

BERGRIVIER MUNICIPALITY



SUBSTANCE ABUSE

DATE APPROVED : BKN022/08/2013 – 30/08/2013
COMMITTEE : MAYORAL COMMITTEE

BURGEMEESTERSKOMITEE: BESLUIT GENEEM OP 30 AUGUSTUS 2013

BKN022/08/2013

BELEIDE: BEROEPSGESONDHEID

4/2/B

1. Dat die Raad die ooreenkoms en beleide soos goedgekeur deur die Plaaslike Arbeidsforum op 30 Mei 2013 aanvaar; en
2. Dat die Raad die werkgewervertewoordigers van die Plaaslike Arbeidsforum die nodige mandaat gee om die Beroepsgesondheid en –veiligheidsooreenkoms by die volgende vergadering van die Plaaslike Arbeidsforum te onderteken.

1. PURPOSE

1.1 The purpose of this policy is to :

- Balance the needs of employees against B Municipality's need to provide a safe and healthy working environment for its employees, clients, visitors and contractors, and their employees, customers and visitors;
- Achieve an alcohol and drug-free working environment;
- Integrate disciplinary and rehabilitative processes in dealing with substance dependency;
- Minimise risks, increase productivity and curb the cost absenteeism;
- Increase awareness of substance abuse among employees by providing education and counselling to employees on the dangers of alcohol and substance abuse; and
- Comply with the OHSA, the RTA and other legislation aimed at promoting a healthy and safe work environment.

1.2 This policy should be read in conjunction with the EAP policy.

2. SCOPE

2.1 This policy applies to :

- All employees of the Bergrivier Municipality, including fixed term contract employees and temporary employees; and
- All contractors and their employees working on Bergrivier Municipal premises.

- 2.2 Clients, contractors and their employees, customers and visitors who are, or who appear to be under the influence of intoxicating alcohol or drugs, shall not be permitted to enter or remain at the workplace.
- 2.3 No client, contractor and his/her employees, customer, or visitor may be permitted on company premises if he/she has in his/her possession, for whatever purpose, intoxicating alcohol or drugs.
- 2.4 Contractors are responsible for the discipline and good conduct of their employees. If a contractor's employee breaches any provisions of this policy, the contractor will discipline that employee as the contractor deems fit.
- 2.5 This policy applies to employees who are designated for stand-by duty [i.e. have been notified of the possibility of being called out]. They will be considered to be on duty and subject to the provisions of this policy as if they were at work during normal working hours.

3. DEFINITIONS

- 3.1 "Alcohol" is any beverage containing any percentage of alcohol. "Alcoholic beverage" has the corresponding meaning.
- 3.2 "Alcohol testing" is the testing of an employee to determine the level of his or her breath alcohol concentration [BrAC] expressed in mg/1 000 ml. The testing is done using standardised, scientifically recognised breathalyser instruments, such as the Lion Alcometer, Drager Alcotester and Alcoscan.
- 3.3 "Blood alcohol concentration" is the concentration of alcohol in a person's blood [milligrams per 100 millilitres expressed as %BAC].

- 3.4 "Breath alcohol concentration" [BrAC] is the concentration of alcohol in a person's breath, expressed in mg/1 000 ml.
- 3.5 "Calibration" is the checking of and adjustment where necessary to, the reading displayed on a breath alcohol detector so that the reading equals the value of the alcohol concentration of an alcohol standard of known concentration. Calibration certificates should be maintained in respect of each instrument.
- 3.6 "Call-out" occurs when an employee or contractor is required to report for duty outside normal working hours. Scheduled stand-by employees will be treated as reporting for normal duties.
- 3.7 "COIDA" is the Compensation for Occupational Injuries and Diseases Act, 130 of 1993,
- 3.8 "Company premises" include any building or property, as well as any vehicles belonging to or leased to the B Municipality.
- 3.8 "Scheduled testing" is testing of all employees in certain categories of employment, at the discretion of the B Municipality, irrespective of position, who are automatically screened on entry or re-entry to municipal premises.
- 3.10 "Confirmation by observation testing" occurs when a person refuses to take a breathalyser test, or is unable to provide an adequate breath sample, or there is reasonable suspicion of the individual being intoxicated or under the influence of drugs or alcohol and confirmation of this is derived from other observable evidence.

- 3.11 "Drugs" refer to any form of psychoactive substance that can be classified in any of the following categories : depressants, stimulants, narcotics, hallucinogens and cannabis [dagga], and includes drug paraphernalia. It may also include prescription and non-prescription medication that could lead to physical and mental impairment. "Intoxicating substances" has a corresponding meaning.
- 3.12 "Drug testing" is testing of an employee to determine the level of drugs in his/her urine or saliva, using approved testing equipment.
- 3.13 "EAP" is B Municipality's Employee Assistance Programme, which is the approved means of assistance [such as counselling or referral to external professionals] made available to employees whose performance is considered to be negatively affected by wellbeing related problems, including substance abuse.
- 3.4 "Follow-up testing" is when any employee who has received a written warning for any alcohol or drug related misconduct may be required to undergo a breathalyser test each time he/she enters or re-enters municipal premises.
- 3.15 "OHSA" is the Occupational Health and Safety Act, 85 of 1993.
- 3.16 "Post accident/near miss or incident testing" occurs as soon as possible after any potentially recordable injury or incident on municipal premises.
- 3.17 "Random testing" is the unsystematic testing of employees at the discretion of the Bergrivier Municipality irrespective of position, who are subjected to random, non-discriminatory selection screening on entry or re-entry to municipal premises.

- 3.18 "Reasonable suspicion testing" takes place when an employee or contractor appears to be under the influence of alcohol/drugs.
- 3.19 "Return to work testing" is when any employee in rehabilitation may be required to undergo regular random testing for a specified period.
- 3.20 "RTA" is the Road Traffic Act, 1989.
- 3.21 "Qualified personnel" refers to qualified persons who are trained and certified in administering breathalyser tests and the calibration of alcoholmeters, i.e. line managers, supervisors and security personnel.
- 3.22 "Specific testing" is when a call-out or after hours emergency occurs, and employees are automatically tested prior to entry or re-entry to the workplace. It is also used as a proactive measure to ensure compliance with applicable legislation and includes the routine testing of drivers for alcohol and drugs during their annual medical examinations.
- 3.23 "Workplace" is any place where a person performs a work activity in the course of their employment with B Municipality.

4. PRINCIPLES

- 4.1 Bergrivier Municipality has a "zero tolerance" approach to the sale, use, abuse, purchase, storage, manufacturing, transport, distribution, or transfer of alcohol, drugs and drug paraphernalia on municipal premises, and will view any contravention of this policy in a very serious light.
- 4.2 An employee who is called out whilst on stand-by, who fails to inform his/her manager that he/she has consumed alcohol, and then tests positive after having commenced work will face disciplinary action.

- 4.3 If an employee who is not on stand-by is called out due to an emergency, he/she must inform his/her manager if he/she has consumed alcohol or is under the influence of drugs, in which case he/she will be sent home and will not face disciplinary action.
- 4.4 A manager or supervisor who knows or suspects that an employee has an alcohol or drug dependency problem should act in terms of this policy and the EAP policy.

5. THE POLICY

- 5.1 Bergrivier Municipality is committed to providing an alcohol and drug free environment, and recognises that alcohol and drug abuse may be conditions or illnesses, which respond to treatment and rehabilitation.
- 5.2 The use of alcohol and drugs in the workplace jeopardises the health, safety and wellbeing of the user and other employees, and results in absenteeism and productivity concerns.
- 5.3 The policy is intended to accurately detect and deter the use and abuse of alcohol and drugs in the workplace, whilst respecting the dignity and privacy of employees.
- 5.4 An employee or contractor will be considered unfit for work in terms of this policy in the event of any one, or combination of the following conditions:
- If a worker has been tested and his/her BAC is 0.02% or higher shall be deemed as unfit for duty and be sent home and not be paid for the remainder of his/her shift.
 - If his/her BAC is less than 0.02% shall be kept or supervised in safe

place for half an hour after which he/she will be tested again. If the BAC is still the same or lower the worker will be allowed to continue with his duties but be monitored by his/her supervisor.

- Refuses to undergo an alcohol/drug testing;
- He/she tests positive for a drug, measured by sample analysis at a registered pathological laboratory and authorised by a medical practitioner; and
- He/she is incapable of being tested, or it is evident from the employee or contractor's physical, emotional, mental or behavioural state that they are intoxicated as observed by security personnel and/or a line manager or a fellow employee.

5.5 No employee or contractor may possess, sell, use, store, manufacture, transport, distribute or transfer drugs or alcohol during work hours, on or off municipal premises. Involvement with any unlawful drugs, including their manufacture or distribution, is prohibited during and after work hours.

5.6 Intoxicated employees or contractors may not enter or remain in the workplace. Employees are prohibited from using alcoholic beverages during working hours or shortly before reporting for duty, and/or being under the influence of alcohol while at work or during working hours.

5.7 No intoxicated clients, customers and visitors may enter or remain on municipal premises. They will be removed from municipal premises or refused entry.

5.8 Vehicle drivers and machine operators who perform duties under the influence of intoxicating substances endanger their lives and those of others. Consequently an infringement like this by this category or employee may be viewed as more serious than a similar offence by other categories of employees.

5.9 Any transgression of this policy may constitute misconduct, which could lead to disciplinary action, regardless of whether the employee concerned is accessing EAP services.

5.10 If an employee contravenes this policy, the following procedure will apply:

- Disciplinary action may be initiated simultaneously with a mandatory referral to the EAP;
- If the outcome of the EAP referral is that the employee has a substance abuse problem, he/she will be offered assistance in terms of the EAP;
- Ongoing substance abuse problems will be dealt with in terms of the incapacity policy.

5.11 Any contravention of this policy by any other person [who is not an employee], including contractors and their employees who work for or render services to the B Municipality, constitutes a breach of the relevant contract and may result in the termination of that contract.

6. OBLIGATIONS

6.1 Without limiting any right or duty in terms of any law, B Municipality:

- Will endeavour to prevent anyone who is, or appears to be intoxicated from entering or remaining at the workplace or driving a municipal vehicle;
- Is under a duty to provide a workplace that is safe and without risk to the health and safety of its employees and other people;
- Is required to identify hazards and potential hazards to health and safety and adopt reasonably practicable means to eliminate or

mitigate those hazards

- Will **establish** its workplaces and premises as substance-free areas in which the possession, sale, use, purchase, storage, manufacturing, transport, distribution, or transfer of alcohol, drugs or other intoxicating substances is prohibited; and
- Will provide fair and equal treatment in the testing of employees for intoxication.

6.2 Employees and others who enter municipal premises have a duty to :

- Comply with all aspects of this policy;
- Avoid acts or omissions that might endanger their or anyone else's health or safety;
- Comply with any lawful instruction, requirements or rule related to the provision of a healthy and safe workplace, including this policy
- Report any unsafe or unhealthy situation, including the possession, sale, use, purchase, storage, manufacturing, transport, distribution, or transfer of alcohol, drugs or other intoxicating substances, or employees, clients, contractors and their employees, customers and visitors, suspected of being intoxicated, or being in possession of, selling, using, purchasing, storing, manufacturing, transporting, distributing or transferring alcohol and drugs to their manager as soon as possible; and
- Comply with any reasonable request to undergo an alcohol or drug test.

7. ADDICTIONS

- 7.1 Any employee who may be addicted to any substance is encouraged to seek assistance from his/her manager or the EAP.
- 7.2 An employee's manager or supervisor may also refer an employee who exhibits signs of substance abuse to the EAP.
- 7.3 COIDA states that no compensation is payable to an employee who is injured on duty whilst under the influence of alcohol or drugs. However, preventative treatment may be covered if the patient gets treatment at an institute approved by the South African National Centre for Alcohol and Drug Abuse [SANCA].

8. SUBSTANCE ABUSE LEADING TO INCAPACITY OR MISCONDUCT

- 8.1 Employees whose job performance is below required standards or who commit misconduct resulting from substance abuse are not exempt from the incapacity or disciplinary policies and procedures.
- 8.2 However, EAP participation will be a mitigating factor and reasonable steps will be taken to ensure the success of rehabilitation programmes.
- 8.3 An employee who reports to work under the influence of alcohol or drugs, or who consumes alcohol or drugs during working hours, is in breach of his/her contract of employment with the B Municipality and will be suspended without pay for the remainder of that day.

9. EDUCATION

- 9.1 B Municipality will ensure that existing and new employees are informed of this policy and educate them about the dangers of drugs and alcohol in the workplace as well as related services available through the EAP.
- 9.2 An employee's participation in the EAP will be treated confidentially, except insofar as it is necessary to keep the employee's line manager or supervisor informed of his/her progress as it relates to job performance or poses a potential safety risk.

10. MANAGEMENT OF SUSPECTED INTOXICATION
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- 10.1 If a duty foreman or a line manager is of opinion that an employee is or appears to be under the influence, the line Manager shall call any other official to act as a witness.
- 10.2 The responsible line Manager shall in the presence of the witness document signs of suspected intoxication. A verification of Intoxication form (See attachment A) may be used for this purpose.
- 10.3 Should the observed signs indicate suspected intoxication; the employee will be instructed to submit to a breath alcohol screening test. In the event of suspected drug induced intoxication, the employee will to be escorted to the ???? or a medical doctor or pathologist for appropriate tests to be done. Should the employee refuse that such tests be done or should the test be positive, such a person shall further be dealt with in terms of paragraph 10.7
- 10.4 Should the employee agree to submit to the alcohol screening test, the responsible line Manager shall administer the test in accordance with the

manufacturers operating instructions and in the presence of another witness or an employee representative.

- 10.5 The result of such a screening test shall be shown to the parties present and recorded on the verification form.
- 10.6 Should the employee refuse to submit to an appropriate test he should be informed that he will be giving up an opportunity to contest the allegation of being under the influence. The employee's refusal will then be recorded on the verification form.
- 10.7 Should the test result be positive, or where testing is refused and/or where clinical/behavioural signs suggest intoxication, the employee will, in the interests of workplace safety, be deemed to be under the influence and instructed to leave the work premises. Regardless of any test result, should the supervisor be convinced that the person's presence constitutes a safety risk or may tarnish the Company's name and standing based on clinical or behavioural signs, the supervisor will instruct the employee to leave the workplace. *Note: Removing the employee from the workplace under the conditions described above does not imply that the employee is indeed guilty of being intoxicated. This will only be determined during a disciplinary investigation.*
- 10.8 The Manager should take all reasonable steps ensure to that the employee has a safe means of returning home or accompany the employee to a safe area where the employee is least likely to cause harm to himself or others.
- 10.9 Employees who are refused entry or who are required to return home as provided for above will not be paid for that portion of the day which the person had missed on condition that, should the employee be found not

guilty during a subsequent enquiry, the employee shall be paid for the particular portion.

11. EXCEPTIONS

- 11.1 An employee who takes medication prescribed by his/her medical practitioner must report in advance to his/her manager any potential side effects that might affect safety or his/her ability to do the job.
- 11.2 Consumption of legal non-prescription medication is allowed on company premises as long as the dosages are not abused any potential side effects are reported to the employee's line manager or manager.
- 11.3 Limited consumption of alcoholic beverages at sanctioned municipal functions is allowed. Excessive consumption is discouraged. Employees are expected to use their discretion and behave responsibly.
- 11.4 Employees who consume alcohol at sanctioned municipal functions may not return to work afterwards.

12. TESTING

- 12.1 Because the OHSA obliges companies to enforce measures to promote health and safety, Bergrivier Municipality is entitled to take reasonable steps to ensure that intoxicated employees are prevented from entering or working in the workplace. These steps may include alcohol and drug testing to identify intoxicated employees, particularly those in hazardous jobs.
- 12.2 Bergrivier Municipality is entitled in its sole discretion to test for the presence and level of alcohol or drugs as part of its occupational health

responsibility, using any of the following types of testing :

- Scheduled testing;
- Random testing;
- Specific testing;
- Reasonable suspicion testing;
- Post accident/near miss or incident testing;
- Return to work testing;
- Voluntary testing;
- Follow-up testing; and
- Confirmation by observation testing.

12.3 All testing will be conducted using accepted professional standards, and in a way that respects the dignity and privacy of employees. Bergrivier Municipality will try, as far as possible, to protect the confidentiality of individual test results. Testing procedures are set out in the Implementation Guide for Managers.

12.4 The RTA states that a professional driver may not legally exceed the level of 0.02% BAC or its equivalent of 0.10mg/1 000 ml BrAC. According to the RTA, a person would reach this level after consuming only one drink, and anyone found guilty of an offence will have his/her license suspended for a minimum period of 6 [six] months for the first offence.

12.5 Testing may be conducted on all employees responsible for the driving of all kinds of vehicles as well as employees responsible for the operation of all kinds of machinery and equipment, and systems before they start work to determine whether they are under the influence of alcohol, drugs or other intoxicating substances.

12.6 Co-operation in being tested for intoxication provides an opportunity for

those being tested to prove their innocence.

- 12.7 Employees or contractors suspected of intoxication must either accede to testing, or leave the workplace.
- 12.8 Disciplinary action may be instituted against employees for refusal to carry out a reasonable and lawful instruction to undergo a test.

13. REHABILITATION

- 13.1 Employees with alcohol and drug abuse problems can access rehabilitation programmes through the EAP. Where an addiction has been established, employees are expected to seek treatment. Leave required for treatment will be regarded as sick leave, provided that the employee concerned follows the prescribed treatment to completion.
- 13.2 Employees who agree to undergo rehabilitation will remain in Bergrivier Municipality's employ until the treatment has been completed and the results assessed, provided they adhere to and cooperate with the prescribed treatment, and are not found guilty of a disciplinary offence that could lead to dismissal during the treatment period, including alcohol and drug related offences.
- 13.3 Employees who fail to follow the treatment to completion that is inclusive of aftercare services, i.e.
- To attend a therapeutic aftercare group consisting of 6-8 sessions,
 - Attend regular consultations with the EAP until interventions has been successfully completed,
 - To voluntarily attend AA or CAB support groups within his/her area,
- shall be subject to the disciplinary policy and procedures.

16.

13.3 Employees who refuse to seek or accept treatment or regress to the previous state of alcohol/drug dependency following completion of treatment, and report to work intoxicated will be subject to the disciplinary policy and procedure.

ANNEXURE "A"



MUNICIPALITY

VERIFICATION OF INTOXICATION FORM

1. To be completed by the employee's supervisor upon the suspicion of an employee being under the influence.
2. This procedure should be carried out in private in the presence of a Management (supervisor/manager) and employee witness (co-worker/shopsteward).

DATE :

TIME :

NAME OF EMPLOYEE:

DEPARTMENT:

FORM COMPLETED BY :

NAME OF MANAGEMENT WITNESS :

TICK WHICH IS APPROPRIATE AND ADD DESCRIPTIVE COMMENTS

1. **SMELL OF ALCOHOL**

Strong

Slight

No smell

2. **SPEECH**

Slurred.....

Slow and deliberate.....

Incoherent

Normal

3. **EYES**

Bloodshot

Slightly red

Dazed

Staring

Normal

4. **WALKING / BALANCE**

Uncontrolled

Slightly unsteady

Loss of balance when walking

Body sway when standing still

Normal

5. **BEHAVIOUR**

Overly boisterous and talkative

Agitated, aggressive

Laughs, giggles for no apparent reason

6. **HAND MOVEMENTS**

Shaky (tremor)

Clumsy, uncoordinated

Normal

7. **ANY OTHER SIGNS OF INTOXICATION ?**

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.....

8. In your opinion, is the person under the influence of alcohol or another intoxicating substance ?

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.....

9. Do you think the person will be able to do his/her normal duties without constituting a safety risk to himself and to others ?

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10. Do you think that the person can commence or resume his/her normal duties without detrimentally affecting Council's good name and standing ?

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NB Should the Supervisor be of opinion that the employee is under the influence the employee should be asked to submit to an appropriate alcohol/drug test. It should be explained to the employee that the purpose of the test is to afford him/her the opportunity of contesting the allegation of being under the influence.

Tick the employee's response to the offer of a test.

Agreed Did not agree

Result of onsite alcohol/drug test

Reason for refusal to submit to test

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.....
.....

SIGNATORIES

Supervisor :

Management witness :

Employee witness (If available) :

Employee (if willing) :