

Alcohol and Other Drugs PROCEDURE August 2023

PREPARED BY:

PEOPLE & CULTURE and SAFETY & WELLBEING



SUTHERLAND SHIRE



At a Glance

This procedure details how Sutherland Shire Council will provide a safe, healthy and productive workplace through eliminating risks associated with the adverse effects of alcohol and other drugs while at work. The procedure details how Council will actively manage appropriate alcohol and other drugs detection for workers. Workers adversely affected by the use of alcohol and other drugs can pose a risk to themselves, others in the workplace and the greater community.

Who

This procedure applies to all workers who carry out a business undertaking for Sutherland Shire Council and includes but is not limited to all Council employees, contractors, workers of contractors and volunteers at Council workplaces.

Why

In line with the Work Health and Safety Policy, Council commits to approach safety in a manner that is proactive and caring. Sutherland Shire Council has a duty under the *Work Health and Safety Act* (WHS Act) to ensure, so far as reasonably practicable, the health and safety of workers while at work. This duty extends to minimising the risk of accident, incident and injury in the workplace arising from the consumption of drugs and alcohol.

Council promotes a Zero Tolerance culture to alcohol and other drugs in the workplace.

Responsibilities and Obligations

Duty of Workers and People Leaders

It is the responsibility of all workers and People Leaders 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
- being not fit to work.

Responsibility of Workers

Workers must not report to work and/or continue to work, if impaired by alcohol and/or other drugs (including prescription drugs) to the extent that their ability to safely and legally fulfil the requirement of their position is impaired. Workers must meet all relevant statutory requirements regarding the safe and lawful operation of vehicles, plant, equipment or machinery.

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, or;
- inhibit their ability to fulfil the requirements of the position, or;
- present a poor public image of Council, 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.



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1. Overview

Council holds a zero tolerance to alcohol and other drugs in the workplace. At all times while performing work for Sutherland Shire Council, workers must be free from the adverse effects of alcohol and other drugs. This procedure forms part of Council's framework for alcohol and other drug management in the workplace.

Council has a duty under the WHS Act to ensure, so far as reasonably practicable, the health and safety of workers while at work. This duty extends to minimising the risk of accident, incident and injury in the workplace arising from the consumption of drugs and alcohol.

It is the expectation that all workers present to work in accordance with the requirements of this procedure. Any person undertaking work for Sutherland Shire Council may be required to undergo alcohol and/or other drug testing at any time during their shift or allocated work time.

Alcohol and Other Drug Testing will be conducted in a manner designed to:

- protect the tested worker's privacy; and
- ensure the integrity of the process to obtain valid results.

All testing will be performed by an Accredited Technician appointed by Council, in accordance with Australian Standards and this procedure.

This procedure may not cover all potential situations relating to workers being fit to work. Where the procedure is silent in these situations it is expected workers will be guided by Council's Code of Conduct, Alcohol and Other Drugs Determination and Guidelines and the Work Health & Safety Policy.

2. Definitions

Term	Meaning
Alcohol & Other Drugs Management Framework	means the Work Health & Safety Policy, Alcohol and Other Drugs Determination and Guidelines, Safety Management System, Alcohol and Other Drugs Procedure testing regime, training and education, and the obligations placed on all workers (as defined by the WHS Act 2011) which together form Council's Drug and Alcohol Management Framework.
AOD	means Alcohol and Other Drugs.
Approved Tester	means an external agent approved by Council to conduct alcohol and other drug testing.
Authorised Testing Provider	means the independent third-party testing provider appointed by Council to carry out all alcohol and other drugs testing in accordance with this procedure and relevant Australian Standards.
BAC	means blood alcohol content.
Business Unit	means a group within a Directorate, for example Learning & Organisational Development is a Business Unit of the People and Culture Division and Corporate Support Directorate.

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Chain of Custody	means a series of procedures to account for the integrity of each specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen.
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 Standards. The confirmatory test is a retest of a second sample from the original sample taken at the original collection time. Nothing in this Determination shall prevent the carrying out of a second independent test, by a method chosen by the person who tested nonnegative.
Council	means Sutherland Shire Council.
Determination	means the Alcohol and Other Drugs Determination & Guideline
Drug/other drugs	means substances or medications capable of causing dependency, alteration of mood or impairment of judgment, concentration or coordination, including but not limited to: <ul style="list-style-type: none"> • illegal drugs, • prescription medications for which no medical authorisation has been given, and • medications or “over the counter” substances which are used contrary to the manufacturer’s instructions or recommended dosage.
Employee	means a person employed at Council.
Employee Assistance Program (EAP)	means a program provided by Council for Employees which provides psychological counselling and emotional support. EAP counsellors can address issues that have led to the use/abuse of drugs, or issues that are a consequence of such behaviour.
HRBP	means Human Resources Business Partner.
Impaired or Impairment	means any loss or abnormality of psychological, physiological or anatomical structure or function. It represents a deviation from the person’s usual biomedical state.
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 Standards.
Negative	means an alcohol or drug level that is 0:00 Level for alcohol and other drugs.
Non-Negative	means a drug test result that determines the presence of other drugs and requires confirmatory laboratory testing.
People Leader	any Employee of Council who has supervisory or management responsibilities.
Positive Alcohol Test Result	a breath analysis test result above a blood alcohol concentration of 0.00 will be determined to be a positive alcohol test.

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Positive Drug Test Result	this means a confirmatory sample returning a result confirming the presence of a substance being tested.
Positive Result Refused Test	this means the refusal to participate in testing and/or intentionally leaving the workplace to avoid testing which constitutes a breach of this Determination and as a result is deemed as a positive result.
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.
Prescription drugs	means lawful drugs which are prescribed by a medical practitioner for a diagnosed medical purpose and issued by a pharmacist.
Pharmacy drugs	means drugs which are lawfully available at Australian pharmacies (without a prescription) and are required for a legitimate medical purpose.
Random Testing	means a structured program for randomly testing Council Employees and others across the workforce in accordance with Australian Standards.
Reasonable Concern/Suspicion	means when a report has been received that an Employee is exhibiting strange or unusual behaviour and there is a concern that they may be impaired by alcohol and/or other drugs. A Manager or Supervisor will be involved in determining whether a test for alcohol and/or other drugs is required.
Responsible Person	means an Employee who is suitably trained and can assess, in accordance with Australian Standards, the fitness for work of persons in the workplace.
SSC	means Sutherland Shire Council.
Safety Incident	means any unplanned event in the workplace that causes, or has the potential to cause, harm to people, property, plant operation, business or environment.
Targeted Random Testing	means a period of random testing of an Employee in the case where the Employee either: <ul style="list-style-type: none"> 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.
Tampering	means any attempt to alter the samples and/or introduce, or alter the concentration of alcohol or other drugs in their own, or another's test sample
Testing Event Supervisor	means an Employee who is suitably trained and responsible for the management of a testing event in accordance with this procedure.
Unfit for work	a persons will be deemed unfit for work if they record a positive, non-negative, positive result – refused test or positive result – tampering testing reading
Unfit stand down	means an employee who is temporarily stood down from work as they have been determined unfit for work in accordance with this Determination. The employee will be entitled to access their own personal leave entitlements if available and if not, other available accrued leave entitlements in accordance with the Enterprise Agreements.



<p>Worker</p>	<p>A person is a worker if the person carries out work in any capacity for a person conducting a business or undertaking, including work as—</p> <ul style="list-style-type: none"> (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.
<p>Workplace</p>	<p>Includes, but is not limited to workshops, office space, work sites or open space; working in a vehicle, vessel, aircraft or other mobile structure; at premises being inspected; working in any waters or any installation on land, on the bed of any waters or floating on any waters; and other sites where the work of Council is completed.</p>

3. Confidentiality and Privacy

In line with Council's Code of Conduct, all actions under this procedure will be conducted in a manner that respects the dignity and confidentiality of those involved.

All personal information obtained in implementation of this procedure will be treated in accordance with Council's Privacy Policy. Individual test results will not be released to anyone who is not directly involved in the testing process without specific written authorisation by the worker or when complying with any legal requirement. Persons considered directly involved are the individual, the testing event supervisor, the individuals People Leader, and the respective People & Culture team member.

4. Triggers for the Alcohol and Other Drug Testing Program

All workers entering the workplace or conducting work on behalf of Council may be selected for testing in the following situations:

1. Post Notifiable / Serious Incident
2. Reasonable Suspicion
3. At Random
4. Targeted random (for employees who have tested a confirmed positive result for alcohol and other drugs).

4.1 Post Notifiable or Serious Incident Testing

After a serious or SafeWork NSW notifiable incident at the workplace, the People Leader in consultation with a member of Council's Safety and Wellbeing Team may require a worker to undergo an alcohol or other drug test to determine if substances are a contributing factor to the incident.

For the purpose of post notifiable or serious incident testing an incident is defined as any accident or event that occurs in the course of work which results in:



- personal injury;
- vehicle damage;
- property damage; or
- any incident that has the potential for significant risk of harm or injury to persons or equipment.

Council workers are expected to comply with this reasonable and lawful direction. The worker must not perform any work and remain in a private area (where reasonably practical) until the authorised testing provider arrives on site to conduct the test in accordance with this procedure.

If a worker 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 the Reasonable Suspicion threshold. If an investigation identifies the reason for late reporting of an incident is a deliberate attempt to avoid and/or postpone testing, disciplinary action may result.

An injured worker who requires immediate medical attention may only be tested when it is appropriate. Where emergency services attend an incident and require the lawful conduct of alcohol and/or other drug testing, this will supersede Council's Alcohol and Other Drugs Framework.

Council reserves the right to conduct a test where a subsequent incident investigation has identified that the true cause or causes of an incident were not properly reported and fell into the category requiring a test. A drug and alcohol test will be organised. Late or incorrect reporting of incidents will be investigated, and similar action will be undertaken.

Note: Any testing (if undertaken or refused) will form part of the Incident Management Process in line with Corporate Safety Guideline 08 Incident Reporting, Investigation and Corrective Actions.

4.2 Reasonable Concern/Suspicion (For Cause)

Reasonable concern or suspicion will be established through an unbiased visual assessment. If a worker is identified as potentially impaired and requiring a test following a visual assessment in accordance with the grounds for concern/suspicion outlined in this procedure, the worker must undergo an alcohol and/or other drugs test. Reasonable grounds for concern or suspicion may include but not limited to the following observable behaviours:

- observed use of alcohol or other drugs;
- smell of alcohol on breath;
- unable to coordinate actions;
- has red or bloodshot eyes, or dilated pupils;
- fluctuating mood, unusual or aggressive behaviour or acts contrary to their normal behaviour;
- difficulty in maintaining normal balance;
- slurred speech, poor coordination and slowed reactions;
- drowsiness or nodding off;
- euphoria or unusual levels of energy; and
- not behaving in a professional and competent manner and in accordance with Council standards.

If worker is concerned that another worker or other person in a Council workplace is impaired, they should report their concern/suspicion to a People Leader immediately. Where a worker believes their manager/supervisor is of reasonable concern/suspicion, this is to be immediately reported to the Director and/or the Manager People & Culture.



4.3 Random Testing

Random testing of workers for alcohol and/or other drugs may be conducted at any time throughout the worker's hours of work (including overtime), with less than 1 hours' notice. All workers present at any Council workplace will be eligible for selection for random testing.

Workers will be selected for testing by the authorised testing provider using a random selection method determined by the provider. This may involve randomisation of location or group of workers located in a specific area/business unit/directorate. Workers who are selected will be provided a reasonable and lawful direction under the Determination (or WHS Policy for non-employees) to present themselves for testing within specified timeframes.

If a worker is directed to attend a random test and is required to travel but does not feel they can attend safely due to being under the influence, the worker should advise the Testing Event Supervisor immediately.

4.4 Targeted Random

Targeted random testing will apply for a minimum of six (6) months for an employee of Council who has:

- previously given a confirmed positive test result for alcohol and/or other drugs; or
- unreasonably refused a test for alcohol and/or other drugs when requested in accordance with Council's testing programs; or
- self – declared issues of alcohol or other drugs misuse/abuse and are agreeable to fitness for work monitoring.

The relevant Senior Manager is accountable for monitoring the frequency of the follow-up testing for an employee subject to targeted random testing.

5. Testing Procedure

5.1 Responsibilities of the Testing Event Supervisor

Council will provide the authorised testing provider with a list of People Leaders who are suitably trained in this procedure to act as the Testing Event Supervisor. For a random testing event the authorised testing provider will notify the Testing Event Supervisor that the location or business unit they are responsible for has been identified for random testing and at which time/ day. The Testing Event Supervisor will commence organising the event in accordance with this procedure.

The Testing Event Supervisor will remain present at the testing area to monitor compliance with this procedure, support the authorised testing provider and ensure workers remain in the testing area until the testing processes have been completed.

Testing Event Supervisor will provide direction to the identified workers to attend the testing event.

Testing Event Supervisors will be responsible for placing an employee on an unfit stand down if they fail to comply with the requirements of this procedure and for making arrangements to transport the worker home or to a safe place. The Testing Event Supervisor will determine the most appropriate means of getting the worker home or to a safe place on a case by case basis. Options available may include but are not limited to: contacting next of kin to collect the worker, providing the worker with a cab charge voucher (pre-purchased by Division), or requesting a team leader to drive them home in a Council vehicle.

5.2 Suitable Testing Area

A suitable area for testing will be;

- identified by the Testing Event Supervisor. A suitable testing location will be a workplace which allows for adequate visual and auditory separation from other people in the test area; and
- Will maintain the worker's privacy, so much as reasonably practical.

5.3 Direction to Workers to Attend and Participate in Testing

When a worker is identified to undertake testing for any testing trigger outlined in this procedure, the Testing Event Supervisor will provide them with a reasonable and lawful direction to attend an alcohol and other drugs test. The direction will specify the nominated timing and location for testing.

If the worker is required to travel to attend a testing event, the Testing Event Supervisor will also confirm with the worker that they are either;

- safe to travel to the testing event, or
- would like to self-declare they are unfit for work due to the presence of alcohol or other drugs.

The worker may have a Union delegate or other representative present during the testing event if they are immediately available.

Reasonable and lawful direction

It is a reasonable and lawful direction for the worker to:

- participate in the testing procedures and processes as directed/instructed by the Testing Event Supervisor.
- remain at the workplace once they have been directed/instructed by the Testing Event Supervisor to participate.
- present to the designated testing area for testing within the time nominated by the Testing Event Supervisor.
- present photo identification to the authorised testing provider to confirm identity;
- sign the consent form provided by the authorised testing provider; and
- to advise the authorised testing provider confidentially of any legal medication that may affect the testing results.

Breach of Framework

A Worker may be found to be in breach of the Alcohol and Other Drugs Determination and Guidelines, WHS policy, and Council's Code of Conduct if they;

- Fail to present for testing; or
- Abscond from a Council workplace to avoid testing; or
- fail to complete relevant forms; or
- fail to provide an appropriate sample for testing.

5.4 Conducting the Test - Alcohol

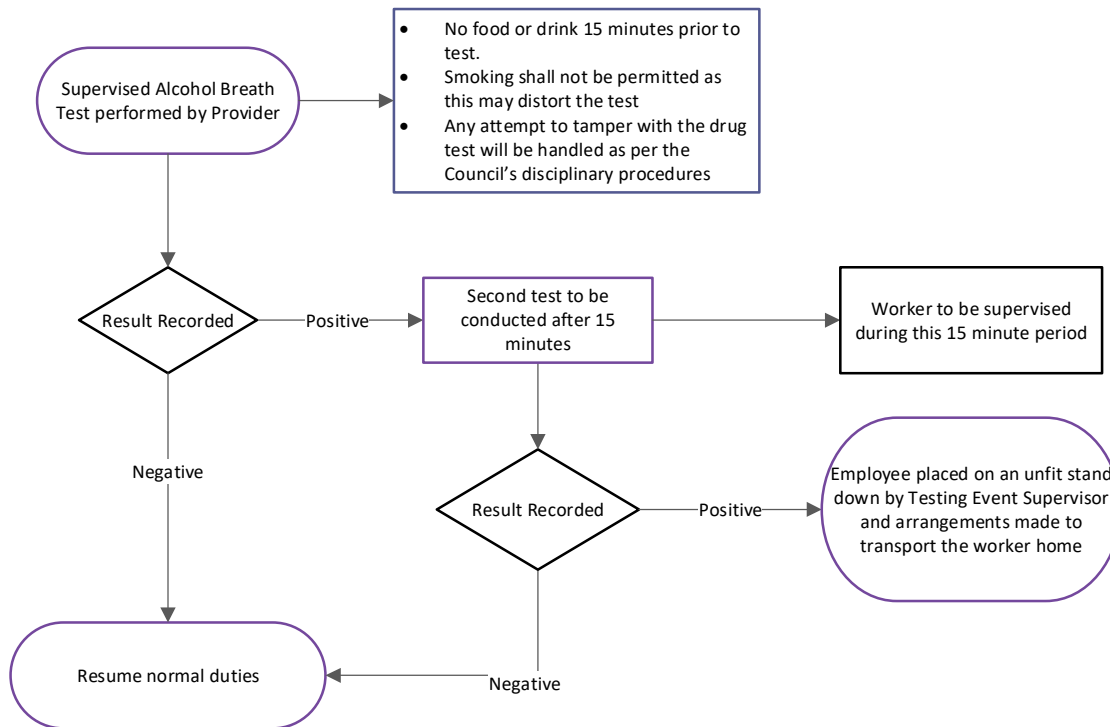
Workers identified to participate in alcohol testing will be required to carry out a supervised alcohol analysis test, using a calibrated breath testing device as per the current Australian Standard. The test will be administered by the authorised testing provider.

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

The testing result process is as follows;

1. Where a worker presents a negative result, the worker will be permitted to resume their normal duties.
2. If a positive result is registered, a subsequent test will be carried out 15 minutes after the first test.
3. During this 15-minute period, the worker is to be supervised continually by the testing event supervisor or authorised testing provider.
4. Workers with a second positive breath analysis test results will be presumed unfit for work and the testing event supervisor will place the employee on an unfit stand down.
5. Arrangements will then be made to transport the person to their home.

Alcohol Testing Process



5.5 Conducting the Test – Other Drugs

Workers identified to participate in a drug test will be required to undergo an oral swab test as per the current Australian Standard. The test will be administered by the accredited testing provider.

Any worker required to undertake drug testing should declare any medication taken immediately prior to the test being conducted to the testing provider. 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. Where practicable, the tester will provide a list of medications which may provide a false positive result.

The testing result process is as follows;

1. Where a worker presents a negative result, the worker will be permitted to resume their normal duties.
2. If the initial oral swab test produces a non-negative result a further sample of saliva will be collected by the provider, for laboratory confirmatory analysis.
3. Chain of custody procedures will be put in place by the provider to ensure the integrity of the sample from time of collection to receipt by the laboratory for analysis and reporting.
4. The testing event supervisor will explain the confirmatory testing process to the worker and place the worker with a non-negative result on an unfit stand down pending the confirmatory tests results.
5. Arrangements will then be made to transport the person to their home.

Prescribed medication

It is recognised that certain prescription medication may return positive results during testing. It is the responsibility for any worker to inform their People Leader if they are taking any prescription medication that may cause impairment whilst at work.

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.

An employee of Council is assessed as being unfit to continue in their normal role may be temporarily re-deployed into alternate suitable duties or required to use their accrued leave entitlements. Any other persons should be referred to their host employer until such time as they are fit to return to work.

If the person is assessed to be fit for work the person 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 heavy/mobile plant or work in their normal position, then arrangements will be made to transport the person to their home or a safe place.

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, 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.



Confirmatory Test is Positive and Consistent with Medication Declared

The accredited testing laboratory will forward all test results to the People & Culture team in writing, identifying the confirmatory test was positive but consistent with medication declared. The worker and their People Leader will then be advised of the outcome.

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 had been deemed unfit pending the confirmatory test results, the People & Culture team will contact them and in consultation with their People Leader will reassess their suitability for duties.

Confirmatory Test is Positive and Not Consistent with Medication Declared

The accredited testing laboratory will forward the results to the People & Culture team in writing identifying the confirmatory test was positive but inconsistent with the medication disclosed by the worker. The worker and their People Leader will then be advised of the result.

A letter of confirmation will be provided by Council to the employee confirming the test result and will set out a nominated time and date when the worker, a support person and their People Leader, will discuss the matter further. If the worker requests access to paid leave entitlements such as personal, annual or long service leave, it will be approved.

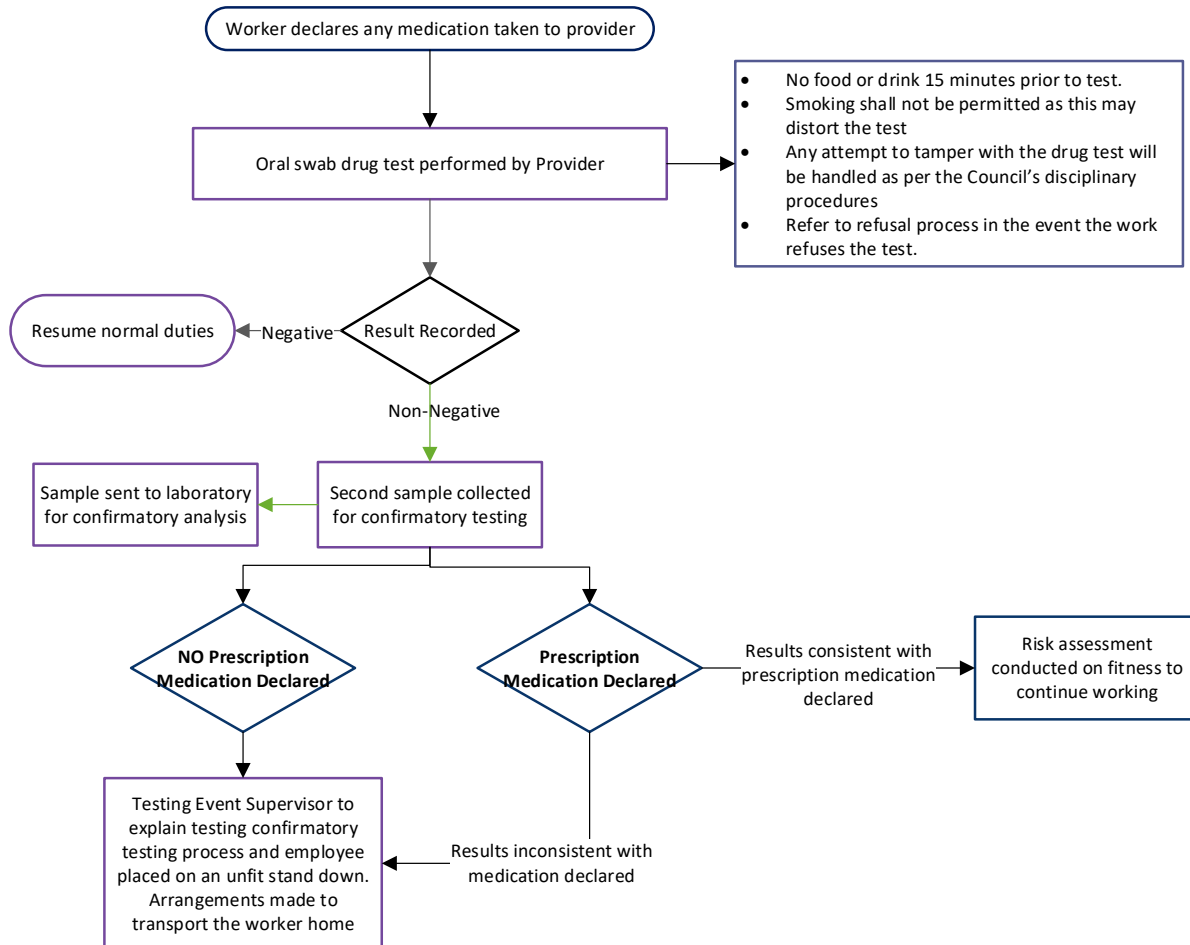
Confirmatory Test is Negative

The accredited testing laboratory will forward the results to the People & Culture team in writing who will then advise the worker and their People Leader that the confirmatory test result was negative.

If the worker has been placed on an unfit stand down pending the outcome of the confirmatory test, their People Leader will contact them to arrange the worker 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.

Other Drugs Testing Process



6. Test Refusal and Tampering of Tests

6.1 Refusal

A worker who refuses to undertake an initial and/or second test or intentionally leaves the workplace to avoid testing will be presumed to have recorded a positive result refusal.

The People Leader responsible for the testing event will use the following procedure if a worker refuses to take a drug or alcohol test:

1. The authorised testing provider will inform the worker who has refused the test, that the refusal means they will be deemed to be under the influence of alcohol and/or other drugs and the test result will be recorded as “Positive - Refused Test”.
2. If the worker still refuses, the authorised testing provider will notify the testing event supervisor of the refusal to take the test. After discussion between the testing event supervisor and the worker, the testing event supervisor will re-offer the test to the worker. The worker should be advised of the consequences and asked to provide a reason for refusal. This will be the second and final offer to be tested



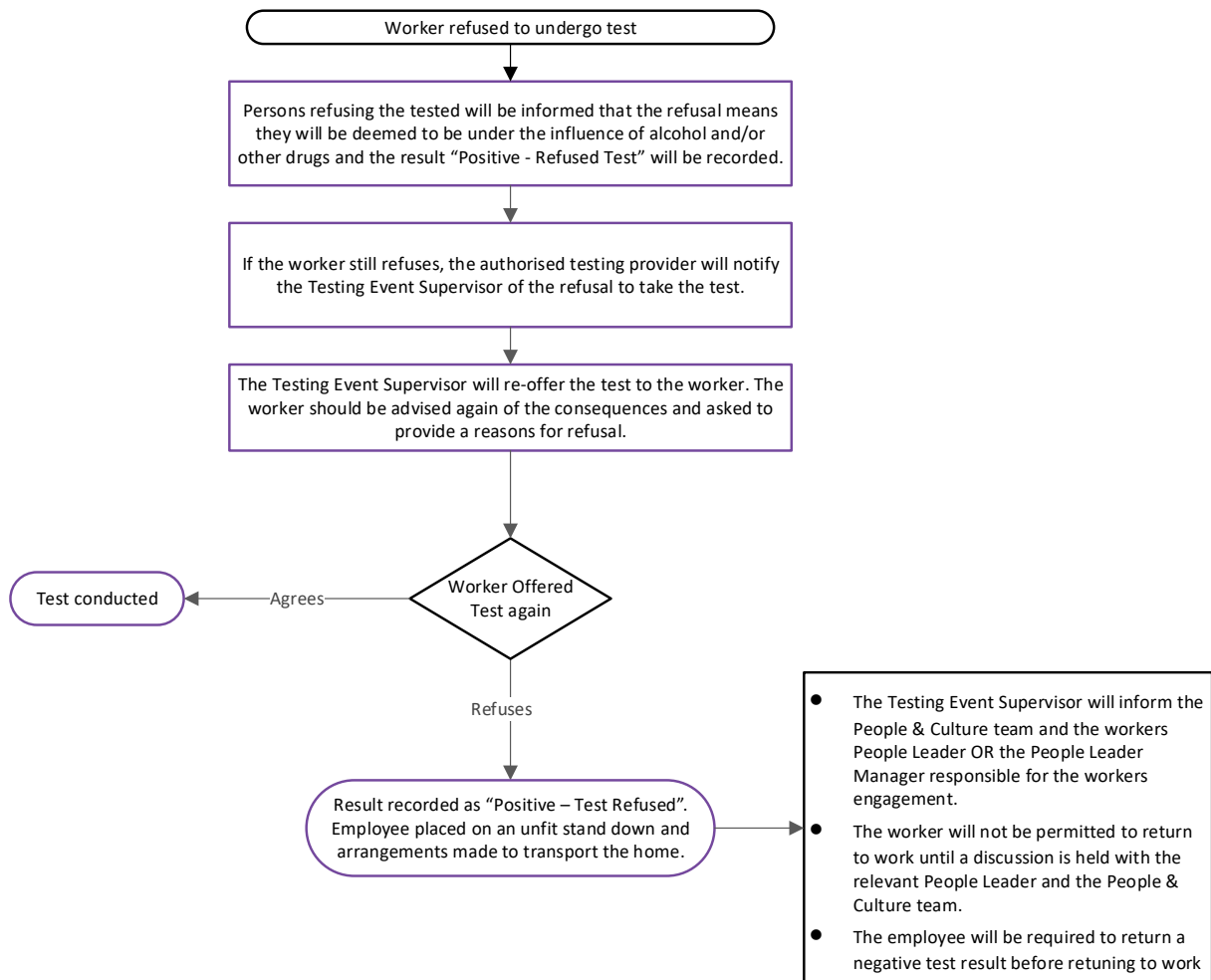
3. If the worker still refuses, the refusal will be recorded as 'Positive - Refused Test'. The testing event supervisor will place the worker on an unfit stand down and plan to transport the worker to their home or a safe place.
4. If the worker is an employee, the Testing Event Supervisor will inform the People & Culture team or for other workers the Testing Event Supervisor will notify the Council' representative responsible for the workers engagement and ensure all documentation is forwarded for recording and filing.
5. The worker will not be permitted to return to work until a discussion is held with the relevant People Leader and the HR Business Partner or their employing organisation and a negative test result is obtained.
6. The worker will be considered unfit for work until a negative test result is provided.
7. If an employee, the worker will be entitled to access their own personal leave entitlements if available. If not available, the employee will be placed on leave without pay.

6.2 Tampering

Any attempt to tamper with samples or introduce or alter the concentration of alcohol or other drugs in their own, or another's test sample, will constitute serious misconduct and will be managed in accordance with Council's policies, procedures and the Local Government (State) Award.

Appropriate methods may be used at the testing stage in the event that a sample appears to be suspicious to ensure the authenticity of the sample. Such methods will be used at the discretion of the authorised testing provider securing the sample.

Refusal To Undergo A Drug Or Alcohol Test Process



7. Procedure for Positive Results (Employees Only)

The People Leader will afford the employee procedural fairness and discuss the positive result with the person. The People Leader and HR Business Partner will provide an opportunity for the worker to provide any information or comments that may be a mitigating factor when considering the positive test result.

After consideration of this information the employee will be advised if they are required to participate in a targeted random testing process.

Before an employee returns to work, they will be required to provide a negative test result. Whilst this result is being achieved, the employee will be entitled to access their own accrued leave entitlements if available and if not, other available accrued leave entitlements.

Council may initiate disciplinary action in accordance with the counselling and disciplinary procedure, Local Government (State) Award or Code of Conduct

The People Leader, in consultation with the HR Business Partner, is accountable for monitoring the frequency of targeted random testing for a worker who provides a positive confirmatory result.

Targeted random testing will only be required:

- for alcohol or drugs where a positive result was recorded; or
- for drugs where the confirmatory result was not in accordance with declared prescribed medication levels.

8. Reportable Offences

It is an offence under the Road Transport Act 2013 (NSW) 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.

9. Dealing with Aggressive or Abusive Behaviour

If a worker displays aggressive or violent behaviour during any part of the testing process, the testing event supervisor should remain calm and not argue with or mirror the worker's behaviour.

Emphasis should be placed on assisting the worker to calm down. Discussion should avoid personal issues. The worker should be asked to comply with the management direction and be informed that they will have the opportunity to dispute the decision through the normal grievance process utilised by Council.

If the worker refuses to modify their behaviour, the worker should be advised that the discussion is terminated. 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. The worker may be asked to leave the workplace.

In the case of actual or apprehended violent behaviour, the worker is to be advised that the police will be called.

10. Reasonable Concern or Suspicion of Impairment

Where a People Leader who has been trained as a reasonable person suspects that a worker is under the influence or impaired by alcohol or other drugs, the reasonable person must confirm their suspicions with another reasonable person using the Reasonable Concern/Suspicion of Impairment Assessment.

Two responsible persons will conduct a Reasonable Concern/Suspicion of Impairment Assessment based on the Observation Checklist and is to be made in context of uncharacteristic changes to an employee's usual behaviour. The Observable Indicators of Impairment resource is to be used in conjunction with the Observation Checklist when considering reasonable concern due to suspected drug use.

The procedure is 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 reasonable suspicion assessment.



Where there is a concern or suspicion that a contractor, worker of contractors or volunteer is under the influence or impaired by alcohol and/or other drugs the same process of conducting a Reasonable Concern/Suspicion of Impairment Assessment will apply. If the worker is deemed not fit following the assessment the People Leader will contact the employer of the worker and advise the outcome of the assessment and request, they organise for testing. The worker will not be able to commence work for Council until the matter is resolved in accordance with this procedure.

10.1 When and how should this be used?

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 in this procedure.

If another worker is concerned that a person at a Council workplace is impaired, they should report their suspicion to their People Leader in the first instance. People Leaders are trained as responsible persons. The responsibility to make a formal assessment of a person's impairment remains with the responsible person/s.

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 this procedure) 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 People Leaders 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 (located in this procedure) 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 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.

10.2 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, if immediately available. 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. Judgemental or confrontational language is not to be used and debate is not to be entered into with the worker.

Reasonable persons will then contact the accredited testing provider to come to site and provide the worker with a reasonable and lawful direction to undertake a reasonable suspicion alcohol and/or other drug test in accordance with the Determination (or WHS Policy for non-employees) and this procedure. The worker is to remain in a private location at the Council Workplace until the accredited testing provider arrives.

10.3 Mitigating factors

Mitigating factors are to be taken into consideration. The worker is to be given an opportunity to explain their behaviour. A worker 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 procedure.

Mitigating factors include, but are 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. Responsible persons should refer to the Determination and Guideline for management of workers impacted by prescriptions medication. At all times, the responsible persons must ensure they are preserving the health and safety of the worker and other workers in the workplace. Any worker identified as impaired under this procedure is to be reminded that any impairment is a safety risk and that they should not present for work impaired.

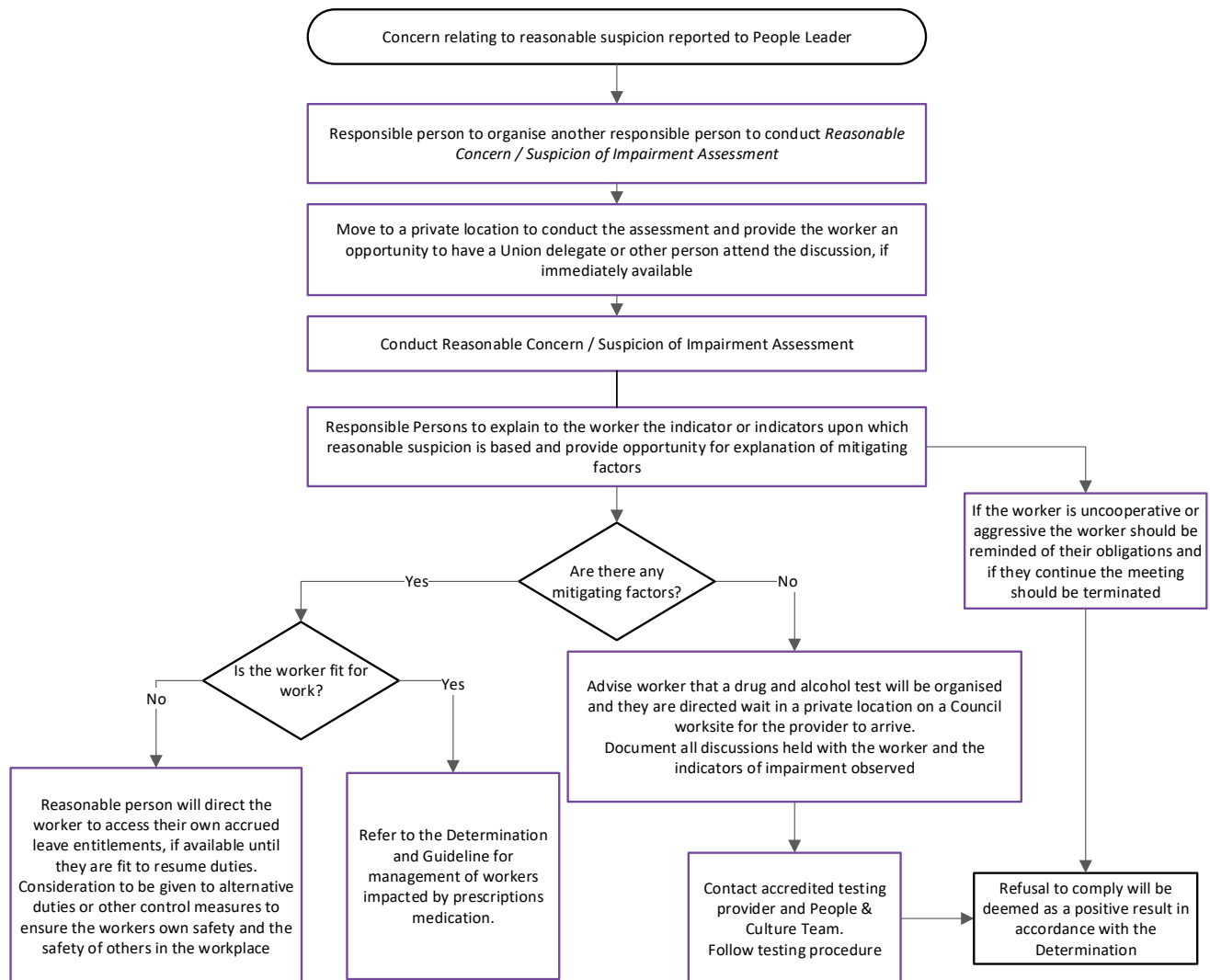
If a worker is taking prescribed or over the counter medication, the worker is encouraged to notify their People Leader in advance. Repeated failure to notify may result in a breach of the Determination being recorded and further disciplinary action taken.

Where the responsible persons assess that the worker is not fit to continue working due to mitigating factors as a result of the reasonable suspicion assessment, they will:

- Direct the worker to access their own personal leave entitlements if available and if not, other available accrued leave entitlements 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.



Reasonable Suspicion Process





11. Appendix

Reasonable Concern/Suspicion of Impairment 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. The assessment should be conducted in a private location away from other workers.

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.

Observable Indicators of Impairment Checklist			
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			
Emotional Effect (Not a basis for reasonable suspicion)	Observed		

ALCOHOL & OTHER DRUGS PROCEDURE



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: <input type="checkbox"/> Nil <input type="checkbox"/> Slight <input type="checkbox"/> Strong
Skin	<input type="checkbox"/> Sweating/hot and cold flushes
Eyes	<input type="checkbox"/> Reddened or bloodshot
Speech	<input type="checkbox"/> Normal <input type="checkbox"/> Disjointed <input type="checkbox"/> Slurred <input type="checkbox"/> Confused <input type="checkbox"/> Fast <input type="checkbox"/> Slow
Balance	<input type="checkbox"/> Unsteady <input type="checkbox"/> Swaying <input type="checkbox"/> Slumping <input type="checkbox"/> Falling
Questions	
The below are questions to ask the worker you are conducting the Reasonable Concern/Suspicion of Impairment Assessment.	
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?	
Reasonable Concern/Suspicion of Impairment Assessment Result	
<input type="checkbox"/>	No testing required (alternate action if applicable – note in comments section)
<input type="checkbox"/>	Testing required – at least one (1) physical indicator in evidence
<input type="checkbox"/>	Both Responsible Persons agree: Yes / No
Comments	

ALCOHOL & OTHER DRUGS PROCEDURE



(including mitigating factors noted or explained by the person, emotional factors identified (refer to observable indicators of impairment), further actions to be taken etc.):		
Acknowledgement		
Signature of Person being assessed:		Date: / /
Signature of Responsible Person 1:		Date: / /
Signature of Responsible Person 2:		Date: / /
Signature of attending representative (if attended):		Date: / /

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 mood (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