



ACT PUBLIC SERVICE

ALCOHOL AND OTHER DRUGS POLICY

1. PURPOSE

The purpose of this policy is to provide practical guidance to ACT Public Service (ACTPS) Directorates about dealing with work performance, conduct and work health and safety issues associated with alcohol or other drug use.

2. APPLICATION

This policy applies to all ACTPS Directorates and their employees.

3. LEGISLATIVE REFERENCE

The policy is consistent with:

- *Fair Work Act 2009*;
- *Work Health & Safety Act 2011 (the WHS Act)*;
- *Public Sector Management Act 1994*; and
- Public Sector Management Standards 2016 (the Standards).

4. CONTEXT

The ACT Government is committed to providing safe and healthy working environments for its employees and other people through practices that eliminate or reduce risk in its workplaces arising from the use of alcohol or other drugs.

5. CONSUMPTION OF ALCOHOL AND OTHER DRUGS

All ACTPS employees are expected to comply with their obligations under the WHS Act. ACTPS employees are also required to conduct themselves in a manner consistent with their obligations under the *Fair Work Regulations 2009* (FW Regulations).

If an employee is found to be intoxicated in the workplace this may form the basis of an allegation of misconduct and result in disciplinary action being taken against the employee.¹ In some cases such conduct may be considered 'serious' misconduct and result in the termination of the employee's employment.

¹ Section 1.07 FW Regulations.

In addition, section 17 of the Standards prohibit:

- drinking alcohol while on duty or on government premises without prior approval of the appropriate delegate (as referenced in a Directorate delegation schedule) on any occasion, including Christmas parties, the Melbourne Cup and farewells;
- carrying alcohol in government vehicles except where prior approval has been given by an appropriate delegate; or
- consuming alcohol in or on a Government vehicle.

All ACTPS employees are expected to refrain from:

- bringing prohibited substances into the workplace at any time. Such an act may be considered a criminal offence and dealt with accordingly; and
- smoking on ACT government premises.

Section 28 of the WHS Act places an obligation upon employees to take responsibility for ensuring the health and safety of themselves and of others. This includes a responsibility to ensure that they attend work unimpaired by alcohol or other drugs.

To comply with this WHS obligation, all ACTPS employees **must** inform their manager or supervisor if they are affected by any substance which impairs their ability to undertake the inherent requirements of their position or may cause them to present as a risk to the health and safety of themselves or others.

5.1 Policy principles

- It is important that all employees understand that the ACTPS has a duty, as an employer, to ensure the health and safety of its employees and to ensure appropriate safety and work standards are adhered to.
- As an illness, alcoholism or substance abuse will be accorded the same consideration as other illnesses. Assistance will be offered to employees who are suspected of having, or notify the ACTPS that they may have, an alcohol or drug related illness.
- If work continues to be adversely affected following reasonable assistance from the Directorate or if reasonable assistance is not accepted by the employee then the ACT Government cannot accept this risk and the matter may be dealt with as a performance management issue.²

²'Reasonable assistance' - fair and appropriate assistance under usual and ordinary circumstances.

6. RELEVANT CONSIDERATIONS

If a manager or co-worker suspects that an employee is intoxicated while at work, the action to be taken will depend upon the particular circumstances. Factors that may be considered by a decision maker include:

- the nature of the behaviour of the employee in question and how this appears to be affecting their ability to carry out their duties;
- whether there are any health and safety concerns that arise in relation to the performance of their duties (for example – where the employee is required to operate machinery or drive a vehicle as part of their job) and if so, these concerns must be immediately addressed;
- whether the behaviour in question is affecting other employees; and
- any history or pattern of such behaviour in relation to the employee.

7. MANAGING INTOXICATION IN THE WORKPLACE

It is important for managers/supervisors to understand that issues arising in the workplace ³ because of intoxication often require a multi faceted approach in order to address them appropriately.

Where a worker is concerned that a person's conduct or behaviour may present a risk to the health and safety of another person in the workplace, these circumstances **must** be promptly brought to the attention of a manager or supervisor with authority over the person or workplace in question.

Managers should seek the advice and assistance of their Directorate's human resources area when dealing with issues relating to employees who are suspected of being intoxicated at work and/or who are suspected of suffering from drug or alcohol dependence.

Further, Directorates can develop strategies for managing workplace behaviours and performance issues, as well as work health and safety issues, arising from intoxication in the workplace. Where it is reasonably practicable, these strategies may include:

- identification of hazards and risks that may arise from an employee being impaired by alcohol or other drugs, particularly in areas where high risk plant/equipment or dangerous substances are present;
- the provision of training to managers and supervisors about applicable disciplinary and underperformance processes;

³ For the purposes of this policy, the 'workplace' extends beyond ACTPS premises, to include any place where the employee is acting in an official capacity or representing their employer.

- provision of appropriate assistance and support for employees suffering from alcohol and drug related illness, including future workplace strategies Employee Assistant Program (EAP) and/or pathways for referral to other counselling and/or rehabilitation programs; and
- Directorate specific initiatives such as health education programs.

Practical guidance for managers/supervisors in relation to managing intoxication in the workplace can be found at Attachment 1.

8. DRUG AND ALCOHOL TESTING/ZERO TOLERANCE

Directorate specific requirements may apply in safety critical areas where there are risks to public safety if an employee is impaired due to intoxication. Directorates are to undertake their own internal assessment as to whether zero-tolerance policies to alcohol or other drug use should be implemented in their area. There are complex legal considerations in relation to the implementation of policies about zero tolerance and drug and alcohol testing. Advice from the Directorate's HR area should be sought if considering the introduction of drug and alcohol testing.

9. RESPONSIBILITIES

The responsibilities below should be read in conjunction with the whole-of-government Policy WHS-03-2013: *Responsibilities under the Work Health & Safety Act 2011*.

a) Directors-General

Directors-General are ultimately responsible for ensuring their Directorate complies with the WHS Act.

b) Executive, Managers and Supervisors

Executives and managers have specific responsibilities under this Policy to ensure:

- early intervention for their employees with an alcohol or drug problem through their relevant HR area;
- if an employee is intoxicated at work and their conduct poses a threat to their safety or the health and safety of others, the employee should be asked to leave the premises and steps taken to ensure their safe passage home; and
- where work and/or conduct continues to be adversely affected following reasonable assistance from the Directorate or if the reasonable assistance is not accepted, the continued behavioural or work performance issues are managed in accordance with the relevant provisions of the applicable enterprise agreement.

Executives and managers are also responsible for ensuring that records relating to the identification and management of employees under the influence of alcohol or other drugs are maintained, archived, and disposed of in accordance with the *Territory Records Act 2002* (including its subordinate laws and associated instruments), the *Health Records (Privacy & Access) Act 1997* and the *Privacy Act 1988* (Cth).

10. GLOSSARY

“Employee” is defined under the *Public Sector Management Act 1994* (‘PSM Act’) as a person employed in the Public Sector by or under an employing authority.

“Employee Assistance Program” (EAP) means an employer sponsored program offering access to confidential counselling on a range of work and personal issues at no cost to the employee.

“Hazard” means a situation or thing that has the potential to harm a person.

“Intoxication” or **“intoxicated”** are references to the physical effects of alcohol and/or other drugs. The FW Regulation defines intoxication as follows: *an employee is taken to be intoxicated if the employee's faculties are, by reason of the employee being under the influence of intoxicating liquor or a drug (except a drug administered by, or taken in accordance with the directions of, a person lawfully authorised to administer the drug), so impaired that the employee is unfit to be entrusted with the employee's duties or with any duty that the employee may be called upon to perform.*

“Manager” includes ‘supervisor’.

“Prohibited substances” includes illegal/illicit drugs.

“Reasonable assistance” Fair and appropriate assistance under usual and ordinary circumstances.

“Risk” is the possibility that harm (death, injury or illness) might occur when exposed to a hazard.

“Workplace” means a place where work is carried out for a business or undertaking and includes any place where an employee goes, or is likely to be, while at work (includes vehicle, vessel, aircraft or other mobile structure) or while representing their employer in an official capacity.’

11. REFERENCES AND LINKS

ACT Alcohol, Tobacco and Other Drug Strategy 2010-2014

<http://www.health.act.gov.au/c/health?a=dlpubpoldoc&document=1967>

ACTPS Enterprise Agreements:

<http://www.sharedservices.act.gov.au/docs/agreements/>

Australian Drug Foundation

<http://www.druginfo.adf.org.au/fact-sheets/fact-sheets#workplaces>

Australian Safety and Compensation Council - *Work-Related Alcohol and Drug Use - A Fit for Work Issue* 2007

www.safeworkaustralia.gov.au/WorkRelatedAlcoholAndDrugUse_AFitForWorkIssue.pdf

Druginfo clearinghouse - *Prevention of alcohol-related harm in the workplace*

http://www.druginfo.adf.org.au/attachments/340_PRQ_sep09_workplace-FINALweb.pdf

Fair Work Act 2009

http://www.austlii.edu.au/au/legis/cth/consol_reg/fwr2009223/

Public Sector Management Act 1994

<http://www.legislation.act.gov.au/a/1994-37/default.asp>

Public Sector Management Standards 2006

<http://www.legislation.act.gov.au/di/2006-187/default.asp>

Road Transport (Alcohol and Drugs) Act 1977

<http://www.legislation.act.gov.au/a/1977-17/default.asp>

Work Health and Safety Act 2011

<http://www.legislation.act.gov.au/a/2011-35/default.asp>

Work Health and Safety Regulation 2011

<http://www.legislation.act.gov.au/sl/2011-36/default.asp>

4. REVIEW

This policy will be reviewed after three (3) years unless there is a requirement for earlier review.

5. APPROVAL AUTHORITY

This policy is approved by Meredith Whitten, Deputy Director General, Workforce Capability and Governance, Chief Minister Treasury and Economic Development Directorate, June 2018.

Document Name: WHS Policy – Alcohol and Other Drugs

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Issue Date: 17 March 2014

Reviewed: June 2018

Review Date: June 2020

1. PRACTICAL GUIDANCE FOR MANAGERS

The following should be used as a guide only, in conjunction with advice from the Directorate's HR Area.

Due to the complexity of the issues arising from intoxication in the workplace and the wide variety of circumstances which may arise, it is not possible, nor always appropriate to provide a rigid set of guidelines for dealing with alcohol and other drug issues. The action to be taken will depend upon a close consideration of the relevant factors.

Managers must be mindful that symptoms of other medical conditions may result in physical/behaviour that is consistent with intoxication and may require first aid assistance, for example, diabetes or epilepsy.

1.1 Decline in conduct/risks to health and safety

Where a manager holds a reasonable suspicion that an employee is intoxicated at work and that he or she poses a threat to their own health and safety or the safety and health of others, or that their conduct is otherwise declining and/or having a negative impact on others in the workplace, the manager may decide to do one or more of the following:

- where possible/appropriate, conduct an initial discussion (see further below 'the initial discussion'); or
- where necessary or appropriate, ask the employee to leave the premises or request assistance to have the employee removed safely and delivered home, inviting the employee to submit an application for personal leave for the appropriate period of time; or
- with the assistance of the HR area suspend the employee with or without pay (depending upon the seriousness of the circumstances) pursuant to the applicable enterprise agreement (ensuring compliance with the suspension processes set out in the agreement) and ask the employee to leave the premises.

IMPORTANT NOTE: If an employee is asked to leave the workplace in circumstances where it is believed that they may be intoxicated, steps should be taken to ensure their safe passage home: e.g. arranging for a cab charge voucher.

1.2 The initial discussion

Prior to the initial discussion, the manager/supervisor should discuss their concerns with their HR area and seek advice as to options available. The role of the manager/supervisor is crucial to identifying deteriorating work performance or inappropriate behaviour, which may be attributable to alcohol or other drug use.

However, managers should be mindful of the fact that intoxication at work may be a symptom of underlying personal difficulties and assistance should be provided so as to encompass all such issues.

If it is suspected that an employee may be intoxicated at work, where possible the manager should conduct an initial informal discussion with the affected employee to ascertain details of the suspected intoxication and the concerns with the employee, including a discussion about the work health and safety issues that arise from intoxication in the workplace. The employee should be invited to bring a support person along with them. During the discussion, the manager should also provide the employee with an opportunity to raise any underlying work or personal issues that may be relevant to the circumstances.

The manager should offer the employee support by way of EAP and/or other available external service providers as appropriate in the circumstances (advice should be sought from the Directorate's HR area as to available options).

A documentary record should be kept of the discussion and the employee advised e.g. including observed behaviour and the matters discussed with the employee.

1.3 Performance and conduct issues

Where *performance issues* may have developed as a result of the intoxication at work the employee should be informed that if the impaired performance persists it may be necessary to initiate underperformance action in accordance with the procedures outlined in the applicable enterprise agreement.

Where *conduct issues* have arisen as a result of the intoxication at work that have not resulted in immediate disciplinary action, the employee should be informed that if he or she fails to improve their unsatisfactory behaviour, this could result in formal disciplinary action being taken.

In some cases, particularly where it is suspected that the problem is ongoing, it may be appropriate to require the employee to undergo a medical examination in order to assess their fitness for duty. The directorate's HR area should be consulted if the manager considers this necessary.

Where the employee's conduct has deteriorated to the extent that they pose a risk to health and safety so as to necessitate their immediate exit from the workplace, it may not be possible to conduct an initial discussion at the time. This may need to occur at a later date, although preferably as soon as possible after the event.

Advice and guidance should always be sought from the Directorate's HR area when dealing with intoxicated employees.

2. RESOURCES AND SERVICES

Guidance in relation to the reasonable assistance to be given to rehabilitate employees and restore their health, well-being and work performance can be obtained via the whole-of-government *Managing Injury and Illness Policy* (WHS-03-2012).

The following organisations offer confidential drug and alcohol counselling and assistance in the ACT:

Alcoholics Anonymous (AA)

AA Canberra Office
Grant Cameron Community Centre
27 Mulley Street HOLDER ACT 2611
Tel: (02) 62823020 (24 hour service)
Office hours 10am-3pm

Counselling Online

Free online alcohol and drug counselling
24 hours a day, 7 days a week
www.counsellingonline.org.au

Directions ACT (Alcohol, Tobacco and Other Drug Services)

1 Bradley Street WODEN ACT 2606
Tel: (02) 61228000 (9.00am to 5.00pm)
Monday to Friday
Counselling, assessment and referral

Lifeline

Tel: 13 11 14
24 hour telephone crisis support

Narcotics Anonymous (NA)

NA Canberra Office
Grant Cameron Community Centre
27 Mulley Street HOLDER ACT 2611
Tel: (02) 62880835