

FIT FOR WORK

Procedure 5.5.10

Policy No. and Title	5.5	Conditions of Employment Policy
Procedure	5.5.10	Fit For Work
Version	1	
Date Adopted	21 March 2013	

1 OBJECTIVES

- a) To fulfil obligations under Work Health and Safety Legislation to ensure the health, safety and welfare of employees, contractors (including labour hire and temporary employees), volunteers, and other workers in the workplace.
- b) To outline the responsibilities of all employees in meeting this "Duty of Care".

2 OVERVIEW

- a) The term 'Fit for Work' means that an individual is in a state of mental, physical and emotional health to complete their assigned tasks, competently and in a manner which does not negatively affect or threaten the safety of themselves or others.
- b) An individual's fitness for work can be affected in a variety of ways including, but not limited to: illness, injury, fatigue, stress, alcohol, drugs and emotional or behavioural issues. These factors may lead to an increased likelihood of workplace incidents or injuries.
- c) Kempsey Shire Council believes that early intervention in such problems can assist people to deal with situations which may otherwise place at risk their own, or others' health and safety.
- d) This procedure provides the framework for dealing with these difficult and often sensitive issues. It describes the elements of the Fit for Work Program within Council and the requirements of the individual and the organisation in meeting the objectives of the program.
- e) In the instance where an individual is unable to meet the requirements of this procedure, guidance is provided on the appropriate process for management of the individual and the situation to ensure an effective, fair and constructive resolution of the situation.

2.1 Fit for Work Program

- a) A successful fit for work program provides awareness and support.
- b) Awareness to ensure that individuals understand their obligation to be fit for work whilst working for Council, and support to ensure that individuals are given every opportunity to manage and maintain their own fit for work issues.
- c) Where appropriate, individuals are provided with rehabilitative measures to assist them in overcoming fit for work related issues and problems.

- d) The fit for work program is designed to achieve awareness and support through:
 - i) Defined responsibilities for Managers and employees;
 - ii) Education and training;
 - iii) Engagement of fit for work Coordinators and a fit for work Coordination Group;
 - iv) Employee Assistance Programme;
 - v) Assessment of fitness for work;
 - vi) Management of assessment results;
 - vii) Management of individuals who are unfit for work;
 - viii) Discipline procedures, and
 - ix) Data collection, analyses and reporting.

3 DEFINITIONS

Duty of Care - a legal obligation to have thought or regard for those who may be affected by one's actions or inactions. To not put others health or safety at risk.

Employee Assistance Program (EAP) - a free confidential Counselling program available to employees and their immediate family.

Fit for Work - the employee being competent mentally, physically and emotionally to perform their assigned duties to an acceptable level without risk to themselves or others. This definition includes being unfit due to the risk of a medical condition or illness being passed on to other staff and being unable to safely perform the full duties associated with their position.

Health Surveillance - monitoring of employee health as required under Work Health and Safety Legislation.

Job Demand Analysis (JDA) – a document detailing the specific work requirements, tasks and demands of each position.

Non Work Related Injury – an injury sustained outside of the work place and not subject to Workers Compensation legislation.

Pre-Employment Health Assessment – an independent functional assessment conducted on behalf of Council prior to the employee commencing employment. This aims to determine fitness to perform the duties required of the position.

Position Description (PD) – a document detailing the responsibilities, skills and criteria required for each position.

Work Related Injury - Workers Compensation Act 1987 Section 4 (as follows)

- a) Personal injury arising out of or in the course of employment includes:

- i) A disease which is contracted by a worker in the course of employment and to which the employment was a contributing factor, and
 - ii) The aggravation, acceleration, exacerbation or deterioration of any disease, where the employment was a contributing factor to the aggravation, acceleration, exacerbation or deterioration.
- b) Does not include (except in the case of a worker employed in or about a mine) a dust disease, as defined by the Workers' Compensation (Dust Diseases) Act 1942, or the aggravation, acceleration, exacerbation or deterioration of a dust disease, as so defined.

Workforce Fitness Assessment – an independent assessment conducted by an Occupational Therapist designed to discover an employee's physical capabilities.

4 ASSOCIATED COUNCIL POLICIES AND PROCEDURES

- 5.1.1 Code of Conduct
- 5.5 Conditions of Employment (Policy)
 - 5.5.1 Recruitment and Appointment
 - 5.5.8 Grievances/Disputes Handling
 - 5.5.11 Disciplinary and Fair Treatment
 - 5.5.27 Workplace Harassment and Bullying Prevention
 - 5.5.36 Alcohol and Other Drugs
 - 5.5.41 Leave
 - 5.5.42 Employee Assistance Program
 - 5.5.45 Immunisation
- 5.6 Work Health and Safety (Policy)
 - 5.7 Return to Work (Policy)
 - 5.7.1 Injury Management and Return to Work

5 RESPONSIBILITIES

Under work health and safety legislation both the employer and employee have "duty of care" obligations.

5.1 Duty of Employer

- a) The Employer has a duty of care to ensure, as far as reasonably practicable, that all individuals are fit for work to minimise risk to both themselves and others whilst on Council work sites or undertaking duties on behalf of the Employer.

5.2 Duty of Employees

- a) Employees have a 'duty of care' to take reasonable care as to not expose themselves or others to risks. It is the employee's responsibility to ensure they commence at the beginning of each day, work throughout the day and finish the work day in a fit state.
- b) If an employee believes they have become 'unfit' during any part of the workday they are required to report the situation immediately to their Supervisor.
- c) Employees who believe another employee is attending work not 'fit for work' or who witness a co-worker who is not 'fit for work' are required to report the situation to their Supervisor.

- d) All employees are required to:
 - i) Maintain their individual fitness to allow them to meet the requirements of their position;
 - ii) Attend work in a state which enables them to meet the requirements of their position;
 - iii) Advise their Supervisor prior to commencing work, or as soon as they become aware of any issues that would affect or influence their ability to work in a safe manner; and
 - iv) Report any situation to their supervisor where they believe a co-worker may not be fit.

5.3 Use of Medications

- a) Particular attention should be paid to the appropriate use of medication. Individuals must ensure that any prescription or non-prescription medication is taken safely.
- b) This requires that individuals:
 - i) Discuss with the prescribing medical practitioner the nature of their duties and ascertain any possible side effects of the prescribed medication which may impact on their safety or performance at work;
 - ii) Notify their supervisor or medical centre staff of any medication they are taking which could affect their safety or performance at work;
 - iii) Take any medication strictly in accordance with the medical practitioner's or manufacturer's recommendations, and
 - iv) Report any side effects that may impact on their safety or performance at work to their medical practitioner and their supervisor.

5.4 Duty of Supervisors and Managers

- a) Supervisor and Managers under work health and safety legislation have a responsibility for the health, safety and welfare of all individuals under their control.
- b) Supervisors and Managers are responsible for monitoring the fitness of employees reporting for work to ensure they are fit for work at the beginning of, and throughout the work day.
- c) Should the Supervisor or Manager believe that an employee is at risk of injuring themselves or others then the Supervisor's or Manager's action may include, but are not limited to:

- i) Immediate and appropriate action to prevent injury to employee or others;
- ii) Contacting the Unit Manager, WHS Support and Audit Officer and/or Human Resources for direction;
- iii) Maintaining confidentiality of situation;
- iv) Providing feedback to employee regarding his/her behaviour, and seek feedback as to possible cause;
- v) Providing information in relation to Employee Assistance Program;
- vi) Arranging Drug and Alcohol Testing in accordance with Procedures;
- vii) Standing the employee down on sick leave until a medical advice/clearance is available;
- viii) Implementing appropriate fatigue management strategies, or
- ix) Arranging for a workforce fitness assessment to be conducted.

6 EDUCATION AND TRAINING

- a) Education and training are vital to ensuring that everyone has an understanding of their role and responsibility with this procedure.
- b) All stakeholders will be provided the necessary information, instruction and tools to manage their fitness for work via education and training in fitness through:
 - i) Inductions;
 - ii) Supervisor Awareness Training, and
 - iii) Employee Awareness Training.

6.1 Health and Wellbeing Awareness Sessions

- a) In addition to formal education and training sessions, additional health and wellbeing awareness sessions and "health weeks" will be conducted to provide employees with information on fitness for work.
- b) Information on fit for work awareness sessions is on the KSC Intranet website - Health and Wellbeing Calendar and Training booklet.

7 JOB DEMANDS ANALYSIS

- a) A Job Demands Manual has been developed for all high risk jobs within the outdoor work environment. Job Demand Analyses were conducted by an Occupational Therapist in consultation with experienced employees.
- b) The Job Demand Analysis (JDA) details the specific work requirements, tasks and demands of each position. The JDA allows the organisation to compare an employee's fitness against the physical requirement and actual job demands.

- c) In addition the JDA details may be used to provide assistance in the Injury Management/Return to Work process, identification of manual handling issues, staff redeployment, fitness for work and the identification of physical requirements for each role.
- d) The JDA may also be used to assist external providers and Council in measuring an employee's ability to complete the inherent core duties of a particular position.

8 ASSESSMENT OF FITNESS FOR WORK

- a) As part of its duty of care, Council will, prior to and during employment, assess the fitness for work of individuals on its work sites.
- b) To reduce the risk of workplace injury, Council is proactively seeking to manage staff fitness and to meet its duty of care to ensure the health, safety and welfare of all employees in the workplace.
- c) Employees also have a responsibility for their own health and well-being and must ensure that they are able to perform the duties for which they have been employed.
- d) Employees are required to pro-actively address non-work related issues if these issues have the potential to impact on their ability to safely perform the inherent duties of their position.
- e) Should a staff member's ability to perform their duties come into question Council reserves the right to review their fitness for work through one or a combination of the following means:
 - i) Sourcing additional information from their nominated treating doctor;
 - ii) Arranging an independent medical examination funded by Council, or
 - iii) Arranging a workplace fitness assessment funded by Council.
- f) The primary method for assessing an individual's fitness for work is through face-to-face discussion between Managers/Supervisors and individuals at the start and during the work period.
- g) Where appropriate, other assessment methods may be utilised. These include:
 - i) Alcohol and drug testing;
 - ii) Medical assessment;
 - iii) Other recognised assessments as appropriate, and
 - iv) Self-testing for blood alcohol levels.
- h) Depending on the circumstances, and the perceived risk of injury to the employee or others, Management reserves the right to stand the employee down on sick leave until satisfactory evidence of fitness is supplied.
- i) The reasons for an employee's fitness for work to come into question are many and varied and may include but are not limited to:

- i) Inability to perform inherent duties of position (self or Supervisor identified);
 - ii) Non-work related injury / disease;
 - iii) Poor injury/safety history;
 - iv) Recurring/excessive sick leave absences, or
 - v) Supervisors concerns regarding fitness for work.
- j) Where fitness for work issues emerge in relation to an injury sustained in the workplace they will be dealt with in accordance with Workers Compensation legislation and Council's Return to Work Policy (5.7) and Injury Management and Return to Work Procedure (5.7.1).

8.1 Pre-Employment Health Assessments

- a) All prospective external employees are required to undertake a pre-employment health assessment to determine their functional suitability for employment with Council and to determine any pre-existing conditions.
- b) The Pre-Employment Health Assessment measures an employee's functional capacity against the individual Position Description and relevant Job Demand Analysis.
- c) For further details refer to Council's Recruitment and Selection Procedure (5.5.1).

8.2 Workplace Fitness Assessments

- a) Workplace Fitness Assessments are conducted by independent trained Occupational Therapists (OT) in accordance with the following guidelines:
 - i) Level 1 Focused Assessments - approximately 1.5 hours duration
 - Involves measuring an employee's functional capacity and matching this to the relevant positional Job Demands Analysis. This assessment is similar to the structure of Council's Pre-Employment Health Assessments.
 - Details the employees overall fitness and compares it against the Job Demand Analysis developed for the tasks associated with the individual position. The report can be used to assist line management to ensure that staff are fit to perform the core duties of any given specific position. Testing will be conducted every two years or earlier as required.
 - ii) Level 2 General Assessment - approximately 3 hours duration
 - Entails a more detailed assessment of an employee's functional capacity against relevant work tasks. This assessment is completed on site and involves the assessor observing the employee performing their actual duties, as well as standardised tests and objective measures.

iii) Level 3 Comprehensive Assessment

- Entails an in depth and comprehensive evaluation of an employee's ability to work. The testing looks at strength and flexibility in numerous postures including the employee's ability to bend, squat, reach, push, pull, carry and lift in numerous postures.
 - The testing identifies the employee's functional tolerances which can then be matched to the relevant position(s) Job Demands Analysis and Position Description to ensure the full range of duties can be safely performed.
- b) These assessments are designed to provide objective information to assist in determining whether an individual can safely perform the full range of duties associated with the position for which they are employed.
- c) The level of assessment undertaken will depend on the perceived level of risks relating to workplace safety and the extent of the positional duties unable to be undertaken by the employee. The assessment methodology has been designed to enable progression from one level to the other where necessary.
- d) Where the assessment results confirm that the employee is unable to safely perform the full range of their duties the range of options to be considered includes but is not limited to:
- i) Temporary suitable duties;
 - ii) Job aids;
 - iii) Modified task completion guidelines;
 - iv) Retraining;
 - v) Redeployment (temporary or permanent);
 - vi) Leave of absence;
 - vii) Disciplinary action, or
 - viii) Termination of employment.
- e) The solution implemented will be largely dependent on factors relating to operational feasibility and safety.

9 EMPLOYEE ASSISTANCE PROGRAM

- a) Council provides an Employee Assistance Program (EAP) to its employees "free" of charge.
- b) The program provides employees and members of their immediate family help with personal, family or work related problems which may affect their work performance or quality of life.

- c) The Employee Assistance Program is a confidential, voluntary and free counselling service provided by independent psychologists. Council's EAP provider is McCombie and Associates.
- d) For further details please see Council's Employee Assistance Program (5.5.42).

10 STRESS

- a) Stress is the body's reaction to a change and requires a physical, mental or emotional adjustment or response. Stress can come from any situation or thought that makes you feel frustrated, angry, nervous, or anxious.
- b) Stress can be generated by factors (stressors) within the workplace or can be brought into the work place as a consequence of external factors.
- c) Common causes of work-related stress include:
 - i) Communication difficulties;
 - ii) Bullying, harassment or intimidation;
 - iii) Work overload;
 - iv) Job restructuring;
 - v) Rapid change in organisational structure or work design;
 - vi) Poor work organisation;
 - vii) Insufficient training;
 - viii) Excessive hours, or
 - ix) Difficulties with clients or the general public.

10.1 Identification of Stress

- a) Changes in employee behaviour can, in some cases, be an indicator of stress, some of the changes likely to be observed include:
 - i) Irritability;
 - ii) Deteriorating relationships with colleagues;
 - iii) Indecisiveness;
 - iv) Absenteeism;
 - v) Reduced performance;
 - vi) Headaches;
 - vii) Forgetfulness, or
 - viii) Non-completion of tasks.

10.2 Risk Control and Management

- a) Management and employees have a joint responsibility for the health and well-being of all employees.
- b) Where staff are perceived to be suffering from, or self-report stress the following are a range of options that could be considered:
 - i) Confidential discussion to identify and address issues;
 - ii) Encouragement to seek medical assistance;
 - iii) Encouragement to access Council's Employee Assistance Program;
 - iv) Temporary renegotiation of duties and or hours of work;
 - v) Access to appropriate training, on the job coaching;
 - vi) Negotiation of an appropriate leave of absence;
 - vii) Reference to Council's Grievances/Disputes Handling procedure (5.5.8);
 - viii) Mediation;
 - ix) Discussion with Senior Management, union representative, or employee assistance officer;
 - x) Discussion with Team Leader Human Resources, or
 - xi) Reference to Council's Workplace Harassment and Bullying Prevention procedure (5.5.27).

11 FATIGUE RISK MANAGEMENT

- a) The term 'Fatigue' means a decreased capacity to perform physical or mental work and assigned tasks in a competent and safe manner. Fatigue is displayed in a person's decreased performance and a reduced capacity to make informed and rational decisions. The feeling of fatigue can lead to slow response times, loss of alertness, low concentration levels, and poor judgment.
- b) Persons experiencing fatigue may be more prone to being involved in, or causing incidents and or injuries to themselves or others.
- c) Council has an obligation to minimise risk due to fatigue on Employees, whilst at the workplace or whilst carrying out activities.
- d) Where the effects of fatigue and/or the nature of the work being performed induces fatigue causing impairment to a person's health and safety, Council will ensure that appropriate and reasonable management action, consistent with this procedure, is taken.

11.1 Identification of Fatigue

- a) Identification of persons who may be affected by fatigue can occur as a result of:
- i) Self-assessment and voluntary disclosure by the person affected;
 - ii) Direct observation of the affected person's behaviour, or
 - iii) Workplace incident investigation.
- b) Person's voluntarily disclosing fatigue or being assessed as fatigued shall be stood down until fit for work:
- i) Where fatigue is the result of external factors the employee may be stood down without pay, or where appropriate on paid leave, for the remainder of their ordinary shift or until such time as they are deemed fit to return to work;
 - ii) Where appropriate, disciplinary action may be taken in accordance with Council's Disciplinary and Fair Treatment Procedure (5.5.11). Reference may also need to be made to Council's Other Employment and/or Business Declaration procedure (5.5.2), or
 - iii) Where fatigue is work related it will be managed in accordance with the ordinary hours and overtime provisions of the Local Government (State) Award.

12 HEALTH SURVEILLANCE

- a) The purpose of the health surveillance is to ensure that control measures to reduce risk from known hazards are effective and to provide an opportunity to reinforce specific preventative measures and safe work practices.
- b) Within Council the types of hazards that require health surveillance are:

Hazard	Health Surveillance	Required Frequency of Measurement
Asbestos Containing Material (ACM)	Chest X-ray and Pulmonary function test required for identified at risk employees	5 yearly or on advice from medical practitioner
Noise	Audiometric testing required for staff regularly exposed to noise levels 85dB(A) or above over an 8hr working period.	Initial test prior to commencing work in the noisy environment and then period testing every 2 years.
Hepatitis A & B	3 Vaccinations and Booster. Refer Council's Immunisation Procedure 5.5.45.	Initial course of 3 vaccinations, and a 5 year booster.

- c) Health surveillance is conducted under the supervision of an authorised medical practitioner at Council's expense.

- d) Council will:
 - i) Ensure confidentiality of medical records - as per the Health Records and Information Privacy Act;
 - ii) Obtain consent of employees to participate in the health surveillance program, and
 - iii) Organise for notification of test results to be supplied to the employee

13 DRUG AND ALCOHOL

- a) The use of drugs and alcohol may affect an employee's ability to work safely through the loss of motor control, coordination, judgement, alertness and concentration which may lead to increased risk of injury to themselves or others.
- b) As a consequence Council will:
 - i) Ensure that all corporate activities involving alcohol will comply with relevant legislation;
 - ii) Not tolerate the use of illicit drugs in the workplace, or
 - iii) Provide treatment support for alcohol and other drug misuse or dependence through the 'Employee Assistance Program'.
- c) Additionally staff are required to:
 - i) Ensure that work performance is not adversely affected by the use of alcohol or other drugs;
 - ii) Ensure they are fit for duty and comply with established standards for conduct and safety;
 - iii) Remain under the legal limit when operating machinery or vehicles or undertaking hazardous activities, and
 - iv) Immediately advise their Manager or Supervisor, if they believe an individual may be adversely affected by alcohol and/or drugs.
- d) Council has developed a specific program to effectively address the potential risks associated with the consumption of Drugs and Alcohol. For further information refer to the Alcohol and Other Drugs procedure (5.5.36).

14 NON WORK RELATED INJURIES

- a) Council is not obligated to provide modified duties to staff who have suffered a non-work related injury or illness for example: a broken leg from a sporting or weekend recreational activity.
- b) Where an injury or condition has the potential to be exacerbated by the persons work duties, or the injury or condition could affect their ability to safely perform their duties, a medical clearance is to be provided in accordance with Council's Leave procedure (5.5.41).

15 MANAGING FIT FOR WORK- PEOPLE ISSUES

- a) This Section outlines the processes for managing employees who are not in compliance with all aspects of the Fitness for Work Program.
- b) Guiding the decision about the way employees and individuals are managed in the workplace are Kempsey Shire Council's Conditions of Employment policy (5.6) and Code of Conduct procedure(5.1.1).

15.1 Management System

- a) The philosophy behind the KSC Fit for Work program is to assist employees to address issues of concern, and to ensure the safety and health of the individual, and to provide a healthy and safe workplace.
- b) It also enables employees of KSC, and all individuals who access KSC sites to have a process for raising issues of concern related to fitness for work, and to have fair and appropriate procedures for dealing with an individual's fitness of work issues.

15.2 Case Management Plans

- a) Where any individual seeks assistance under the KSC Fit for Work Procedure, or where any individual presents with issues which are relevant to this Procedure, KSC require a formal Case Management Plan to be developed.
- b) The content of the Case Management Plan should reflect the nature of the issue, and appropriate mechanisms to address the issue.
- c) The Case Plan will also set out relevant measures dealing with compliance. The Plan should consider the potential risk to the individual and other personnel at the KSC location.
- d) The Case Management Plan must address:
 - i) Description of the issue;
 - ii) Required actions and changes;
 - iii) Advice to the employee on the potential impacts of their issue in relation to the workplace;
 - iv) The opportunity for the individual to input into the resolution of their issue;
 - v) Medical or psychological input where necessary;
 - vi) The need for counselling or mentoring by an appropriate KSC person;
 - vii) Testing and review mechanisms, outlining duration, timing, nature and purpose;
 - viii) Relapse management;

- ix) Issues relating to time off from work where necessary;
- x) How confidentiality will be maintained, and
- xi) Application of KSC procedures.

15.3 Initiating a Case Management Plan

- a) A Case Management Plan can be initiated by a Supervisor, Manager or Team Leader Human Resources unit in conjunction with the individual.
- b) An individual can request a Case Management Plan through their relevant Manager.
- c) Advice on what to include in a Case Management Plan, and how the plan is to be developed with the individual must be obtained through the KSC Employee Assistance Provider (EAP), Medical Practitioner or Occupational Therapist.

15.4 Implementation of the Case Management Plan

- a) The contents of the Case Management Plan should be discussed and agreed with the EAP provider, Medical Practitioner or Occupational Therapist and the individual's manager.
- b) A case meeting should then be conducted with the individual, and where appropriate, with an EAP representative, to discuss and agree all aspects of the Plan.
- c) The Plan is to be signed as accepted by the individual and the relevant Manager. Following this, the Plan will be implemented and followed in accordance with the agreed terms.

15.5 Refusal to Enter into a Case Management Plan

- a) Any refusal to enter into a Case Management Plan must be referred to the relevant Director and discussed with the relevant Manager and with the Team Leader Human Resources.

15.6 Relapse whilst the Case Management Plan is in Place

- a) The Case Management Plan will outline the expectations of the parties in relation to a relapse.
- b) Where a relapse involves action on the part of the employee which is viewed as serious misconduct, appropriate disciplinary procedures will be invoked.

15.7 Relapse or Re-Occurrence after the completion of a Case Management Plan

- a) A relapse under these circumstances will be managed according to the nature of the relapse and the individual's circumstances.
- b) Where a relapse indicates that an individual is not demonstrating a desire to rehabilitate, or is demonstrating behaviours which are inconsistent with KSC Policies, Codes or Procedures the KSC disciplinary procedure will be invoked.

- c) Disciplinary action which may result in termination of employment must be in accordance with the authority levels contained in the KSC disciplinary procedure.

15.8 Time off from Work and Alternative Duties

- a) When an individual presents with an issue which is covered by the Fit for Work Procedure, consideration may be given for time off or, depending on the nature of the issue, to provide alternative duties whilst the issue is under review.
- b) The type of impairment may dictate additional management processes or restrictions prior to and after an individual's return to work.
- c) Where, on a first occasion, an employee "self declares" to Council that they have an issue which places them in contravention of this procedure, and the issue requires case management, Council will assist the individual to address their issue through the Case Management Plan process, and allow the employee to access accrued sick leave, annual leave, long service leave, or a combination of these.
- d) Where, on a first occasion, an individual is considered to be in contravention of this procedure as a result of a workplace intervention by Council (for example, random testing, health surveillance), the ability to access paid time off is discretionary. In determining whether to allow access to accrued entitlements, consideration will be given to all relevant factors and guidance should be obtained from Human Resources.
- e) As part of the Case Plan Process, an individual will be advised in writing of Council's intentions regarding further access to paid leave, or non-payment of salary.
- f) Employees involved in subsequent breaches of this procedure especially in relation to drug or alcohol issues, will generally not be entitled to access accrued sick leave.
- g) Employees may be suspended from duty without pay for the period they are unable to fulfil their contract of employment obligations.
- h) Council has the discretion to determine whether an employee should be paid if they are unable to fulfil their obligations under the inherent requirements of their position.
- i) An employee who is "not ready, willing or available" to fulfil their employment conditions does not have an entitlement to payment.
- j) For first occasion breaches, the intention of this procedure is to provide an opportunity for employees to address issues of concern, with support by Council.
- k) Council's desire is to assist employees to address their fit for work issues through case management processes. Ongoing fit for work issues are indicative that an individual may not be attempting to address their issue, and the consequences of ongoing issues can result in an employee being deemed to be unsuitable for ongoing employment.
- l) Where issues of serious misconduct occur at any stage in the fit for work process, Council has the right to terminate an employee.

- m) In cases of serious misconduct, Council's fit for work procedures aimed at rehabilitation do not apply.
- n) In relation to the management of time off from work, alternative duties, and remuneration issues for contractor employees, the provisions of the contractors fitness for work policies, and applicable industrial instruments and contracts of employment shall apply.

15.9 Isolating the employee from the workplace

- a) If an individual has been deemed unfit for work using any of the assessment methods outlined in Section 8, the following action shall be taken:
 - i) The individual will be immediately isolated from their workplace and under no circumstances shall be permitted to drive a vehicle or operate any machinery, or perform the duties of the position which may risk the employee or others safety;
 - ii) Where necessary in such circumstances, the Supervisor or Manager will make arrangements for the individual to be transported back to their place of accommodation, and
 - iii) The Supervisor or Manager will discuss the breach with the individual.

15.10 No Return to Work

- a) An individual will not be permitted to return to work until such time as they are able to demonstrate that they are fit for work and have an agreed Case Management Plan in place.

16 GUIDELINES FOR THE RESOLUTION OF FFW ISSUES

The following general guidelines are provided to assist all parties to resolve concerns about an individual's fitness for work in a cooperative and constructive manner.

16.1 Limitation of Council's Involvement in Issues of Legitimate Concerns

- a) An individual's personal problems or behaviour outside work are private matters. Council will only become involved when these have the potential to interfere with job performance and/or safety in the workplace, or where an employee requests assistance in dealing with an issue or where an individual's behaviour in the workplace may warrant intervention.

16.2 Encouragement of Individuals to Address Potential Concerns

- a) Employees who feel they are developing, or already have a problem that could impair their fitness for work are encouraged to discuss this with either their Supervisor, Manager or human resource representative. These discussions will remain confidential.

16.3 Discussion Regarding Fitness for Work

- a) Once it has become evident or suspected that an individual's fitness for work could be impaired, the individual concerned will be given the opportunity to discuss the matter in confidence with the manager or the appropriate human resources staff.

- b) Individuals will have the right to be accompanied at any discussion by a work colleague, family member or health and safety representative or union representative.

16.4 Need for Medical or Other Assessment

- a) There may be legitimate medical or other reasons for impairment of an individual's fitness for work. In such circumstances, employees will be required to have their doctor discuss their circumstances with Council's nominated medical provider or Occupational Therapist before they are permitted to return to work.

16.5 Duty of the Employee to Obtain Assistance

- a) Employees who suspect that they have a problem that could impair their fitness for work or who require assistance to discuss issues which could impact on their fitness for work should seek advice and treatment before their work performance is impaired.

16.6 Protection of Job Security and Promotional Opportunity

- a) An employees' job security and promotional opportunities will not be jeopardised because of their voluntary decision to seek treatment.
- b) However, if after a reasonable time following treatment and following appropriate review and feedback, there is no clear and consistent improvement in the employee's job performance, then the process for dealing with the issues will be in accordance with the Local Government (State) Award and Council's Disciplinary and Fair Treatment procedure (5.5.11).

16.7 No Return to Work – Certain Medical Conditions

- a) If an individual has been requested to seek medical assessment, or where a Manager, Supervisor or other person in the work place has reasonable grounds to believe that the fitness for work of an individual may be affected by physical or mental illness, injury, stress, fatigue or any other condition, the individual will not be permitted to return to work until they have been appropriately assessed and cleared for return to work under procedures acceptable to Council's nominated medical provider or Occupational Therapist.

16.8 Serious Misconduct

- a) A serious misconduct in relation fit for work can occur where an individual:
 - i) Breaches the conditions of an existing Case Management Plan;
 - ii) Has a blood alcohol content (BAC) is considered to be excessively high - refer to Clause 5 of the Alcohol and Other Drugs procedure (5.5.36);
 - iii) Returns a positive drug test where the level is considered to be excessively high- refer to Clause 5 of the Alcohol and Other Drugs procedure (5.5.36);

- iv) Returns a simultaneous positive result for two or more banned substances with high blood levels;
 - v) Is involved in behaviour deemed as serious misconduct in the workplace;
 - vi) Places themselves or others in the workplace at serious risk of injury, or
 - vii) Deliberately avoids or falsifies a sample.
- b) In these circumstances, the individual will be subjected to disciplinary procedures which may result in termination of employment.

17 DISCIPLINE PROCEDURES

- a) A breach of this Fit for Work procedure, or a Fit for Work Case Management Plan which has been put in place for an individual, may have disciplinary consequences.
- b) Discipline will be in accordance with the Local Government (State) Award and Council's Disciplinary and Fair Treatment procedure (5.5.11).

VARIATION

Council reserves the right to renew, vary or revoke this procedure which will be reviewed periodically to ensure it is relevant and appropriate.