

Management of Workers with Drug and Alcohol Issues

Policy Number 3.115

Policy Function Human Resources

Issue Date 2 May 2022

Summary This policy provides the standards expected of workers and managers in relation to the use of alcohol and other drugs which may affect a worker's performance or conduct whilst on duty.

Responsible Officer Executive Director Corporate Services

Applicable Sites

- Administration Centres
- Community Sites (eg Court Liaison Service, Community Integration Team, etc)
- Health Centres (Adult Correctional Centres or Police Cells)
- Health Centres (Juvenile Justice Centres)
- Long Bay Hospital
- The Forensic Hospital

Previous Issue(s) Policy 3.115 (April 2016, May 2012, April 2009)

Change Summary

- Updated Justice Health and Forensic Mental Health Network (the Network) references
- Updated policy references
- Updated hyperlinks

TRIM Reference POLJH/3115

Authorised by Chief Executive Justice Health and Forensic Mental Health Network

1. Preface

The misuse of alcohol and other drugs represents a significant issue as the consumption of such substances can affect a workers work performance and jeopardise the safety and welfare of patients, the worker and their colleagues.

Justice Health and Forensic Mental Health Network (the Network) has a responsibility under the [Work Health and Safety Act 2011](#) to ensure the health and safety of workers and workplaces by protecting workers against harm through the elimination or minimisation of risks arising at work.

The Network is committed to ensuring that workers maintain the highest standards of professional conduct and service to the community and, as such, recognises the importance of ensuring that all workers undertake their duties in a professional manner free from the influence of alcohol and other drugs. The Network does not accept alcohol or drug abuse as an excuse for inappropriate behaviour or substandard performance, and is committed to assist staff who develop drug and alcohol issues through appropriate rehabilitation and support programs as far as is reasonably possible.

2. Policy Statement

2.1 Mandatory Requirements

2.1.1 Chief Executive, Managers and Registered Health Practitioners

The Chief Executive (CE) and registered health practitioners have an obligation to notify the relevant National Board if they form a reasonable belief that another registered health practitioner has behaved in a way that constitutes notifiable conduct. Managers must refer to Network procedure [Managing Complaints and Concerns about Clinicians](#) for procedures on reporting professional misconduct or unsatisfactory professional conduct to the CE and relevant registration boards.

In accordance with the [Health Practitioner Regulation National Law \(NSW\)](#), notifiable conduct in relation to a registered health practitioner includes instances when a practitioner has:

- Practised the profession while intoxicated by alcohol or drugs;
- Placed the public at risk of substantial harm in their practice because they have an impairment; or
- Placed the public at risk of harm during their practice because of a significant departure from acceptable professional standards.

2.1.2 Workers

The Network recognises that the consumption of alcohol and other drugs may be associated with emotional, physiological or psychological factors including grief or bereavement, trauma, personal or family crises or health concerns. This policy must therefore be applied with due regard for the need to maintain confidentiality and respect for the rights of workers who may have a physical or psychological condition associated with alcohol and/or drug use.

In accordance with the acceptable standard of behaviour outlined in the Network and Ministry of Health Codes of Conduct, workers must:

- Not attend or resume work if impaired by alcohol or other drugs as this may affect their own safety or the safety of other persons in the workplace.
- Not consume alcohol on work premises during working hours without prior approval from the Chief Executive. If approved, workers must not attend or resume work if impaired by alcohol.
- Not be in possession of any non-prescribed pharmaceutical drugs in any Network workplace.
- Notify their manager if work performance or conduct could be adversely affected, or if there is a risk to the safety of themselves or other workers as a result of the effect of a prescribed or non-prescribed drug.

Where a risk of harm to the health, safety or welfare of a worker has been identified due to the reasonably suspected or known misuse or abuse of alcohol or other drugs, managers must ensure such risks are minimised or eliminated in accordance with the attached procedures and relevant work health and safety policies. This includes receiving appropriate assistance and support in order to attain an acceptable standard of work performance and conduct. Appropriate assistance may include participation in counselling, treatment or rehabilitation programs. Managers may contact the Human Resources Manager for further advice.

The Network reserves the right to implement performance management programs, counselling and/or disciplinary action in respect of any worker in breach of this policy. Disciplinary action must be managed in accordance with Ministry of Health (MoH) Policy Directive [PD2018_031](#) *Managing Misconduct*.

Evidence of possible criminal activity involving the use of illegal drugs must be reported to the CE who will report the matter to NSW Police.

Confidentiality Requirements

Confidentiality is fundamental in dealing with issues in the workplace that are related to the misuse or abuse of alcohol and other drugs in order to both protect the privacy of workers and to encourage worker acceptance of prevention and treatment measures. Subject to mandatory reporting requirements under section 2.1, the following should be noted:

- Meetings relating to work performance, conduct or the misuse of alcohol or other drugs must be conducted in private.
- When a worker seeks counselling or treatment in their own time, a worker may inform their line manager of the appointment(s) at their discretion.

Circumstances in which confidential information may be disclosed are described further in MoH Policy Directive [PD2016_045](#) *Employee Assistance Programs*.

Documentation Requirements

Documents generated through the implementation of this policy must be captured, managed and disposed of in accordance with Network policy [2.014](#) *Corporate Records Management*. Documents relating to individual workers are confidential and must be captured in the workers personnel file in TRIM with the appropriate security access applied.

2.2 Implementation – Roles and Responsibilities

Managers are responsible for:

- Implementing this policy in an impartial and objective manner.
- Ensuring workers are informed of expected work performance and attendance.
- Providing a copy of this policy and related policies and procedures to a worker where the misuse or abuse of alcohol or other drugs is known or reasonably suspected and affects the work performance of the worker or attendance and the safety of any other workers.
- Encouraging workers to seek assistance for issues related to the misuse or abuse of alcohol or other drugs.
- Monitoring, discussing and documenting adverse changes in work performance and attendance patterns with the worker.
- Initiating disciplinary action for non-compliance with the policy if performance counselling and/or rehabilitation measures have failed to address ongoing issues.
- Reporting the matter to the [Australian Health Practitioner Regulation Agency](#) (AHPRA) where necessary.
- Ensuring any worker that has been reported to AHPRA for misuse or abuse of alcohol or other drugs cannot access S4D or S8 medications unless they are appropriately supervised.

Workers are responsible for:

- Consulting their manager if they are concerned about working with other workers because of a perceived safety risk due to alcohol or drug related issues.
- Ensuring they are aware of Work Health & Safety requirements outlined in Network policy [5.110 Work Health & Safety](#).
- Being alert to the risks to safety that could be caused in the workplace by the consumption of alcohol and other drugs.
- Taking action, where relevant, to resolve their own alcohol or other drug-related issues.

Human Resources Manager is responsible for:

- Providing procedural advice on implementing this policy.
- Providing support to workers around performance development and review.
- Providing information regarding the [Employee Assistance Program](#) and arranging referrals.

3. Procedure Content

Managers have first line responsibility for dealing with situations in which the performance or judgement of a worker appears to be affected by the use of alcohol or other drugs. Where a manager becomes aware of a situation in which a workers judgement or performance, including conduct, appears to be affected by alcohol or other drugs, the manager should implement the actions as described in Steps 1, 2 and 3 below.

These procedures do not apply where there is a reasonable belief that a registered health practitioner has behaved in a way that constitutes notifiable conduct under the [Health Practitioner Regulation National Law \(NSW\)](#). For procedures on reporting notifiable conduct, refer to Network procedure [Managing Complaints and Concerns about Clinicians](#).

Step 1 - Discuss the Concerns

Clearly inform and discuss with workers what is expected of them in terms of work performance and standards. This discussion should include reference to productivity, outcomes, deadlines, professional behaviour and conduct, safety, attendance etc and managers should:

- Keep the focus on the workplace and the work performance;
- Be objective when discussing a workers work performance issues;
- Discuss alcohol or other drug consumption only as it affects work performance;
- Avoid becoming involved in any arrangement which might objectively be viewed as concealing the misuse of alcohol or other drugs in the workplace by a worker; and
- Arrange alternative work or suggest appropriate leave if a worker indicates that they are taking prescription or medical advised non-prescription drugs which may affect work performance.

Step 2 - Action in the Event of Risk to Safety/Welfare

If a worker is considered by their manager to be under the influence of drugs or alcohol and it is considered that the worker could jeopardise their safety and/or welfare and the safety and/or welfare of others, the manager must ensure that the worker is taken off duty and referred to the appropriate Senior Manager or Director for determination of further action.

In such circumstances, the manager must make a record of the action taken and forward a copy of this record to Human Resources who may initiate appropriate action.

When a manager takes action under this policy, the manager must:

- Document the incident;
- Interview the worker at the earliest appropriate time to inform the worker of the concern and enable the worker to respond;
- Respect any requests from the worker to see a counsellor; and
- Refer a copy of all papers generated, including a summary of action taken/proposed, to the Manager Human Resources.

Managers may need to consider appropriate workplace adjustments to support the rehabilitation of affected workers in conjunction with the Human Resources Manager. Such adjustments to work arrangements might include measures such as:

- A temporary transfer to an alternative role;
- Flexible leave arrangements, as appropriate, to enable workers to return to full time work gradually; and
- Where appropriate, counselling of co-workers regarding the workers changed work arrangements.

Step 3 - Management of Performance/Conduct Issues

Where a manager has taken action as set out above, the manager has primary responsibility to ensure that the worker does not subsequently undertake duty whilst under the influence of alcohol or other drugs. This responsibility requires the manager to:

- Discuss proposals for monitoring work performance with the worker;
- Set reasonable objectives/goals with the worker for sustained improvement in work performance, eg improved attendance, workplace relationships, attitudes to work, increased productivity (meeting deadlines/quality of work);
- Provide prompt and constructive feedback on work performance; and
- Negotiate a formal work performance agreement with the worker.

The manager should be alert to any changes in the worker's work performance and attendance patterns including habitual long lunch hours, frequent work breaks, changes in sick leave patterns and punctuality.

For additional support at any time after identifying that a worker's performance is affected by alcohol or other drugs, the manager should consider referral of the worker to a professional counsellor for specialist advice and assistance. This should be done only in consultation with the Human Resources Manager or Senior Industrial Relations Consultant. When suggesting referral the manager should:

- Clearly communicate the work performance expectations to the worker and specify the areas in which the worker has failed to meet the required standard;
- Explain that the Employee Assistance Program is available to help deal with personal and work related issues;
- Emphasise that participation in the programme is completely confidential and that participation is voluntary; and
- Where a worker agrees to attend counselling through the Employee Assistance Program, provide the worker with Network policy [3.045 Employee Assistance Program](#).

If the work performance or conduct of a worker undergoing rehabilitation resulting from the misuse or abuse of alcohol or other drugs fails to improve to an acceptable standard or if the performance management program implemented for the worker fails to achieve planned outcomes, consideration may be given to disciplinary action. Disciplinary action should only be initiated as a last resort in such circumstances and must be in accordance with MoH [PD2018_031 Managing Misconduct](#).

In summary, the potential consequences of unlawful, excessive or irresponsible use of alcohol or other drugs for staff may include:

- Direction to attend an independent medical examination to be assessed for fitness for duty; and/or
- Direction to undertake assessment or counselling; and/or
- An official warning, caution, suspension, dismissal or other disciplinary action under MoH [PD2018_031 Managing Misconduct](#) policy; and/or
- Referral to police.

4. Performance/Audit Criteria

This policy must be audited in accordance with [PD2016_17 Work Health and Safety Audits](#) and reviewed in accordance with Network Policy [2.135 Policy Framework and Procedures](#). This policy must be reviewed every three (3) years as a minimum.

5. Definitions

The following definitions apply for the purposes of this policy:

Alcohol and Other Drugs

Refers to alcohol, alcohol based products, illegal drugs, and medically prescribed and non-prescribed substances which may adversely affect a worker's work performance or conduct in the workplace.

Manager

Any person occupying a supervisory role or a position which is directly or indirectly responsible for the supervision and management of a worker.

Risk

The possibility that harm (death, injury or illness) might occur when exposed to a hazard.

Worker

A person is a worker if the person carries out work in any capacity for a person conducting a business or undertaking. This includes employees, independent contractors, outworkers, apprentices, trainees, students on work experience and volunteers.

Workplace

Anywhere that people work, including land or buildings; vehicles, vessels or aircraft; installations on land or water; tents, or other moveable structures.

5. Legislation and Related Documents

Legislation

[Health Practitioner Regulation National Law \(NSW\)](#)

[Work Health & Safety Act 2011](#)

[Workers Compensation Act 1987](#)

[Workplace Injury Management and Workers Compensation Act 1998](#)

Network Policies and Procedures

[2.010 Code of Conduct](#)

[2.014 Corporate Records Management](#)

[3.045 Employee Assistance Program](#)

[5.110 Work Health & Safety](#)

[Managing Complaints and Concerns about Clinicians](#)

[Staff Health and Wellbeing Portal](#)

NSW MoH Policy Directives
and Guidelines

[PD2016_046](#) *Resolving Workplace Grievances*

[PD2016_045](#) *Employee Assistance Programs*

[PD2018_031](#) *Managing Misconduct*

[PD2015_049](#) *NSW Health Code of Conduct*

NSW Department of Premier
and Cabinet Procedures

[Procedures for Managing Non-Work Related
Injuries or Health Conditions](#)

SafeWork NSW Code of
Practice

[SafeWork NSW Code of Practice: Work,
Health and Safety Consultation, Co-operation
and Co-ordination](#)

[SafeWork NSW Code of Practice: How to
Manage Work, Health and Safety risks](#)