

8.17 Fit for Work Policy

The service believes that the safety of employees at work and any persons involved within the service (including children) is of paramount importance. In order to ensure the health and safety of all individuals associated with its operations, the service will take all reasonable steps to ensure that employees are in a fit and competent state to work safely.



Relevant Laws and other Provisions

The laws and other provisions affecting this policy include:

- *Education and Care Services National Law Act, 2010 and Regulations 2011*
- *Work Health and Safety Act 2011*
- *Duty of Care*
- *National Quality Standard, Quality Area 4 – Staffing Arrangements; 7.2 Effective leadership builds and promotes a positive organizational culture and professional learning community*
- *Policies: 4.4 – Preventative Health and Wellbeing, 8.1 – Role and Expectations of Educators, 8.3 – Recruitment and Employment of Educators, 8.10 – Employee Orientation and Induction, 8.13 – Employee Health, 10.8 – Information Handling (Privacy and Confidentiality).*



Procedures

****PLEASE NOTE**** some content of this policy has been adapted from the Australian Children's Services Employers Association (ACSEA) as best practice.

Interpretation

'Fit for Work': an employee is fit for work if they:

- Have a blood alcohol level of 0.00 and test negative for drug use; and
- Are physically able to carry out their duties, as per their job description.

'On duty': An employee is on duty at any time they are undertaking the duties and responsibilities associated with their contract of employment.

Responsibilities

The Approved Provider/Coordinator/Responsible Person will:

- Be responsible for assessing the fitness for work of employees under their control, while they are on duty;
- Immediately stand down any employee suspected to be under the influence of alcohol or other drugs; and/or
- Consider light duty options and/or stand down any employee who is not physically fit and capable of performing their duties.

Any such employee must not return to work until they can demonstrate they are fit to work.

Each employee will:

- Ensure that they are not in an unfit state for any reason, including physical limitations and/or under the adverse effects of alcohol or other drugs;
- Notify the Coordinator/Responsible Person of any concerns that their fitness for work may be impaired;
- Ensure that any prescription or non-prescription medication is taken safely and in accordance with the requirements as listed further in this policy; and

- Notify the Coordinator/Responsible Person, or other responsible person, of any situation in which this policy has been breached, including;
 - Any situation in which other individuals are believed to be unfit for work;
 - The unauthorised possession or consumption of alcohol or other drugs on site or during work; and
 - Any other apparent breach of this policy.

All disclosed information will be dealt with in strict confidence. Employees should also be aware that rights to workers compensation or a common law claim may be affected if they are involved in a work-related accident while under the influence of alcohol or drugs.

Alcohol

An employee must not be under the influence of or be affected by alcohol while on duty. This means that all employees are expected to always have a 0.00 blood alcohol content and they are required to undertake the duties and responsibilities associated with their contract of employment.

If any employee becomes aware of behaviours from which they might draw the conclusion that another employee is intoxicated, the Coordinator/Responsible Person or approved provider **MUST** be contacted immediately. Such behaviours may include, but not be limited to:

- Slurred or impaired speech;
- Being aggressive in manner;
- Staggered, jerky movements, could seem uncoordinated;
- Heavy eyes and/ and/or
- Dull, tired appearance

If the above concerns are raised regarding an , the Approved Provider may request a blood alcohol test, at the management expense. If the employee's blood alcohol content is higher than 0.00, they will be considered unfit for work immediately.

For the employee to return to work, the Approved Provider/Coordinator must be satisfied that they are fit for work and that they have a blood alcohol content of 0.00. Proof of which may include the undergoing of another blood alcohol test, at the employee's expense.

An employee is prohibited from operating any machinery or equipment, including any motor vehicle, if they are under the influence of alcohol.

Alcohol must not be consumed anywhere on the grounds of the service, during work. There may be occasions when alcohol may be consumed as part of a work function, or another recognised work event. Where the consumption of alcohol has been properly approved, employees must continue to act in a sensible and responsible manner and with due care for their own and other people's safety and wellbeing. Failure to act in a sensible and responsible manner or to follow any directions with regards to the consumption of alcohol may result in disciplinary action as listed further in this policy.

The unauthorised possession or consumption of alcohol at the workplace will result in disciplinary action as listed further in this policy.

Drugs

Employees must not consume or be under the influence of any unlawful drug anywhere on the service premises or grounds or while on duty.

If any employee becomes aware of behaviours from which they might draw the conclusion that another employee is under the influence of drugs, the Coordinator/Responsible Person or Approved Provider must be contacted immediately.

If concerns of this nature are raised regarding an employee, the Approved Provider may request a drug test, at management's expense. This means that employees are expected to return a negative urine test for the following substances:

- Amphetamines;
- Cannabinoids/THC/Marijuana;

- Opiates/Barbiturates;
- Benzodiazepines;
- Cocaine/Methadone; or
- LSD.

If an employee tests positive for any other substance, the Approved Provider may obtain relevant expert advice to determine whether the employee will be considered fit for work.

If an employee tests positive for drugs they will be considered unfit for work immediately. For the employee to return to work, the Approved Provider must be satisfied that they are fit for work. Proof of which may include the undergoing of another urine drug test, at the employee's expense.

An employee must not cultivate, sell or have in their possession or control any unlawful drug or drug taking implement anywhere on the education and care service premises or grounds or while on duty.

If the Approved Provider becomes aware that you have, or have had, in your possession or control, or are cultivating or supplying unlawful drugs or drug taking implements, whether for profit or otherwise on the service premises or grounds or while on duty, they will notify the police and actively assist them in their enquiries.

Any drugs prescribed by a medical practitioner must be used in accordance with medical advice. Any non-prescription drugs must be used in accordance with manufacturers' recommendations. If an employee is taking prescription or non-prescription drugs, which could cause drowsiness or otherwise affect their fitness for work, they must advise the Coordinator so that their ability to work safely can be monitored. If necessary, a medical opinion may be obtained.

The unauthorised possession or consumption of illegal drugs at the workplace will result in termination of employment.

Alcohol and Drug Testing Requirements

Testing may be carried out when/where:

- An employee is involved in an incident or accident;
- An employee displays:
 - Unsafe behavior;
 - Causes injury to any other person;
 - Commits an act of negligence or carelessness; and/or
 - Shows disregard for safety.
- There is reason to believe that an employee is affected by alcohol or drugs; and/or
- Evidence of alcohol or drug use at the workplace is discovered and the employee or employees concerned can be identified with reasonable certainty.

An employee who does not co-operate fully with the administration of an alcohol or drug test without a legitimate reason will not be able to return to work until they have co-operated and provided a breath and/or urine sample for analysis.

Employees who refuse will be required to take unpaid leave until they co-operate. Refusal to co-operate will result in disciplinary action.

Interference with testing – the actual or attempted adulteration, substitution or other interference by a person with a test sample or result, will result in disciplinary action which may include termination of employment.

Disciplinary Procedures

The Approved Provider may take the following disciplinary action where an employee is found to be under the influence of alcohol or other drug;

- Immediate termination;
- Final warning; and/or

- Warning.

The appropriate disciplinary action will depend on the individual circumstances of each matter. In making any decisions, the Approved Provider will take into account factors including, but not limited to:

- The seriousness of the employee's behavior;
- The risk posed to the safety of employees and others; and
- Any previous breaches of this policy.

An employee who receives a warning will be counseled by the Approved Provider regarding:

- The 'Fit for Work Policy' and the obligations and responsibilities under it;
- The serious and unacceptable nature of the person's behavior;
- The risk posed for the safety of the employee and others;
- The employee's responsibility to demonstrate that the problem has been effectively addressed;
- The consequences for future breaches of this policy; and
- The reasons why the person has used alcohol or other drugs to the extent that they are in an unfit state.

The employees will be advised that they may be monitored for a period to ensure that the problem has been addressed and that during this period they may be subject to periodic alcohol and drug testing.

The employee will receive a written warning which will reflect the key points covered in this process. A copy of this will be placed on their personnel file.

Employees will not be paid for the period during which they are unfit for work.

An employee who receives a final written warning will be counselled by the Approved Provider as set out above and will be required to demonstrate that the threat to work performance and/or safety has been effectively addressed before they are permitted to return to work.

The final written warning will have the effect that any further breaches of this policy may result in termination of their employment. A copy of the warning will be placed on their personnel file.

Fatigue

Work-related fatigue may arise from situations requiring concentration for extended periods during work hours, working in extreme temperatures or working in high-risk situations.

Non-work-related fatigue is generally the result of poor quality or inadequate sleep, which may be caused by many reasons, including sleep disruption, ill family members, distress, domestic responsibilities or a second job.

The coordinator is responsible for ensuring roster cycles are monitored and reviewed to address the potential for fatigue, especially among employees engaged in split shifts and/or potentially hazardous activities.

The coordinator is responsible for ensuring shift lengths are monitored to prevent excessive time working. Provision will be made on all shifts for appropriate rest breaks during and between shifts to ensure that employees have adequate opportunity for rest.

The coordinator will take all practical steps to assess and manage the work environment to minimise the impact of fatigue.

The service will provide appropriate information and education on the causes and management of fatigue and will arrange for all individuals to be made aware of their responsibility to prevent impairment of their fitness for work through fatigue.

Physical Ability

The Coordinator/Responsible Person is responsible for ensuring that all employees are fit and able to perform their duties, when arriving for their shift.

To be considered physically capable of performing their duties, the employee must be able to move about freely, particularly in the case of emergency or risk of harm to others.

As per their job description, the employee must be able to interact with the children and actively contribute to the activities, experiences and routines of the service. This may include physical activities such as walking, running, standing, crouching and kneeling.

Confidentiality

Confidentiality is vital in promoting the effectiveness of this policy and all reasonable efforts, consistent with safety, legal requirements, and common sense, must be made to maintain an individual's privacy.

Information relating to an employee's fitness for work must be transmitted, used and stored confidentially in accordance with the Information Handling Policy (policy 10.8).

The disclosure of confidential information may be required to those persons who have a legitimate 'need to know'. Typically, this will be only to those people who have a responsibility for ensuring the employees' safety and performance. Disclosure will be limited to the information necessary to address the situation. The Approved Provider/Coordinator will inform the employee as to:

- The reason or need for disclosure;
- To whom the disclosure will or has been made; and
- The extent of information that will or has been disclosed.

References

(ACSEA, 2006)

<http://acsea.org/media/Documents/employment%20documents/fitness%20for%20work%20policy.pdf>

DATE DEVELOPED	DATE RATIFIED	DATE REVIEWED	DATE RATIFIED
August 2018	August 2018	23.06.2021	October 2021
		09.04.2024	April 2024