



**BUNBURY HARVEY**  
**REGIONAL COUNCIL**  
HARVESTING RESOURCES FROM YOUR WASTE

# FITNESS FOR WORK



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# 1. INTRODUCTION

The Bunbury Harvey Regional Council (BHRC) is committed to ensuring the safety and health of all employees, contractors and others associated with its operations.

A key aspect of worker safety is ensuring that all employees present fit for work and are required to be in a state enabling them to safely perform assigned duties as required.

Fitness for work refers to an individual's functional capacity whether that be physical, mental or behavioral, and their ability to perform assigned tasks competently and in a manner which does not compromise or threaten the safety or health of the employee or others.

Alcohol and other drug usage become an occupational safety and health issue if a worker's ability to exercise judgment, coordination, motor control, concentration and alertness at the workplace is impaired, leading to increased risk of injury or incidents to themselves or others. Co-workers may be placed in difficult situations, expected to cover unsafe work practices, or faced with reporting a fellow worker.

Further detailed information specific to Drugs and Alcohol can be found in the *Drug and Alcohol Policy*.

Workers must take reasonable care of their own safety and health and not endanger the safety and health of others at the workplace and all employees should present themselves' for work and remain, while at work, capable of performing their work duties safely. Where a worker's capacity to work safely may be impaired, BHRC will ensure the worker is not in a position of personal risk and does not present a hazard or risk to the safety and health of others.

Although disciplinary action may be necessary, the focus is on preventative measures such as utilizing the Employee Assistance Program, counselling options and information sessions.

# 2. PURPOSE

BHRC has a duty under the *Occupational Safety & Health Act 1984* to provide a safe working environment and to ensure that workers and other persons are not exposed to health and safety risks arising from its operation.

The purpose of this policy is to ensure a safe workplace free from the effects of drugs, alcohol, stress, fatigue and physical or mental injury that would impede the safety of all on a site operated by the BHRC. This policy is directed towards the welfare of the individual and the safety and health of other people in the workplace.

BHRC recognises that success in achieving a healthy and safe workplace depends on the commitment and cooperation of management, workers and authorised visitors to the facility and is committed to providing a workplace that enables all work activities to be carried out safely.

### 3. SCOPE

This policy applies to all workers, irrespective of their position, carrying out work for or on behalf of the BHRC and applies to all areas controlled by the BHRC. Councilors, contractors, volunteers, visitors, and clients are also covered by this policy.

This policy is designed to:

- Ensure that the BHRC meets its obligations to employees, contractors, volunteers and the general public to carry out its operations safely;
- Provide a safe working environment by minimising risks;
- Provide assistance through a range of preventive, educational and rehabilitative measures to overcome drug and alcohol issues that could affect a person's fitness for work;
- Ensure an Employee Assistance Program (EAP) that can offer confidential and professional counselling assistance is available to all employees;
- Ensure that people who are unfit for work are managed in a fair, just and supportive manner;
- Establish a drug and alcohol testing process that:
  - meets the relevant industry expectations;
  - is compliant with the relevant Australian Standards;
  - includes access to an approved and accredited laboratory testing facility for confirmation testing purposes.

All persons are required to pro-actively address non work-related issues, if these issues have the potential to impact on their ability to safely perform their duties as required.

Contractors are required to comply with this policy and are expected to manage themselves and/or their own workforce in compliance with their own Fitness for Work Policy and Procedures.

Compliance to this policy by all personnel is a requirement of employment and/or as a condition of entry to site.

### 4. CONDUCT AND BEHAVIOUR

All persons carrying out work on a BHRC site have an obligation to ensure that their activities away from work do not impact on their ability to perform their duties safely while at work.

All employees and contractors conducting work for or on behalf of the BHRC are required to adhere to the BHRC's Code of Conduct.

## 5. SUPPORTING PROGRAMS

BHRC provides its staff with an external confidential counselling service that can be used for personal, family or work issues that may be impacting on an employee's wellbeing. All sessions are confidential and BHRC are not advised of any information shared or obtained during these sessions.

Personnel with a problem relating to alcohol or drug abuse, a physical, mental, or behavioral condition or issue, may at any time approach their immediate supervisor/team leader or the CEO and request assistance.

### *Training*

Managers, Supervisors and other relevant employees will receive appropriate training in the recognition, management and referral for assistance of any concerns relating to fitness for work.

### *Induction*

As part of the Induction process, all new workers (including casuals) will be made aware of this policy and related assistance practices.

## 6. RESPONSIBILITIES

BHRC considers that the use of alcohol or other drugs is primarily a health issue for the individual; however where a person's performance or conduct affects his/her health and safety and/or others in the workplace, BHRC is committed to appropriately managing the issue.

Any physical or psychological issue raised will be dealt with through the appropriate channels which may include, Workers Compensation, Employee Assistance Program or through direct liaison with consulting medical practitioner.

### *Management*

Management strategies include:

- Ensuring all workers are aware of and comply with the provisions of this policy;
- Ensuring that this policy is applied fairly and consistently;
- Providing appropriate education and training to employees;
- Providing professional counselling support where appropriate; *and*
- Implementing pre-determined disciplinary procedure when required.

### *Supervisors/Team Leaders*

Supervisory personnel have a responsibility for the welfare, health and safety of their team and should therefore take prompt and appropriate action whenever they have a reasonable cause to suspect that an individual employee may be impaired in any way.

## Employees

BHRC employees have a responsibility to carry out their duties safely and to refrain from conduct which would adversely affect their performance and/or put at risk their health and safety or the health and safety of others in the workplace.

BHRC employee's responsibility includes but is not limited to:

- Not consuming alcohol on a BHRC operated site unless sanctioned by the CEO;
- Not using, possessing, selling, or distributing any illegal drug in the workplace;
- Discussing with their doctor or pharmacist whether their medication may adversely impair their ability to perform their tasks safely;
- Taking reasonable care for the health and safety of themselves and others;
- Cooperating with BHRC to enable compliance with the OHS legislation;
- Reporting all suspected alcohol, drug or other impairments to their supervisor;
- Not to give personal prescription medication to others;
- Discuss with their manager, supervisor, or CEO any concerns they may have regarding the safety risk others pose due to suspected alcohol or drug use or abuse; *and*
- Ensure that they present fit for work duties as required.

All employees have a responsibility for their own health, safety and well-being and must ensure that they are able to perform the inherent duties for which they have been employed and/or engaged.

## 7. DRUG AND ALCOHOL

BHRC recognises that the inappropriate use of drugs and/or alcohol can affect a worker's performance and can jeopardise their own health, safety, and wellbeing, as well as that of others around them.

Detailed information specific to Drugs and Alcohol can be found in the *Drug and Alcohol Policy*.

## 8. FATIGUE AND STRESS MANAGEMENT

Every employee or contractor has a responsibility to ensure that they take every precaution to prevent an impact on their fitness for work by fatigue or stress. This includes monitoring and assessing their personal level of alertness at the start of, and throughout, their work period.

Where fatigue affects an employee's ability to work safely, the situation must be identified, assessed and controlled as much as is practicable, as per other hazards in the workplace.

Every employee or contractor has a responsibility to ensure that they have the psychological capacity and ability to perform assigned tasks competently as required.

Fatigue management is a shared responsibility between management and workers as it involves both duties while at work and factors out of work hours. Outside work hours fatigue needs to be addressed by the employee whereas work related fatigue should be addressed in consultation with the employee and supervisor.

Where an employee has been determined to be unfit to remain at the workplace, it is up to BHRC to arrange for the employee to be safely returned to their place of residence.

Stress can be difficult to identify due to the varying and individual nature of a person's response to stress, however a duty of care obligation still exists for managers and workers to monitor any stressful situation.

## 9. PHYSICAL ABILITY

Every employee or contractor has a responsibility to ensure that they have the physical capacity and ability to perform assigned tasks competently as required.

Where fitness for work issues arise in relation to an injury sustained in the workplace, they will be dealt with in accordance to the Workers Compensation legislation.

## 10. ASSESSING FITNESS FOR WORK

Should an employee's ability to perform their duties come into question, BHRC reserves the right to review their fitness for work through one or a combination of the following:

- Sourcing additional information from employees nominated medical professional;
- Arranging an independent medical examination for which BHRC is responsible for funding;  
*or*
- Arranging a workplace functionality assessment.

Where a fitness for work assessment is warranted, other assessment methods may be used to confirm an employee's fitness for work. These include, but not limited to:

- Alcohol and drug testing;
- Medical assessments; *and/or*
- Functionality assessments or other recognised assessment as deemed appropriate.

Depending on the circumstances and the perceived risks, BHRC reserves the right to stand the employee down on sick leave until satisfactory evidence of fitness is supplied.

Reasons an employee's fitness for work may come into question include, but not limited to:

- Inability to perform duties as required;
- Non work related injury;
- Poor injury or safety history;
- Recurring or excessive sick leave or absences; *or*
- Concerns raised by supervisors.

# 11. TESTING

It will not be assumed that any observed impairment is caused by alcohol and/or other drug use. Other impairment factors may include fatigue, medical conditions, chemicals, heat, noise and symptoms of work-related stress.

## *Fitness for Work Assessments*

Fitness for work assessments will be conducted by an independent trained Occupational Therapist, Exercise Physiologist, or Physiotherapist in accordance with the following:

- Referral for a vocational rehabilitation assessment and early intervention to identify a worker return to work capacity.
  - A referral for assessment requires consultation between all parties, CEO, employee and medical professional. Consultation may be written or verbal.
- Detailed functional capacity evaluation outlining functional tolerances to be matched to job analysis including relevant work tasks and actual duties relative to the position description.
- Workplace assessment conducted to identify possible suitable duties or make recommendations for workplace modifications and/or job redesign to accommodate an injured worker return to work or promote a safe working environment. This assessment is used when an employer is unsure if the duties are suitable for an injured worker or if assistance would be required.
- Job analysis to identify the full range of demands of a specific role including physical, cognitive, sensory, and psychological demands.

Assessments are designed to determine whether an employee can safely perform the full range of duties associated with the position for which they are employed. The level of assessment undertaken will depend on the perceived level of risk relating to workplace safety and the extent of the duties unable to be undertaken by the employee.

If an assessment results confirm that the employee is unable to safely perform the full range of their duties as per position description, BHRC will consider the following:

- Temporary suitable duties;
- Job modifications and aids;
- Modified tasks if available;
- Re-training; Re-deployment (temporary or permanent) if available
- Phased retirement;
- Leave of absence;
- Disciplinary action; *or*
- Termination of employment.

Any solution will be dependent on operational feasibility and safety.

## *Drug and Alcohol*

Working while affected by drugs or alcohol poses a risk to safety in the workplace and BHRC has therefore adopted a policy that includes:

- For Cause' Drug and Alcohol testing;
- Post-Accident / Incident testing;
- Random testing;
- Post Rehabilitation drug or alcohol testing; *and*
- Pre-Employment or Job Change testing.

Further detailed information specific to Drugs and Alcohol can be found in the *Drug and Alcohol Policy*.

## **12. SERIOUS MISCONDUCT**

Section 12 of the Fair Work Act provides that the expression of serious misconduct has the meaning prescribed by the Regulations.

### *Regulation 1.07 of the Fair Work Regulations – Meaning of serious misconduct*

Regulation 1.07 provides that serious misconduct has its ordinary meaning. The regulation also identifies particular kinds of conduct that will amount to serious misconduct for the purpose of the Act. These include:

- Willful or deliberate behaviour that is inconsistent with the continuation of the contract of employment; *and*
- Conduct that causes imminent and serious risk to health or safety or to business reputation, viability or profitability.

Such conduct may include theft, fraud, assault or intoxication (subject to the employee demonstrating that the conduct did not make employment during the period unreasonable.)

The meaning of serious misconduct under Regulation 1.07 is the same as the meaning it has under regulation 12.10, Part 12, Chapter 2 of the *Workplace Relations Regulations 2006*.

The meaning of serious misconduct under the BHRC Enterprise Agreement 2019 Section 26: Termination of Employment, Sub Section 26.5, is the same as the meaning under Section 12 of the Fair Work Act.

## **13. PRIVACY AND CONFIDENTIALITY**

Confidentiality is fundamental to dealing with problems in the workplace in order to protect the privacy of the individual and to encourage acceptance of any prevention and treatment measures.

BHRC will ensure that the highest level of confidentiality is maintained by:

- Ensuring conversations relating to work performance being affected are conducted in private;
- All documentation is kept confidential and treated as such;

- All positive test results to be placed on a “Medical in Confidence” file assigned to the employee; *and*
- Ensuring that any BHRC approved counselling or treatment service provider is aware of confidentiality requirements relating to client information.

BHRC respects the rights of the employee to privacy in matters relating to the use of counselling services and will implement practises to maintain this privacy. Such practices include:

- Information relating to counselling must be treated as confidential;
- Psychologists are bound by their code of conduct to respect the confidentiality of information obtained in the course of their work and may not disclose any information without the consent of their client except in those cases where failure to disclose information will result in a clear danger to the individual; *and*
- Counsellors who are not psychologists may not be bound by a code of ethics and as such will be made aware of the employees right to confidentiality.

It would therefore clearly be improper for anyone in the organisation to request an employee’s personal information from a service provider without the appropriate consent. Any breach of this confidentiality clause will result in disciplinary action.

Any employee that wishes to have a supervisor or team leader liaise with their counsellor must give written permission prior to the supervisor/team leader contacting the counsellor. Only work-related information may be disclosed in such circumstances in order to support the most effective management of integration back into the workforce.

A supervisor may wish to know whether counselling is progressing satisfactorily and if any adjustments need to be made to the employer’s work and whether the counselling is likely to lead to improvements. A counsellor can provide this information without divulging information of a personal nature.

BHRC will take all reasonable steps to ensure that any test results, investigation information and participation in counselling or rehabilitation services will remain confidential between the employee and employer. However, BHRC may need to disclose the outcomes of results and investigations in order to conduct a review, effect disciplinary measures or in the event of an insurance claim.

## 14. DEFINITIONS

PRESCRIBED MEDICATIONS	Includes prescription and non-prescription drugs that are able to be legally purchased within Australia.
AS/NZS 4308:2008	Australian and New Zealand Standard Procedure for the collection and quantitation of drugs of abuse in urine.
DRUG	Any substance that may result in psychological or behavioral changes that have the potential to reduce a workers Fitness for Work and impact on work performance and safety, including prescription medication.
EAP	Employee Assistance Program. External voluntary, confidential counselling service for support and guidance to assist employees resolve personal issues.
FATIGUE	Fatigue means physical and/or mental weariness or tiredness resulting from physical or mental exertion or lack of sleep.
Fit for Work or	Refers to functional capacity (physically, mentally, or behaviorally) to perform assigned tasks in a component manner which does not compromise or threaten the health and safety of themselves or others.
Illicit Drugs	Substances that either stimulate or inhibit the central nervous system or drugs that have been synthetically designed to be outside of detection limits in testing. These are illegal to make, sell or supply.
Non-Prescription Drugs	Medications and other substances, both naturally occurring and synthetic, as sold legally over the counter without a prescription.
Prescription Drugs	Medications and other substances, both natural and synthetic that cannot be legally purchased without a prescription from a registered medical practitioner.
Prohibited Substances	Substances, such as drugs, that are banned or forbidden by law.
Random Testing	A test carried out involving part of the workforce or an individual, worker or department, selected in an indiscriminate manner.
Safety Legislation	Relevant State or Federal legislation relevant to workplace safety, including <i>Occupational Safety and Health Act and Regulations</i> .
Worker	Any person carrying our work on behalf of the BHRC, including employees, contractors, subcontractors, consultants and volunteers.

DOCUMENT CONTROL				
DOCUMENT OWNER			Chief Executive Officer	
RESPONSIBLE FOR REVIEW			Compliance Officer	
DATE	DOCUMENT	VERSION	DESCRIPTION OF CHANGE	RESOLUTION No.
05/05/2020	Fitness for Work	V01	New Document.	Draft

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