policy and Procedure or the workers actions represent gross misconduct, support for rehabilitation may not be available and supported by Council. Council reserves the right to take other appropriate action, which could include disciplinary action in accordance with the Code of Conduct for Councillors and Procedures for the Administration of the Code of Conduct.

### 3.3. Worker assistance

3.3.1. If a worker has issues of concern including those related to alcohol and other drugs, Council encourages workers to make use of the Employee Assistance Program (EAP) and seek appropriate support and assistance.

3.3.2. Council will provide appropriate education, information, instruction and counselling necessary for workers to understand the risks associated with the use and abuse of alcohol and other drugs at work.

### 3.4. Mitigating factors

3.4.1. Mitigating factors will be taken into consideration for each instance that a worker does not appear to be in a fit state for work. All workers will be given an opportunity to explain their behaviour (keeping in mind that a person may appear to be impaired from alcohol or other drugs but not necessarily have taken any such substances).

- a) The symptoms of impairment consistent with alcohol and other drugs use may also be similar to other health issues. These may include psychological, behavioural, environmental or medical issues (all of which can have a detrimental effect on Council's ability to provide a safe workplace). In these instances the strength of the relationship between Mayor and Councillors is critical because if a trust relationship is not formed the worker will not feel comfortable discussing these sensitive issues.
- b) Council strongly encourages (but cannot force) workers to disclose any issues they may be suffering which has the potential to adversely impact upon themselves or other workers.
- c) It is expected that if a worker voluntarily discloses psychological, behavioural, environmental or medical personal information that this information is treated with a strict adherence to confidentiality/ privacy principles.
- d) Mitigating factors include things such as, but not limited to:
  - i) unexpected impairment from prescription or over the counter medication;
  - ii) side effects from medical treatment or an illness or injury;
  - iii) impairment from fatigue to a personal trauma, sleep deprivation or other issue; and/or
  - iv) any similar factor that may cause impairment but is not the result of inappropriate alcohol or other drug consumption.



### 3.5. Prescription/ over the counter medication

3.5.1. Certain medication may cause impairment whilst at work and return a non-negative result during alcohol and other drug testing. Workers are therefore encouraged to inform the Mayor if they are taking any medication that may either return a result that would indicate impairment or more importantly hinder their ability to perform their duties safely.

- a) Workers should seek advice from their doctor and/or pharmacist if they believe the pharmaceutical and/ or prescribed medication may impact their own and others safety at work.
- b) It is recommended that workers seek alternative medication from their doctor and if not available, ask for information regarding the medication. It is recommended to keep medication packaging on hand while at work.
- c) Whilst taking any form of medication the level of consumption should not be in excess of the recommended dose.
- d) If a worker is taking a medication which hinders their ability to work safely, standing the worker down for that shift should be considered. Should the latter be required, assistance will be given to the worker to ensure they arrive home safely.

## 4. Alcohol and other drugs testing program

Council has established a program of testing that will discourage people from entering a Council workplace where they may be unfit for work because of alcohol or other drugs. Additionally, Council's alcohol and other drugs testing program will assist in identifying people who may be unfit for work.

Council's testing program will:

- a) provide workers with information about the effect of alcohol and other drugs
- b) discourage people from coming to work where they may be unfit for work because of alcohol or other drugs
- c) assist in identifying workers who may be unfit for work.

### 4.1. Testing methods

- Voluntary
- Random
- Reasonable suspicion
- Return to work targeted

#### 4.1.1. Voluntary testing

- a) Voluntary testing provides workers with the ability to volunteer to be tested for alcohol and other drugs before attending work.
- b) A breath analysis device and/ or oral swab test will be used to conduct the screening in accordance with the Australian Standard.
- c) Workers should request a voluntary test if in doubt, prior to commencing duties.

- d) Any worker who voluntarily undergoes an alcohol and other drugs screening will not be subject to disciplinary action, however they will be encouraged to refer themselves to an EAP provider.
- e) Continued absence from work after returning non-negative results to voluntary screening can invoke disciplinary action.

#### 4.1.2. Random testing

- a) Random testing for alcohol and/ or other drugs for workers may be conducted at any time throughout the workers hours of work (including overtime and/or on-call staff).
- b) Testing will be carried out by a suitably qualified personnel in a private area which contains the adequate facilities for testing.
- c) Random testing may be undertaken with little or no notice and all workers will be eligible for selection for random testing.
- d) Workers will be selected for testing by using a simple random selection process involving the selection of a worker, location or group of workers located in a specific area.
- e) Workers may be randomly selected using the following methods;
  - i) a simple random number generator may be used to randomly select worker identification numbers; or
  - ii) alternatively, an entire work site may be randomly selected with all staff at work at that particular site that day being tested.
- f) Workers who are selected will be required to present themselves for testing immediately.
- g) Testing will be conducted in an appropriate area which contain adequate facilities for testing.

#### 4.1.3. Reasonable suspicion

- a) Reasonable suspicion testing is used in instances where information is received or inappropriate behaviours are observed that may indicate that a worker is not in a fit state to be on a Council worksite.
- b) The worker will be requested to undergo an alcohol and other drug test under the direction of the Mayor; Chief Executive Officer or Delegated Responsible Person.

#### 4.1.4. Return to work targeted testing

- a) The Mayor is accountable for monitoring the frequency of targeted random testing for a worker who provides a non-negative confirmatory result. The Mayor will determine the appropriate action.
- b) Targeted random testing will only be required:
  - i) for drugs, where the non-negative confirmatory result was not in accordance with declared prescribed medication levels; and
  - ii) for alcohol, where a non-negative result above the relevant blood alcohol limit applicable to the worker has occurred.
- c) If a worker has returned a confirmed positive alcohol and other drug test; as part of the return to work process, they must submit to a targeted alcohol and other drug test.
- d) Workers on the targeted random testing program have either;

- i) previously given a confirmed positive test result for alcohol and/ or other drugs; and/or
  - ii) unreasonably refused a test for alcohol and/ or other drugs as a result of a random screening program.
- e) Workers will still be included in the random test program.
- f) Where a worker presents a negative result or result lower than the acceptable levels identified in this procedure, the person will be permitted to commence or resume their normal duties.

## **5. Confidentiality and record keeping**

### **5.1. Confidentiality**

- 5.1.1. Confidentiality is fundamental to dealing with problems in the workplace that are related to the misuse or abuse of alcohol and other drugs.
- 5.1.2. All information regarding counselling or treatment will be treated confidentially. Workers must give their permission in writing for information to be disclosed by their counsellor. Only work-related information may be disclosed and will be used to support the most effective management of work performance and the reintegration of the worker into the workplace.
- 5.1.3. In most cases, no information is to be released to a third party, without the written consent of the worker unless it is considered that the matter, if neglected could endanger persons/ property or the matter concerned is subject to a police/ relevant regulator investigation.
- 5.1.4. In the event of conflict between the maintenance of confidentiality and duty of care, the Mayor has the authority to determine the most appropriate course of action.

### **5.2. Record keeping**

- 5.2.1. The Mayor must keep written records of any discussions relating to alcohol and other drug use in the workplace.

## **6. Unlawful activities associated with alcohol and drug use**

- 6.1. Being affected by alcohol and other drugs at work, particularly in a high risk work environment, can seriously compromise the health, safety and welfare of workers, volunteers, contractors and visitors.
- 6.2. Impairment by alcohol and other drugs can reduce an individual's ability to perform their work safely, competently and professionally.
- a. Council is committed to the following factors regarding illicit alcohol and drug use:
  - b) Unlawful conduct arising from alcohol and drug use will be referred to the police;
  - c) All legal limits for the operation of plant, equipment will be adhered to; and
  - d) All workers are required to report to work in a fit state at all times, unimpaired by any substance.
- 6.3. Council will not tolerate:
- a) consuming alcohol at work (except in circumstance where the Mayor has given prior approval for a work related function);
  - b) possessing, selling, distributing or consuming prohibited drugs in the workplace; or

- c) being affected by alcohol and other drugs, including medically prescribed and over the counter drugs, such that they are unable to work safely, competently and professionally in accordance with Council's Code of Conduct.

6.4. Under the *Work Health and Safety Act 2011*:

- a) Council has a duty to ensure the health, safety and welfare of their workers and other people in the workplace (section 19);
- b) workers have a duty of care to take reasonable care for their own health and safety, as well as other people in the workplace and to cooperate with their employer in providing a safe working environment (section 28); and
- c) other persons at a workplace must take reasonable care for his or her own health and safety, take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons; and comply, so far as the person is reasonably able, with any reasonable instruction that is given by the employer to allow the employer to comply (section 29).

6.5. There are penalties under legislation for employers and through the application of disciplinary procedures in accordance with the Code of Conduct and for workers who fail to take their work, health and safety responsibilities seriously.

6.6. It is an offence under *Road Transport Act 2013* to drive or attempt to drive a motor vehicle, truck or mobile equipment when under the influence of alcohol or other drugs in excess of legal limits.

**Related Forms/Documents**

- Alcohol and Other Drugs – Councillors Procedure

**Attachments**

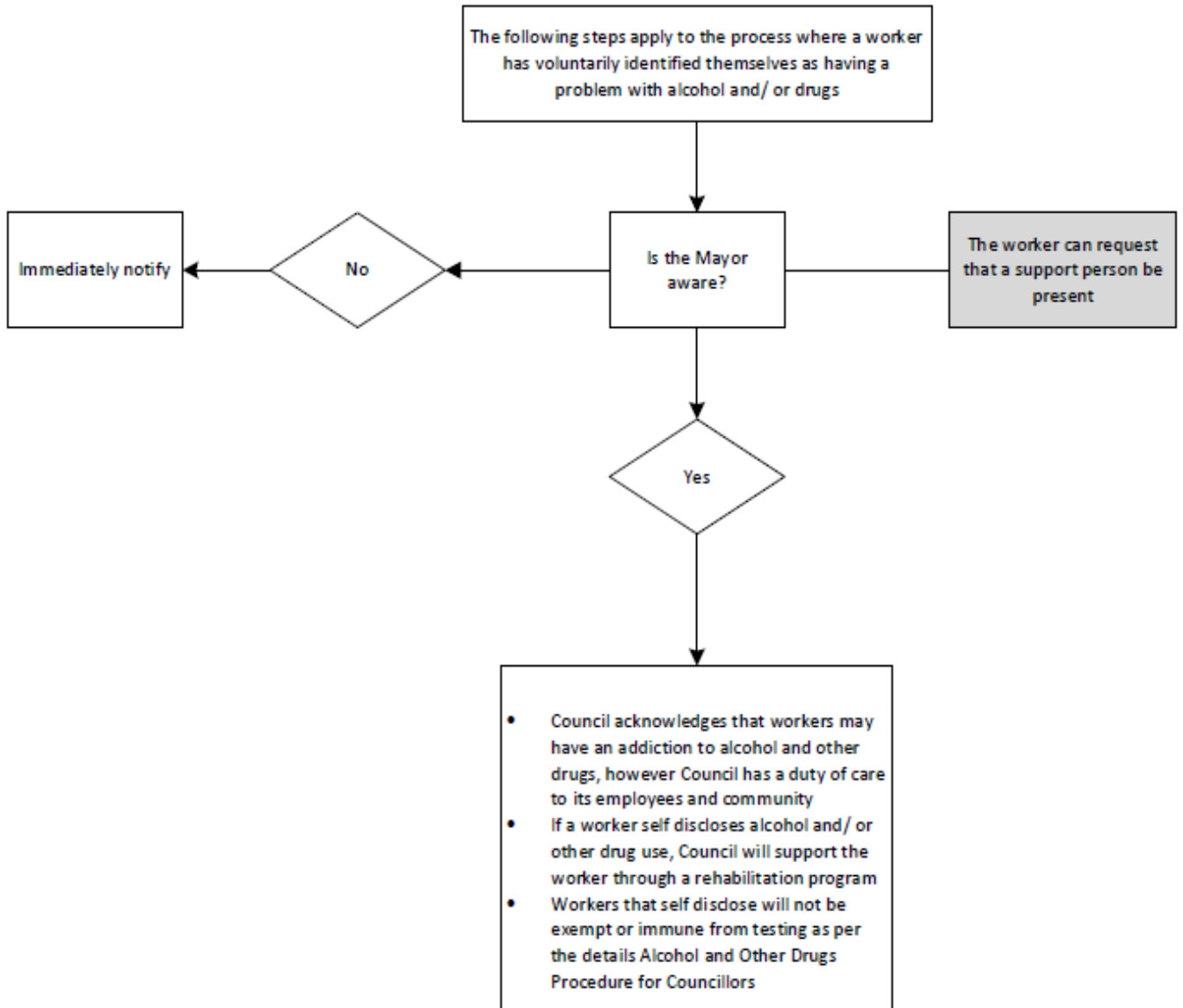
Appendix 1	Self-disclosure rehabilitation flowchart
Appendix 2	Alcohol and/or Drug Rehabilitation Plan

**Authorisation**

Name: Jane Stroud, Chief Executive Officer

Date: XX May 2024

## Appendix 1: Self-disclosure rehabilitation flowchart



## Appendix 2: Alcohol and/or Drug Rehabilitation Plan

### Alcohol and/or Other Drugs Rehabilitation Plan - Confidential

The following Rehabilitation Plan has been developed for:

<b>Employee:</b>	<b>Phone:</b>
<b>Goal:</b> To present to work and during work to be in a fit state without impairment that would prevent them from being able to undertake their duties in a manner that is safe and to current legislation.	
<b>Current rehabilitation issues:</b> <i>can be what has been tested positive for, concerns or issues that they have with their addiction etc</i>	
<b>Steps that have been agreed:</b> <i>for example, to take time off for an initial review of their addiction, factors affecting their addiction, make appointments with EAP provider, seek further counselling/intervention from organisations that may provide more specific addiction counselling such as alcoholic anonymous, a time frame for these steps to be commenced, review and completion</i>	
<b>Agreed costs:</b> <i>what the council has agreed to fund, eg fees for extra counselling above normal EAP sessions, type of leave to be accessed etc</i>	
<b>Persons involved:</b> <i>who are the personnel involved with this rehabilitation plan that will have access to information contained, who can authorise (with the person's permission) additional persons etc</i>	
<b>Comments:</b>	

The following parties have agreed to the above Rehabilitation Plan:

Employee: \_\_\_\_\_ Date: / /

Supervisor/Manager: \_\_\_\_\_ Date: / /

Manager HR (or authorised HR representative): \_\_\_\_\_ Date: / /

Doctor (if applicable): \_\_\_\_\_ Date: / /