



Fitness for Work Procedure

1. PURPOSE AND SCOPE:

Under the Minda Code of Conduct and South Australian Work Health Safety legislation, Minda is committed to ensuring that employees are “fit for work”. This means employees are able to perform their duties effectively and in a way that does not threaten their own or others safety or health. To be fit for work, employees need to be free from the effects of alcohol, drugs, fatigue and other things that can reduce concentration and performance. Effects may endanger their own safety, or the safety of any other person in or connected to the workplace including, supported individuals or other employees. The improper use of drugs and alcohol by employees has a negative affect on the employees and the organisation and can lead to accidents, injuries, absenteeism and illness as well as loss of productivity and work quality. Poor management of fatigue, stress, other psychological and short & long term medical problems or physical problems may lead to employees not having the capacity to undertake a particular task safely.

Minda has a legal duty to protect the health & safety of its employees and clients. Minda needs to demonstrate that it has taken all reasonable steps to provide safe working environment, including by eliminating risks associated with the use of alcohol and drugs therefore it has a no tolerance policy to employees being affected by drugs and/or alcohol while at work. Drug & alcohol testing is a legitimate tool for helping to ensure a safe work place in line with work, health & safety obligations. All employees commence & finish work without any illegal drugs or alcohol in their system.

This Procedure applies to all employees (whether they are permanent, casual, temporary or fixed term). Employees of external contractors, sub-contractors, students and volunteers are also required to comply with the requirements in this Procedure.

2. LEGISLATIVE REQUIREMENTS:

- Work Health & Safety Act (SA) 2012

3. DEFINITIONS:

For the purpose of this procedure the following definitions apply:

Word	Definitions
Procedure	Fitness for Work Procedure (Drugs, Alcohol & Fatigue)
Manager	Any employee with responsibility for staff (includes Team/Support Leaders)
Drugs	All illegal drugs, non-prescription drugs and any legally prescribed drug that may affect a person’s ability to perform their duties.
Alcohol	Any drink or food product that contains drugs and/or alcohol.
Testing Facility	Any testing facility nominated by Minda. Current provider is MDTA which is a mobile drug & alcohol testing service operating 24/7. Contact 0405495180

4. PROCEDURE:

4.1 Consumption of Drugs and/or Alcohol

- Employees must present themselves for work without illegal drugs and/or alcohol in their system
- Drugs and/or alcohol must not be consumed whilst an employee is at work, except where authorised under section 4.2 or 4.3 below.

Fitness for Work Procedure

4.2. Prescription Medication

An employee who is required to take prescription medication, that their treating doctor has approved, that may impact on their ability to perform their duties in a safe manner has a responsibility to notify their manager as soon as possible to ensure a risk assessment is considered. Depending on the risks to the employee's health and safety, and the health and safety of other people in the workplace, the employee may be requested to obtain a letter from their treating doctor confirming that they are fit to work and/or detailing the nature of any affect that may be caused by the medication. The employee may be restricted from working until such time as the information is provided. The manager must refer the matter to the Workplace Health & Safety and Human Resources departments in this instance.

4.3. Minda Approved and/or Sponsored Events

Where a Minda approved and/or organised event or function involves the serving of alcohol it will be done so in a responsible manner. The Chief Executive Officer will nominate a manager as the 'Responsible Person' for the event. The Responsible Person will ensure that:

- The consumption of alcohol is not the primary purpose of the event;
- Alcohol is consumed responsibly and in moderation where provided;
- All work related functions have a designated start and finish time which is observed;
- Wherever possible low alcohol drinks will be provided; and
- Food and non-alcoholic drinks are also served.
- Ensure pre-arranged responsible driver arrangements have been made

Where a group of employees holds occasional or regular team drinks on Minda premises, after normal working hours, the manager must seek prior approval from their Executive Manager. The Executive Manager will inform the CEO as part of their Responsible Officer accountabilities.

4.4. Breaches of Procedure

- Any suspected breach of this Procedure must be fully investigated by a Manager/Supervisor in consultation with a HR representative.
- When a Manager/Support Leader assesses, by observation, suspicion, demonstrated poor work performance, that an employee at work may be impaired by drugs or alcohol, or have drugs or alcohol detected in their system by a supervised test, the Manager/Support Leader:
 - Informs the employee of the perceived risk to safety of self or others, or to the integrity of client care, by their impaired work performance. A colleague, such as a health & safety representative may be invited to be present during initial discussion and obtain an explanation from the employee as to the observation or test results.
 - Takes the necessary steps to ensure the safety of all staff & clients, which may include removing the employee from the immediate worksite.
 - Gives the employee an opportunity to explain what factors are relevant to the observation or what has contributed to the positive test results.
 - Where appropriate, counsels the employee or takes disciplinary action including suspending the employee, on full pay, until the outcomes of the investigation are known.
- Breaches of this Procedure will lead to employee disciplinary actions up to and including termination of employment. Section 4.6 below sets out the Management of Breaches.
- Breaches include but are not limited to:
 - An employee found possessing or consuming illegal drugs or apparatus or consuming alcohol during their work hours, at their workplace, without approval.
 - Employees who refuse a drug & alcohol test as required by Minda whilst on a rehabilitation programme under a Management Plan.
 - Employees that do not fully co-operate in an Employee Assistance Programme or Rehabilitation Programme or Laboratory Screening/Mobile Testing Staff or Management Plan.
 - Employees who do not demonstrate a reduction in concentration levels in subsequent tests of positive readings (ie. Any spike in readings during random testing over the monitoring period nominated).

Fitness for Work Procedure

- Employees who fail to participate with directions and recommendations of Minda management or external counsellors.

4.5 Drug and Alcohol Testing

4.5.1 Right of the Organisation to Require Testing

- a. Minda may require an employee or others covered by this Procedure to submit to drug and/or alcohol testing where Minda has cause (reason) to require a test in accordance with section 4.5.4 of this Procedure. The cost to be borne by Minda.
- b. Testing will be on the basis of detecting recent consumption to gauge what affect the drugs and/ or alcohol will have on work duties.

4.5.2. Drug Testing

- a. Initial drug testing method used by Minda will be by urine sample in accordance with the relevant Australian Standard. (Minda does not prefer testing by Blood or Buccal Swabbing as it involves bodily contact which constitutes trespass to a person)
- b. Drug to be tested for include:
 - Methamphetamine
 - Cannabis
 - Benzodiazepines (sleeping medication)
 - Opiates (heroin, morphine, codeine)
 - Cocaine
 - Amphetamines
 - Phencyclidine
 - Diazepam
 - Synthetics

4.5.3 Alcohol Testing

Initial alcohol testing will be conducted, as soon as practicable, via breathalyser in accordance with the relevant Australian Standard.

Acceptable levels prescribed by other legislation (ie Road Traffic Act) do not apply at Minda as it adopts a “zero-tolerance” attitude to employees found to be impaired by alcohol in the workplace.

4.5.4 Testing for Cause

- a. Minda may request that an employee undertake drug and alcohol testing as part of the recruitment and selection process.
- b. Minda may request that an employee undertake drug and alcohol testing where it has reasonable grounds to believe that drugs and/or alcohol were a contributing factor in any of the following circumstances:
 - Where an employee has been involved in an incident or accident in the workplace;
 - Where an employee has committed an act of misconduct;
 - Where an employee has caused injury to any person;
 - Where an employee displays a material decline in work performance, work attendance or any other irrational behaviour;
 - Where an employee commits any act of neglect or carelessness or breach of health and safety requirements; or
 - Where an employee has contravened this Procedure.
 - Where there is smell of alcohol on the employee
 - Where there is physical evidence the employee may have consumed illegal drugs and/or alcohol.
 - Where there is evidence or reasonable suspicion that any of the above were caused due to a worker being under the influence of illegal drugs and/or alcohol.

Fitness for Work Procedure

(Where a Manager/Support Leader suspects alcohol and/or drug use, obtaining an additional opinion from a Health & Safety Representative or Night Support Leader, would be desirable. The Reasonable Suspicion Testing Checklist Form may assist in making this decision).

- c. Where drug and alcohol testing is required, Minda will either make arrangements for testing to occur on-site by an accredited mobile testing lab or will provide safe transport for the employee or others covered by this Procedure to attend a Testing Facility. Testing will be performed by a representative of the nominated Testing Facility.

4.5.5 Positive Tests

- a. Test results will be communicated to the employee. Employee will be asked to explain/respond/gives reasons for these results. Employee will be reminded for the need for confidentiality. Privacy will be maintained by Minda at all times. An employee may be accompanied by a support person if he/she wishes.
- b. A positive result will be followed up with a subsequent test at a Testing Facility as soon as practicable after the initial test. An independent accredited testing representative will transport to the Testing Facility in this instance. The election of a Testing Facility and Independent Accredited Testing Representative will be at Minda's discretion.
- c. In the event of an initial positive result, the employee will be stood down on full pay until subsequent test results are confirmed by the Test Facility. Employee will be reminded of the terms of the Policy. Minda will assist the employee finding safe transport home if necessary.
- d. Following a positive test result, the employee will not be allowed to resume work until they return a negative drug and alcohol test.
- e. If a positive test is explained by the use of prescribed medication, then the employee will be required to provide evidence from their medical practitioner.

4.6 **Management of Breaches**

4.6.1 Breaches of Procedure

- a. Any breach of this Procedure, including refusal to submit to testing, may result in disciplinary action up to and including termination of employment.
- b. A positive test result may lead to disciplinary action up to and including termination of employment, in accordance with the following:
 - First positive test and breach of this Procedure – First and Final Warning;
 - Subsequent positive test and breach of this Procedure within twelve (12) months – Termination of Employment.
 - Subsequent positive test and breach of this Procedure after 12 months – Termination of Employment

4.6.2 Re-testing of Employees

- a. If a test is positive, (or an employee makes a self-referral) Minda will require the employee to undergo rehabilitation process. Explanations given as to the rehabilitation process includes:
 - Explanation of the Policy, potential consequences & Duty of Care responsibilities;
 - Management Plan developed including period (usually 6 months) of random testing within work hours;
 - Concentration levels to reduce over this period in accordance with the Management Plan and achieve zero within 6 months;
 - Counselling plus D & A education offered through Employee Assistance Programme;
 - Any spike in concentration levels during this time or failure to comply with the Management Plan may result in disciplinary action, up to and including dismissal;
 - Employee may have a support person attend at any of the meetings associated with the rehabilitation process.

Fitness for Work Procedure

4.7 Management of Fatigue

It is acknowledged that general day-to-day fatigue is tolerated by employees. However excessive fatigue which results in an employee potentially working unsafely or creating an unsafe environment needs to be managed. Fatigue results from many causes including poor sleeping habits, sleeping disorders, stress, too much caffeine etc. Both the quantity and quality of sleep are important.

In addition, where a Manager/Support Leader is aware, or is suspicious of fatigue, due to excessive workloads, they should make every effort to mitigate such risk. The Employee Assistance Programme is to be recommended to employees to assist in self managing or referred to external treatment. Where fatigue is self inflicted, ie. Excessive socialising, or working additional hours outside of Minda, employees will undergo counselling to reinforce their duty of care at work. Excessive, on-going, repeated, self inflicted fatigue may result in disciplinary action.

5. ROLES AND RESPONSIBILITIES:

5.1 Management Responsibilities

- Managers must ensure that employees and others covered by this Procedure are aware of this Procedure and the consequences of not complying with the Procedure.
- New employees and others covered by this Procedure must be made aware of the Procedure during induction, including the requirement to submit to drug and alcohol testing if so required.
- Managers must ensure that any change to this Procedure is communicated to employees and others covered by this Procedure.
- Managers must encourage employees and others covered by this Procedure to report a suspected breach of the Procedure.
- Managers must ensure that a consistent, fair and confidential process is used to investigate suspected breaches of this Procedure. Care must be taken to protect the employee's privacy at all times.
- Managers must ensure that every effort is made to mitigate the risk associated with workplace fatigue.
- If a manager believes that an employee or other person covered by this Procedure may be affected by drugs or alcohol or may have consumed drugs or alcohol at work without proper authorisation, the Manager must direct the person to cease work immediately and the manager must inform their Senior Manager. Advice should be sought from the Human Resources department immediately if practicable or in the first instance on the next business day.
- The manager must contact Human Resources as soon as practicable to discuss further action and refer to the Employee Misconduct Procedure for the process on standing down of an employee if required.
- If the employee is to be stood down and suspended on pay, the manager will ensure the employee can travel home safely. If it is not appropriate for the employee to travel home by the same means as they came to work, the manager will arrange for a taxi to take the employee home. If the suspension is out-of- normal-hours, the "on-call" staff should be notified.
- The manager should also provide information about and access to Minda's Employee Assistance Programs (EAP) where a drug or alcohol issue is identified or suspected.
- In circumstances where Human Resources is not immediately available to coordinate testing for drugs or alcohol (as applicable), the Manager will arrange testing to be performed on site by a Mobile Testing Facility.

5.2 Employee and Others Covered by this Procedure Responsibilities

- Employees and others covered by this Procedure have a duty of care to ensure that they are not affected by drugs and/or alcohol during working hours and must at all times carry out their duties and responsibilities in a safe manner.
- Employees and others covered by this Procedure who are required to drive a vehicle for work purposes must not have any drugs and/or alcohol in their system at the commencement of their shift and must not consume drugs and/or alcohol during their shift.



Fitness for Work Procedure

- Subject to sections 4.2 and 4.3, employees and others covered by this Procedure must not carry, sell or consume drugs and/or alcohol on their body, clothing, locker, Minda premises or in Minda owned vehicles. Prizes that involve alcohol, that are on Minda premises, must be authorised by the Manager.
- Subject to sections 4.2 and 4.3, employees and others covered by this Procedure must not carry, sell or consume any drugs and/or alcohol during working hours whilst carrying out their duties or during break times.
- Employees are not permitted to bring implements, which are normally associated with the use, or administration of illegal drugs onto Minda property, for example, smoking apparatus.
- Any employee and others covered by this Procedure and who is on a course of prescribed drugs must notify their manager if their work performance may be affected or there is any risk to their safety or to any other people.
- Employees and others covered by this Procedure who are supporting residents during offsite events must never consume drugs and/or alcohol while carrying out their duties eg dinners, family events, Minda sponsored events, holidays, etc.
- Alcohol may be consumed responsibly at Minda sponsored events where provided, except those employees and others who are covered by the Procedure who are undertaking work duties at or directly after the event.
- Employees and others covered by this Procedure must exercise reasonable judgement regarding the amount of alcohol consumed at Minda sponsored events and must ensure that their behaviour remains appropriate and is not adversely affected by the consumption of alcohol.
- If any employee believes that another employee is affected by drugs and/or alcohol, whether or not they pose a risk to their own safety or that of any other person, the employee has the responsibility to notify their supervisor or manager immediately and inform them of the situation.
- Employees and others covered by this Procedure must submit to drug and alcohol testing by, or on behalf of, Minda if so required.
- Employees and others covered by this Procedure must comply with any reasonable requests by Minda in relation to investigation into potential breaches of this Procedure.
- Employees, who suffer from alcohol and/or drug dependency, or have symptoms of serious fatigue, may make a self referral to the Human Resources Department who will recommend a course of action including, but not limited to, a rehabilitation process and/or referred to the Employee Assistance Programme or a Management Plan to meet the requirements of the Organisational Standards Policy.

6. SUPPORTING DOCUMENTATION AND ADDITIONAL INFORMATION:

Internal Resources:

- Organisational Standards Policy
- Code of Conduct
- Employee Misconduct Procedure
- Reasonable Suspicion Checklist Form

External Resources:

- None

7. RECORDS, AUDIT AND REVIEW:

- None



Fitness for Work Procedure

8. APPENDIX AND FLOWCHARTS:

- None