



WEDDIN SHIRE COUNCIL

PROCEDURE NUMBER: 14.27.2

PROCEDURE FOR ALCOHOL AND OTHER DRUGS POLICY

Adopted: 17 August 2017

1. Title: Procedure for Alcohol and other Drugs

2. Number: Policy Number 14.27.2

3. Purpose

- i) This procedure outlines the testing and education processes for the usage and abuse of alcohol and other drugs within the Weddin Shire Council.
- ii) The procedure aims to promote, create and maintain a safe work environment for all persons under Council's responsibility, ensuring that employees present themselves in a fit state to carry out their work activities, free from the effects of Alcohol or other Drugs.

4. Application

The procedure applies to all employees, councillors, contractors, sub-contractors, volunteers and work experience persons under the responsibility of Council.

5. Associated Legislation and Other References

Work Health and Safety Act (2011)

Work Health and Safety Regulations (2011)

Road Transport (Safety and Traffic Management) Act 1999 (NSW)

Road Transport (Safety and Traffic Management) Regulation 1999 (NSW)

AS3547:1997 – Breath alcohol devices for personal use

AS4760:2006 – Procedures for specimen collection and the detection and quantity of drugs in oral fluids.

Work Health Safety Management Plan, Weddin Shire Council (2012)

WorkCover NSW – Fact sheet: Establishing a Policy to Manage Alcohol and other Drugs in the Workplace

WorkCover NSW – Guide to Developing a Workplace Alcohol and other Drugs Policy

NSW Local Government Alcohol and Other Drugs Policy (2012)

NSW Local Government Alcohol and Other Drugs Procedure (2012)

6. Definitions

Certified Laboratory means a laboratory which meets minimum Australian performance standards set by an accrediting agency (eg National Australian Testing Authority)

Confirmatory Test means a second analytical test performed to identify the presence of specific alcohol and/or other drugs. The confirmatory test is a retest if the original test result is disputed.

Fit for work means that a worker is not under the influence of any alcohol or other drugs that would impede their ability to perform their duties.

PCBU means a Person Conducting a Business or Undertaking, including Council, and as described in the WH&S Act 2011

Reasonable Suspicion refers to indicators of impairment from alcohol and/or other drugs.

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Reportable Incident is defined as an event or accident that occurred in the course of work, which results in more than first aid, plant, vehicle or property damage or a dangerous occurrence or behaviour that could have resulted in injury or damage.

Responsible Person means a worker suitably trained to complete a task, Team Leader, Overseer, Director or General Manager.

Tester means a person authorised by Council to conduct breath analysis and Oral swab testing. These persons have received appropriate training in accordance with the relevant Australian Standard.

Worker means any person who carries out work for a Council, this includes an Employee, Contractor, Sub-contractor, Councillor, Volunteers and Work experience and as otherwise described in the WH&S Act 2011.

Workplace means all those areas (including Council Vehicle where a works, or any place with a member of the Council's workforce is likely to be working in the course of carrying out their duties, during paid working hours.

7. Confidentiality

Council is committed to upholding the privacy and confidentiality of its *workers*. Council will maintain confidentiality and privacy at all times during the implementation of this policy and procedure. Council will ensure the following measures are in place:-

- i) All testing will be conducted in a private location that maintains the privacy and dignity of the individual.
- ii) All testing will be conducted by trained staff in accordance with Australian Standards.
- iii) Individuals who record a positive result will be treated at all times in a respectful and non judgemental manner by all individuals in the management of the matter.
- iv) Council records pertaining to medical and test results shall be regarded as confidential information and will be stored in a secure location in accordance with Council's Records policy. The use/access/dissemination of this information shall be restricted to those who have a genuine requirement to access the records. No information related to alcohol and/or other drug testing shall be disclosed to any person or persons other than those properly authorised officers of the Council and authorised workers representative/s and the same confidentiality rules shall apply
- v) The General Manager is authorised under this policy to access, delegate and assign authority for access and use of the information obtained under this Policy, including, but not limited to authorised Government agencies, policies, insurer (for motor vehicle claims), workers compensation etc. Confidential test results may be released to external agents who are legally able to access this information. Where information is released, the worker/s that are involved are to be notified in writing as to whom the information has been released, when and for what purposes, and a copy of all information released to be provided to the worker/s involved. Notification will be given to workers prior to information being released to allow them to seek legal advice and to appeal any decision to release information prior to its release.

8. Duty of Care, Responsibility and Obligations

Under this procedure the duty of care, responsibilities and obligations of workers, the Council and others at work place are derived from obligations under the Work Health and Safety Act 2011 (NSW) and specified responsibilities detailed in this procedure.

It is recognised that there may be reasons why employees feel uncomfortable about nominating other employees whose behaviour is risky to themselves and others. This Council supports a rehabilitative and benign approach to managing these issues, rather than a punitive approach.

i) General Manager

The General Manager accepts overall responsibility for the effective management of workplace health, safety and well-being of all *workers* within Council. It is the GM's responsibility, under the WHS Act 2011, to provide a safe and healthy workplace for workers or other persons by ensuring:

- safe systems of work;
- a safe work environment;
- accommodation for workers, if provided, is appropriate;
- safe use of plant, structures and substances;
- facilities for the welfare of workers are adequate;
- notification and recording of workplace incidents;
- adequate information, training, instruction and supervision is given;
- compliance with the requirements under the work health and safety regulation;
- effective systems are in place for monitoring the health of workers and workplace conditions.

ii) Directors

Directors are classified as Officers, under the WHS Act 2011, and they are required to ensure that this WHS policy and programs are effectively implemented in their areas of control. Specifically under this Alcohol and other Drugs Policy and Procedure, they are responsible for ensuring the following:-

- The necessary tasks required for the implementation of the Alcohol and other Drugs Policy and Procedures are undertaken
- Adequate training, information, instruction and supervision are provided such that this Policy can be successfully implemented.
- All *workers* are made aware of their obligations to be *fit for work*
- Immediate and appropriate actions are taken when a *fit for work* issue has been identified.
- All Reportable incidents are appropriately investigated and reported.

iii) Works Supervisor/Team Leaders

It is the responsibility of all Supervisors and workers to ensure that:-

- All *workers* under their supervision are made aware of their obligations to be *fit for work*
- Where reasonable suspicion has been identified, the *worker* in question is not permitted to commence or continue work until they are deemed *fit for work*.
- The Policy and Procedures are applied fairly and consistently
- Privacy of those tested is maintained.

iv) Workers

- All *workers* have the responsibility to present themselves *fit for work* and raise any concerns about their own fitness for work with their Works Supervisor and/or Team Leader.
- *Workers* also have the responsibility to ensure the safety of other *workers* and notify their Works Supervisor and/or Team Leader if they believe a fellow *worker* is not *fit for work*.
- *Workers* are required to comply with any reasonable instruction by the employer
- The *worker* is responsible for any criminal penalty which results from being under the influence of drugs or alcohol in the workplace.

v) Others

Work Health and Safety committee has a duty to promote the fulfilment of this policy and procedure. The committee should facilitate the development, consultation and communication of this policy and the committee should participate and cooperate in workplace investigations into accidents, incidents or near misses.

9. Training, Education and Assistance

Council recognises that it is important to develop a workplace culture through education, where workers are prepared to encourage each other to be safe and not under the influence or impaired at work. Council will provide this education and awareness information to its workers at all levels.

Existing workers will receive education in this policy and the accompanying procedure within 3 months of its official adoption by Council. Contractors and volunteers will also be informed of the requirements within this timeframe. New workers will receive education at induction on commencement with Council. Council will also provide practical guidelines and training to Managers and Supervisors for dealing with persons who may be affected by alcohol or other drugs, including the correct application of disciplinary sanctions and the need for maintaining strict confidentiality.

If a worker has issues of concern including those related to alcohol and other drugs Council encourages workers to make use of the Employee Assistance Program (EAP) and seek appropriate support and assistance. The service is provided on a confidential basis. Council utilises the services of *Insight Health* to provide their EAP. Services are free to staff and their immediate family and are confidential. To contact EAP call 1300 850 325.

10. Alcohol and Other Drug Testing Program

Council has established a program of testing that will provide people with information about the effects of alcohol and other drugs and discourage people from coming to work where they may be unfit for work because of alcohol or other drugs. This program will also assist in identifying people who may be unfit for work.

The Testing options are:

- i) Voluntary,
- ii) Post Reportable Incident,
- iii) Reasonable Suspicion; and
- iv) Random.

i) Voluntary Testing

Voluntary testing provides workers with the ability to volunteer to be tested either for Alcohol and/or other Drugs. Workers who engage in voluntary testing who produce a non-negative confirmatory test will be expected to actively participate in a structured rehabilitation program.

Voluntary testing returning non-negative confirmatory test results will be managed on a case by case basis and Council may explore opportunities available within Council for suitable duties to be actively sought for staff during their rehabilitation program. Such opportunities must be by agreement and in consultation with the affected worker and their Union or other representative. Immunity for disclosure from disciplinary action will be provided to the worker on the condition that they comply with the rehabilitation program and do not report for work and commence work in an unfit state in future. These workers should request a voluntary or self test if in doubt, prior to commencing duties.

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ii) Post Reportable Incident

The *worker(s)* concerned will notify the *reportable incident* immediately to their Supervisor. After a *reportable incident* occurs at the workplace, the Supervisor in consultation with the Work Health and Safety Representative may require a worker to undergo an initial alcohol or other drug test. Where an incident occurs that falls within the definitions, all workers directly involved in the incident may be tested. Post reportable incident testing will take place no later than 12 hours after the incident. If an employee fails to report an incident, as defined, immediately as required and testing is unable to be undertaken within 12 hours as a result of this failure, the testing will be conducted under Reasonable Suspicion.

Incident Type	Definition	Excluding
Injury	Any injury caused during the course of work for which the worker requires treatment over and above first aid only treatment.	Testing will not be undertaken by Council where it is identified: <ul style="list-style-type: none"> the incident was not within the control of the worker involved and the correct procedures were followed first aid treatment only is required unless the worker develops a pattern of reporting first aid only injuries which subsequently require medical treatment journey accidents (before the start of the shift or after the shift has finished) a member of the NSW Police Force attend an accident site, irrespective of whether or not the worker is tested for alcohol or other drugs by the police officer the injury is hearing loss, skin cancer or other occupationally induced disease the injury is of a diagnosable psychological condition.
Vehicle	Any work related incident involving a Council vehicle (vehicle includes any type of road registrable plant) where damage to the vehicle and/or third party property is sustained	Testing will not be undertaken by Council where it is identified: <ul style="list-style-type: none"> that the incident was not within the control of the worker involved journey accidents (before the start of the shift or after the shift has finished) minor damage where the worker is not at fault (e.g. tail light, less than \$2,000, minor scratch) unless a pattern develops of minor incidents involving a specific worker a member of the NSW Police Force attend an accident site, irrespective of whether or not the worker is tested for alcohol or other drugs by the police officer.
Property Damage	Any incident resulting in equipment, property or environmental damage	Testing will not be undertaken where by Council where it is identified: <ul style="list-style-type: none"> that the incident was not within the control of the worker involved and the correct procedures were followed minor damage where the worker is not at fault (e.g. tail light, less than \$2,000, minor scratch) unless a pattern develops of minor incidents involving a specific worker a member of the NSW Police Force attend an accident site, irrespective of whether or not the worker is tested for alcohol or other drugs by the police officer
Any incident that has the potential for significant risk of harm or injury to persons or equipment	Dangerous occurrences or behaviour that could have resulted in injury or property damage	Testing will not be undertaken by Council where it is identified: <ul style="list-style-type: none"> that the incident was not within the control of the worker involved and the correct procedures were followed the potential was for minor damage where the worker is not at fault (e.g. tail light, less than \$2,000, minor scratch) unless a pattern develops of minor incidents involving a specific worker. first aid treatment only is likely to have been required

Testing of apprentices, trainees or work experience persons under the age of 18 is only to be conducted when an appropriate parent or guardian is present.

An injured person who requires immediate medical attention may only be tested when it is appropriate. This will be determined in consultation with suitably trained medical personnel. In such cases, testing procedures other than breath or saliva may be used in accordance with the appropriate Australian Standards.

If the incident is excluded by the defined criteria for post reportable incident testing, the Supervisor must ask the worker if they have consumed any drugs and/or alcohol within the past 12 hours, or if they believe that any other worker involved in the incident may be impaired by drugs or alcohol. If the worker indicates they have taken drugs and/or consumed alcohol, or believe that they or another worker involved, are impaired in any way, they will remain where they are and their Supervisor, or Director, and/or Responsible Person will attend the scene and arrange for an alcohol and other drug test to occur, irrespective of whether or not it is required under the criteria nominated in the table.

Where a subsequent investigation has identified that the true cause or causes of an incident were not properly reported and fell into the category requiring a test, then a drug and alcohol test will be organised. Late or incorrect reporting of incidents will be investigated and similar action will be undertaken.

iii) Reasonable Suspicion

Where the Director or Supervisor of a Worker suspects they are not fit for work, the guidelines outlined in Appendix A should be followed. If another staff member is concerned that a fellow worker is impaired, they should report their suspicion to their Director or Supervisor

The guidelines for the Reasonable Suspicion are to be applied fairly, objectively and equitably on each occasion they are required. If this procedure is followed and it is deemed that the worker is not fit for work, the worker will be requested to undergo an initial alcohol and/or drug test in accordance with the relevant Australian Standards. If a worker refuses to undergo an initial test without an appropriate reason, then the worker may be stood down until they can provide medical evidence to justify their fitness for work, or they undertake the test. Workers stood down can apply to take paid leave in accordance with the provisions for suspended workers in the Local Government (State) Award

There is an obligation on management to be aware that changes in the normal appearance or behaviour of a person may indicate that the person is impaired by drugs or alcohol. It is not the responsibility of Managers, Supervisors or worker representatives to diagnose personal or health problems or determine what the cause of impairment may be.

Assessment of a worker's impairment is to be made in accordance with the list of observable indicators (Appendix A) and is to be made in the context of changes to a worker's behaviour. The assessment is not to be made on assumptions based on a worker's previous behaviour or work record. At least one (1) of the physical indicators in Appendix A must be satisfied and agreed between the *responsible persons* for reasonable suspicion to be established. Emotional effects (as contained in the second part of the table) should not be used as indicators of reasonable suspicion but may be recorded as additional information on the relevant records.

The responsible persons are to request a discussion with the worker in a private location away from other workers, where possible. The worker should be given an opportunity to have a Union delegate or other person attend the discussion. The privacy of the worker is a priority at all times.

The responsible person should use wording such as:

“I am concerned that you are behaving unusually today because I have observed [list indicators

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forming basis of reasonable suspicion]. Is there a reason for this?”

Workers should be clearly informed by the responsible persons of the indicator or indicators upon which reasonable suspicion was based. Responsible persons should speak assertively. Judgemental or confrontational language is not to be used and debate is not to be entered into with the worker.

Mitigation factors are to be taken into consideration. The worker is to be given an opportunity to explain their behaviour. A person may appear to be impaired from alcohol or other drugs but not necessarily have taken any such substances. For example, the worker may be suffering the side effects of medication prescribed by their treating doctor or suffering from sleep deprivation because of a personal trauma or concern. Such a situation is a mitigating factor for the purposes of this policy. Mitigating factors include things such as, but not limited to:

- Unexpected impairment from prescription or over the counter medication;
- Side effects from medical treatment or an illness or injury;
- Impairment from fatigue due to a personal trauma, sleep deprivation or other issue; or
- Any similar factor that may cause impairment but is not the result of inappropriate alcohol or other drug consumption.

Where the responsible persons are satisfied that a person is impaired due to a mitigating factor no disciplinary action is to be taken. Repeated presentation at work by a staff member whilst impaired from over the counter medication may result in a breach of policy being recorded. Any staff member identified as impaired from this cause is to be reminded that any impairment is a safety risk and that they should not present for work impaired. Where prescribed or over the counter medication is taken, staff are encouraged to notify their Supervisor or Manager in advance. Repeated failure to notify may result in a breach of policy being recorded. Where the responsible persons assess that the worker is not fit to continue working as a result of the fit for work assessment, they will:

- Direct the worker to take personal or other leave until they are fit to resume duties, or
- Consider short or long term alternative duties or other control measures to ensure the workers own safety and the safety of others in the workplace.

iv) Random Testing

Random testing for alcohol and/or other drugs for Council’s workers may be conducted at any time throughout the worker’s hours of work (including overtime). Random testing will be conducted in an appropriate area which contains adequate facilities for testing. The testing will be done privately. All workers will be eligible for selection for random testing. Workers will be selected for testing by using a simple random selection process, involving the selection of a worker, location or group of workers located in a specific area. Workers who are selected will be required to present themselves for testing immediately.

11. Testing Procedure – Alcohol

Workers identified to participate in alcohol testing will be required to carry out a supervised alcohol analysis test, using a calibrated breath testing device as per the Australian Standard AS3547:1997 - Breath alcohol devices for personal use . The test will be administered by a suitably qualified person. The worker may have a Union delegate or other representative present during the testing procedure. Unless medically required, no food or drink is to be consumed for 15 minutes prior to the test. Smoking shall also not be permitted as it may distort the test results.

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The permitted level of alcohol in any confirmatory sample returning a result at, or in excess of, the levels prescribed in NSW for the operation of motor vehicles. The permitted Blood Alcohol Content which applies to workers at Council is dependent on the category of the worker's licence and the type of vehicle the worker is required to operate.

ZERO (grams per 100 Millilitres) applies to:

- ALL learner drivers.
- ALL Provisional 1 drivers.
- ALL Provisional 2 drivers.
- ALL visiting drivers holding an overseas or interstate learner, provisional or equivalent licence.

Less than 0.02 (grams per 100 Millilitres) applies to:

- Drivers of vehicles of "gross vehicle mass" greater than 13.9 tonnes.
- Drivers of vehicles carrying dangerous goods.
- Drivers of public vehicles such as taxi or bus drivers.

Less than 0.05 (grams per 100 Millilitres) applies to:

- ALL other licences (including overseas and interstate licence holders) not subject to a 0.02 or zero limit.
- Any employee who is not required to drive as part of their role or who is unlicensed is required to meet the .05 limit whilst at work for the purposes of this procedure.

In the event that a non-negative result is registered, a subsequent test will be carried out 15 minutes after the first test. During this 15 minute period, the worker is to be supervised continually at all times by the person conducting the tests. Workers with a non-negative second breath analysis test results will be presumed unfit for work and arrangements will be made to transport the person to their home. The worker will then be required to submit for a further test at the first available opportunity on the next working day before being able to resume their normal duties.

Where a person presents a negative result or result lower than the acceptable levels identified in this procedure the person will be permitted to commence or resume their normal duties. A worker who refuses to undertake an initial and/or second test will be presumed to be, and treated as if, a second non-negative test result was received.

Confirmatory Test means a second analytical test performed to identify the presence of alcohol and/or other drugs in accordance with Australian Standard AS3547:1997 and AS4760:2006. The confirmatory test is a retest of a second sample from the original sample taken at the original collection time. Nothing in this Procedure shall prevent the carrying out of a second independent test, by a method chosen by the person who tested non negative.

12. Testing procedure – Other Drugs

Workers identified to participate in a drug test will be required to undergo an oral swab test as per the Australian Standard AS4760:2006. The test will be administered by a suitably qualified person.

i) Prescribed medication

It is recognised that certain prescription medication may return positive results during testing, and it is the responsibility for any worker, in accordance with Council's work health and safety policies and procedures, to inform their Supervisor if they are taking any prescription medication that may cause impairment whilst at work.

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Where practicable, the tester shall provide a list of medications which may provide a false positive result. Any employee required to undertake drug testing can choose to declare any medication taken immediately prior to the test being conducted or can declare following the initial test if an initial non-negative result is obtained. Such information is to be kept confidential and only to be used in determining if such medication has contributed to or caused a false positive.

If the worker declares the medication prior to any testing being conducted, and the drug class(es) declared is consistent with the drug class(es) detected at the initial screening test, then a fitness for work assessment is to be conducted by two responsible persons. If the worker is assessed as being unfit to continue in their normal role, temporary re-deployment into alternate suitable duties may be available and Council will actively explore any opportunities that may be available at the time that would be suitable to the individual. If the person is assessed to be fit for work the person will be permitted to return to work and will be allocated low risk tasks pending the results of the confirmatory test. There may be circumstances as a result of the fit for work assessment, where a worker who normally operates or drives a Council vehicle or heavy/mobile plant will be unable continue to do so. If the person is assessed to be unsafe to continue to operate vehicle or heavy/mobile plant or work in their normal position, then arrangements will be made to transport the person to their home or a safe place. Council may request further information such as a medical certificate from the worker's doctor.

If the person did not declare the medication prior to the testing being conducted, or if the drug class(es) declared is inconsistent with the drug class(es) detected, or there are methamphetamines present, then the person will be assessed as unfit for work and arrangements will be made to transport the person to their home or a safe place.

ii) Confirmatory Test is Non-negative and Consistent with medication

A confirmatory non-negative test result for other drugs will be determined by the Australian Standard AS4760:2006. The accredited testing laboratory will forward all test results to the General Manager in writing, identifying the confirmatory test was positive but consistent with medication declared. If the worker has previously been allocated low risk duties, their fitness for work will be reassessed and the worker will either return to normal duties or remain on low risk duties for the duration of the use of the medication, providing the duration of the use of the medication is a reasonable timeframe.

If the worker has been stood aside pending the confirmatory test results, their Director will contact them and request that they return to work once results have been received. On return to work, their Director in consultation with their Supervisor will reassess their suitability for duties.

iii) Confirmatory Test is Non-Negative and Not Consistent with Medication

Once the accredited testing laboratory has forwarded the results to the General Manager, the worker and the applicable Director will be advised in writing that the confirmatory test was non-negative but inconsistent with the medication disclosed by the worker.

The letter of confirmation forwarded by Council to the worker confirming the test result will set out a nominated time and date when the worker and, if requested, their Union or other representative, will discuss further action with their relevant Director. If the worker's requests access to paid leave entitlements such as personal, annual or long service leave, as part of the further action discussion,

agreement to access to relevant leave entitlements will depend on the circumstances and will be managed in accordance with the Local Government (State) Award

iv) Confirmatory Test is Negative

The accredited testing laboratory will forward the results to the General Manager who will then advise the worker and their Director that the confirmatory test result was negative. If the worker has been stood down pending the outcome of the confirmatory test, the Director will contact them to arrange the workers return to work. Any loss of pay or use of paid leave as a result of being stood down will be reimbursed and reinstated in full by Council.

13. Refusal or Tampering of Tests

Refusal

The relevant Director shall use the following procedure if a person refuses to take an initial drug or alcohol test:

- i) The authorised collector will inform the worker who has refused the test that the refusal will have the same consequences as a non-negative result, i.e. that the worker will be deemed to be under the influence of drugs and/or alcohol.
- ii) The worker will be offered the test again. This would be the second request to be tested.
- iii) If the worker still refuses, the authorised collector will notify the relevant Director of the refusal to take the test. After discussion between the Director and the worker, the Director will re-offer the test to the worker. The Director should discuss the refusal and likely consequences with the worker, try to determine the reasons for refusal and then re-offer the test. This will be the third and final offer to be tested.
- iv) If the worker still refuses to take the test, the refusal will be recorded as 'Refused Test'.
- v) Arrangements will be made to transport the person to their home or a safe place.
- vi) The Director will inform the Supervisor of the situation and ensure all documentation is recorded and filed.
- vii) The worker concerned will not be permitted to return to work until a discussion is held with the relevant Director and the Supervisor and a negative test result is obtained.
- viii) Whilst this result is being achieved, workers may be stood down and be entitled to access their own personal leave entitlements if available and if not, other available accrued leave entitlements in accordance with the Local Government (State) Award.

Tampering

Any attempt to tamper with samples and introduce, or alter the concentration of alcohol or other drugs in their own, or another's saliva or breath may constitute serious misconduct and be dealt with according to Council's Disciplinary Procedure. "Adulteration Sticks" may be used at the testing stage in the event that a sample appears suspicious at the discretion of the accredited laboratory securing the sample.

14. Procedure for Non-Negative Results

At all times during the positive test result process, the worker is entitled to have a Union representative or other representative of their choosing present at all discussions and/or disciplinary meetings should they so choose.

The relevant Director will afford the worker procedural fairness and discuss the non-negative result with the person. The relevant Director will provide an opportunity for the worker to provide any information or comments that may be a mitigating factor when considering the confirmatory test result. The worker will be advised of counselling services available and, if necessary, or by the workers own request, be referred to an appropriate service.

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Before a worker returns to work, they will be required to provide a negative test result. Whilst this result is being achieved, workers may be stood down and be entitled to access their own personal leave entitlements if available and if not, other available accrued leave entitlements.

Council may initiate disciplinary actions in accordance with the Local Government (State) Award if the worker returns a second or third positive test within a two year period.

Workers participating in voluntary self testing have immunity from disciplinary action on the condition that they comply with the rehabilitation program and do not report for work and commence work in an unfit state after submitting for the initial voluntary test. Any disciplinary action taken is to be in accordance with the provisions of the Local Government (State) Award and inability to perform normal duties during any period as a result of this procedure may result in a review of the workers pay rate during this period which could result in a reduction in pay.

Dealing with Aggressive or Abusive Behaviour

If a worker displays aggressive or violent behaviour when required to undertake an alcohol and/or other drug test, the Supervisor or Director should remain calm and not argue with or mirror the worker's behaviour.

Emphasis should be placed on getting the worker to calm down and discussion kept away from personal issues. The worker should be asked to comply with the management direction and be informed that the worker will have the opportunity to dispute the decision through the normal grievance process utilised by Council. If the worker refuses to modify their behaviour, the worker should be advised that the discussion is terminated and that they must leave the workplace immediately. The worker should be reminded that acts of aggression or violence in the workplace are in breach of the Code of Conduct and may result in dismissal. In the case of actual or apprehended violent behaviour, the worker is to be advised that the police will be called. This option is to be used as a last resort.

15.Rehabilitation

The worker's Supervisor and Director may assist the individual worker in developing a rehabilitation plan to manage their fitness for work issue. The details of the plan should be agreed between the parties and may include the aim of the plan, the actions to be taken, the progress reporting procedure, the review date and the timeframe for return to work.

The parties may also include, at the workers request, their Union representative or a representative of their choice to assist in the development of this plan. With the approval of Council, personal leave benefits, long service leave, annual leave (where accrued) or unpaid leave may be available to the worker undertaking alcohol and/or other drugs rehabilitation or counselling. Such approval shall not to be unreasonably withheld.

Any dispute relating to the application of this procedure shall be settled in accordance with the Grievance and Dispute Settlement Procedure of the Local Government (State) Award.

16.Review and Amendment

- i) The Committee will undertake an initial review this policy after one (1) year to determine its effectiveness
- ii) Subject to being adopted, this policy shall then be reviewed at four (4) yearly intervals, to ensure it meets all statutory requirements and the needs of Council.
- iii) This policy may be amended or cancelled by Council at any time without prior notice or obligation.

17. Adoption

- i) This policy commences as from the date of adoption by Council, being 17 August 2017 and replaces any previous policy.

18. History

Version	Details
14.27.1	18 August 2016
1427.2	17 August 2017

19. Appendix A - Fitness for Work Assessment

Observable Indicators of Impairment

Assessment of a worker is to be made in accordance with this list of observable indicators in the context of changes to a person’s behaviour. At least 2 responsible persons must participate in the assessment. At least one (1) of the physical indicators must be satisfied and agreed between the responsible persons for reasonable suspicion to be established. Emotional effects (the second part of the table) should not be used as indicators of reasonable suspicion but may be recorded as additional information.

Name of worker being assessed:

Name of Responsible Persons:

Name of attending representative (if requested):

Date / Time:/...../.....

Assessment Triggers

Behaviour / actions / observations reported prior to this assessment:

Physical Indicator	Observed
Strong smell of alcohol on breath	
Slurred, incoherent or disjointed speech (losing track)	
Unsteadiness on the feet	
Poor coordination / muscle control	
Drowsiness or sleeping on the job or during work breaks	
Inability to follow simple instructions	
Nausea / vomiting	
Reddened or bloodshot eyes	
Jaw clenching	
Sweating / hot and cold flushes	

Emotional Effect (Not a basis for reasonable suspicion)	Observed
Loss of inhibitions	
Aggressive or argumentative behaviour	
Irrational	
Intense moods (sad, happy, angry)	
Quiet and reflective	
Talkative	
Increased confidence	
Appearance or behaviour is ‘out of character’	

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Observation Checklist – Physical Indicators

- BREATH Smell of intoxicating liquor on breath: Nil Slight Strong
- SKIN Sweating/hot and cold flushes
- EYES Reddened or bloodshot
- SPEECH Normal Disjointed Slurred Confused Fast Slow
- BALANCE Unsteady Swaying Slumping Falling
- MOVEMENTS Poor coordination/muscle control
- AWARENESS Drowsiness or sleeping on the job or during work breaks
Inability to follow simple instructions
- OTHER PHYSICAL SIGNS Nausea/vomiting Jaw clenching

Questions	Response
Can you give any reason for your appearance and behaviour as noted above?	
Could you be under the influence of drugs and / or alcohol?	
Have you consumed drugs and / or alcohol since the commencement of the shift?	

Assessment Result

No testing required (alternate action if applicable – note in comments section)

Testing required – at least one (1) physical indicator in evidence

Both Responsible Persons agree: Yes / No

Comments :- including mitigating or other factors noted or explained by the person:-

.....

.....

.....

.....

.....

.....

Signature of worker being assessed: Date / /

Signature of Responsible Persons: Date / /

..... Date / /

Signature of representative (if requested):..... Date / /

20. Appendix B - Alcohol and other Drugs Policy and Procedure – Flowchart

AIM

The aim of the drug & alcohol policy and subsequent procedure is to assist the Council in addressing risks to health and safety in the workplace associated with the inappropriate use of alcohol and/or other drugs. This will also assist the Council in having a process to manage the misuse of alcohol and other drugs in the workplace through training, education and where required rehabilitation.

The integration of the drug & alcohol policy and subsequent procedure into Council's Safety Management System will assist with the continual improvement of workplace safety. It will assist with the management and promotion of fitness for work of staff (including contractors and volunteers) to be part of the Council's standard processes.

TESTING IN USE

The Council in cooperation with the relevant unions (USU, LGEA and DEPA) and the LGSA have adopted the use of oral swab testing (to be completed as per the requirements of AS4760) for drug testing as it will generally detect the presence of a substance that was consumed within a matter of hours as opposed to testing such as urine where a substance was consumed days or weeks ago. A positive result in this case may not have a bearing on whether the person is unfit for work.

Drugs to be tested via the oral swab testing will be:

- Cocaine
- Opiates
- Methamphetamine
- THC

For alcohol testing a standard breathalyser meeting the requirements of AS3547 will be used. The following cut off points for blood alcohol content (BAC) will apply:

- 0.02 or greater for heavy plant operators (>13.9 tonne) or truck drivers (>4.5 tonne) or mobile plant operators. This will apply only for personnel who are undertaking these specific duties at the time of any testing.
- 0.05 or greater for all other staff to be in accordance with relevant state legislation.
- Where the person has a provisional licence (P plates) then the current BAC limits for P plates must be followed if they drive vehicles and/or trucks.

COMMON DEFINITIONS

Confirmatory test: means a second analytical test performed to identify the presence of specific alcohol and/or other drugs. The confirmatory test is a retest of a second sample from an original collection if the initial test result is disputed

Negative result: a result other than a positive

Unconfirmed results: is where a potential result for drugs has been obtained on the initial oral swab and the collection is sent to a certified laboratory for further confirmation

Over the counter medication: this non prescription type medication that if consumed before a test is undertaken may influence the result shown

Non Negative: an initial positive test as yet unconfirmed by confirmatory testing by an accredited tester.

Positive: where the initial test result has been confirmed by further testing that the person is under the influence of alcohol and/or drugs above a prescribed limit as per current legislation and/or Australian standards

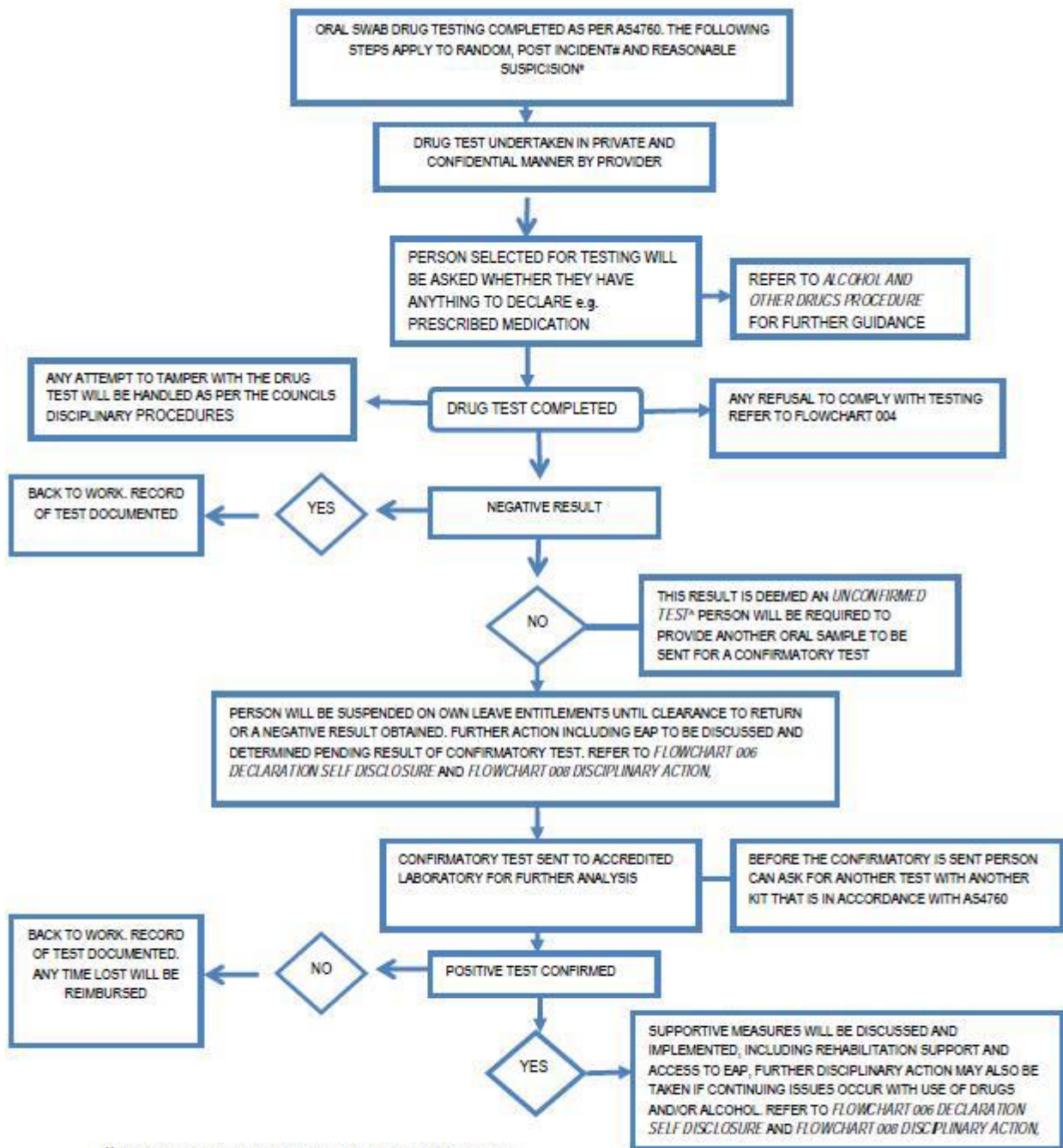
Prescription medication: medication that is prescribed by a doctor

Random testing list: persons will be added to this list who have either failed (tested nonnegative) a test or refused unreasonably a request for a drug and/or an alcohol test. Individuals placed onto the limited random list can be targeted tested at any time, in addition to the standard random testing undertaken by the council.

Responsible person: A responsible person is a person who is appointed and trained in the identification of signs of impairment. The responsible person is able to make an assessment of reasonable suspicion impairment utilising the objective indicators.

PROCEDURE FOR ALCOHOL AND OTHER DRUGS (NO. 14.27.2)

GENERAL DRUG TESTING FLOWCHART 001



REFER TO FLOW CHART 002 FOR FURTHER INFORMATION

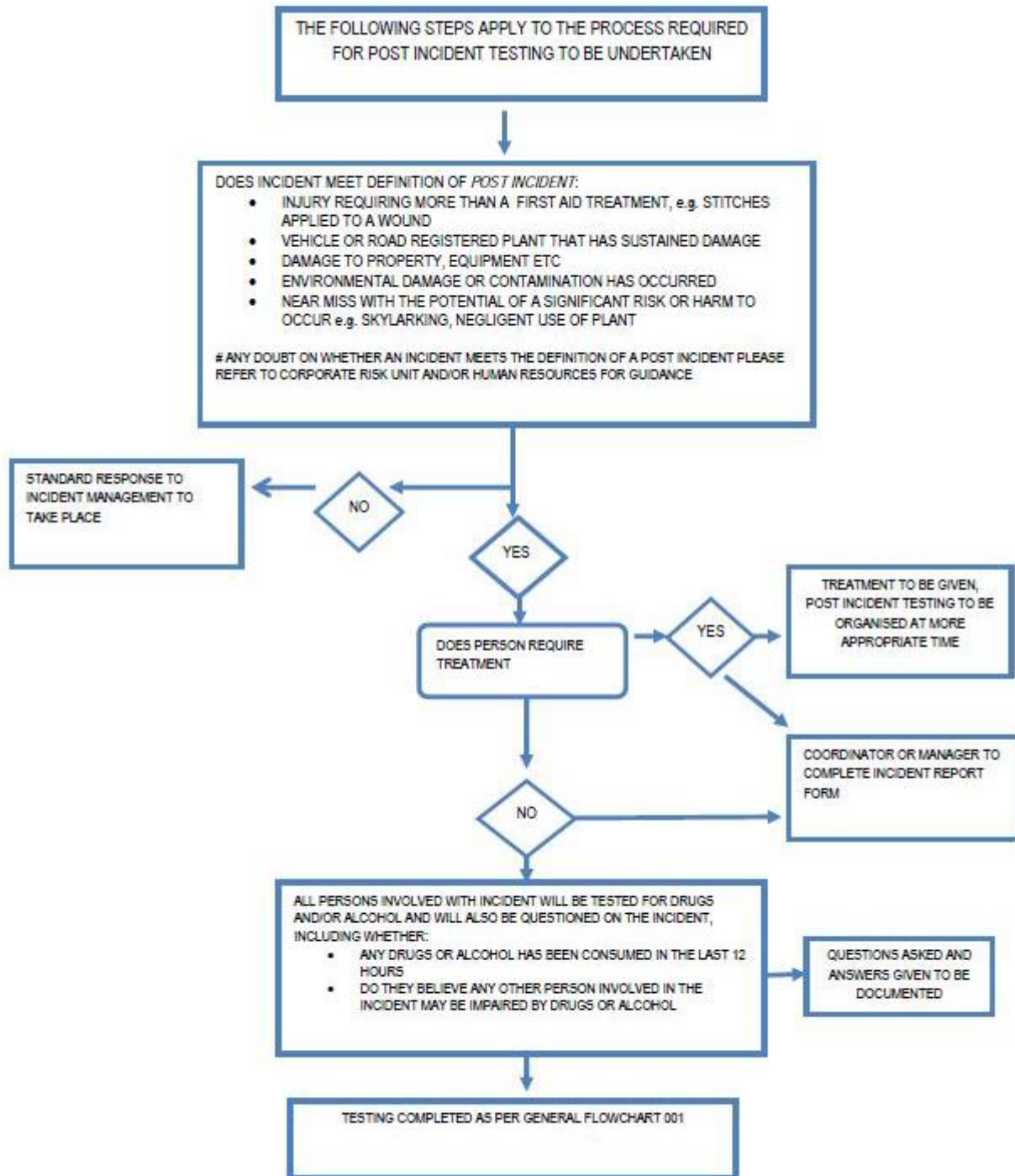
* REFER TO FLOW CHART 003 FOR FURTHER INFORMATION

^ AN UNCONFIRMED TEST IS AN INITIAL RESULT FROM AN ORAL SWAB TEST THAT IS NOT A NEGATIVE RESULT AND NEEDS FURTHER TESTING AT A CERTIFIED LABORATORY TO BE CONFIRMED AS EITHER A POSITIVE OR A NEGATIVE RESULT BY THE COMPLETION OF A CONFIRMATORY TEST

CONFIDENTIALITY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

PROCEDURE FOR ALCOHOL AND OTHER DRUGS (NO. 14.27.2)

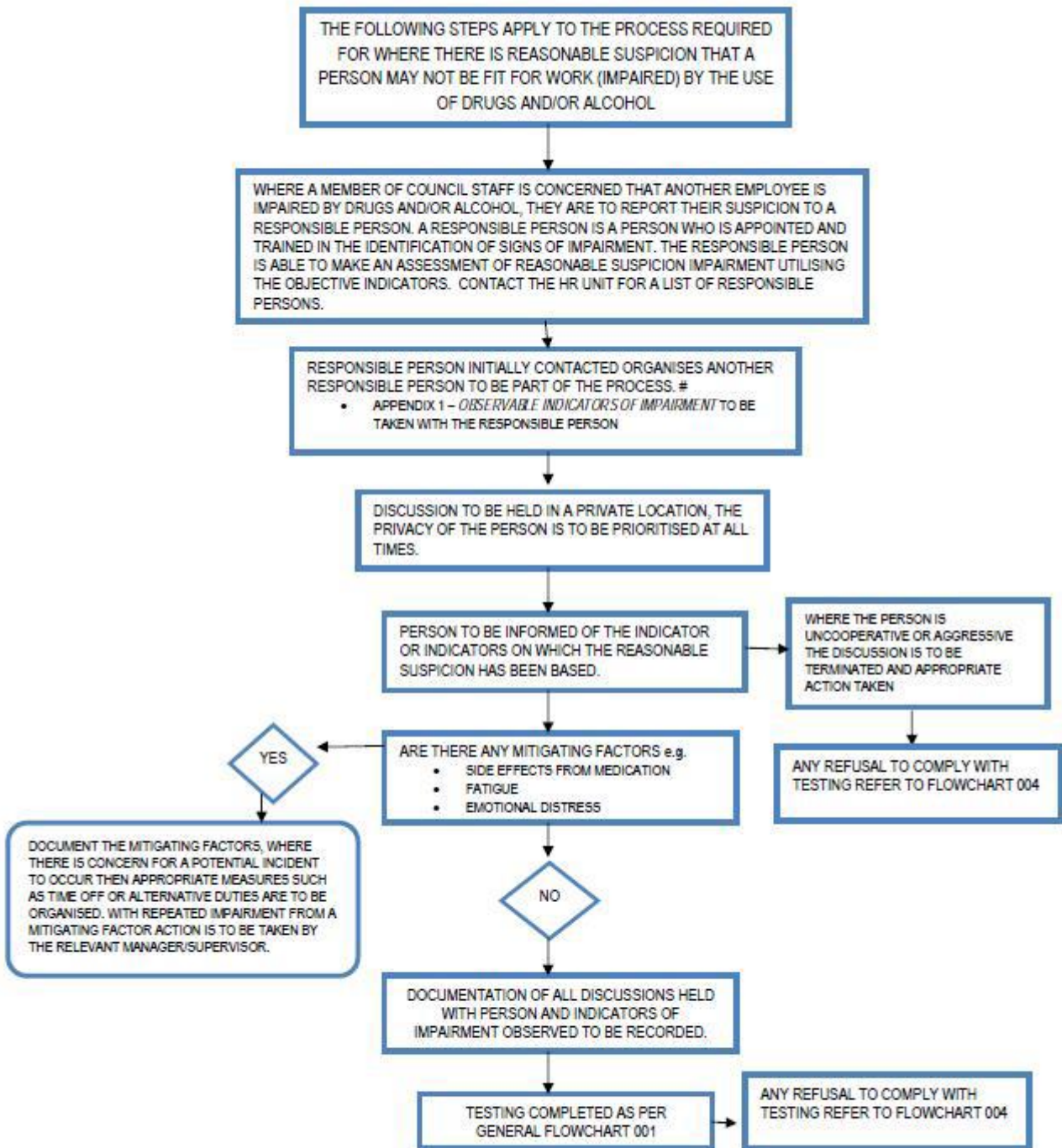
POST INCIDENT TESTING FLOWCHART 002



CONFIDENTIALITY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

PROCEDURE FOR ALCOHOL AND OTHER DRUGS (NO. 14.27.2)

REASONABLE SUSPICION FLOWCHART 003

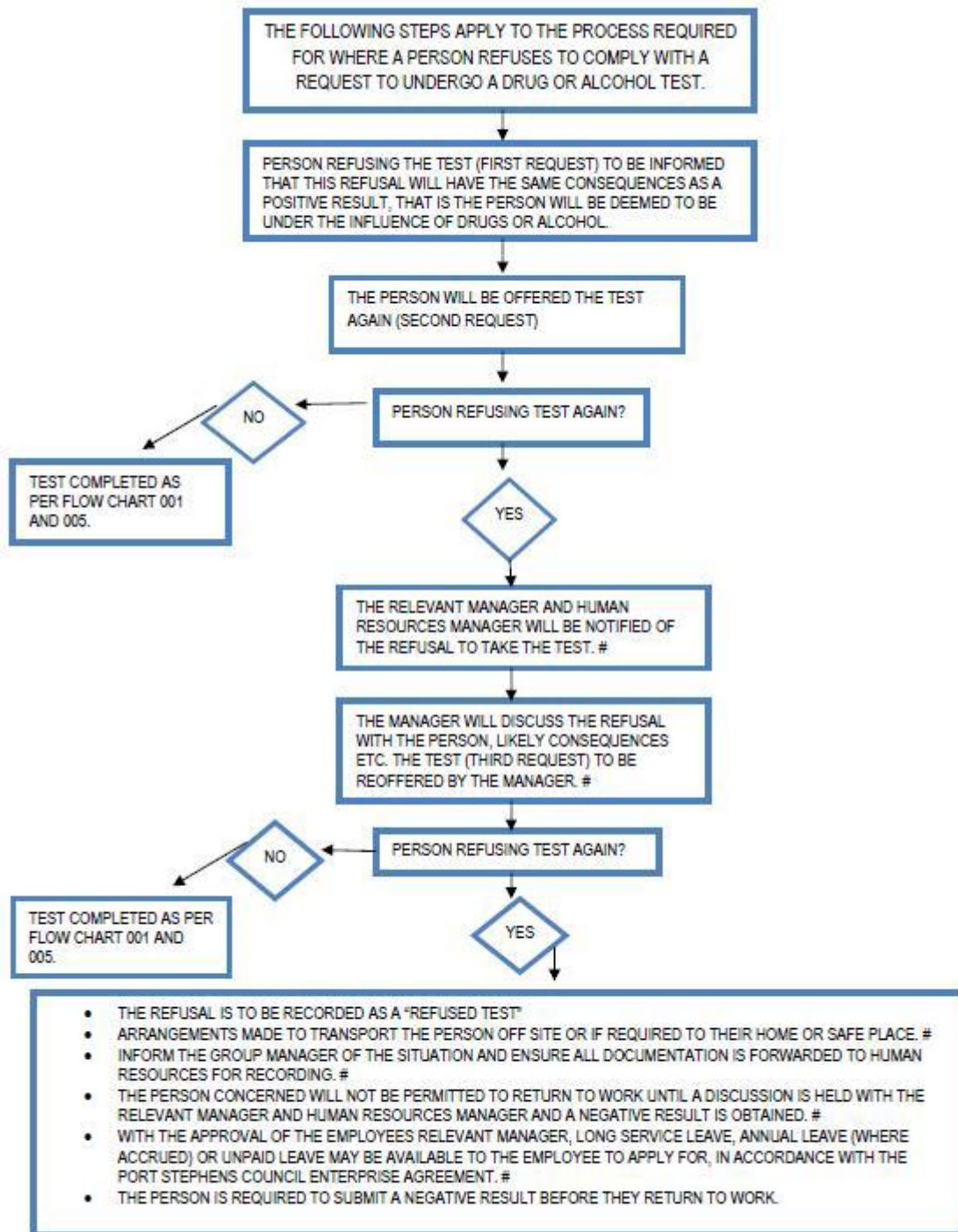


A REPRESENTATIVE FROM THE HUMAN RESOURCES SECTION IS TO BE CONTACTED, IF NOT ALREADY NOTIFIED, TO ASSIST IN THIS PROCESS AND BE THE SECOND RESPONSIBLE PERSON

CONFIDENTIALLY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

PROCEDURE FOR ALCOHOL AND OTHER DRUGS (NO. 14.27.2)

REFUSAL TO UNDERGO A DRUG OR ALCOHOL TEST FLOWCHART 004

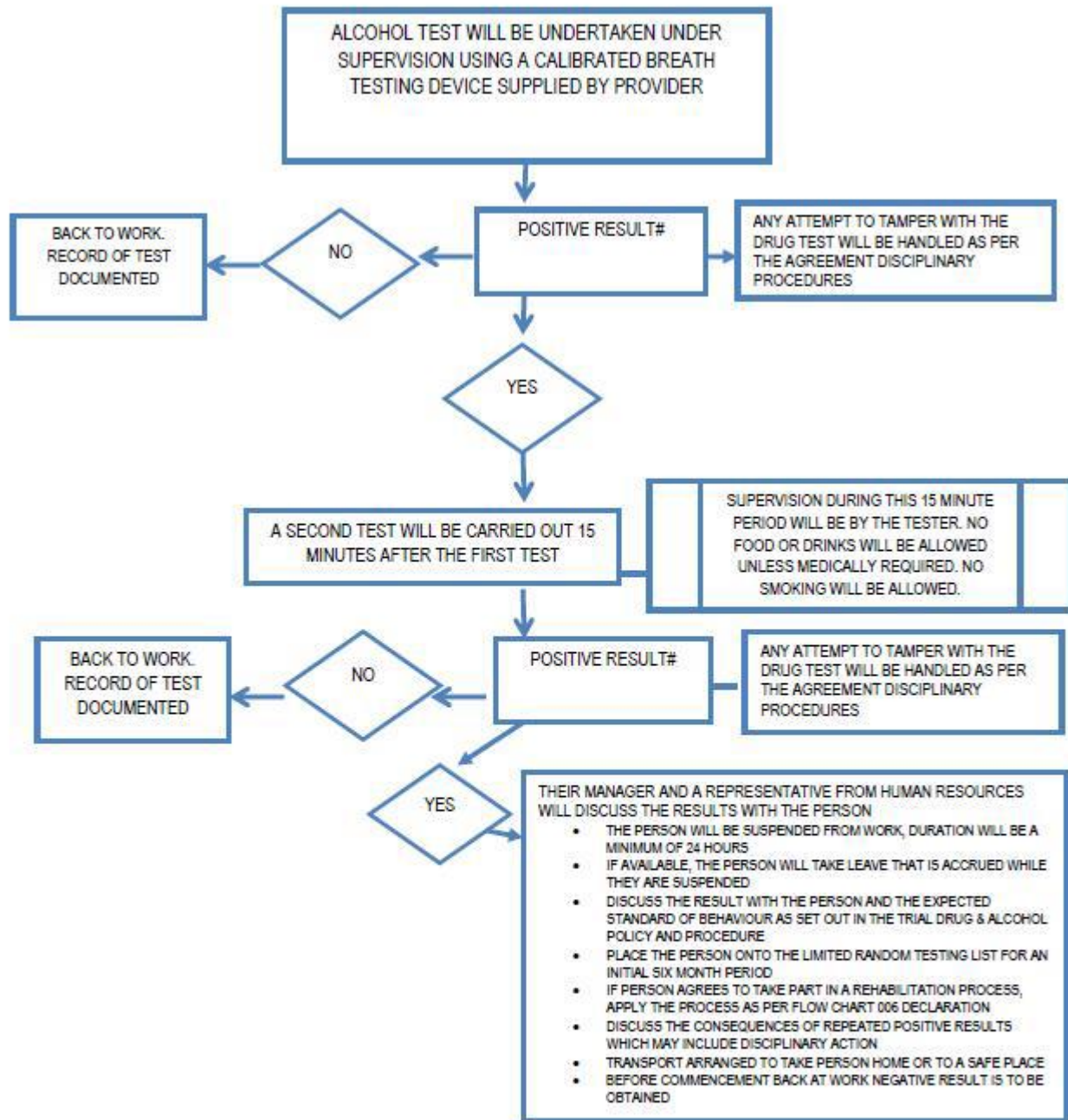


FOR CONTRACTORS THEIR EMPLOYER IS TO BE CONTACTED TO ASSIST IN THIS PROCESS

CONFIDENTIALITY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

PROCEDURE FOR ALCOHOL AND OTHER DRUGS (NO. 14.27.2)

ALCOHOL TESTING FLOWCHART 005

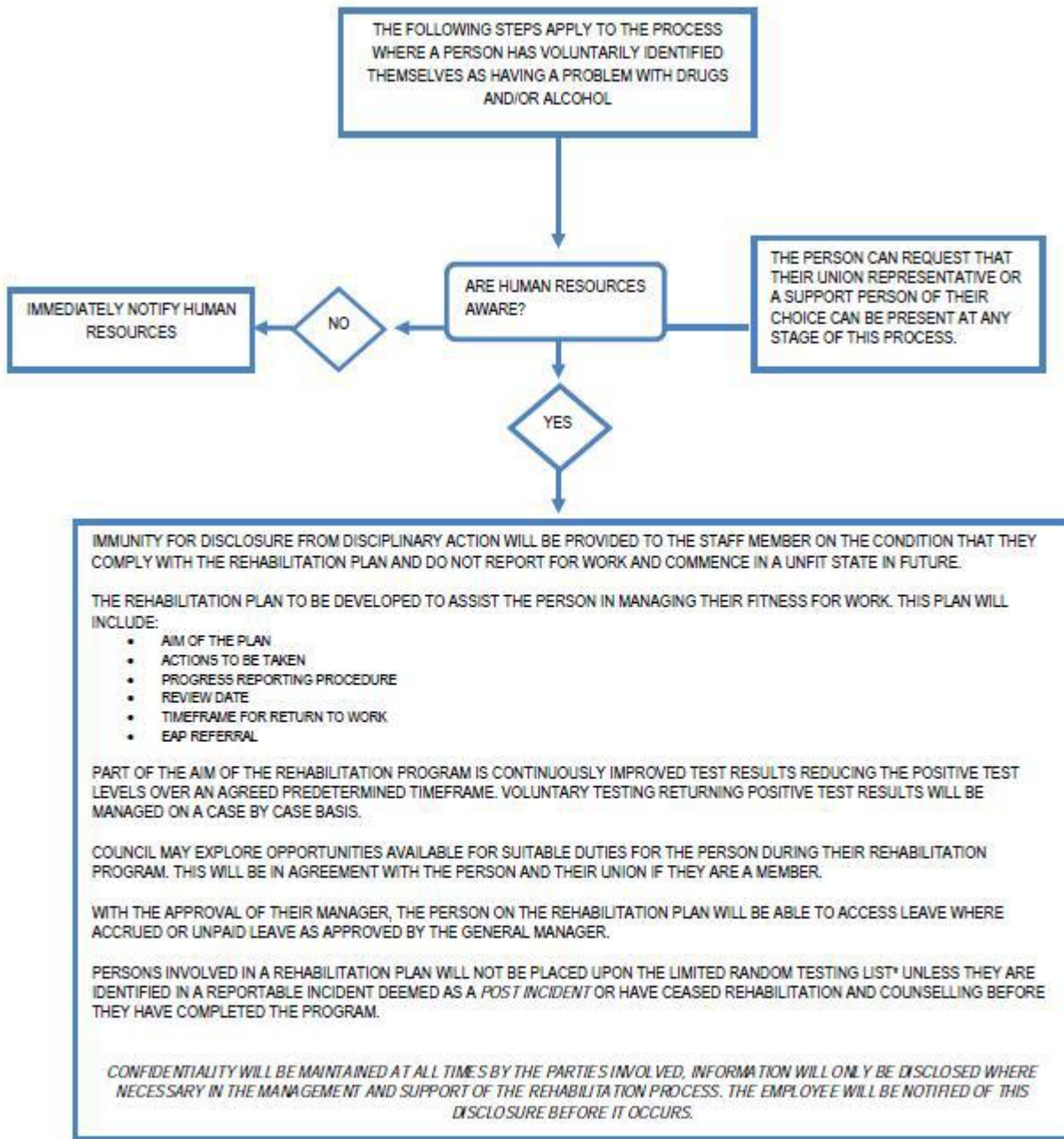


0.02 OR GREATER BLOOD ALCOHOL CONTENT (BAC) FOR HEAVY PLANT OPERATORS (>13.9 TONNE) OR TRUCK DRIVERS (>4.5 TONNE) OR MOBILE PLANT OPERATORS – THIS WILL APPLY ONLY FOR PERSONNEL WHO ARE UNDERTAKING THESE SPECIFIC DUTIES AT THE TIME OF ANY TESTING.
 0.05 OR GREATER BLOOD ALCOHOL CONTENT (BAC) FOR ALL OTHER STAFF TO BE IN ACCORDANCE WITH RELEVANT STATE LEGISLATION.
 WHERE THE PERSON HAS A PROVISIONAL LICENCE (P PLATES) THEN THE CURRENT BAC LIMITS FOR P PLATES MUST BE FOLLOWED IF THEY ARE DRIVE VEHICLES/TRUCKS.

CONFIDENTIALITY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

PROCEDURE FOR ALCOHOL AND OTHER DRUGS (NO. 14.27.2)

DECLARATION – SELF DISCLOSURE FLOWCHART 006

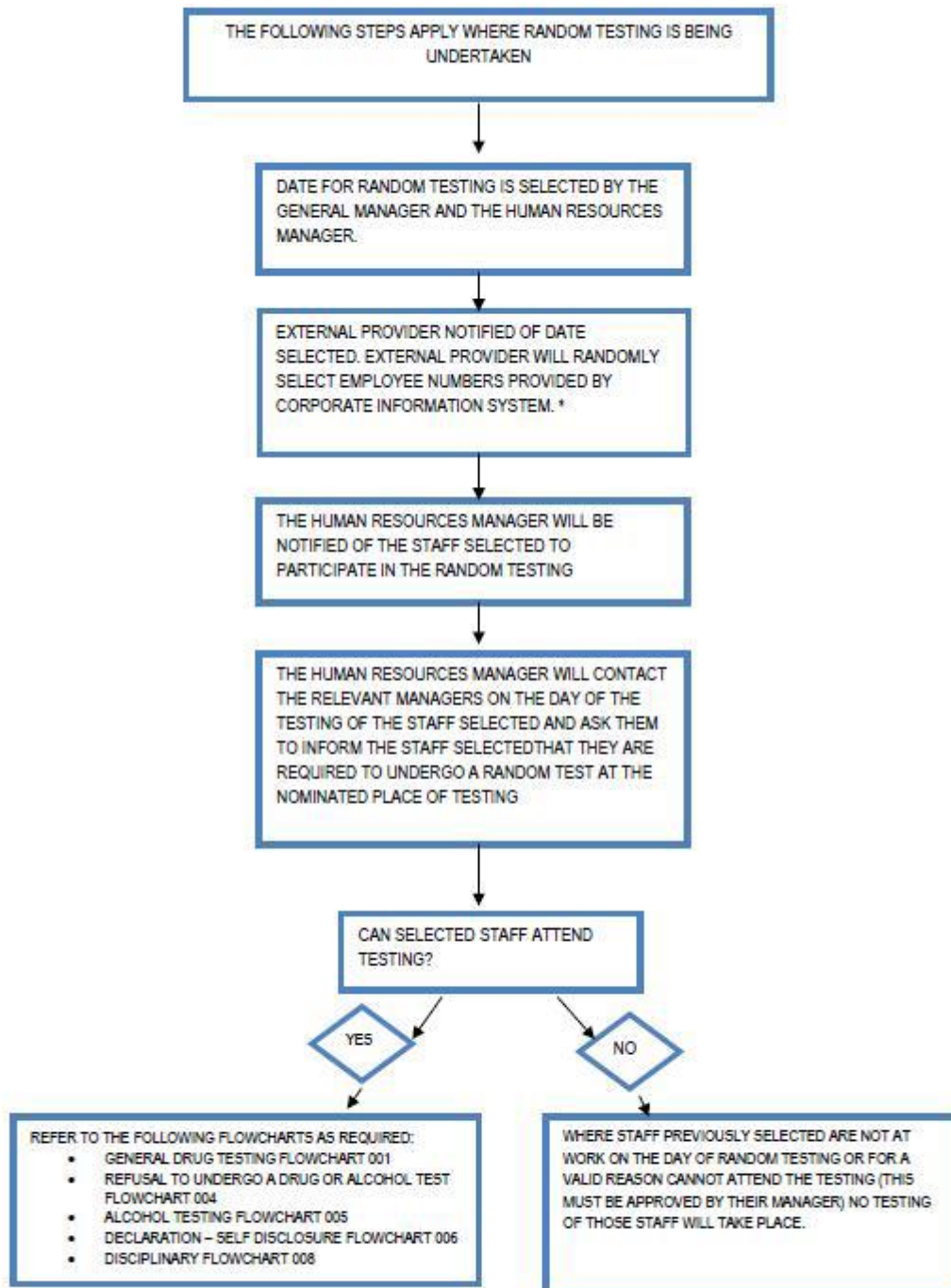


* THE LIMITED RANDOM LIST WILL BE LIMITED TO THOSE INDIVIDUALS WHO HAVE EITHER FAILED A DRUG AND/OR ALCOHOL TEST OR WHO REFUSED UNREASONABLY A TEST THAT HAS BEEN REQUESTED. INDIVIDUALS PLACED ONTO THE LIMITED RANDOM LIST CAN BE TARGETED TESTED AT ANY TIME, IN ADDITION TO THE STANDARD RANDOM TESTING UNDERTAKEN BY THE COUNCIL.

THE INITIAL PERIOD FOR LISTING IS SIX (6) MONTHS. AT THE COMPLETION OF THIS SIX (6) MONTHS, IF THERE ARE NO FURTHER POSITIVES OR UNREASONABLE REFUSALS, THE PERSON WILL BE REMOVED FROM THE LIMITED RANDOM LIST. WHILE ON THE LIST ANY FURTHER POSITIVE RESULTS OR UNREASONABLE REFUSAL WILL RESULT AN EXTENSION OF TWO (2) YEARS OF THE PERSON BEING ON THE LIST. THIS WILL DATE FROM THE MOST RECENT FAILED TEST OR UNREASONABLE REFUSAL TO COMPLY WITH TESTING. AT THE COMPLETION OF THIS TWO (2) YEAR PERIOD, IF THERE ARE NO FURTHER POSITIVES OR UNREASONABLE REFUSALS, THE PERSON WILL BE REMOVED FROM THE LIMITED RANDOM LIST.

PROCEDURE FOR ALCOHOL AND OTHER DRUGS (NO. 14.27.2)

RANDOM TESTING FLOWCHART 007

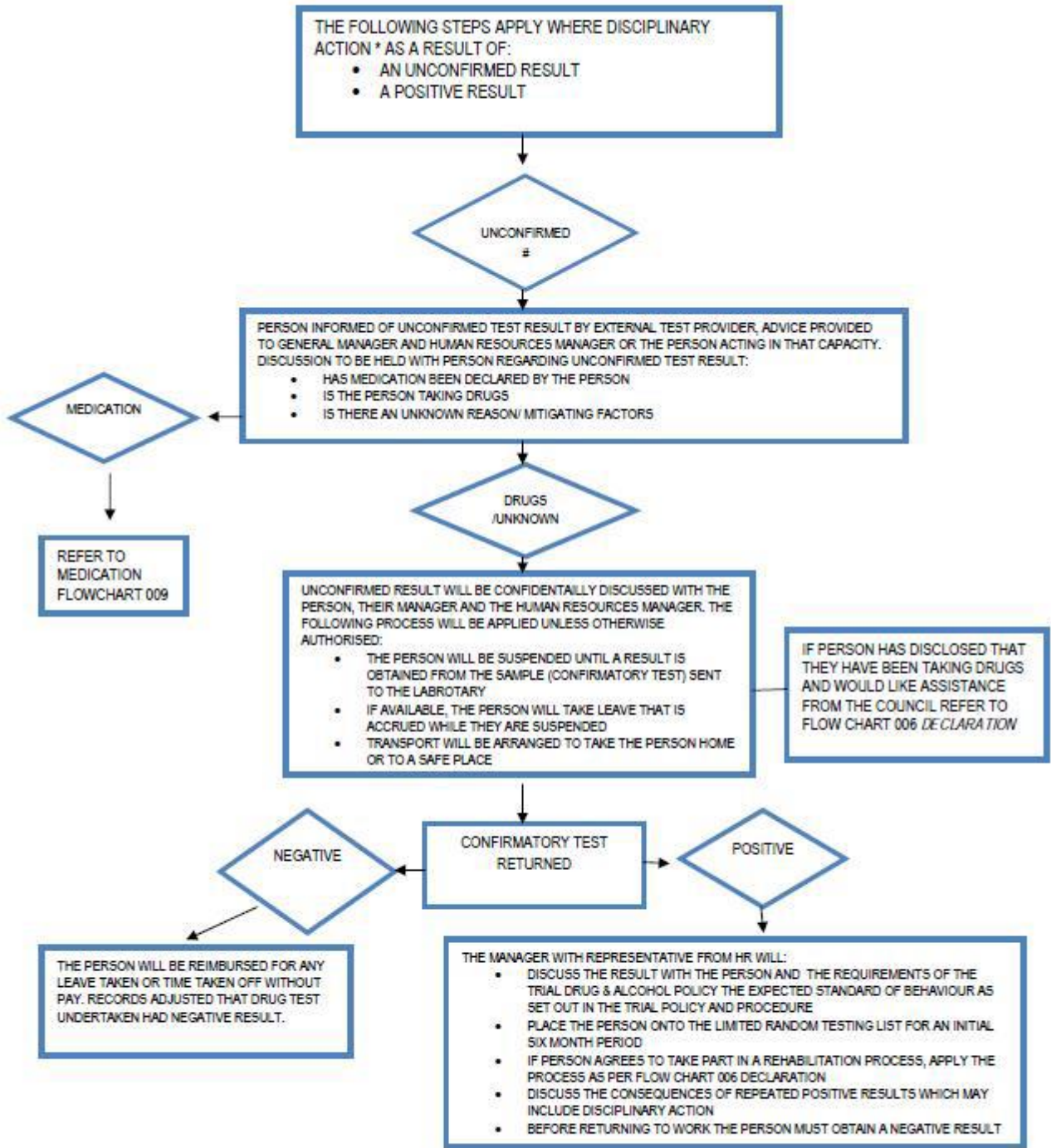


*THE EXTERNAL PROVIDER WILL USE STAFF EMPLOYEE NUMBERS TO RANDOMLY SELECT A PREDETERMINED NUMBER OF STAFF FOR RANDOM TESTING. THIS SELECTION WILL ALSO INCLUDE AN ADDITIONAL NUMBER OF STAFF AS A BACKUP IN CASE STAFF SELECTED ARE NOT AVAILABLE. AT NO STAGE WILL STAFF NAMES BE KNOWN BY THE EXTERNAL PROVIDER WHILE THEY ARE SELECTING RANDOM ENTRIES. STAFF NAMES WILL ONLY BE KNOWN TO THE EXTERNAL PROVIDER AT THE TIME OF THE RANDOM TEST.

CONFIDENTIALLY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

PROCEDURE FOR ALCOHOL AND OTHER DRUGS (NO. 14.27.2)

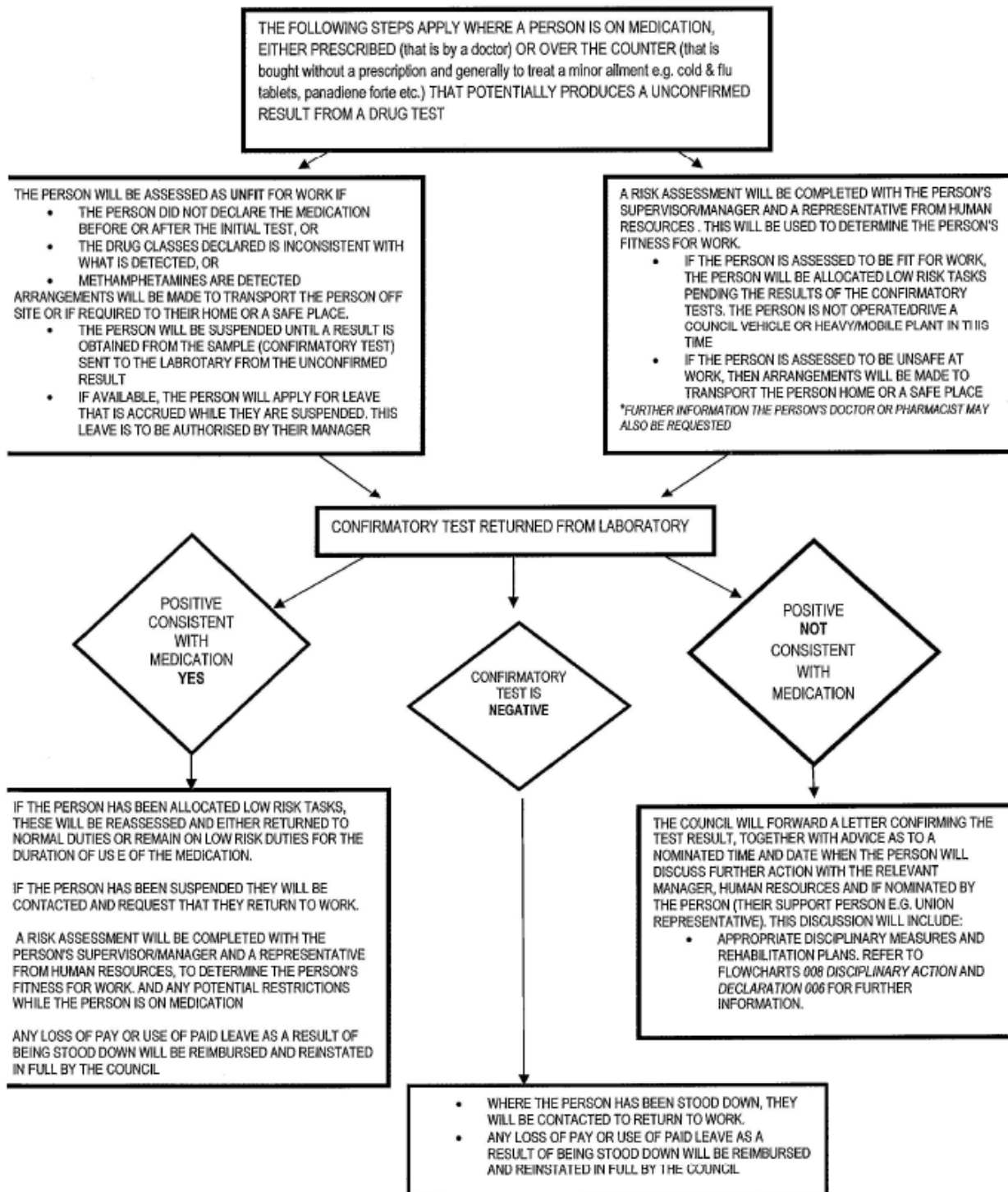
DISCIPLINARY ACTION FLOWCHART 008



* FOR ALCOHOL TESTING AND SUBSEQUENT DISCIPLINARY PROCESS PLEASE REFER TO ALCOHOL TESTING FLOWCHART 005
 # AN UNCONFIRMED TEST IS AN INITIAL RESULT FROM AN ORAL SWAB TEST THAT IS NOT A NEGATIVE RESULT AND NEEDS FURTHER TESTING AT A CERTIFIED LABORATORY TO BE CONFIRMED AS EITHER A POSITIVE OR A NEGATIVE RESULT BY THE COMPLETION OF A CONFIRMATORY TEST
 CONFIDENTIALITY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED

PROCEDURE FOR ALCOHOL AND OTHER DRUGS (NO. 14.27.2)

PERSONS ON MEDICATION WITH UNCONFIRMED RESULT FLOWCHART 009



CONFIDENTIALITY WILL BE MAINTAINED AT ALL TIMES BY THE PARTIES INVOLVED