

# ALCOHOL AND OTHER DRUGS POLICY AND PROCEDURES

## Contents

<b>POLICY</b> .....	<b>2</b>
1. Purpose.....	2
2. Objective.....	2
3. Application of this policy .....	2
4. Policy statements.....	2
<b>PROCEDURES</b> .....	<b>3</b>
1. Prevention.....	3
2. Managing the misuse of alcohol and other drugs in the workplace.....	3
3. Responsibility of Commission officers.....	4
4. Reporting .....	4
5. Assessment .....	4
6. Follow up actions .....	5
7. Investigation resolution .....	6
8. Appeals .....	7
9. Disciplinary procedures.....	7
10. Review.....	7
Version control .....	8
Publication information.....	8

## POLICY

### 1. Purpose

The NSW Crime Commission (the Commission) is committed to a safe, healthy and productive workplace and takes seriously its commitment to the *Work Health and Safety Act 2011*. The Commission, as an employer, has a statutory obligation to provide a safe work environment, including safe systems of work and adequate information, instruction, training and supervision necessary to ensure the health, safety and welfare of Commission officers in the workplace.

### 2. Objective

To set out guidelines surrounding the use and misuse of alcohol, tobacco, prohibited drugs and other medications.

### 3. Application of this policy

This policy and accompanying procedures apply to every Commission officer, defined in the *Crime Commission Act 2012* to include the Commissioner, an Assistant Commissioner, a member of staff of the Commission, including a person engaged by the Commission as a consultant under subsection 74 (2) and a police officer arranged under subsection 74 (4).

It applies both in work time and in personal time where the misuse of alcohol or other drugs directly impacts the officer's performance, safety and/or behaviours at work. For the purposes of this policy, "work" and "workplace" means all locations at which Commission officers perform their duties and are considered to be on duty.

### 4. Policy statements

The misuse of alcohol and other drugs may affect a Commission officer's ability to perform their duties effectively or safely. The inappropriate use of alcohol and other drugs in the workplace is prohibited. "Misuse" and "inappropriate use" are the extent to which the user is under the influence of alcohol or other drugs in the workplace and may be at risk of psychological, social, occupational, legal and/or physical problems.

Officers of the Commission shall at all times exhibit the highest standards of ethical behaviour in relation to alcohol and other drugs and shall refrain from misusing alcohol and prescription drugs in a manner that would impact their ability to perform their duties or the reputation of the Commission.

#### 4.1 Prohibited Drugs

It is a criminal offence to possess, distribute or use prohibited drugs. Unless permitted for operational purposes, Commission officers must abstain from any involvement or contact with prohibited drugs, whether on or off duty. If you are under investigation for, charged with or convicted of any offence, you must report it to your manager or supervisor without delay.

#### 4.2 Alcohol

Commission officers have an obligation to ensure that their personal use of alcohol does not adversely affect the performance of their duties, the safety of themselves or others or the reputation of the Commission.

Alcohol must not be consumed while performing Commission duties. The consumption of alcohol is also discouraged during lunch breaks. An officer will not be permitted to perform his or her duties or use Commission equipment if their supervisor considers that they are unable to do so diligently and safely. As a guide, an officer should never perform their duties with a prescribed concentration of alcohol of 0.05 or higher.

A zero blood alcohol level is required for any officer driving a Commission vehicle or any vehicle whilst on Commission business, including hire cars. An officer may not drive any vehicle deemed to be a Commission vehicle for the rest of the day after consuming alcohol.

While there are instances where limited consumption of alcohol may be socially acceptable, such as at the Commission Christmas party, common sense and restraint are necessary at all times to protect the Commission's interests and the health, safety and wellbeing of all Commission officers.

#### **4.3 Tobacco and smoking**

Smoking is prohibited in all Commission buildings, vehicles and facilities.

Smoking breaks are not recognised. Meal breaks may be used for this purpose in suitable locations away from the entrance to Commission workplaces. The time spent travelling to and from these locations is considered part of any authorised break and non-work time.

#### **4.4 Prescription medications**

If you are taking prescription medications that may affect your behaviour or work performance, you should advise your supervisor so that the condition can be appropriately managed while you are at work.

If you have an allergy or medical condition that may require the urgent administration of medication, you should inform your manager/supervisor and make suitable arrangements so that your colleagues are prepared to act in order to ensure your safety.

## **PROCEDURES**

### **1. Prevention**

As an employer, the Commission accepts responsibility for promoting and encouraging a workplace culture that supports sobriety and discourages the misuse of alcohol and other drugs.

The Commission may provide such training as to educate and remind Commission officers of their obligations under the Code of Conduct and this policy regarding the misuse of alcohol and other drugs.

### **2. Managing the misuse of alcohol and other drugs in the workplace**

In dealing with the potential effects of the misuse of alcohol and other drugs in the workplace, the Commission will treat those affected with integrity, honesty and fairness.

All information relating to the alleged misuse of alcohol and other drugs in the workplace will be treated confidentially. Only those directly involved and those attempting to resolve the matter will have access to the information. Only those documents that relate to disciplinary action, if any, resulting from the investigation will be placed on the officer's personnel file.

The Commission is aware that the misuse of alcohol and other drugs may be due to an illness. The particular stresses of the Commission's work may also contribute to the misuse of alcohol and other drugs. Wherever appropriate, the investigation of allegations made under this policy will be dealt with sympathetically and impartially. All officers directly impacted will be given an opportunity to present their case.

It is the responsibility of senior management to ensure that no one directly involved in an investigation under this policy is subject to any unfair repercussions, harassment or victimisation.

This includes those who are subject of the investigation, those who are witnesses assisting the investigation and those who are conducting the investigation.

Investigations resulting from this policy are to be managed in a timely and professional manner. Where possible, such investigations should be finalised within a four week period.

### **3. Responsibility of Commission officers**

Commission officers are responsible for ensuring that they do not misuse alcohol and other drugs, and by doing so potentially:

- endanger or potentially endanger their own safety or that of other Commission officers;
- damage or contribute to the damage of any Commission property;

Commission officers are responsible for ensuring that they do not attend or resume work when they are adversely affected by alcohol or drugs.

### **4. Reporting**

Any Commission officer who becomes aware of an alleged misuse of alcohol or other drugs in the workplace has an obligation to alert management as soon as possible.

In the first instance, the reporting officer should bring the alleged incident to the attention of the manager/supervisor of the officer suspected of misusing alcohol or other drugs.

Some indicators that can suggest the misuse of alcohol and other drugs include:

- a) Near miss incidents
- b) Violence
- c) Habitual lateness
- d) Frequent absences
- e) Increasing forgetfulness
- f) Interpersonal problems
- g) Poor coordination
- h) Poor concentration
- i) Neglect of personal grooming
- j) Unaccountable mood swings or depression

It should be noted that what may appear to be misuse of alcohol or other drugs may, in fact, be something else, such as the effects of an illness, disability, medication or the withdrawal of medication. Approaching a person who is under the influence of alcohol or other drugs requires skill and sensitivity.

Commission officers making malicious or unreasonable reports will be subject to appropriate management action.

### **5. Assessment**

Managers/supervisors receiving a report of alleged misuse of alcohol or other drugs must first assess the incident based on whether it:

- a) involved the alleged misuse of alcohol or other drugs;
- b) resulted in an actual or potential safety risk within the workplace;
- c) resulted in an actual or potential security risk within the workplace;

- d) adversely affected the officer's work performance;
- e) adversely affected the officer's judgment to the extent that they placed themselves, other officers or the reputation of the Commission at risk;
- f) involved or resulted in illegal activities;
- g) involved or resulted in the harassment or intimidation of a third party;
- h) involved inappropriate conduct by a Commission officer, contrary to the provisions of the Commission's Code of Conduct, the relevant Employment Agreement and the provisions of this policy.

If the assessment concludes that any of the above criteria apply, an investigation into the alleged incident(s) must be undertaken.

The manager/supervisor receiving the report of alleged misuse of alcohol or other drugs is required to advise the People & Culture Manager promptly.

In the event that a manager/supervisor becomes aware of an incident while it is taking place, the manager/supervisor is responsible for taking immediate action in cases where suspected intoxication:

- a) gives rise to a health and safety risk;
- b) gives rise to a security risk;
- c) adversely affects professional performance;
- d) poses any actual or potential risk to themselves, Commission officers or others.

In such instances, the manager/supervisor is responsible for sending the intoxicated officer home in the company of a responsible person where possible and/or using a safe mode of transport. In such a situation, the intoxicated officer will be directed to take leave until such time as they are able to return to work and safely and effectively carry out their duties. The type of leave to be taken will be ascertained by the manager/supervisor and People & Culture Manager.

Immediately following the incident, the manager/supervisor must document all relevant details leading to and including the incident and the actions taken to mitigate workplace risks, such as sending the officer home. This File Note is to be maintained in a Case Management file.

## **6. Follow up actions**

In the event an intoxicated officer has been sent home, the manager/supervisor must make arrangements to interview the officer on the morning of their return to work.

The officer must be advised prior to the commencement of the interview that they may bring a support person with them if they wish. The nominated support person should be someone internal to the Commission, but not any member of the Executive Team or the People & Culture Manager. The officer may only nominate someone external to the Commission if they are from a relevant union or professional association. The manager/supervisor will invite the People & Culture Manager to attend the interview.

The manager/supervisor must clearly outline the issues of concern. Particular reference may be made to any issues related to a health and safety risk or unprofessional conduct.

The employee must be given every opportunity to:

- a) answer the allegations made against them; and
- b) provide any information or evidence in support of their position and relevant to the issues giving rise to the investigation.

The manager/supervisor, in consultation with the People & Culture Manager, may choose to interview independent witnesses to the incident to obtain a complete picture of those events leading up to and occurring during the incident. If so, the principles of privacy and confidentiality must be maintained throughout the interview process.

All interviews must be appropriately documented by the manager/supervisor as HR File Notes.

## 7. Investigation resolution

Based on the evidence gathered during the investigation, the manager/supervisor must make a decision about whether the officer's behaviour is such that it warrants further action to be taken. The nature of additional action may vary depending on the perceived seriousness of the incident that led to the investigation. Determining the severity of the incident requires a value judgement to be made.

The resolution of the investigation may take one of the following forms:

- a) The incident is deemed to be minor and most likely a one-off occurrence.

In this situation, the officer must be notified of the determination and given a verbal warning in order to positively influence future behaviour. The officer must be counselled on appropriate standards of behaviour expected of a Commission officer and the risks involved in the misuse of alcohol and other drugs in the workplace. The verbal warning must be documented by the manager/supervisor and forwarded to the People & Culture Manager for filing.

- b) The incident is deemed to be serious, but is most likely a one-off occurrence.

In this situation, the officer must be made aware of the seriousness of the incident and actual or potential harm caused to the Commission or its officers. At a minimum the officer should receive a verbal warning. However, depending upon the seriousness of the incident, the People & Culture Manager may determine and recommend that stronger action is necessary and may refer the matter to the Chief Operating Officer. All such actions must be in accordance with the *Misconduct and Unsatisfactory Policy and Procedures*. The actions taken must be fully documented as HR File Notes, and the Case Management file maintained by the People & Culture Manager.

- c) The incident is deemed to be serious and part of a pattern of behaviour that suggests an underlying problem capable of repeatedly affecting the officer's professional performance.

This situation must be handled in a confidential and sympathetic manner. The officer's manager/supervisor and the People & Culture Manager must make the officer aware of their concerns. The Commission's first obligation is to ensure that steps are taken to eliminate on-going health and safety risks relating to the officer's misuse of alcohol or other drugs.

In consultation with the officer concerned, the People & Culture Manager and the officer's manager/supervisor will identify an appropriate remedial action program to address the issues arising out of the officer's misuse of alcohol or other drugs. The remedial action program may include the provision of access to relevant professional counselling or the Employee Assistance Program.

The manager/supervisor must document full details of the remedial action program and provide it to the People & Culture Manager and the officer involved. In addition, the officer will be issued a formal written warning for the incident that led to the investigation. The Chief Operating Officer will refer the matter to the Executive Team for information, once formally complete.

The remedial action program will be monitored at least monthly, with a review held six months after the implementation of the program.

## 8. Appeals

Any officer who is subject of an adverse finding in relation to the Alcohol and other drugs policy has the right of appeal.

In the first instance, such an appeal should be through the Commission. The officer may appeal through the Chief Operating Officer to an appropriate Assistant Commissioner who will nominate an officer to conduct a review.

In the event that the appeals process supports the original finding, the management or disciplinary action will stand. In the event that an alternate finding is made, the Chief Operating officer will consult with the People & Culture Manager and the officer's manager/supervisor to assess next actions, as appropriate.

All internal appeals decisions must be recorded in the Case Management file.

An officer who remains dissatisfied with the outcome of internal action in relation to the matter may consider a complaint to an external agency such as the Anti-Discrimination Board of NSW or WorkCover.

## 9. Disciplinary procedures

If a Commission officer is found guilty of any offence under the *Drug Misuse and Trafficking Act 1985*, the matter must be referred to the Law Enforcement Conduct Commission as required by the *LECC Act 2016* (NSW). An officer found guilty of misconduct will be subject to disciplinary action under the Misconduct and Unsatisfactory Performance Policy and Procedures.

Under this policy, the Commission may commence proceedings if:

- a) an officer refuses to participate in the remedial action program designed to address the areas of concern resulting from their misuse of alcohol and other drugs;
- b) after six months on the remedial action program, no improvement in the standards of work, behaviours at work or compliance with the Code of Conduct or this policy is detected.

## 10. Review

This policy will be reviewed on a needs basis, or if:

- a) an incident occurs involving alcohol or other drugs; or
- b) a risk assessment identifies that being under the influence of alcohol or other drugs may pose a serious hazard in the performance of a particular work activity.

## Version control

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1.0	18Mar14	Initial version	Governance Team
1.1	15Mar17	Minor amendments to address 'security' risks as well as 'safety' risks. Broaden use of vehicles to include any vehicle used on Commission business	Governance Team
1.2	9May22	Updates to role titles and Policies	Governance Team

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Related documents	NSW Crime Commission Code of Conduct <i>Crime Commission Act 2012 (NSW)</i> <i>Law Enforcement Conduct Commission Act 2016</i> <i>Work Health &amp; Safety Act 2011 (NSW)</i> <i>Drug Misuse and Trafficking Act 1985</i> Misconduct and unsatisfactory performance policy and procedures