
NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 SEPTEMBER 2021
REPORTS TO COUNCIL – GENERAL MANAGER

1. APPOINTMENT OF DEPUTY MAYOR

Author	Director Governance
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 4.2.8 Implement best practice governance standards, transparent decision making and a strong ethical culture

Executive Summary

This report is presented to Council to consider the appointment of the Deputy Mayor until the Local Government Elections to are held.

Report

The Office of Local Government has advised that Mayors elected in September 2020 will continue to hold office until Council elections are held on 4 December 2021. The civic offices of all Mayors elected by Councillors will expire on election day.

Deputy Mayors hold their term specified by Council's resolution. If a Deputy Mayor's term expires before election day on 4 December 2021, an election may need to be held for the Deputy Mayor. It should be noted however, that Councils are not required to have a Deputy Mayor.

Council's Deputy Mayor, Cr Dawn Collins, was elected as Deputy Mayor in September 2020 for the ensuing year.

Options

Council can therefore either: -

1. Extend the term of the existing Deputy Mayor until the elections are held on 4 December 2021.
2. Conduct an election for the Deputy Mayor from September to 4 December 2021.
3. Not appoint a Deputy Mayor until the first meeting held after declaration of the poll by NSW Electoral Commission.

Should Council consider option 2, Council will need to consider the method of election i.e. open ballot, ordinary ballot, or preferential ballot. Open ballot can be undertaken remotely where a Council is conducting its meeting by audio visual link. Ordinary and preferential ballots are secret and Councillors will need to attend the meeting in person.

1. APPOINTMENT OF DEPUTY MAYOR (Cont'd)

Financial Implications

Nil

Legal Implications

Elections must be conducted in accordance with Schedule 7 of the Local Government (General) Regulation 2005.

Compliance with current Public Health Orders

Risk Management Issues

- Councillors may attend council meetings in person under the *Public Health (COVID-19 Gathering Restrictions) Order (No 2) 2021* and the *Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order 2021* (Public Health Orders) for the purposes of participating in a mayoral election and staff may attend for the purposes of conducting the election.
- In areas subject to stay at home restrictions under the Public Health Orders a person may leave their home for the purpose of undertaking any legal obligations and a person engaged in local government elections is an “authorised worker” for the purpose of the Public Health Orders.
- Councils must comply with the Public Health Orders when holding a Mayoral election and should observe appropriate social distancing and take any other steps necessary to minimise the risk of infection by the COVID-19 virus and to ensure the health and safety of all attendees.

RECOMMENDATION

For Council's consideration.

NARROMINE SHIRE COUNCIL
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REPORTS TO COUNCIL – GENERAL MANAGER

2. COUNCIL COMMITTEES, APPOINTMENTS OF DELEGATES AND REPRESENTATIVES OF COUNCIL

Author	Director Governance
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 4.1.3 Provide opportunities for community members to participate in Council's decision making DP – 4.3.1.3 Continue to facilitate section 355 Advisory Committees

Executive Summary

This report is presented to Council to consider extending the term of the appointed delegates and representatives of Council until Council Elections are held on 4 December 2021.

Report

Council considers its Council Committees and appoints/reappoints Councillor delegates and representatives in September for a 12-month period.

Given the further postponement of the Local Government Elections to 4 December 2021, it is recommended that Council consider extending the term of its appointed delegates and representatives in line with the deferred elections.

Appointed Delegates as at September 2021: -

Statutory Committees

- 1. Local Emergency Management Committee**
Mayor, Cr Craft (Alternate Delegate)
- 2. Rural Fire Service Liaison Committee**
Crs McCutcheon and Hamilton, Cr Jablonski (Alternate Delegate)
- 3. Local Traffic Committee**
Cr Collins, Cr Jablonski (Alternate Delegate)
- 4. General Manager's Performance Review Panel**
Mayor, Deputy Mayor, Council Delegate – Cr Munro, Councillor nominated by General Manager, Cr Craft
- 5. Internal Audit Committee**
Cr Craft, Cr Lambert (Alternate Delegate)

**NARROMINE SHIRE COUNCIL
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2. COUNCIL COMMITTEES, APPOINTMENTS OF DELEGATES AND REPRESENTATIVES OF COUNCIL (Cont'd)

Appointment of Committees – under Section 355(b)

(of which not all members are Councillors)

- 1. Narromine Australia Day Committee**
Crs Lambert and Munro
- 2. Narromine Showground & Racecourse Advisory Committee**
Crs Lambert and Collins
- 3. Trangie Showground & Racecourse Advisory Committee**
Crs Davies and Collins
- 4. Tomingley Advancement Association Committee**
Cr Craft, Cr Jablonski (Alternate Delegate)
- 5. Trangie Memorial Hall Committee**
Crs McCutcheon and Davies
- 6. Floodplain Management Committee**
Crs Hamilton and McCutcheon
- 7. Economic Development Group Committee**
Crs Jablonski, Munro and Craft

Representatives of Council

- 1. Narromine Health Council**
Cr Craft, Cr Hamilton (Alternate)
- 2. Orana Crime Prevention Partnership**
Mayor
- 3. Trangie Action Group Incorporated**
Crs Hamilton and Davies
- 4. Bush Fire Management Committee**
Cr Hamilton
- 5. Macquarie Valley Weeds Advisory Committee**
Crs McCutcheon and Jablonski
- 6. Narromine Aviation Museum**
Crs Jablonski and Collins

**NARROMINE SHIRE COUNCIL
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- 2. COUNCIL COMMITTEES, APPOINTMENTS OF DELEGATES AND REPRESENTATIVES OF COUNCIL (Cont'd)**

- 7. Macquarie Flood Mitigation Zone (MFMZ) Reference Group**
Cr Munro

- 8. Tomingley Gold Operations (TGO) Project Community Consultative Committee**
Cr Craft, Cr Lambert (Alternate)

- 9. Tomingley Gold Operations (TGO) Community Fund**
Crs Craft and Davies, Cr Lambert (Alternate)

- 10. Western Regional Planning Panel (3-year appointment – appointed 2018)**
Cr Davies, Cr Lambert, Cr Collins (Alternate)

- 11. Floodplain Management Association (FMA)**
Chair Floodplain Management Committee

- 12. Murray Darling Association (MDA)**
Mayor

- 13. Country Mayor's Association of New South Wales**
Mayor

- 14. Orana Joint Organisation – Alternate Board Representative (in abeyance)**
Deputy Mayor

- 15. NSW Public Libraries Association**
Cr Lambert

Financial Implications

Nil

Legal and Regulatory Compliance

Section 355 of the Local Government Act 1993

Risk Management Issues

If a Councillor is unable to attend a committee meeting, they are requested to arrange attendance of the alternate delegate or another Councillor in their absence.

A report will be put before the first Ordinary Meeting to be held following declaration of the poll for consideration and appointment of Councillor delegates and representatives, as well as review of Council's committee charters.

2. COUNCIL COMMITTEES, APPOINTMENTS OF DELEGATES AND REPRESENTATIVES OF COUNCIL (Cont'd)

Internal/External Consultation

Nil

Attachments

Nil

RECOMMENDATION

That Council extend the term of its appointed Councillor delegates and representatives of Council until 4 December 2021.

3. ALCOHOL AND DRUG POLICY

Author	Director Governance
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 4.2.8 Implement best practice governance standards, transparent decision making and a strong ethical culture

Executive Summary

This revised Policy is presented to Council for consideration and adoption.

Report

Employees who are impaired by drugs or alcohol at the workplace present a significant safety risk to both themselves and others as it may affect their capacity to exercise judgement, coordination, motor control, concentration and alertness, thereby increasing the risk of injury or accidents to themselves or others and damage to plant or equipment.

Council's Alcohol and Drug Policy provides a clear documented guide in what is expected of employees and how management are to deal with any alcohol and/or drug issues in the workplace.

This Policy was considered by Council at its Ordinary Meeting held on 12 December 2018, Resolution No 2018/304 and is now due for a review. Minor amendments (being references updates to legislation) have been considered by the Work Health and Safety Committee, and the revised policy is now presented to Council for adoption (**see Attachment No. 1**).

3. ALCOHOL AND DRUG POLICY (Cont'd)

Financial Implications

Nil

Legal and Regulatory Compliance

Sections 19, 28, 29 of the Work Health and Safety Act 2011

Council, workers and others have a duty of care and responsibility under the Act.

Risk Management Issues

Council has established a program of testing to assist in identifying employees who may be unfit for work as well as discouraging employees from coming to work where they may be unfit due to alcohol or other drugs.

Internal/External Consultation

Work, Health and Safety Committee

Attachments

1. Revised Alcohol and Drug Policy

RECOMMENDATION

That the revised Alcohol and Drug Policy be adopted.

4. COVID-19 PANDEMIC – DELEGATION TO GENERAL MANAGER

Author	Director Governance
Responsible Officer	General Manager
Link to Strategic Plans	CSP – 4.2.8 Implement best practice governance standards, transparent decision making and a strong ethical culture

Executive Summary

This report is presented to Council to provide the General Manager with delegated authority to determine rental relief applications and to reduce fees and charges for Council's Sporting Facilities on a pro-rata basis as a result of the current impact of the COVID-19 pandemic.

4. COVID-19 PANDEMIC – DELEGATION TO GENERAL MANAGER (Cont'd)

Report

Previously, Council provided the General Manager with delegated authority to enter into direct negotiations with licencees/lessees requesting rental relief, temporary amendments to agreements, reduction, waiver or deferral of payments for defined periods, and termination of agreements on the grounds of financial distress for the 2020/21 financial year (**Resolution No. 2020/288**).

Council has recently received a request for rental relief from a lessee at the Narromine Aerodrome as a result of the State-wide lockdown. It is anticipated that Council will receive a number of other requests for rental relief as the lockdown continues.

It is therefore recommended to Council that the General Manager again be assigned delegated authority to determine these applications on a case by case basis for the 2021/2022 financial year.

In addition, Council's Statement of Revenue Policy for 2020 to 2021 provided the General Manager with delegated authority to reduce fees and charges for Council's Sporting Facilities on a pro-rata basis as a result of the pandemic. Council's Statement of Revenue Policy for 2021 to 2022 does not provide this delegation.

It is therefore recommended that Council provide this delegation to the General Manager for the 2021/2022 financial year.

Financial Implications

The financial impacts to Council are difficult to determine at this current time and will be dependent on a number of variable circumstances.

Rental relief would only be provided on request and the applicant would need to show that they continue to be genuinely affected by COVID restrictions and/or the ongoing effects of reduced demand for services.

Legal and Regulatory Compliance

Section 377 of the Local Government Act 1993 – General power of the Council to delegate.

Risk Management Issues

In view of the fluidity of the COVID-19 pandemic, it would be more efficient and practical for the General Manager to be delegated authority to deal with rental impact requests on an individual basis rather than requiring consideration by Council under its Donations, Sponsorships and Waiver of Fees and Charges Policy.

Council does have a number of policies in place to support ratepayers and residents during times of genuine financial hardship i.e. periodic payment arrangements of rates and charges, writing off or reducing accrued interest, deferral of rate payments, waiving of fees and charges; donations and sponsorship to community groups and organisations.

4. COVID-19 PANDEMIC – DELEGATION TO GENERAL MANAGER (Cont'd)

Internal/External Consultation

Nil

Attachments

Nil

RECOMMENDATION

That the General Manager be delegated authority to: -

1. Enter into direct negotiations with licencees/lessees requesting rental relief, temporary amendments to agreements, reduction, waiver or deferral of payments for defined periods, and termination of agreements for the 2021/22 financial year, on the grounds of financial distress due to the COVID-19 Pandemic; and
2. Reduce fees and charges for Council's Sporting Facilities on a pro-rata basis for the 2021/22 financial year, as a result of the COVID-19 Pandemic.

Jane Redden
General Manager



Alcohol and Other Drugs Policy

Adopted by Council – 13 November 2013, Resolution No 2013/414,
Revised by Council - 12 December 2018, Resolution No 2018/304

Version No	Responsible Department	Prepared By	Date First Created	Review Date	Adopted Date
2.0	Work Health & Safety	Ashley Bullock WH&S Coordinator	1.11.2013		13.11.2013
3.0	Work Health & Safety	Ashley Bullock WH&S Coordinator			12.12.2018
4.0	Work Health & Safety	Ashley Bullock WH&S Coordinator		3.11.2020	

Introduction

This Policy is part of the Narromine Shire Council Work, Health and Safety system and reflects Council's commitment to the NSW Work Health and Safety Act 2011. Narromine Shire Council must ensure, so far as reasonably practicable the health and safety of workers while the workers are at work.

Workers have a duty to take reasonable care for their own health and safety and the health and safety of others in the workplace. Workers also have a duty to cooperate with any reasonable policy and procedure relating to health and safety at the workplace.

Aim

The aim of this policy is to provide a clear documented guide regarding Narromine Shire Council's alcohol and other drug issues in the workplace and to define the role of management, workers and others in dealing with alcohol and other drug related work issues:

- To ensure Narromine Shire Council meets its legal obligations by providing a safe working environment for workers and others in the workplace
- To increase the awareness of the harmful effects of alcohol and other drug use and inform workers of the availability of referral, assessment and treatment services.
- All workers are trained in the dangers of alcohol or drug misuse in the workplace.
- Provide a working environment which is conducive to productivity and achievement of objectives by minimising the potentially harmful impact of alcohol and other drug consumption, which impairs workers ability to safely perform their duties.
- Provide appropriate counselling for workers who recognise that they have a dependency problem with alcohol or drugs and who request assistance to address their dependency.
- To ensure that all workers (includes contractors, work experience persons and volunteers) are aware that breaches of this policy may lead to disciplinary action including termination of employment.

Responsibilities

General Manager and Director must ensure to:

Provide a safe working environment and safe systems of work so that, as far as reasonably practicable, workers and others are safe from injury and risks to health;

Managers, Overseers and Team Leaders must ensure to:

- Provide workers and others persons with information, instruction, training of the alcohol and other drugs procedure
- Ensure that no worker commences or continues duty if the worker appears to be affected by alcohol, illegal or legal drugs, or other substances

Workers while at work must:

- A worker should make themselves aware about the effect of alcohol and other drugs has on their ability to work safely. A worker should present and remain, while at work, fit for work.
- Comply with Council's alcohol and other drugs policy and procedure.
- Workers should ensure their activities away from work do not impact on their ability to perform their duties safely when at their workplace.

References

NSW Work Health and Safety Act 2011
NSW Work Health and Safety Regulations 2017

Appendix

1. Alcohol and Other Drugs Procedure

Narromine Shire Council

Appendix 1 - Alcohol and Other Drugs Procedure

Implementation date: 31/5/2013

Review date: 3/7/2020 this procedure shall be reviewed:

- Two (2) years from the date of implementation, or
- Immediately if any provision is contrary to law

Foreword

This Alcohol and other Drug Procedure has been developed by the USU, LGEA, DEPA and LGSA ('the industry parties') to be used as a resource by the Local Government Industry in NSW.

Table of Contents

1.	Scope	6
2.	Objective	6
3.	References.....	7
4.	Definitions	7
5.	Objectives	10
6.	Confidentiality	10
7.	Duty of Care, Responsibilities and Obligations	11
8.	Consultation Communication and Information	13
9.	Education and Training	14
10.	Employee Assistance and Information.....	14
11.	Alcohol and Other Drugs Testing Program	14
12.	Reasonable Suspicion Procedure	19
13.	Testing Procedure - Alcohol	22
14.	Testing Procedure – Other Drugs	23
15.	Refusal or Tampering of Tests.....	25
16.	Procedure for Non-Negative Results.....	26
17.	Reportable Offences	27
18.	Dealing with Aggressive or Abusive Behaviour	27
19.	Rehabilitation	27
20.	Review and Audit.....	28
21.	Other Council Policies and Procedures.....	28
22.	Grievances/Disputes Relating to this Policy.....	28

1. Introduction

A person conducting a business or undertaking (PCBU) has a duty to ensure the health, safety and welfare of their workers and other people in the workplace (Section 19, Work Health and Safety Act 2011). Workers have a duty to take reasonable care for their own health and safety, as well as for the health and safety of other people in the workplace and to co-operate with their employer in providing a safe working environment (Section 28, Work Health and Safety Act 2011).

It is recognised that there may be reasons why employees feel uncomfortable about nominating other employees whose behaviour is risky to themselves and others. Narromine Shire Council supports a rehabilitative and benign approach to managing these issues, rather than a punitive approach.

Workers are obliged to present themselves for work in a fit state so that in carrying out their work activities they do not expose themselves, their co-workers or other people in the workplace to unnecessary risks to health and safety.

The welfare of the individual and the health and safety of other people in the workplace needs to be considered.

There are penalties, under legislation for employers and through the application of disciplinary procedures in the Local Government Award, for workers who fail to take their work health and safety responsibilities seriously.

2. Scope

This procedure applies to all Council workers, temporary staff, contractors, workers of contractors and volunteers in the workplace.

3. Objective

The objective of this procedure is to deal with alcohol and other drugs and their effect on workers' fitness for work whilst performing duties at Narromine Shire Council (the "Council") and to ensure that Council has a mechanism to appropriately manage the misuse of alcohol and other drugs in the workplace through training, education and where required, rehabilitation.

It is the goal of Council to:

- eliminate the risks associated with the misuse of alcohol and other drugs, thereby providing a safer working environment;

- to reduce the risks of alcohol and other drugs impairment in the workplace; and
- to promote a supportive culture that encourages a co-operative approach between management and workers and builds on the shared interest in workplace health and safety.

4. References

- Australian Standards

AS3547:1997 - Breath alcohol devices for personal use. ('AS3547:1997')

AS4760:2006 - Procedures for specimen collection and the detection and quantity of drugs in oral fluid. ('AS4760:2006')

- Road Transport (Safety And Traffic Management) Act 1999
- *Work Health and Safety Act 2011* (NSW)
- *Work Health and Safety Regulation 2017* (NSW)
- SafeWork NSW - Facts Sheet: Establishing a Policy to Manage Alcohol and Other Drugs in the Workplace

- SafeWork NSW - Guide to Developing a Workplace Alcohol and Other Drugs Policy Procedure Flowcharts

Flowcharts documenting each process covered in this procedure are contained in [Appendix 3](#) of this document.

5. Definitions

BAC means blood alcohol content.

Certified Laboratory means a laboratory which meets minimum Australian performance standards set by an accrediting agency being the National Australian Testing Authority (NATA).

Confirmatory Test means a second analytical test performed to identify the presence of alcohol and/or other drugs in accordance with Australian Standard AS3547:1997 and AS4760:2006.

The confirmatory test is a retest of a second sample from the original sample taken at the original collection time. Nothing in this Procedure shall prevent the carrying out of a second independent test, by a method chosen by the person who tested non negative.

For drugs this means any confirmatory sample returning a result at, or in excess of, the levels contained in AS4760: 2006.

For alcohol this means any confirmatory sample returning a result at, or in excess of, the levels prescribed in NSW for the operation of motor vehicles. NSW has three blood alcohol content limits: zero, >0.02 grams per 100 Millilitres and >0.05 grams per 100 Millilitres.

The limit which applies to workers at Council is dependent on the category of the worker's licence and the type of vehicle the worker is required to operate.

Zero applies to:

ALL learner drivers.

ALL Provisional 1 drivers. ALL Provisional 2 drivers. ALL visiting drivers holding an overseas or interstate learner, provisional or equivalent licence.

0.02 applies to:

Drivers of vehicles of "gross vehicle mass" greater than 13.9 tonnes. Drivers of vehicles carrying dangerous goods.

Drivers of public vehicles such as taxi or bus drivers.

0.05 applies to:

ALL other licences (including overseas and interstate licence holders) not subject to a 0.02 or zero limit.

Any employee who is not required to drive as part of their role or who is unlicensed is required to meet the .05 limit whilst at work for the purposes of this procedure.

Council means Narromine Shire Council ABN 99 352 328 405

Employer has the same meaning as a person conducting a business or undertaking under Section 5 of the Work Health and Safety Act 2011.

Reasonable Suspicion Procedure refers to indicators of impairment and includes the observable indicators of impairment contained in [Appendix 1](#) and [Appendix 2](#) of this Procedure which are used to determine whether a reasonable suspicion exists that a person is impaired by alcohol and/or other drugs.

Post Reportable Incident is defined as any accident or event that occurs in the course of work which results in personal injury, vehicle damage, property damage and/or any incident that has the potential for significant risk of harm or injury to persons or equipment.

Responsible person means a worker who is suitably trained and can assess, in accordance with Australian Standards, the fitness for work of persons in the workplace.

Initial Testing is defined as a valid method used to exclude the presence of alcohol and/or a drug or a class of drugs as provided by Australian Standard AS3547:1 997 and AS4760:2006.

Limited Random Testing means a period of random testing of a worker in the case where the worker either:

- (a) fails a drug or alcohol test; and/or
- (b) unreasonably refused a drug or alcohol test as a result of a reportable incident or random testing program; and/or
- (c) following a determination of impairment as a result of an impairment assessment.

Non-Negative Result means an initial positive test as yet unconfirmed by confirmatory testing by an accredited tester.

Negative Result means a result at or below the nominated or target concentration used for initial testing.

Random Testing means a structured program of randomly testing workers across the entire workforce in accordance with the standards as provided by Australian Standard AS3547:1997 and AS4760: 2006

Tester means a person authorized by Council and trained to conduct breath analysis and Oral Swab testing in accordance with Australian Standard AS3547:1997 and AS4760:2006.

Worker has the same meaning as Worker under Section 7 of the Work Health and Safety Act 2011, being :

- (a) an employee, or
- (b) a contractor or subcontractor, or
- (c) an employee of a contractor or subcontractor, or
- (d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking, or
- (e) an outworker, or
- (f) an apprentice or trainee, or
- (g) a student gaining work experience, or
- (h) a volunteer, or
- (i) a person of a prescribed class.

Workplace means a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work. Place includes:

- (a) a vehicle, vessel, aircraft or other mobile structure, and
- (b) any waters and any installation on land, on the bed of any waters or floating on any waters, in accordance with Section 8 of the Work Health and Safety Act 2011.

6. Objectives

The objectives of the Alcohol and Other Drugs Procedure are to:

- Create a safe and healthy work environment for all workers, contractors and visitors that is free from the hazards associated with the inappropriate use of alcohol and/or other drugs.
- Create a supportive workplace culture that acknowledges and encourages workers to accept individual responsibility for workplace health and safety and to acknowledge that participating in the nominating of workers who may be regarded as a risk to other workers is appropriate, encouraged by legislative obligations in the WHS Act and is supported by the Council and the unions.
- Provide support for workers who may have difficulty addressing alcohol and/or drug related issues.
- Ensure rehabilitation program is provided 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 any other drug that will prevent them from performing their duties in a safe manner.
- Ensure the Council meets its legal obligations by providing a safe working environment for its workers and the general public.
- If any disciplinary action is required, ensure all disciplinary processes are consistently managed in accordance with the Local Government Award and any subsequent Award or Agreement.

7. Confidentiality

The Council will endeavour to ensure that the highest levels of confidentiality are maintained in the application of this procedure. The following minimum conditions shall apply:

- All testing will be conducted in a private location that maintains the privacy and dignity of the individual.
- All testing will be conducted by trained staff and/or accredited providers in accordance with Australian Standards.¹
- Workers who record a non-negative result will be treated at all times in a respectful and non-judgmental manner by all involved in the management of the matter.

- Council records pertaining to test results shall be regarded as confidential information and use/access/dissemination of the results shall be restricted to those who have a genuine requirement to access the confidential results of the drug and/or alcohol test. No information related to drug and/or alcohol testing shall be disclosed to any person or persons other than those properly authorized officers of the Council and authorized worker representative/s.
- The General Manager is authorized under this procedure to access, delegate and assign authority for access and use of the information obtained under this procedure, including but not limited to authorized government agencies, insurers (for claims submissions, where applicable).
- Where the General Manager has authorized the release of confidential test results to external parties who are legally able to access this information, the worker/s that are involved are to be notified in writing detailing:
 - a. who the information will be released to;
 - b. when and for what purposes the information will be released;

A copy of all information released is to be provided to the worker/s involved with this notification. The notification must be given to the workers prior to information being released to the external parties.

8. Duty of Care, Responsibilities and Obligations

Under this procedure the duty of care, responsibilities and obligations of workers, the Council and others at work place are derived from obligations under the Work Health and Safety Act 2011 (NSW) and specified responsibilities detailed in this procedure.

It is recognized that there may be reasons why employees feel uncomfortable about nominating other employees whose behaviour is risky to themselves and others. This Council supports a rehabilitative and benign approach to managing these issues, rather than a punitive approach.

8.1 Person conducting business or undertaking (PCBU)

Under Section 19 of the Work Health and Safety Act 2011, Council must provide a safe and healthy workplace for workers or other persons. Management must ensure:

- safe systems of work;
- a safe work environment;
- accommodation for workers, if provided, is appropriate;
- safe use of plant, structures and substances;

- facilities for the welfare of workers are adequate;
- notification and recording of workplace incidents;
- adequate information, training, instruction and supervision is given;
- compliance with the requirements under the work health and safety regulation;
- effective systems are in place for monitoring the health of workers and workplace conditions.

8.2 Workers

Under Section 28 of the Work Health and Safety Act 2011, a worker must, while at work:

- take reasonable care for their own health and safety, and
- take reasonable care for the health and safety of others, and
- comply with any reasonable instruction by the PCBU, and
- cooperate with any reasonable policies and procedures of the PCBU.

8.3 Other Persons

Under Section 29 of the Work Health and Safety Act 2011, a person at a workplace must:

- take reasonable care for his or her own health and safety; and
- 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 PCBU to comply with the Work Health and Safety Act 2011.

8.4 Supervisor and Worker Obligations

It is the responsibility of all Supervisors and workers to ensure that no worker commences or continues duty if the worker appears to be affected by alcohol, illegal or legal drugs, or other substances which may reasonably be considered to lead to a safety risk or an inability to fulfil the requirements of the position or are not fit to work.

Workers are obliged to present for work in a fit state, so that in carrying out normal work activities they do not:

- expose themselves or their co-workers, visitors and/or the public to unnecessary risks to health or safety, and/or;
- inhibit their ability to fulfil the requirements of the position, and/or;
- present a poor public image of Council, and/or;
- cause damage to property and/or equipment.

The worker is responsible for any criminal penalty which results from being under the influence of drugs or alcohol in the workplace.

8.5 Authorised Functions

8.5.1 Work Functions

Alcohol will not be permitted to be consumed on any worksite with the exception of approved functions. Where a work function is organized and where the activity is being held at a Council workplace, the activity must be approved by the General Manager under the following conditions:-

- Light alcohol beer is available
- Non alcoholic drinks are available
- Provision of food appropriate to the function
- Employees are reminded of their obligations by law not to drink and drive
- Responsible consumption of alcohol is a requirement
- Responsible service of alcohol

Generally work functions held at a Council workplace should be for a maximum of 3 hours and be held after 5pm.

8.5.2 Council Sponsored Functions

Narromine Shire Council has a duty to provide a safe and healthy workplace for all employees. This duty extends to Council sponsored functions at the workplace or elsewhere. It is possible that where an worker is injured following a Council function, the Council's act of supplying alcohol or failing to take steps to prevent the worker driving, may render them negligent and a contributing factor to the accident.

When organizing a Council sponsored function consideration should be given to the quantity of alcohol supplied to minimize excessive consumption. The function host will remind workers of their obligation by law not to drink and drive and ensure that there is provision of low alcohol drinks, non-alcoholic alternatives and sufficient quantities of food.

The function host or most senior Council officer present should encourage and model responsible behaviour and reinforce the message that people are responsible for their own actions.

Senior Council officers should take reasonable steps to ensure that guests leave the premises in a safe manner at the completion of the function.

9. Consultation Communication and Information

Council will ensure that the development of the Alcohol and Other Drugs Policy and Procedure occurs in consultation with the unions, all stakeholders including the Consultative Committee and Work Health and Safety Committee, which may make recommendations based on consensus.

Other communication processes in the workplace may include toolbox meetings, newsletters, Union meetings and the use of communication boards.

10. Education and Training

Council recognizes that it is important to develop a workplace culture through education, where workers are prepared to encourage each other to be safe and not under the influence or impaired at work. Council will provide this education and awareness information to its workers at all levels.

Existing workers will receive education in this policy and the accompanying procedure within 3 months of its official adoption by Council. Contractors and volunteers will also be informed of the requirements within this timeframe.

New workers will receive education at induction on commencement with Council.

Council will also provide practical guidelines and training to Managers, Supervisors, Overseers and Team leaders for dealing with persons who may be affected by alcohol or other drugs, including the correct application of disciplinary sanctions and the need for maintaining strict confidentiality.

11. Employee Assistance and Information

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. The service is provided on a confidential basis.

Council utilizes the services of Interact Group to provide their EAP Program. Services are free to staff and their immediate family and are confidential. Employees may contact Interact Group directly on 1300 851 300 as per the EAP Programme.

Information about the effects of alcohol and other drugs and the EAP is available from the Manager Human Resources and through the staff intra net.

12. Alcohol and Other Drugs Testing Program

Council has established a program of testing that will:

- provide people with information about the effects of alcohol and other drugs
- discourage people from coming to work where they may be unfit for work because of alcohol or other drugs; and
- assist in identifying people who may be unfit for work.

The options are:

- voluntary, and
- post reportable incident, and
- reasonable suspicion; and
- random; and

- Targeted random (for workers who have given a confirmed positive result for alcohol and other drugs).

A business card detailing Council's contact details and outlining the drugs which may be detected during drug testing is available for each employee to assist them with discussing the effects of drugs on their fitness for work with their healthcare providers. A copy of the card is contained in [Appendix 4](#) of this procedure.

12.1 Voluntary Testing

Voluntary testing provides workers with the ability to volunteer to be tested either for drugs and/or alcohol.

Workers who engage in voluntary testing who produce a non-negative confirmatory test confirmed will be expected to actively participate in a structured rehabilitation program in accordance with the limited random testing process.

Voluntary testing returning non-negative confirmatory test results will be managed on a case by case basis and Council may explore opportunities available within Council for suitable duties to be actively sought for staff during their rehabilitation program.

Such opportunities must be by agreement and in consultation with the affected worker and their Union or other representative.

Immunity for disclosure from disciplinary action will be provided to the worker on the condition that they comply with the rehabilitation program and do not report for work and commence work in an unfit state in future.

These workers should request a voluntary or self-test if in doubt, prior to commencing duties.

12.2 Post Reportable Incident Testing

After a reportable incident at the workplace, the worker or workers supervisor in consultation with the Work Health and Safety Coordinator or HR Manager may require a worker to undergo an initial alcohol or other drug test. For the purpose of Post Incident Testing, a reportable incident is defined as any accident or event that occurs in the course of work which results in personal injury, vehicle damage, property damage and/or any incident that has the potential for significant risk of harm or injury to persons or equipment.

Post Reportable Incident Testing will take place no later than 12 hours after the incident where a reportable incident falls within the following criteria. If an employee fails to report an incident, as defined, immediately as required and testing is unable to be undertaken within 12 hours as a result of this failure, the testing will be conducted under Reasonable Suspicion.

Incident Type	Definition	Excluding
Injury	Any injury caused during the course of work for which the worker requires treatment over and above first aid only treatment.	<p>Testing will not be undertaken by Council where it is identified:</p> <ul style="list-style-type: none"> • the incident was not within the control of the worker involved and the correct procedures were followed • first aid treatment only is required unless the worker develops a pattern of reporting first aid only injuries which subsequently require medical treatment • journey accidents (before the start of the shift or after the shift has finished) • a member of the NSW Police Force attend an accident site, irrespective of whether or not the worker is tested for alcohol or other drugs by the police officer • the injury is hearing loss, skin cancer or other occupationally induced disease • the injury is of a diagnosable psychological condition.
Vehicle	Any work-related incident involving a Council vehicle (vehicle includes any type of road registrable plant) where damage to the vehicle and/or third party property is sustained	<p>Testing will not be undertaken by Council where it is identified:</p> <ul style="list-style-type: none"> • that the incident was not within the control of the worker involved • journey accidents (before the start of the shift or after the shift has finished) • minor damage where the worker is not at fault (e.g. tail light, less than \$2,000, minor scratch) unless a pattern develops of minor incidents involving a specific worker • a member of the NSW Police Force attends an accident site, irrespective of whether or not the worker is tested for alcohol or other drugs by the police officer.

<p>Property Damage</p>	<p>Any incident resulting in equipment, property or environmental damage</p>	<p>Testing will not be undertaken where by Council where it is identified:</p> <ul style="list-style-type: none"> • that the incident was not within the control of the worker involved and the correct procedures were followed • minor damage where the worker is not at fault (e.g. tail light, less than \$2,000, minor scratch) unless a pattern develops of minor incidents involving a specific worker • a member of the NSW Police Force attends an accident site, irrespective of whether or not the worker is tested for alcohol or other drugs by the police officer.
<p>Any incident that has the potential for significant risk of harm or injury to persons or equipment</p>	<p>Dangerous occurrences or behaviour that could have resulted in injury or property damage</p>	<p>Testing will not be undertaken by Council where it is identified:</p> <ul style="list-style-type: none"> • that the incident was not within the control of the worker involved and the correct procedures were followed • The potential was for minor damage where the worker is not at fault (e.g. tail light, less than \$2,000, minor scratch) unless a pattern develops of minor incidents involving a specific worker • first aid treatment only is likely to have been required

Where an incident occurs that falls within the definitions, all workers directly involved in the incident may be tested.

Where a subsequent investigation has identified that the true cause or causes of an incident were not properly reported and fell into the category requiring a test, then a drug and alcohol test will be organized. Late or incorrect reporting of incidents will be investigated and similar action will be undertaken.

12.3 Worker and Supervisor Responsibility

The worker(s) concerned will notify the reportable incident in accordance with the Incident Reporting Procedure of Council. This includes notifying their Supervisor when an incident occurs immediately.

If the incident falls within the defined criteria for post reportable incident testing then they are to undertake a post incident test.

If the incident is excluded by the defined criteria for post reportable incident testing, the Supervisor must ask the worker if they have consumed any drugs and/or alcohol within the past 12 hours, or if they believe that any other worker involved in the incident may be impaired by drugs or alcohol. If the worker indicates they have taken drugs and/or consumed alcohol, or believe that they or another worker involved, are impaired in any way, they will remain where they are and their Supervisor, or other nominated management representative, and/or Responsible Person will attend the scene and arrange for an alcohol and other drug test to occur, irrespective of whether or not it is required under the criteria nominated in the table in 12.2.

Post incident testing should be conducted as soon as possible and when it is safe to do so, within 12 hours.

Incidents that occur as the person travels to a designated Council location to commence their work shift or as the person is travelling to another location once their work shift has been completed will not be tested. Please note that where an incident occurs that meets the post reportable incident definitions when travelling between Council work sites, this will require testing, unless the police are involved in dealing with the incident.

This test should be undertaken as soon as possible after the incident has occurred.

In the absence of the Work Health and Safety Coordinator, the Supervisor must consult with the Manager Human Resources as to whether a test is required.

Testing of apprentices, trainees or work experience persons under the age of 18 is to be referred to Manager Human Resources and an appropriate parent or guardian informed that testing is to take place.

An injured person who requires immediate medical attention may only be tested when it is appropriate. This will be determined in consultation with suitably trained medical personnel. In such cases, testing procedures other than breath or saliva may be used in accordance with the appropriate Australian Standards.

12.4 Fitness for Work

If a person is not deemed fit for work following a visual assessment in accordance with the Reasonable Suspicion Procedure outlined in this document, the worker will be requested to undergo an initial alcohol and/or drug test in accordance with the relevant Australian Standards.

If a worker refuses to undergo an initial test without an appropriate reason, then the worker may be stood down until they can provide medical evidence to justify their fitness for work, or they undertake the test.

Workers stood down can apply to take paid leave in accordance with the provisions of the relevant Award or Agreement for suspended workers.

12.5 Random

Random testing for alcohol and/or other drugs for Council's workers may be conducted at any time throughout the worker's hours of work (including overtime).

Random testing will be conducted in an appropriate area which contains adequate facilities for testing. The testing will be done privately.

All workers will be eligible for selection for random testing. 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. Council's independent testing provider will provide advice on and assist with the random selection process.

Workers who are selected will be required to present themselves for testing immediately.

13. Reasonable Suspicion Procedure

The following procedure is for use by appropriately trained staff to assess fitness for work. These trained Council staff members are referred to as '*responsible persons*'.

The guidelines are to be applied fairly, objectively and equitably. It is important that responsible persons act in an ethical and professional manner and with consistency across all workers and on each occasion, they are required to conduct a fitness for work assessment.

13.1 When and how should this procedure be used?

This procedure is for use when a responsible person reasonably suspects that a worker is impaired by alcohol and/or other drugs in the workplace. Reasonable suspicion of impairment **must** be based on the list of objective indicators set out at [Appendix 1](#).

If another staff member is concerned that a person on Council premises, or worksites, is impaired, they should report their suspicion to their Manager or a *responsible person*. The responsibility to make a formal assessment of a person's impairment remains with the *responsible persons*.

The basis for this procedure is a test of reasonable suspicion that a worker is impaired by alcohol and/or other drugs. This means a suspicion that is reasonably held (using the observable indicators of impairment set out in [Appendix 1](#)) by two *responsible persons*.

There is an obligation on management to be aware that changes in the normal appearance or behaviour of a person may indicate that the person is impaired by drugs or alcohol. It is not the responsibility of Managers, Supervisors or worker representatives to diagnose personal or health problems or determine what the cause of impairment may be.

Assessment of a worker's impairment is to be made in accordance with the list of observable indicators ([Appendix 1](#)) and is to be made in the context of **changes** to a worker's behaviour. The assessment is **not** to be made on assumptions based on a worker's previous behaviour or work record.

At least one (1) of the *physical indicators* in [Appendix 1](#) must be satisfied and agreed between the *responsible persons* for reasonable suspicion to be established. Emotional effects (as contained in the second part of the table) should **not** be used as indicators of reasonable suspicion but may be recorded as additional information on the relevant records.

13.2 Consulting with the worker

The responsible persons are to request a discussion with the worker in a private location away from other workers, where possible. The worker should be given an opportunity to have a Union delegate or other person attend the discussion. The privacy of the worker is a priority at all times.

The responsible person should use wording such as:

"I am concerned that you are behaving unusually today because I have observed [list indicators forming basis of reasonable suspicion]. Is there a reason for this?"

Workers should be clearly informed by the responsible persons of the indicator or indicators upon which reasonable suspicion was based.

Responsible persons should speak assertively. Judgmental or confrontational language is not to be used and debate is not to be entered into with the worker.

13.3 Mitigating Factors

Mitigation factors are to be taken into consideration.

The worker is to be given an opportunity to explain their behaviour. A person may appear to be impaired from alcohol or other drugs but not necessarily have taken any such substances. For example, the worker may be suffering the side effects of medication prescribed by their treating doctor or suffering from sleep deprivation because of a personal trauma or concern. Such a situation is a *mitigating factor* for the purposes of this policy.

Mitigating factors include things such as, but not limited to:

- Unexpected impairment from prescription or over the counter medication;
- Side effects from medical treatment or an illness or injury;
- Impairment from fatigue due to a personal trauma, sleep deprivation or other issue; or
- Any similar factor that may cause impairment but is not the result of inappropriate alcohol or other drug consumption.

Where the responsible persons are satisfied that a person is impaired due to a mitigating factor no disciplinary action is to be taken. Repeated presentation at work by a staff member whilst impaired from over the counter medication may result in a breach of policy being recorded. Any staff member identified as impaired from this cause is to be reminded that any impairment is a safety risk and that they should not present for work impaired. Where prescribed or over the counter medication is taken, staff are encouraged to notify their Supervisor or Manager in advance. Repeated failure to notify may result in a breach of policy being recorded.

Where the responsible persons assess that the worker is not fit to continue working as a result of the fit for work assessment, they will:

- Direct the worker to take personal or other leave until they are fit to resume duties, or
- Consider short or long term alternative duties or other control measures to ensure the workers own safety and the safety of others in the workplace.

14. Testing Procedure - Alcohol

14.1 Conducting the Test

Workers identified to participate in alcohol testing will be required to carry out a supervised alcohol analysis test, using a calibrated breath testing device as per the Australian Standard AS3547:1997 - Breath alcohol devices for personal use . The test will be administered by a suitably qualified person.

The worker may have a Union delegate or other representative present during the testing procedure.

Unless medically required, no food or drink is to be consumed for 15 minutes prior to the test. Smoking shall also not be permitted as it may distort the test results.

In the event that a non-negative result is registered, a subsequent test will be carried out 15 minutes after the first test. During this 15 minute period, the worker is to be supervised continually at all times by the person conducting the tests.

Workers with a non-negative second breath analysis test results will be presumed unfit for work and arrangements will be made to transport the person to their home. The worker will then be required to submit for a further test at the first available opportunity on the next working day before being able to resume their normal duties.

Where a person 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.

A worker who refuses to undertake an initial and/or second test will be presumed to be, and treated as if, a second non-negative test result was received.

A confirmatory breath test result of equal to the limits set out in 5. Definitions, *Confirmatory Test* of this Procedure, will be determined to be a positive alcohol test result.

15. Testing Procedure – Other Drugs

15.1 Conducting the Test

Workers identified to participate in a drug test will be required to undergo an oral swab test as per the Australian Standard AS/NZS 4760 (2019) The test will be administered by a suitably qualified person.

15.2 Workers with prescribed medication

It is recognized that certain prescription medication may return positive results during testing, and it is the responsibility for any worker, in accordance with Councils work health and safety policies and procedures, to inform their Supervisor if they are taking any prescription medication that may cause impairment whilst at work.

Where practicable, the tester shall provide a list of medications which may provide a false positive result.

Any worker required to undertake drug testing can choose to declare any medication taken immediately prior to the test being conducted or can declare following the initial test if an initial non-negative result is obtained. Such information is to be kept confidential and only to be used in determining if such medication has contributed to or caused a false positive.

If the worker declares the medication prior to any testing being conducted, and the drug class(es) declared is consistent with the drug class(es) detected at the initial screening test, then a fitness for work assessment is to be conducted by two responsible persons.

If the worker is assessed as being unfit to continue in their normal role, temporary re-deployment into alternate suitable duties may be available and Council will actively explore any opportunities that may be available at the time that would be suitable to the individual.

If the worker is assessed to be fit for work the worker will be permitted to return to work and will be allocated low risk tasks pending the results of the confirmatory test. There may be circumstances as a result of the fit for work assessment, where a worker who normally operates or drives a Council vehicle or heavy/mobile plant will be unable continue to do so.

If the person is assessed to be unsafe to continue to operate vehicle or heave/mobile plant or work in their normal position, then arrangements will be made to transport the person to their home or a safe place unless an acceptable form of public transport is available.

Council may request further information such as a medical certificate from the worker's doctor.

If the person did not declare the medication prior to the testing being conducted, or if the drug class(es) declared is inconsistent with the drug class(es) detected, or there are methamphetamines present, then the person will be assessed as unfit for work and arrangements will be made to transport the person to their home or a safe place.

15.3 Confirmatory Test is Non-Negative and Consistent with Medication

A confirmatory non-negative test result for other drugs will be determined by the Australian Standard ASNZS 4760 (2019)

The accredited testing laboratory will forward all test results to the Manager Human Resources in writing, identifying the confirmatory test was positive but consistent with medication declared.

If the worker has previously been allocated low risk duties, their fitness for work will be reassessed and the worker will either return to normal duties or remain on low risk duties for the duration of the use of the medication, providing the duration of the use of the medication is a reasonable timeframe.

If the worker has been stood aside pending the confirmatory test results, the Manager Human Resources will contact them and request that they return to work once results have been received. On return to work, the Manager Human Resources in consultation with either the Supervisor and/or Manager will reassess their suitability for duties.

15.4 Confirmatory Test is Non-Negative and Not Consistent with Medication

Once the accredited testing laboratory has forwarded the results to the Manager Human Resources the worker and the applicable Manager will be advised in writing that the confirmatory test was non-negative but inconsistent with the medication disclosed by the worker.

The letter of confirmation forwarded by Council to the worker confirming the test result will set out a nominated time and date when the worker and, if requested, their Union or other representative, will discuss further action with their relevant Manager(s). If the worker requests access to paid leave entitlements such as personal, annual or long service leave, as part of the further action discussion, agreement to access to relevant leave entitlements will depend on the circumstances and will be managed in accordance with the Local Government (State) Award.

15.5 Confirmatory Test is Negative

The accredited testing laboratory will forward the results to the Manager Human Resources who will then advise the worker and their Supervisor that the confirmatory test result was negative.

If the worker has been stood down pending the outcome of the confirmatory test, the Manager Human Resources will contact them to arrange the workers return to work.

Any loss of pay or use of paid leave as a result of being stood down will be reimbursed and reinstated in full by Council.

16. Refusal or Tampering of Tests

16.1 Refusal

The Manager Human Resources or other senior Manager shall use the following procedure if a person refuses to take an initial drug or alcohol test:

1. The authorized collector will inform the worker who has refused the test that the refusal will have the same consequences as a non-negative result, i.e. that the worker will be deemed to be under the influence of drugs and/or alcohol.
2. The worker will be offered the test again. This would be the second request to be tested.
3. If the worker still refuses, the authorized collector will notify the relevant Manager and the Human Resources Officer of the refusal to take the test. After discussion between the Manager and the worker, the Manager will re-offer the test to the worker. The Manager should discuss the refusal and likely consequences with the worker, try to determine the reasons for refusal and then re-offer the test.

This will be the third and final offer to be tested.

4. If the worker still refuses, the refusal will be recorded as 'Refused Test'.
5. Arrangements will be made to transport the person to their home or a safe place.
6. The Manager will inform the Group Manager of the situation and ensure all documentation is forwarded to the Manager Human Resources for recording and filing.
7. The worker concerned will not be permitted to return to work until a discussion is held with the relevant Manager and the Manager Human Resources and a negative test result is obtained.

8. Whilst this result is being achieved, workers may be stood down and be entitled to access their own personal leave entitlements if available and if not, other available accrued leave entitlements in accordance with the Local Government Award.

16.2 Tampering

Any attempt to tamper with samples and introduce, or alter the concentration of alcohol or other drugs in their own, or another's saliva or breath may constitute serious misconduct and be dealt with according to Council's Disciplinary Procedure.

"Adulteration Sticks" may be used at the testing stage in the event that a sample appears suspicious at the discretion of the accredited laboratory securing the sample.

17. Procedure for Non-Negative Results

The relevant Manager, in consultation with the Manager Human Resources, is accountable for monitoring the frequency of targeted random testing for a worker who provides a non-negative confirmatory result and shall determine the appropriate action in accordance with the following on a case by case basis. Targeted random testing will only be required:

- for drugs where the non-negative confirmatory result was not in accordance with declared prescribed medication levels and
- for alcohol where a non-negative result above the relevant blood alcohol limit applicable to the worker has occurred.

At all times during the positive test result process, the worker is entitled to have a Union representative or other representative of their choosing present at all discussions and/or disciplinary meetings should they so choose.

The relevant Manager will afford the worker procedural fairness and discuss the non-negative result with the person. The relevant Manager will provide an opportunity for the worker to provide any information or comments that may be a mitigating factor when considering the confirmatory test result.

After consideration of this information the worker will be advised if they are required to participate in a targeted random testing process. The worker will be advised of counselling services available and, if necessary, or by the workers own request, be referred to an appropriate service.

Before a worker returns to work, they will be required to provide a negative test result. Whilst this result is being achieved, workers may be stood down and be entitled to access their own personal leave entitlements if available and if not, other available accrued leave entitlements.

Council may initiate disciplinary actions in accordance with the Local Government Award if the worker returns a second or third positive test within a two year period.

Workers participating in voluntary self-testing have immunity from disciplinary action on the condition that they comply with the rehabilitation program and do not report for work and commence work in an unfit state after submitting for the initial voluntary test.

Any disciplinary action taken is to be in accordance with the provisions of the Local Government Award and inability to perform normal duties during any period as a result of this procedure may result in a review of the workers' pay rate during this period which could result in a reduction in pay.

18. Reportable Offences

It is an offence under the Road Transport (Safety and Traffic Management) Act 1999 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.

19. Dealing with Aggressive or Abusive Behaviour

If a worker displays aggressive or violent behaviour when required to undertake an alcohol and/or other drug test, the Supervisor or Manager should remain calm and not argue with or mirror the worker's behaviour.

Emphasis should be placed on getting the worker to calm down and discussion kept away from personal issues. The worker should be asked to comply with the management direction and be informed that the worker will have the opportunity to dispute the decision through the normal grievance process utilized by Council.

If the worker refuses to modify their behaviour, the worker should be advised that the discussion is terminated and that they must leave the workplace immediately. The worker should be reminded that acts of aggression or violence in the workplace are in breach of the Code of Conduct and may result in dismissal.

In the case of actual or apprehended violent behaviour, the worker is to be advised that the police will be called. This option is to be used as a last resort.

20. Rehabilitation

The worker's Manager and/or the Manager Human Resources may assist the individual worker in developing a rehabilitation plan to manage their fitness for work issue. 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 the timeframe for return to work.

The parties may also include, at the workers request, their Union representative or a representative of their choice to assist in the development of this plan.

With the approval of Council, personal leave benefits, long service leave, annual leave (where accrued) or unpaid leave may be available to the worker undertaking alcohol and/or other drugs rehabilitation or counselling. Such approval shall not to be unreasonably withheld.

A rehabilitation plan template is included in this procedure at [Appendix 5](#).

21. Review and Audit

The policy will be reviewed periodically by Council in consultation with interested parties including the Local Government unions (USU, DEPA, LGEA), the Work Health and Safety and Consultative Committees. It is understood that as new testing technology becomes available for alcohol and other drugs testing it should be considered in any review, provided it is based upon levels of drugs and alcohol which indicate impairment at work.

No alteration of this procedure is to occur prior to the conclusion of consultation and agreement being reached.

22. Other Council Policies and Procedures

Other staff related policies and procedures should be read in conjunction with this procedure where required.

23. Grievances/Disputes Relating to this Policy

Any dispute relating to the application of this procedure shall be settled in accordance with the Grievance and Dispute Settlement Procedure of the Local Government Award

APPENDIX 1 - Fitness for Work Assessment Observable Indicators of Impairment

Assessment of a person is to be made in accordance with this list of observable indicators in the context of changes to a person's behaviour. At least 2 responsible persons must participate in the assessment.

At least one (1) of the physical indicators must be satisfied and agreed between the responsible persons for reasonable suspicion to be established.

Emotional effects (the second part of the table) should not be used as indicators of reasonable suspicion but may be recorded as additional information.

Name of person being assessed:		Name of Responsible Persons:	
Name of attending representative (if requested):		Date / Time:	

Assessment Triggers

Behaviour / actions / observations reported prior to this assessment:

PHYSICAL INDICATOR	OBSERVED
Strong smell of alcohol on breath	
Slurred, incoherent or disjointed speech (losing track)	
Unsteadiness on the feet	
Poor coordination/muscle control	
Drowsiness or sleeping on the job or during work breaks	
Inability to follow simple instructions	
Nausea/vomiting	
Reddened or bloodshot eyes	
Jaw clenching	
Sweating/hot and cold flushes	

EMOTIONAL EFFECTS (Not a basis for reasonable suspicion)	
Loss of inhibitions	
Aggressive or argumentative behaviour	
Irrational	
Intense moods (sad, happy, angry)	
Quiet and reflective	
Talkative	
Increased confidence	
Appearance or behaviour is 'out of character'	

Observation Checklist – Physical Indicators

BREATH	Smell of intoxicating liquor on breath: Nil ~~ Slight ~~ Strong~~
SKIN	Sweating/hot and cold flushes ~~
EYES	Reddened or bloodshot ~~
SPEECH	Normal ~~ Disjointed ~~ Slurred ~~ Confused ~~ Fast ~~ Slow ~~
BALANCE	Unsteady ~~ Swaying ~~ Slumping ~~ Falling ~~
MOVEMENTS	Poor coordination/muscle control ~~
AWARENESS	Drowsiness or sleeping on the job or during work ~ ~ breaks Inability to follow simple instructions ~~
OTHER PHYSICAL SIGNS	Nausea/vomiting ~~ Jaw clenching ~~

Questions

Questions:	Response:
Can you give any reason for your appearance and behaviour as noted above:	
Could you be under the influence of drugs and / or alcohol?	
Have you consumed drugs and / or alcohol since the commencement of the shift?	

Assessment Result

No testing required (alternate action if applicable – note in comments section) ~

Testing required – at least one (1) physical indicator in evidence ~

Both Responsible Persons agree: Yes / No

Comments (including mitigating factors noted or explained by the person, emotional factors identified (refer to Appendix 1 *Observable indicators of impairment*), further actions to be taken etc.):

Signature of Person being assessed: Date / /

Signatures of Responsible Persons: Date / /

Date / /

Signature of attending representative (if attended): Date / /

APPENDIX 2 - Indicators of Impairment by Drug (for information only)

Indicator (Physical)	Alcohol	Cannabis	Amphetamines
Smell on the breath	x		
Slurred speech/speech disjointed (lose track)	x	x	
Unsteadiness	x	x	x (dizziness)
Poor coordination/muscle control	x	x	
Drowsiness / sleepy	x	x	
Can't follow instructions	x	x	
Blurred vision	x	x	
Lack of judgement	x	x	
Confused	x	x	x
Nausea/vomiting	x		x
Reddened eyes		x	
More awake and alert			x
Jaw clenching			x
Sweating/hot and cold flushes			x
Effect (Emotional)	Alcohol	Cannabis	Amphetamines
Loss of inhibitions	x	x	
Aggressive or argumentative	x		x
Irrational	x	x	x
Intense moods (sad, happy, angry)	x	x	x
Quiet and reflective		x	
Talkative			x
Increased confidence	x		x
Appearance or behaviour is 'out of character'	x	x	x

APPENDIX 3- Alcohol and other Drugs Policy and Procedure – Flowcharts

AIM

The aim of the Alcohol and other Drugs policy and subsequent procedure is to assist the Council in addressing risks to health and safety in the workplace associated with the inappropriate use of alcohol and/or other drugs. This will also assist the Council in having a process to manage the misuse of alcohol and other drugs in the workplace through training, education and where required rehabilitation.

The integration of the Alcohol and other Drugs & alcohol policy and subsequent procedure into Council's Safety Management System will assist with the continual improvement of workplace safety. It will assist with the management and promotion of fitness for work of staff (including contractors and volunteers) to be part of the Council's standard processes.

TESTING IN USE

The Council in cooperation with the relevant unions (USU, LGEA and DEPA) and the LGSA have adopted the use of oral swab testing (to be completed as per the requirements of AS4760) for drug testing as it will generally detect the presence of a substance that was consumed within a matter of hours as opposed to testing such as urine where a substance was consumed days or weeks ago. A positive result in this case may not have a bearing on whether the person is unfit for work.

Drugs to be tested via the oral swab testing will be:

- Cocaine
- Opiates
- Methamphetamine
- THC

For alcohol testing a standard breathalyser meeting the requirements of AS3547 will be used. The following cut off points for blood alcohol content (BAC) will apply:

0.02 or greater for heavy plant operators (>13.9 tonne) or truck drivers (>4.5 tonne) or mobile plant operators. This will apply only for personnel who are undertaking these specific duties at the time of any testing.

0.05 or greater for all other staff to be in accordance with relevant state legislation.

Where the person has a provisional licence (P plates) or Learner's permit (L plates) then the current BAC limits for P plates must be followed if they drive vehicles and/or trucks.

COMMON DEFINITIONS

- *Confirmatory test:* means a second analytical test performed to identify the presence of specific alcohol and/other drugs. The confirmatory test is a retest of a second sample from an original collection if the initial test result is disputed
- *Negative result:* a result other than a positive
- *Unconfirmed results:* is where a potential result for drugs has been obtained on the initial oral swab and the collection is sent to a certified laboratory for further confirmation
- *Over the counter medication:* this non-prescription type medication that if consumed before a test is undertaken may influence the result shown
- *Non Negative:* an initial positive test as yet unconfirmed by confirmatory testing by an accredited tester.
- *Positive:* where the initial test result has been confirmed by further testing that the person is under the influence of alcohol and/or drugs above a prescribed limit as per current legislation and/or Australian standards
- *Prescription medication:* medication that is prescribed by a doctor
- *Random testing list:* persons will be added to this list who have either failed (tested non- negative) a test or refused unreasonably a request for a drug and/or an alcohol test. Individuals placed onto the limited random list can be targeted tested at any time, in addition to the standard random testing undertaken by the council.
- *Responsible person:* A responsible person is a person who is appointed and trained in the identification of signs of impairment. The responsible person is able to make an assessment of reasonable suspicion impairment utilising the objective indicators

TYPES OF TESTING

There are four types of testing that may be undertaken, these are:

- Voluntary Testing – Workers can elect to submit to voluntary testing and seek assistance from Council to rehabilitate if they believe they have a substance abuse problem.
- Random – Workers will be selected using a random number generation system.
- Post Reportable Incident – certain criteria of incidents have been selected where testing will be completed, for example certain treatments by a doctor, where a vehicle has sustained damage, skylarking etc. Further information is available in the procedure and Drug Testing Flowchart 002 (*Post Incident*). Contractors and volunteers will be tested for Post Incidents during the trial period.
- Reasonable Suspicion – this is where a report has been received that a worker is exhibiting strange or unusual behaviour and there is suspicion that they may be under the influence of alcohol and/or drugs. Two *Responsible persons* will be involved in the determination on whether a test for alcohol and/or drugs is required. Further information is available in the procedure and Drug Testing Flowchart 003 (*Reasonable Suspicion*).

- Targeted Random - (for workers who have given a confirmed positive result for alcohol and other drugs).

Testing will be undertaken by external providers who meet the current requirements contained within AS4760 and AS3547.

MEDICATION

Any worker required to undertake drug testing can choose to declare any medication taken immediately prior to the test being conducted or can declare following the initial test if an initial non-negative result is obtained. Such information is to be kept confidential and only to be used in determining if such medication has contributed to or caused a false positive.

- If the drug test result is an unconfirmed result consistent with the medication disclosed then after consultation with the relevant Manager, the external provider and the person concerned, they will be returned to appropriate duties. The sample will still be sent for a confirmatory test as per the usual process. If this test shows that the result is not consistent with the medication declared then the appropriate disciplinary action may be undertaken.
- If the drug test result is an unconfirmed result that is inconsistent with the medication disclosed then the person will be assessed as unfit for work and arrangements made to transport home or to a safe place

Further information is available in the procedure and Drug Testing Flowchart 009 (*Medication*).

REFUSAL TO UNDERGO A TEST

Any person who refuses to undergo testing will be given the opportunity to explain their reasons, these will be discussed with the relevant manager, Human Resources and the external provider. There will be a process implemented where if the person refuses to undergo a reasonable request test three (3) times in succession, this will be recorded as a *Refused test* and the person will be treated as if they have provided a test result of an unconfirmed result. For further information refer to the procedure and Drug Testing Flowchart 004 (*Refusal*).

TAMPERING

Any person found to be tampering or have tampered with a test in will be dealt with as per the current disciplinary procedures that the Council has in place.

EMPLOYEE ASSISTANCE PROGRAM (EAP)

EAP will be available under current guidelines for employees to seek support and assistance in regards to alcohol and/or drug use.

DISCIPLINARY MEASURES

Persons who have provided a result that is a unconfirmed result (including refusing to undergo a test) will in most instances be suspended for an initial 24 hours and will have to provide a negative result before they can return to work. If the subsequent result from the confirmatory test is a positive, then the person may face further disciplinary action as determined by the relevant manager and HR. The person will also be placed onto the limited random testing list.

The person who has been suspended will be able to access leave entitlements that they are entitled to as per the current award or contract

Continual positive results and/or refusal to undergo tests will result in further disciplinary action being considered and undertaken.

Any person who has been suspended an initial test result of a non negative that now is deemed a negative after the confirmatory test has been completed will have all time lost reimbursed with no penalty.

Further information is available in the procedure and Drug Testing Flowchart 008 (*Disciplinary Action*).

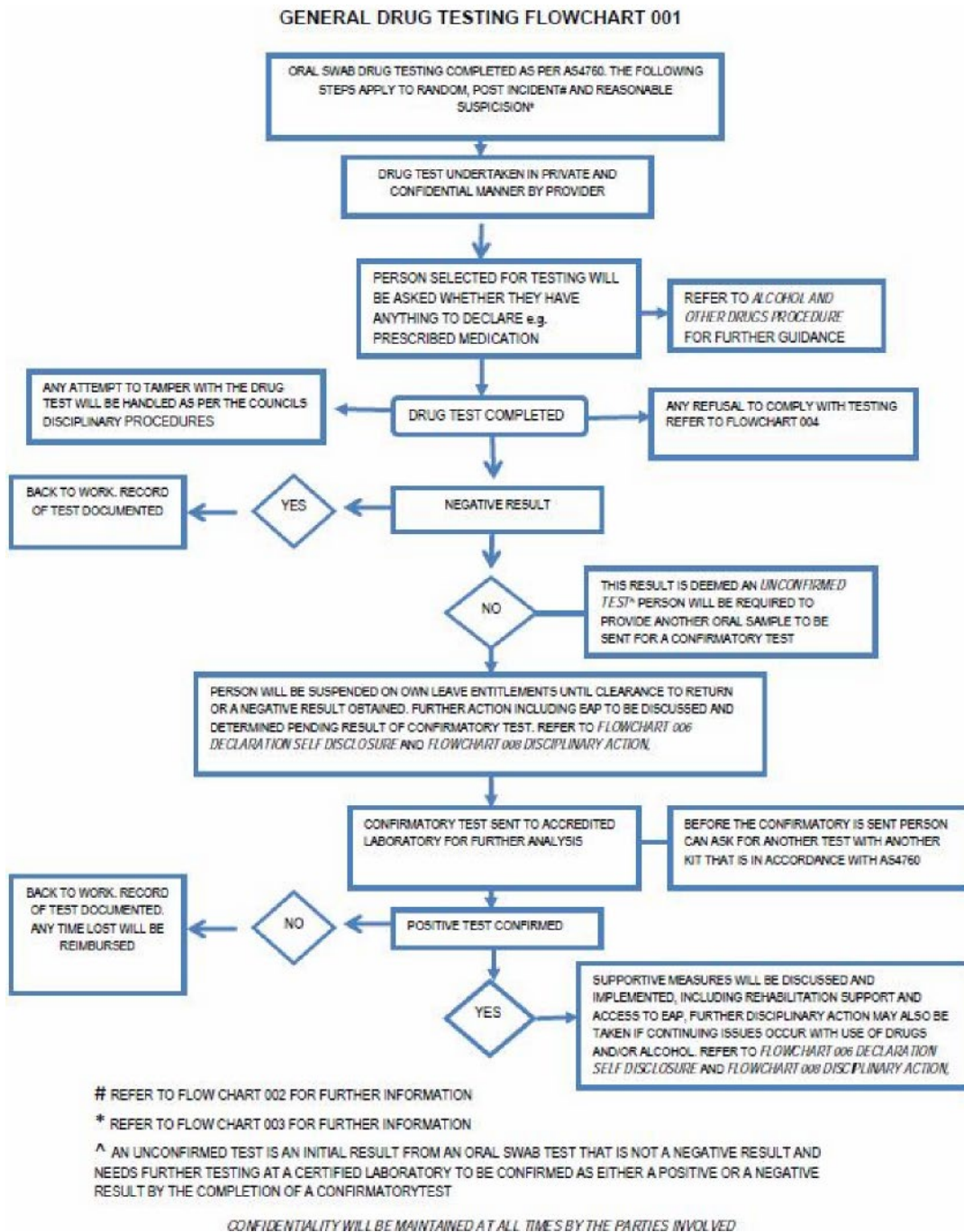
REHABILITATION

Workers who have declared that they have a problem with the use of drugs (illegal and legal) and/or alcohol will be provided assistance by the Council as per the current EAP arrangements or as determined appropriate by their manager. This will involve the development of a confidential Drug & Alcohol Rehabilitation plan that will outline general treatment steps, assistance to be sourced, personnel to be involved etc. The plan will be used to assist the person to be able to present themselves at work in a state where there is no impairment to them working safely.

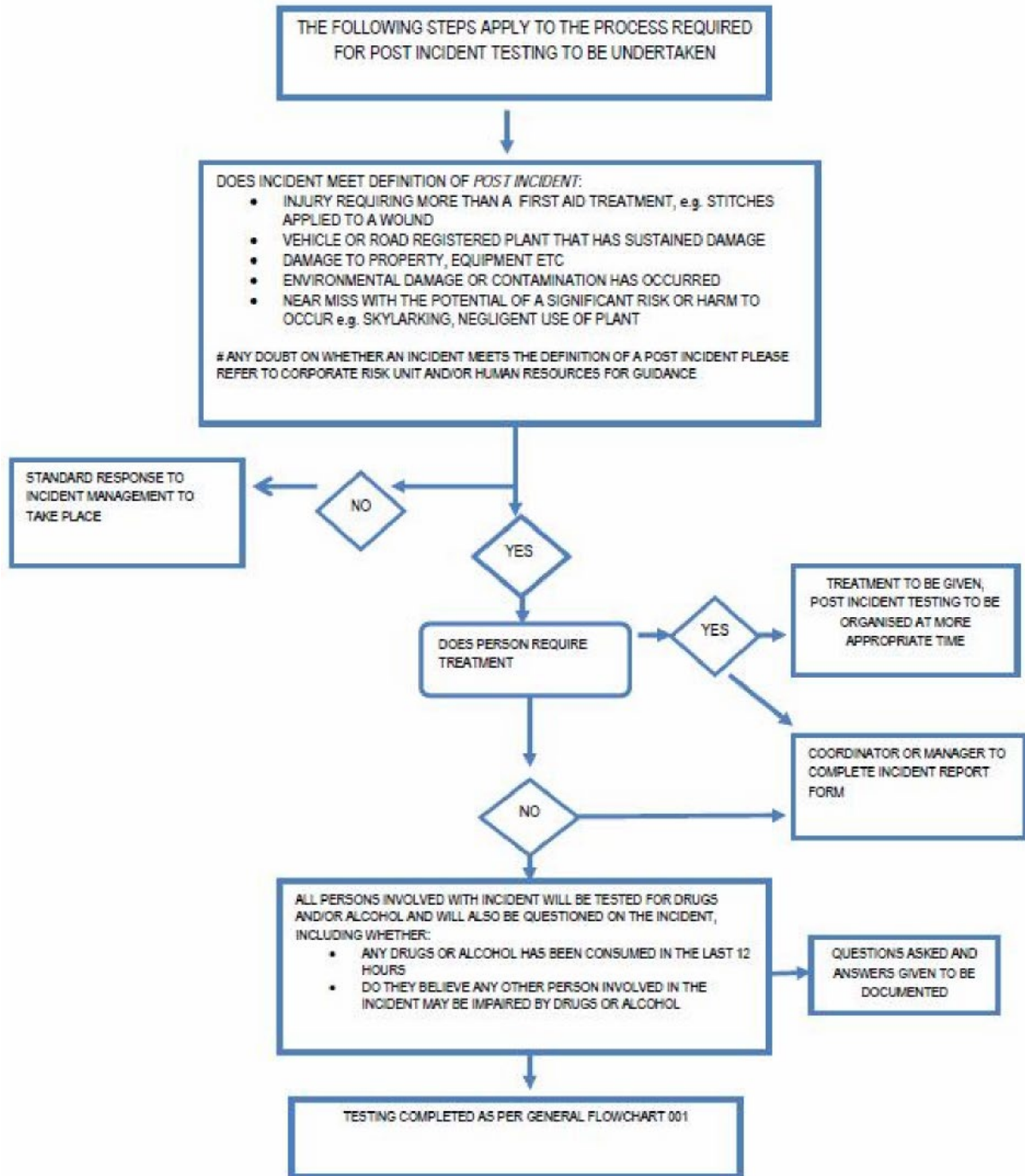
Persons who have been found to have a positive result from a drug and/or alcohol test and who have not declared that they may have consumed a drug and/or alcohol or who have presented themselves to work in a state that is not safe to do so, will also have a confidential Drug & Alcohol Rehabilitation plan implemented.

Further information is available in the procedure and Drug Testing Flowchart 006 (*Declaration*)

If you have any questions or concerns please discuss with your manager, Human Resources and/or union representative.

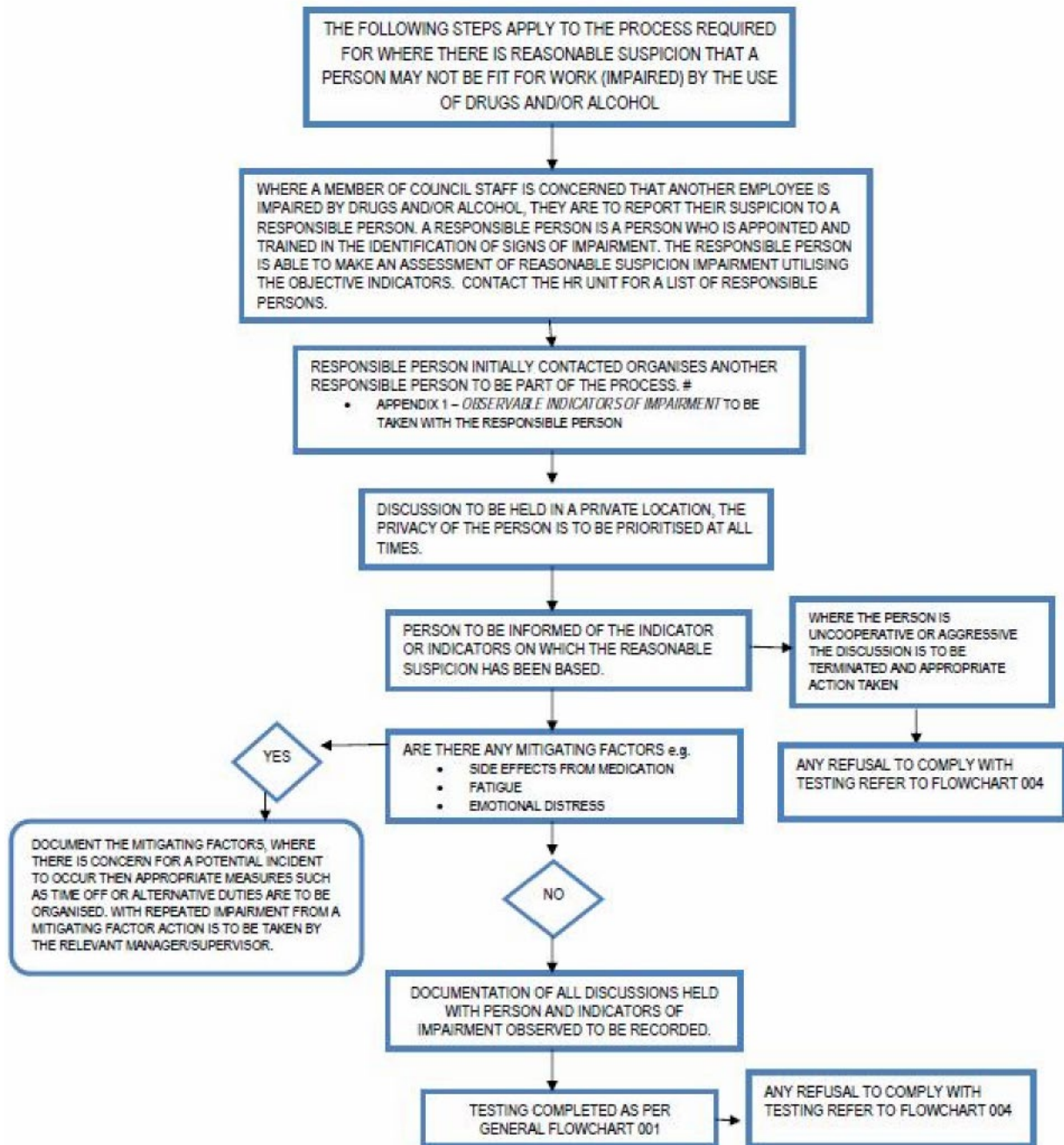


POST INCIDENT TESTING FLOWCHART 002



CONFIDENTIALITY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

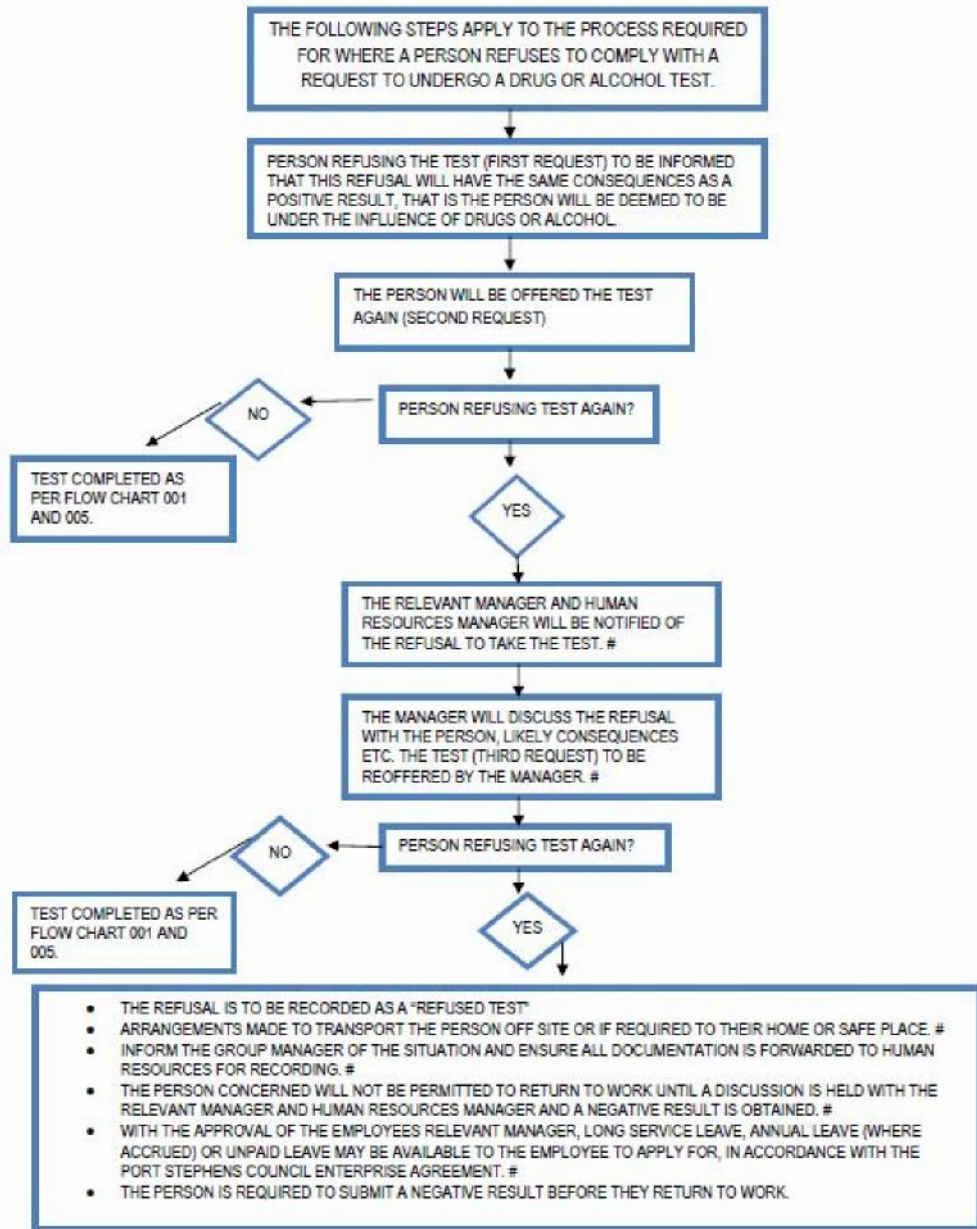
REASONABLE SUSPICION FLOWCHART 003



A REPRESENTATIVE FROM THE HUMAN RESOURCES SECTION IS TO BE CONTACTED, IF NOT ALREADY NOTIFIED, TO ASSIST IN THIS PROCESS AND BE THE SECOND RESPONSIBLE PERSON

CONFIDENTIALLY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

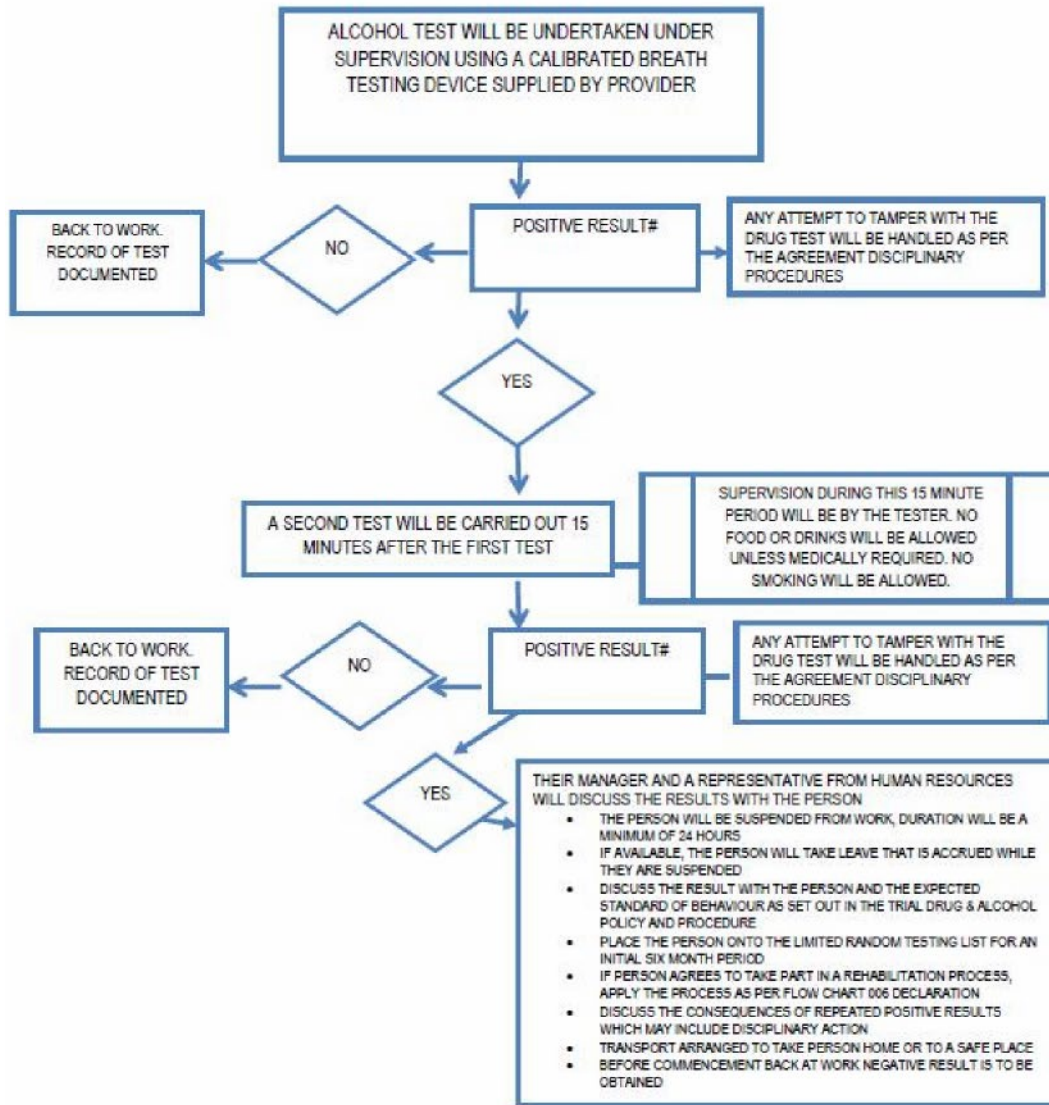
REFUSAL TO UNDERGO A DRUG OR ALCOHOL TEST FLOWCHART 004



FOR CONTRACTORS THEIR EMPLOYER IS TO BE CONTACTED TO ASSIST IN THIS PROCESS

CONFIDENTIALITY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

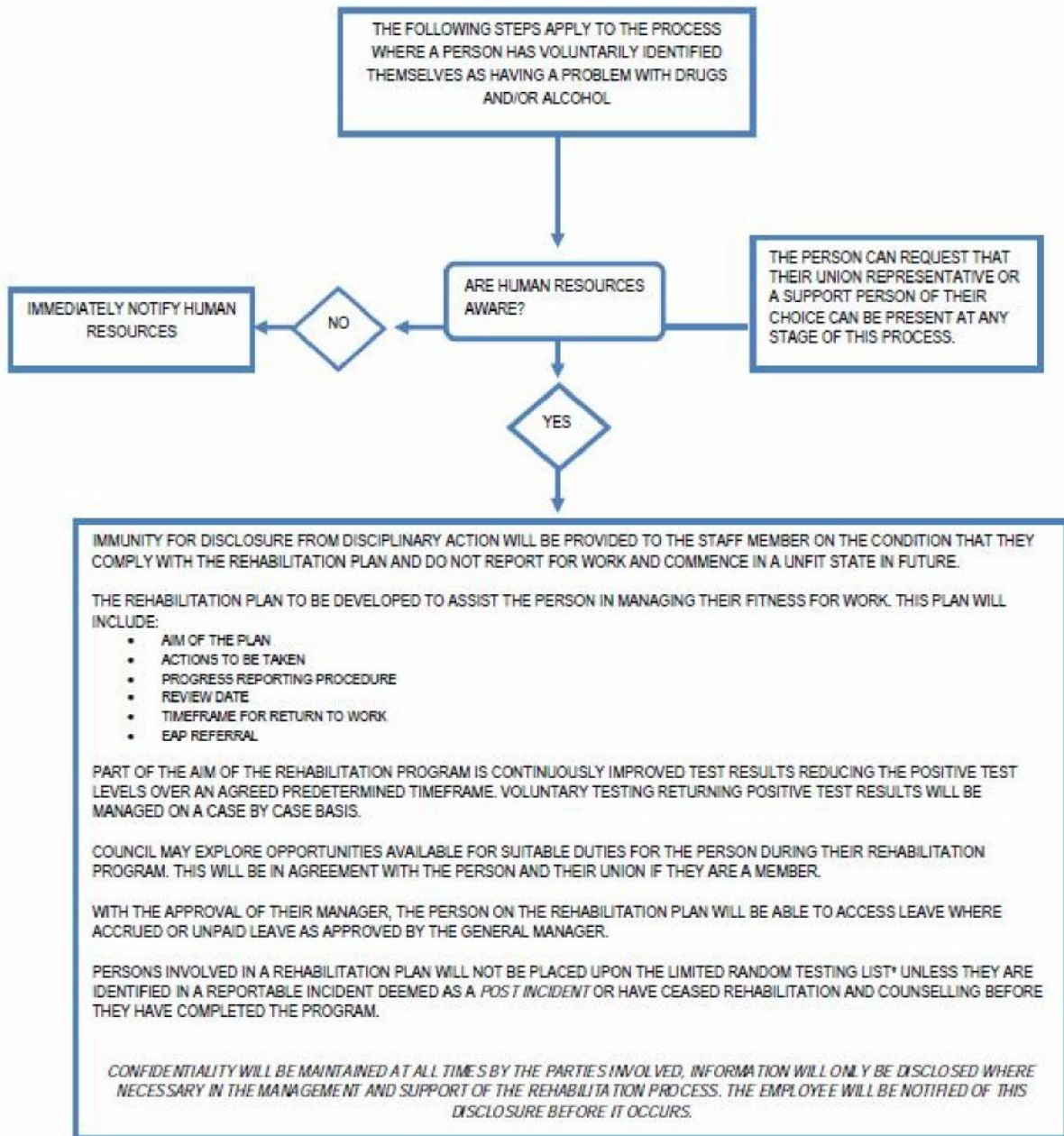
ALCOHOL TESTING FLOWCHART 005



0.02 OR GREATER BLOOD ALCOHOL CONTENT (BAC) FOR HEAVY PLANT OPERATORS (>13.9 TONNE) OR TRUCK DRIVERS (>4.5 TONNE) OR MOBILE PLANT OPERATORS – THIS WILL APPLY ONLY FOR PERSONNEL WHO ARE UNDERTAKING THESE SPECIFIC DUTIES AT THE TIME OF ANY TESTING.
 0.05 OR GREATER BLOOD ALCOHOL CONTENT (BAC) FOR ALL OTHER STAFF TO BE IN ACCORDANCE WITH RELEVANT STATE LEGISLATION.
 WHERE THE PERSON HAS A PROVISIONAL LICENCE (P PLATES) THEN THE CURRENT BAC LIMITS FOR P PLATES MUST BE FOLLOWED IF THEY ARE DRIVE VEHICLES/TRUCKS.

CONFIDENTIALITY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

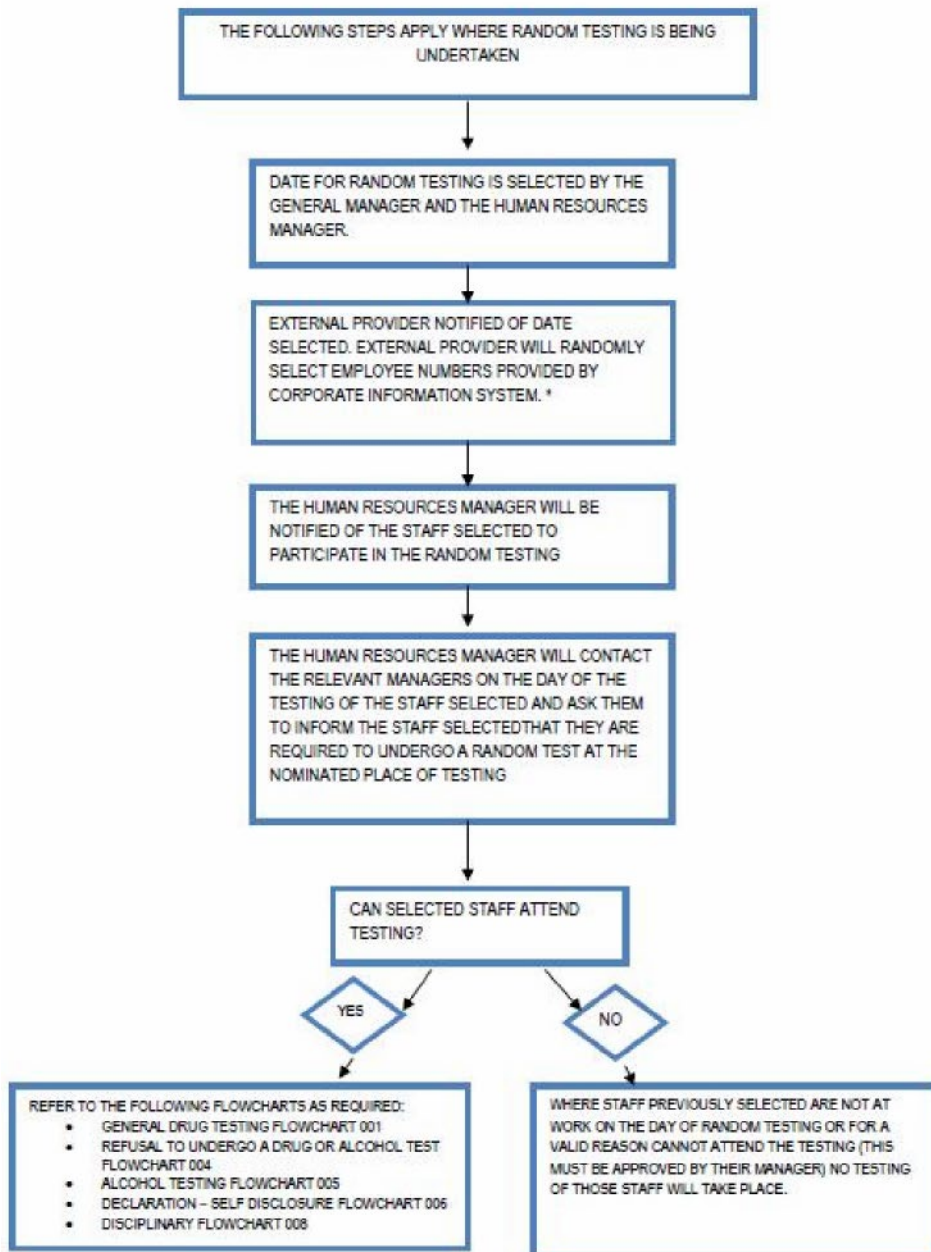
DECLARATION – SELF DISCLOSURE FLOWCHART 006



* THE LIMITED RANDOM LIST WILL BE LIMITED TO THOSE INDIVIDUALS WHO HAVE EITHER FAILED A DRUG AND/OR ALCOHOL TEST OR WHO REFUSED UNREASONABLY A TEST THAT HAS BEEN REQUESTED. INDIVIDUALS PLACED ONTO THE LIMITED RANDOM LIST CAN BE TARGETED TESTED AT ANY TIME, IN ADDITION TO THE STANDARD RANDOM TESTING UNDERTAKEN BY THE COUNCIL.

THE INITIAL PERIOD FOR LISTING IS SIX (6) MONTHS. AT THE COMPLETION OF THIS SIX (6) MONTHS, IF THERE ARE NO FURTHER POSITIVES OR UNREASONABLE REFUSALS, THE PERSON WILL BE REMOVED FROM THE LIMITED RANDOM LIST. WHILE ON THE LIST ANY FURTHER POSITIVE RESULTS OR UNREASONABLE REFUSAL WILL RESULT AN EXTENSION OF TWO (2) YEARS OF THE PERSON BEING ON THE LIST. THIS WILL DATE FROM THE MOST RECENT FAILED TEST OR UNREASONABLE REFUSAL TO COMPLY WITH TESTING. AT THE COMPLETION OF THIS TWO (2) YEAR PERIOD, IF THERE ARE NO FURTHER POSITIVES OR UNREASONABLE REFUSALS, THE PERSON WILL BE REMOVED FROM THE LIMITED RANDOM LIST.

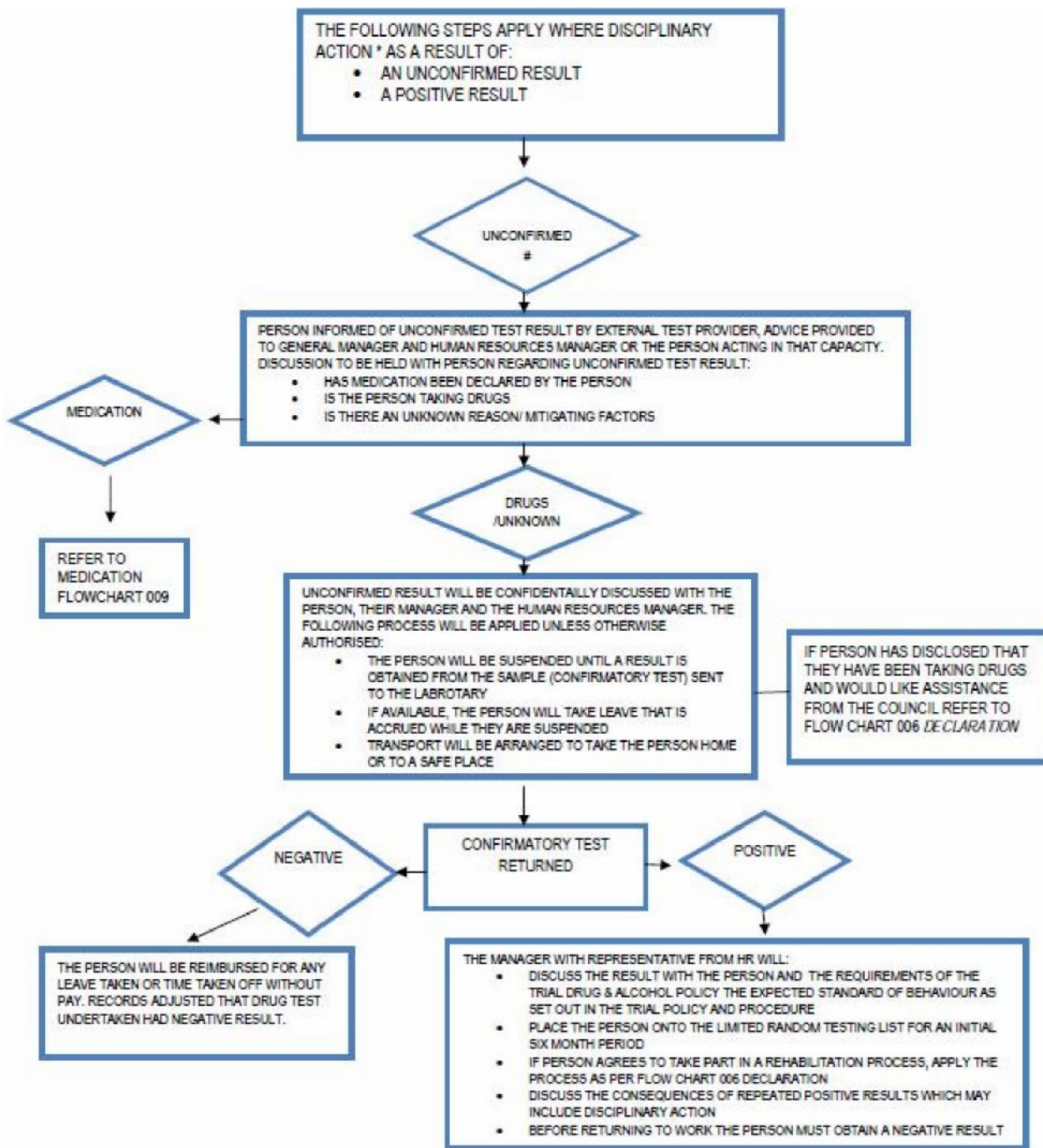
RANDOM TESTING FLOWCHART 007



*THE EXTERNAL PROVIDER WILL USE STAFF EMPLOYEE NUMBERS TO RANDOMLY SELECT A PREDETERMINED NUMBER OF STAFF FOR RANDOM TESTING. THIS SELECTION WILL ALSO INCLUDE AN ADDITIONAL NUMBER OF STAFF AS A BACKUP IN CASE STAFF SELECTED ARE NOT AVAILABLE. AT NO STAGE WILL STAFF NAMES BE KNOWN BY THE EXTERNAL PROVIDER WHILE THEY ARE SELECTING RANDOM ENTRIES. STAFF NAMES WILL ONLY BE KNOWN TO THE EXTERNAL PROVIDER AT THE TIME OF THE RANDOM TEST.

CONFIDENTIALLY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

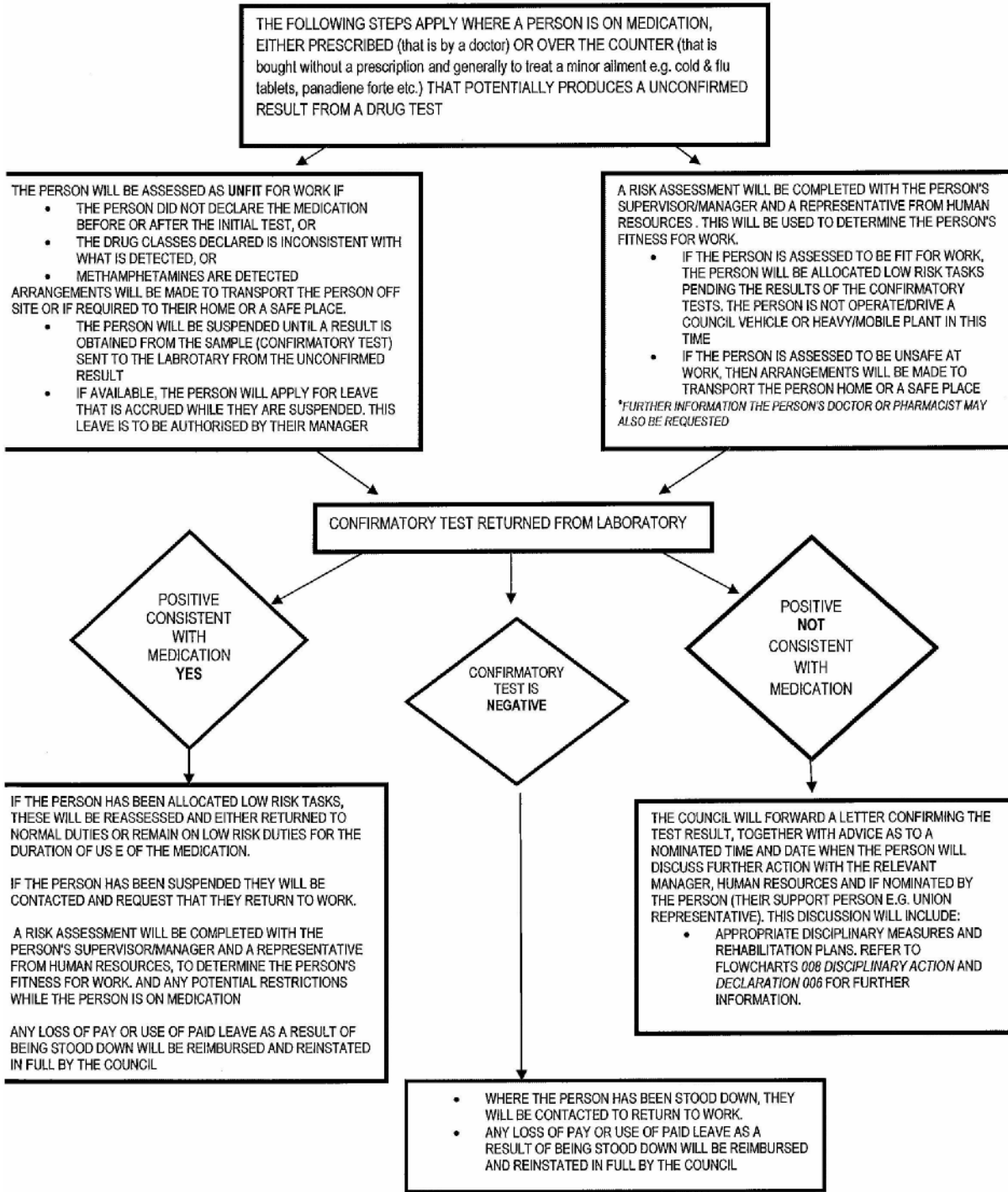
DISCIPLINARY ACTION FLOWCHART 008



* FOR ALCOHOL TESTING AND SUBSEQUENT DISCIPLINARY PROCESS PLEASE REFER TO ALCOHOL TESTING FLOWCHART 005
 # AN UNCONFIRMED TEST IS AN INITIAL RESULT FROM AN ORAL SWAB TEST THAT IS NOT A NEGATIVE RESULT AND NEEDS FURTHER TESTING AT A CERTIFIED LABORATORY TO BE CONFIRMED AS EITHER A POSITIVE OR A NEGATIVE RESULT BY THE COMPLETION OF A CONFIRMATORY TEST

CONFIDENTIALITY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

PERSONS ON MEDICATION WITH UNCONFIRMED RESULT FLOWCHART 009



CONFIDENTIALITY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

APPENDIX 4

Dear Doctor/Pharmacist Card

This should be printed on the back of Council's normal business card template and distributed to all staff for them to carry with them so they can discuss drug effects with their Doctor or Pharmacist.

Dear Doctor/Pharmacist

The holder of this card may be subject to a drug screen as part of their employer's Fitness for Duty program. Can you please advise the holder if their medication(s) contain any of the following drug groups:

- Opiates (including codeine)
- Amphetamines (including pseudoephedrine)
- Benzodiazepines

APPENDIX 5**Drug & Alcohol Rehabilitation Plan - Confidential**

The following Rehabilitation Plan has been developed for:

Employee:

Phone:

Goal: 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.

Current rehabilitation issues: *can be what has been tested positive for, concerns or issues that they have with their addiction etc*

Steps that have been agreed: *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 organizations that may provide more specific addiction counselling such as alcoholics anonymous, a time frame for these steps to be commenced, review and completion*

Agreed costs: *what the council has agreed to fund, e.g. fees for extra counselling above normal EAP sessions, type of leave to be accessed etc*

Persons involved: *who are the personnel involved with this rehabilitation plan that will have access to information contained, who can authorize (with the person's permission) additional persons etc*

Comments:

The following parties have agreed to the above Rehabilitation Plan:

Employee: _____ Date: / /

Supervisor/Manager: _____ Date: / /

Manager HR (or authorized HR representative): _____ Date: / /

Doctor (if applicable): _____ Date: / /

Union Representative: _____ Date / /