



Councillor Drug & Alcohol POLICY

Policy Version 1.0

Category: Statutory

Adopted: August 2023



Councillor Drug & Alcohol Policy

Purpose

In the interest of transparency and accountability and to provide a safe, healthy and productive workplace, this policy focuses on eliminating risk associated with the adverse effects of alcohol and other drugs in the workplace by:

- Preventing, where possible, drug and alcohol related incidents;
- Ensuring that Councillors adversely affected by substances do not create a negative perception of Council
- Ensuring Councillors are in a fit state to undertake their official duties as a Councillor

In addition, this policy provides for the appropriate framework for Councillors to comply with behavioural standard 1.5 as contained in the 'Code of Conduct for Councillors in Queensland';

"Ensure that their behaviour or capacity to perform their responsibilities as a Councillor is not impaired by the use of substances that may put them or others at risk while performing their duties (for example, alcohol, illegal drugs or prescribed/nonprescribed and/or restricted substances)"

Scope

This policy applies to the Mayor and Councillors of Winton Shire Council (WSC) only.

Noting that the role of a Councillor does not have a defined start and finish times or designated place of work, this policy only applies when a Councillor is undertaking 'Official Duties'.

Where a Councillor is not undertaking Official Duties, this policy does not apply. However, Councillors, as the primary representative of the Council, are still required to comply with the "Code of Conduct for Councillors in Queensland" and any other legislative provisions that are always in place.

Definitions

Term	What it means / refers to
Alcoholism	Alcoholism is dependence upon alcohol to the extent of noticeable mental disturbance, interference with bodily or mental health, and effects on interpersonal relations and work performance. Workers who show the early signs of such developments may require treatment.
Breath Alcohol Concentration (BAC)	Also known as blood alcohol concentrate is the amount of alcohol in the air a person breathes out or in their blood. It is expressed as the weight of ethanol, in grams, in 100 ml of blood or 210 litres of breath.
Chief Executive Officer (CEO)	The person appointed to the Chief Executive Officer role under the Local Government Act 2009 manages the day-to-day operations of the local government and its employees in accordance with the plans and policies set by the mayor and councillors.
Collector	A person who has successfully completed instruction in compliance with the standard for specimen collection, storage, handling and dispatch of testing samples.



Term	What it means / refers to
Confirmed Negative	A result at or below the target concentration following confirmatory testing.
Confirmed Positive	A result above the target concentration or concentration in relation to the dosage recommended by the pharmacist or doctor in the case of over the counter or prescribed medication, following confirmatory testing; that is, if the confirmatory testing shows that an over the counter or prescription medication has been taken at dosage rates above what has been recommended then this could result in a Confirmed Positive (regardless of what information was stated on the testing record form).
Council	The Mayor and Councillors of the Winton Shire Council.
Donor	A person who provides a specimen to be assessed.
Drug	Includes any illegal substance or a medically prescribed substance that may affect a person's work performance.
Drug dependence	Drug dependence is a state, psychic and sometimes also physical, resulting from the reaction between a living organism and a drug, characterized by behavioural and other responses that always include a compulsion to take the drug either constantly or repeatedly in order to experience psycho-trophic effects and sometimes to avoid the discomfort of its absence.
Impairment	A symptom of reduced quality, strength or effectiveness of a person because of drugs and/or alcohol consumption whilst performing official duties.
Intoxicated / Intoxication	In accordance with the <i>Liquor Act 1992</i> , a person may be taken to be unduly intoxicated if: a) The person's speech, balance, coordination or behaviour is noticeably affected; and b) There are reasonable grounds for believing the affected speech, balance, coordination or behaviour is the result of the consumption of liquor, drugs or another intoxicating substance.
Non-negative	A positive result obtained by use of the Drager DrugCheck 3000 STK 6 OXY.
Oral fluid specimen	Secretions in the oral cavity emanating predominately from the major and accessory salivary glands.
Official capacity	Where a Councillor is invited to an event or function to represent the Council and not in a personal capacity
Official duties	Where a Councillor is undertaking their legislated role as a Councillor in accordance with the provision of the Local Government Act 2009. The follow are examples of what would normally be considered official duties where Councillors are required to positively represent Council whilst attending: • Attending formal or informal meetings including ordinary and special meetings, committee meetings, briefing sessions and workshops



Term	What it means / refers to
	- Any meeting that directly has the primary purpose of discussing Council or Council business - Attendance at community meetings - Formal engagements where a Councillor is representing Council in an official capacity - Attendance at a conference - Formal meetings between Councillors about Council business - Meeting with or undertaking discussions with residents either in the workplace or on-site - Travel to and from any official duties listed above
Workplace	A workplace or work location of any Winton Shire Council building, telecommuting, working from home, work endorsed events, work social functions and whilst operating Winton Shire Council vehicles. It also encompasses the definition of 'workplace' in the <i>Work Health and Safety Act 2011</i> .
Workplace incident	An incident in the workplace as defined by the <i>Work Health and Safety Act 2011</i> .

Policy statement

Winton Shire Council (WSC) is committed to ensuring that Councillors undertake their Official Duties, or when representing the organisation, can perform their role safely and not be under the influence of drugs and/or alcohol within the workplace.

Council has adopted this Drug and Alcohol Policy which prohibits Councillors from conducting Council business whilst under the influence.

Council considers that to the extent this policy engages and limits, or potentially limits, any human rights, that limitation is reasonable in that it is proportionate and justified.

Fitness for duty

Councillors are always expected to undertake their official duties free from the impairment of drugs and alcohol. Councillors are not to present themselves for duty or to any workplace whilst under the influence.

Alcohol and drugs shall not be consumed at any workplace, in any Council owned vehicle or plant, or at any time as a Councillor whilst under their official duties unless an exemption under this policy applies.

Councillors must not remain at the workplace if their performance is impaired due to the effects of drugs or alcohol.

Identification and testing

Initial Discussion

Where there is a reasonable suspicion or concern that a Councillor is impaired due to the effects of alcohol or drugs, while at the workplace, it should be privately raised by the CEO directly with the Councillor to determine if they should remain in the workplace based on the observations undertaken.



Formal Action

Where there remains reasonable suspicion or concern of a Councillor being under the influence following initial discussion, the CEO in conjunction with the Mayor (Deputy Mayor where the subject is the Mayor) may request the Councillor undergo testing and / or leave the workplace.

Where a positive test result has been received, or the Councillor has refused testing, arrangements will be made to safely transport the Councillor to their place of residence. The Councillor will not be permitted to return to the workplace or to official duties until they can either demonstrate they are no longer impaired, or they have undertaken follow up testing to return a negative test result.

In addition, where a positive test result has been established and / or the Councillor has refused testing and has been instructed to leave or stay away from the workplace or official duties, Council is required (in accordance with the provision of the *Local Government Act 2009*) to notify the Office of the Independent Assessor about the suspected conduct of the subject Councillor.

Formal Complaints

Where a complaint is made by any person that a Councillor is under the influence, it is required in accordance with the provision of the *Local Government Act 2009* to refer any complaints about the conduct of a Councillor to the Office of Independent Assessor.

Testing

Councillors may be required to undergo drug and alcohol testing in the following circumstances:

- Be subject to random testing up to four times per year,
- Where there is reasonable suspicion of impairment'
- Follow up testing after a confirmed positive test result;

Testing Method

Drug Testing

Preliminary testing for drugs will be conducted using oral fluid sampling.

If a non-negative result is obtained from the preliminary test, all further testing including confirmatory testing by a laboratory and return to work test will also be oral based.

Alcohol Testing

Screening for alcohol will be conducted using a relevant breathalyser unit. Breathalyser testing is a highly accurate and effective way of detecting alcohol levels for the purpose of determining fitness for work. Each breathalyser unit will be appropriately calibrated to ensure accurate results.

Any required drug testing undertaken will comprise a saliva test. Saliva testing will be conducted in accordance with Australian Standard AS/NZS4760-2019.

Alcohol testing will be conducted in accordance with Australian Standard AS3547-2019.

Tolerance Levels - Alcohol

All Councillors must provide, if tested a breath alcohol concentration (BAC) of not more than 0.00g/100ml (0.00%).



Note: Refer to the Exemption heading for information about when an exemption to the consumption of alcohol will be made.

Tolerance Levels - Drugs

All Councillors are to produce a result of 'negative' for drugs less than the levels indicated in the table below, for the five drug classes. Australian Standard AS/NZS4760 – 2019 Table 4.1 lists the target concentration of drugs in oral fluid testing as:

Drug class	Common name	Concentration
Cannabinoid's (THC)	Marijuana, weed, pot, hash, dope and mull	15ng/ml
Amphetamines and Methamphetamines	MDMA, speed, ecstasy, uppers, biphphetamine, Dexedrine	25ng/ml
Opiates (Very strong pain killers)	Heroin, Morphine, Pethidine, Codeine, Methadone	25ng/ml
Cocaine (Metabolites)	C, Coke, Nose Candy, Snow, White Lady, Toot, Charlie, Blow Whitedest and Stardust	25ng/ml
Benzodiazepines	Hillbilly, Heroin, Oxy, OC, C	20ng/ml

Drug class	Effects	Detection times using Drager Drugcheck 3000	AS4760 cut off levels for confirmatory testing in oral samples
Cannabinoid's	Depressant	Up to 12 hours	15ng/ml
Amphetamines and Methamphetamines	Stimulant	Up to 48 hours	25ng/ml
Opiates (very strong pain killers)	Narcotic analgesic	Up to 24 hours	25ng/ml
Cocaine (Metabolites)	Stimulant	Up to 24 hours	25ng/ml
Benzodiazepines	Stimulant	Up to 12 hours	20ng/ml

Prescription and pharmacy medication

Where a Councillor is taking medications as prescribed by a medical practitioner, or taken as recommended if available without prescription, for a legitimate medical purpose, the Councillor will not breach this policy by attending the workplace.

Where a Councillor is observed as being adversely affected by prescription medication, the same process will apply for a test result to ensure the ongoing safety of the Councillor and the workplace.

Post incident and mandatory testing

After a workplace incident, the CEO in consultation with the Workplace Health and Safety Officer may require a Councillor to undergo a drug and alcohol test by the nominated collector.

Under certain circumstances Council may impose mandatory testing.

Where a Councillor is involved in a workplace incident, Council may require that drug and alcohol testing be conducted in the following situations:



- Where there is reasonable belief that drugs and / or alcohol may have been involved as a contributing factor;
- In situations where there has been an event involving injury or property damage;
- There is a requirement to be tested under legislation or regulations;
- An incident that is notifiable to the regulator;
- A significant or repeated incident involving Winton Shire Council vehicles / plant and a third-party vehicle, plant or property.

Treatment for Drug and Alcohol related issues

Counselling (via WintonShire Council's Employee Assistance Program), treatment and rehabilitation services are available externally to enable Councillors who identify as having problems to seek effective solutions and treatment of their choosing.

Right of appeal

If at any time a Councillor disputes the results of the testing, the Councillor has the right to appeal. This may mean a second alcoholiser test or transportation to a medical facility for more extensive testing.

Any appeal testing is to be organised by the Councillor and conducted at their own cost. When confidential results are returned to the CEO and the Workplace Health and Safety Officer, results may require initiation of an interview. This should occur as soon as possible.

Exemptions

An exemption for the consumption of alcohol will be made for:

- Special occasions or locations as determined by the CEO; or
- Where the provision of alcoholic beverages is within the bounds of normal customary hospitality (for example, attendance at a conference, function or social event in their official capacity where alcoholic beverages are served, either held by Council or another group or organisation).

Whilst these exemption areas have been identified, Councillors are still reminded of their duty per the 'Code of Conduct for Councillors in Queensland':

"Ensure that their behaviour or capacity to perform their responsibilities as a Councillor is not impaired by the use of substances that may put them or others at risk while performing their duties (for example, alcohol, illegal drugs or prescribed / nonprescribed and/or restricted substances"

As a guide, not as a policy position, Councillors should aim to meet a breath alcohol concentration (BAC) of less than 0.05g/100ml (0.05%) when participating in such exempted situations.

Complaints

Any complaints in relation to a decision of a service relating from this policy will be assessed and managed in accordance with Winton Shire Council's Complaints Policy, a copy of which can be found on Winton Shire Council's website.

When an individual feels that they are the subject of Winton Shire Council's failure to act compatibly with human rights, they can make a complaint directly to Winton Shire Council. These complaints will be assessed against the *Human Rights Act 2019*.

Complaints may be made as following:



In Writing to
 Chief Executive Officer
 Winton Shire Council
 PO Box 288
 WINTON QLD 4735

Via Email – complaints@winton.qld.gov.au

In person at the Winton Shire Office, 75 Vindex Street, Winton

Communication

Council's management team will ensure that:

- Councillors, Council employees and the general public have access to this policy and are provided with the opportunity to be involved in the review of this policy.

Related Council documentation

- Complaints Management Policy WSC-GOV-POL-003
- Drug & Alcohol Policy WSC-WHS-POL-005

Legislation, recognised Authorities and other sources

- *Work Health and Safety Act 2011*
- *Work Health and Safety Regulation 2011*
- *Transport Operations (Road Use Management) Act 1995*
- *Local Government Act 2009*
- Code of Conduct for Councillors in Queensland
- AS/NZS4760-2019 Procedures for specimen collection and the detection and quantitation of drugs in oral fluid.

Review of Policy

This policy will be reviewed every two years and remains in force until amended or repealed by resolution of Council.

Record of amendments and adoptions

Date	Version	Reason for amendment	Date adopted by Council
August 2023	Version 1.0	Initial policy	17 August 2023

