



**EMPLOYEES UNDER THE  
INFLUENCE OF INTOXICATING  
SUBSTANCES POLICY**

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## **Why Have a Policy?**

The Municipality is committed to maintaining the highest possible standards of occupational health and safety and considers alcohol and drug abuse as disruptive of and detrimental to a safe and productive working environment.

## **THE POLICY**

### **1. PREAMBLE**

The Municipality views substance abuse and dependency as treatable health problems and accepts that employees who experience such problems should be provided with assistance, subject to certain conditions outlined in this policy.

### **2. DEFINITIONS**

All terminology used in this policy shall bear the same meaning as in the applicable legislation.

### **3. LEGAL FRAMEWORK**

Act on Labour Relations (Act 66/95)

### **4. SCOPE AND APPLICATION**

This policy applies to all employees of the Municipality and contract workers whilst on duty or on the Municipality's premises, save that the standard mode of discipline, treatment and assistance shall not apply to subcontractors.

### **5. OBJECTIVES OF POLICY**

The Municipality does not support the intrusion into the private lives of employees; however it does expect all employees to report to work in a condition to safely and effectively perform their duties.

## 6. POLICY CONTENT

### 6.1 Discipline

The Municipality places a high premium on its statutory and common - law obligations to ensure the safety of its employees and members of the public. It therefore takes a serious view of employees using chemical substances on the premises or whilst on duty (except during social functions and promotions as described later in the policy) or being under the influence on the premises or whilst on duty.

In determining whether an employee may be under the influence, clinical observations (as listed in the Verification of intoxication form) shall be considered along with on-site alcohol and/or drug screening tests which will be offered to suspected intoxicated employees.

The Municipality shall consider all relevant facts in determining an appropriate sanction, including whether the employee's conduct caused a safety risk to himself, co-workers or members of the public and or harm to The Municipality's good name and standing. The following transgressions and sanctions will serve as guidelines:-

- Being under the influence or using chemical substances whilst on the premises or on duty:
  - **First offence** – Final written warning effective for 6 months plus offer of assessment/counselling and/or, welfare support.
  - **Second offence** – (within the operative 6 month period following a previously issued final written warning): Dismissal
- Being in possession of alcohol or illicit drugs (excluding controlled medicines for which the employee has a legal prescription) whilst on duty or on the Municipality's premises.

- **First offence** – Written warning effective for 6 months plus the offer of assessment /counseling and/or welfare support
- **Second offence** within operative 6 months period – Final written warning effective for 6 months plus the offer of assessment counseling and/or welfare support
- Subsequent offence – Dismissal.

Notwithstanding these guidelines, The Council reserves the right to vary the sanction depending on the circumstances of each case.

The following constitute particularly serious acts of misconduct which may be grounds for dismissal for a first offence, depending on the facts of each case:

- Consuming intoxicating substances whilst on duty and/or providing other employees with such substances whilst on duty.
- Driving a Council vehicle or operating safety sensitive equipment whilst under the influence of intoxicating substances.

An employee who is suspected of being under the influence of an intoxicating substance will be subject to a disciplinary enquiry to investigate the matter and to ascertain whether the employee had indeed been under the influence.

In the event of employees receiving counselling for substance abuse or dependency, the Municipality also reserves the right to, in the case of employees whose substance abuse may reasonably cause a safety risk to themselves, co-workers or members of the public:

- suspend the employee from such work or put him on alternative duties until such time as a counsellor report and/or appropriate tests confirm that the employee no longer abuses intoxicating substances and/or;

- require the employee to submit to routine breath testing before commencing his/her duties for a period which may be deemed reasonable by the Chairperson of the enquiry.

## **6.2 Stand-by/call-out employees**

Employees who have been instructed to perform stand-by duties will be considered to be on duty and will be subject to the same provisions than those which pertain to employees during normal working hours.

In the event of employees called out to work outside of normal working hours where no prior arrangement had been made for the employee to report at a specified time, the employee shall inform the duty foreman or manager whether he used any alcohol since his last shift. Should the employee fail the Verification of Intoxication Test, the employee shall be sent home without any sanction. Should the employee fail to inform the duty foreman or manager and test positive after having commenced his duties, normal disciplinary action shall be taken.

## **6.3 Management of Suspected Intoxication**

If a duty foreman or a manager is of the opinion that an employee is or appears to be under the influence, the employee's Manager and or a fellow employee or shop steward shall be called to act as a witness. If the employee's Manager and or a fellow employee or shop steward is not available, any other Manager or fellow employee or shop steward may be called.

The responsible Manager shall, in the presence of the witness and shop steward, document signs of suspected intoxication. A **Verification of Intoxication** form (See attachment) may be used for this purpose.

Should the employee refuse to submit to the Verification of Intoxication test he should be informed that he will be giving up an opportunity to contest the allegation of being under the influence. The employee's refusal will then be recorded on the verification form.

Should the test result be positive, or where testing is refused and/or where clinical /behavioural signs suggest intoxication, the employee will, in the interests of workplace safety, be deemed to be under the influence and instructed to leave the work premises.

Regardless of any test result, should the supervisor be convinced that the person's presence constitutes a safety risk or may tarnish The Municipality's name and standing based on clinical or behavioural signs, the supervisor will instruct the employee to leave the workplace.

The Manager should take all reasonable steps to ensure that the employee has a safe means of returning home by contacting a relative or friend to accompany the employee. Whilst waiting for assistance the employee will be accompanied to a safe area where he/she is least likely to cause harm to himself/herself or others. The employee leaving the premises without accepting assistance will do so at his own risk.

Employees who are refused entry or who are required to return home as provided for above will not be paid for that portion of the day which the person had missed on condition that, should the employee be found not guilty during a subsequent enquiry the employee shall be paid for the particular portion.

## **6.4 Referral Modes**

The Municipality wishes to encourage employees who may experience alcohol or other drug related problems, to confidentially discuss such problems with their Managers, the HR Office or shop steward with the view of acquiring professional assistance.

Such a request shall be treated with confidentiality, shall not be documented on the employee's personal file and shall not unreasonably affect the employee's job security, fringe benefits or career opportunities.

The acceptance of the offer of assistance, whether voluntary or mandatory, does not exempt the employee from standard disciplinary measures whilst under treatment.

### ***6.4.1 Suggested/Disciplinary Referrals***

Supervisors and Managers have a responsibility to identify unacceptable levels of performance, attendance or interpersonal relationships, to take timeous corrective steps (or disciplinary action if appropriate) and to encourage the employee to consult with their Managers, the HR Office or shop steward with the view of acquiring confidential assistance. Employees:

- who commit an alcohol or drug related offence and/or,
- whose job performance, attendance or interpersonal relationships at work are detrimentally affected as a result of substance abuse, may be given the option of accepting referral for assessment, or counselling or welfare support depending on the circumstances of the case. This option may be offered in conjunction with standard sanctions in terms of the disciplinary procedure.

The voluntary request for and acceptance of substance abuse counseling and/or welfare support will not jeopardise the employee's job security, fringe benefits or promotional opportunities.

However, in the event of the employee:

- refusing the offer of treatment/counselling following a substance abuse related offence,
- absconding from the treatment centre, being non-compliant with the treatment/ counseling regime

Such lack of co-operation will be viewed as an aggravating factor in assessing an appropriate or further disciplinary sanction in the event of any future transgressions of a similar or related nature.

## **6.5 Assessment, Counselling and Treatment**

Employees who indicate that they wish to consult with a Social Worker shall be referred to an approved service provider with the view of assessment and/or counselling. Such assessment and counselling shall as far as reasonably possible occur during normal working hours without any deductions from the employee's salary. Assessment and/or counselling will be to a maximum of 6 interviews.

The Municipality reserves the right to request reports from the Social Worker regarding the employee's prognosis and cooperation with the mode of treatment. The employee shall however be assured that such reports shall not contain any personal detail divulged during counselling but will serve to give an indication of his commitment and co-operation towards attaining sobriety.

In the event of the employee requiring in-hospital treatment, normal sick leave benefits shall apply in respect of first time admissions at an institution approved of by the Social Worker.

In instances where the employees have exhausted his sick leave, annual leave will have to be utilised, where-after unpaid leave will have to be taken.

The Council will not contribute towards the cost of such treatment.

Should the employee decline the offer of assistance following substance abuse related misconduct, substandard performance, or fail to co-operate with the assistance offered, this will be documented and the employee will be informed that any further incidents of substance abuse related misconduct occurring within a six month period from the date of such a documented offer may be dealt with as a matter of discipline without repeating the offer of assistance.

If a professional counsellors report indicates that the employee had been uncooperative and/or that excessive alcohol or drug intake persists, the Municipality will assess whether the employee is still capable of performing his/her designated duties satisfactorily:

- if the employee is no longer capable of performing his/her job satisfactorily as a result of alcohol or drug dependence, his/her employment may be terminated on the grounds of incapacity.
- if the employee is capable of performing his /her job satisfactorily despite non-compliance and/or continued alcohol or drug intake, he/she shall be subject to standard disciplinary measures for any further substance abuse related offences.

### ***6.5.1 Dealing with relapses:***

Where an employee, having received treatment, suffers a relapse, the Municipality will consider the case on its individual merits. Medical advice will be sought in an attempt to ascertain how much more treatment / rehabilitation time is likely to be required for a full recovery. At the Municipality's discretion, more treatment or rehabilitation time may be given in order to help the employee to recover fully.

### ***6.5.2 Recovery unlikely:***

If, after the employee have received treatment and recovery seems unlikely the Municipality may be unable to wait for the employee any longer. In such cases, dismissal may result but in most cases a clear warning will be given to the employee beforehand and a full medical investigation will have to be undertaken. If the employee declines to allow the Municipality access to their medical records a decision about future employment would be made with the information that is available to the Municipality.

## **6.6 Social Functions and Promotions**

In the event of Municipal functions and promotions where liquor may be served, all Municipal employees are expected to at all times behave in a becoming and respectful manner.

No alcohol will be served by the Municipality during training courses or seminars except in the event of evening functions.

No Municipal employee may consume alcohol during normal working hours. (including lunchtime).

At social functions which had been arranged by the Municipality, reasonable precautions shall be taken to prevent immoderation through measures such as a coupon system of dispensing liquor, serving food /light snacks with drinks and the provision of soft drinks or low-alcohol beverages.

Employees attending such functions shall however be responsible to ensure that they do not contravene the provisos of the Road Traffic Ordinance as a result of excessive consumption.

Employees whose behaviour during such events become offensive, cause an embarrassment to the Municipality, fellow employees or guests, or whose conduct jeopardises the safety of such parties or members of the public as a result of excessive alcohol intake, shall be charged with allegedly having been under the influence of alcohol.

## **7. IMPLEMENTATION AND MONITORING**

This policy will be implemented and effective once recommended by the Local Labour Forum and approved by Council.

## **8. COMMUNICATION**

This policy will be communicated to all Municipal employees using the full range of communication methods available to the municipality.

## **9. POLICY REVIEW**

This policy will be reviewed annually and revised as necessary.

**10. BUDGET AND RESOURCES**

The financial and resource implication/s related to the implementation of this policy should be qualified and quantified.

**11. ROLES AND RESPONSIBILITIES**

The Municipal Manager or his/her delegate assignee accepts overall responsibility for the implementation and monitoring of the policy.

**12. PENALTIES**

Non-compliance to any of the stipulations contained in this policy will be regarded as misconduct, which will be dealt with in terms of the Disciplinary Code.

**13. DISPUTE RESOLUTION**

Any dispute arising from this policy due to ambiguous wording or phrasing must be referred to the Local Labour Forum for adjudication. Resolutions from the Local Labour Forum must be incorporated into the policy.