

***Controlled Document – refer to Intranet for latest version***

Category: Health and Safety

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Responsibility: Director People & Safety

Date Last Reviewed: December 2017

Approval: Chief Financial Officer

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## Purpose

This policy has been developed to ensure that UCOL 's employees, contractors, students and visitors have a healthy and safe environment to work and learn in, by ensuring the fitness of employees to work safely and by deterring behaviour that may be unlawful or expose others to a risk of harm. In particular, this policy aims to promote workplace safety by having appropriate procedures in place for addressing concerns regarding drug and alcohol within the workplace.

The aims and objectives of this policy are to:

- (i) To promote the health and safety; and
- (ii) To implement a testing programme for drug and alcohol and/or risk of impairment so as to minimise the risk of harm; and
- (iii) To ensure proper standards of integrity, conduct and concern for the well-being of UCOL students and staff are maintained.

## Scope

This is a UCOL wide policy.

The operational implementation of this policy is detailed in the Drug and Alcohol Procedures.

This policy applies to all UCOL employees and students at:

- All UCOL campuses on activities arranged by UCOL whether on a UCOL campus or not ("UCOL activities").

This policy also applies to contractors and visitors to UCOL where those contractors and visitors have agreed to comply with UCOL policies and procedures.

## Responsibility

- All employees and students are responsible for ensuring their own compliance with this policy.
- All employees are responsible for the implementation of this policy.
- Employees are expected to monitor their students in respect of suspected breaches of this policy and report situations needing further investigation if/when they arise.
- All employees and students taking medication whether prescription or over the counter should determine from their medical practitioner if there is a risk of impairment during their presence at a UCOL campus or on UCOL activities. Should there be a risk, this should be disclosed to the relevant manager/tutor/lecturer as soon as possible so that UCOL can, as far as reasonably possible, minimise the risk of harm to students, employees and other people at a UCOL campus and on UCOL activities wherever they are.

- If an employee or student considers that there may have been a breach of this policy, the student or employee should refer the matter to a senior staff member, Head of School, Director or Team Leader.

## **Policy Statements**

### **1. Support and Rehabilitation**

- 1.1. UCOL's EAP Service is available to employees for drug and or alcohol counselling. All EAP services are confidential.
- 1.2. As required UCOL will provide education and training to our employees to ensure a safe and healthy workplace.
- 1.3. UCOL may provide assistance/support in relation to rehabilitation for any employee who admitting to having a problem and where they agrees to a Drug Rehabilitation programme.
- 1.4. UCOL recognises that drug or alcohol dependence is an illness and a major health problem. If a student or employee wishes to voluntarily seek rehabilitation assistance then UCOL aims to be sympathetic and may, at its sole discretion, grant leave for the purpose of attending a drug and alcohol rehabilitation or treatment programme. Any such discussions will be kept confidential and can be undertaken without fear of reprisal. Return to study or work following the successful completion of any such treatment will be based on the recommendation of our nominated medical practitioner. We may, at our sole discretion, also request that a student or employee attends a course of follow up treatment.
- 1.5. All students suspected of being under the influence of alcohol (except during UCOL social activities) or drugs, whether they refuse to be tested or not, will be required to leave the UCOL campus or UCOL activities immediately and will be granted assistance to travel to their residence safely.

### **2. Alcohol**

- 2.1. UCOL acknowledges that the use of alcohol is an accepted part of social interaction and behaviour in New Zealand.
- 2.2. Students and employees who are under the influence of alcohol (whether on a UCOL campus or at UCOL activities) may be hazardous to themselves and others.
- 2.3. Drinking alcohol on a UCOL campus without the express permission of the Chief Executive is prohibited except:
  - During UCOL social activities;
  - At UCOL restaurants associated with Catering and Hospitality, or where serving/tasting alcoholic beverages is required as part of the learning curriculum.
- 2.4. UCOL social activities are those which involve the supply and/or drinking of alcohol. Providing and serving alcohol at all UCOL social activities must have the Chief Executive's permission and be in accordance with any licences, any applicable local alcohol policies and responsible hosting guidelines.

### **3. Drug Free UCOL**

- 3.1. The manufacture, distribution, dispensing, possession, sale and use of drugs is strictly prohibited on all UCOL campuses and at all UCOL activities.

#### **4. Alcohol and/or Drug Impairment**

- 4.1. Students are not permitted to be present on a UCOL campus or take part in any UCOL activities when that student is influenced by alcohol (except during UCOL social activities) or drugs.
- 4.2. Except during UCOL social activities, any student on a UCOL campus or on any UCOL activity thought to be affected by drug or alcohol that could impair their judgement or behaviour shall be excluded from class or the activity by the programme leader or lecturer and may be subjected to the Student Discipline Statute.
- 4.3. Employees are not permitted to be present on a UCOL campus or take part in any UCOL activities when that employee is influenced by drugs (except during UCOL social activities) or alcohol.
- 4.4. Employees at work undertaking Safety Sensitive UCOL activities thought to be affected by drug or alcohol that could impair their judgement or behaviour may be required to cease the Safety Sensitive UCOL activities and may be dealt with under the Conduct Expected of Employees Policy, their employment agreement and the disciplinary procedure.
- 4.5. Employees at work undertaking any activities not regarded as a Safety Sensitive UCOL activities thought to be affected by drugs or alcohol that could impair their judgement or behaviour may be dealt with under the “Conduct Expected of Employees Policy”, their employment agreement and the “Disciplinary Procedure”.
- 4.6. UCOL may, at its sole discretion, report any matter to the NZ Police in order to maintain the safety and well-being of students and employees at UCOL.
- 4.7. Any employee or student operating or intending to operate a UCOL vehicle who is thought to be affected by drug or alcohol that could impair their judgement or behaviour will not be permitted to operate that vehicle.

#### **5. Testing**

- 5.1. Applicants for safety sensitive positions at UCOL, and internal transfers from a non-safety sensitive to a safety sensitive role will be required to undertake drug and alcohol testing as part of the employment screening process. Returning a non-negative result or positive result test in itself may result in an employment offer not being made or if already made – withdrawn. Internal candidates who refuse or fail tests, could be subject to disciplinary action in respect of the refusal/failure.
- 5.2. For pre-employment/engagement testing, or for internal appointments, the applicant will be verbally informed, in a confidential manner, of the date, time and location of the test. The testing date will usually be within two days of the notification. Refusal to undertake a drug and alcohol test will mean that no offer of employment will be made. The candidate will be given the opportunity to explain the refusal.
- 5.3. Drug and alcohol testing will be performed at UCOL’s expense by an approved Drug Testing Agency or registered medical practitioner. Testing will be done in such a way as to respect the employee or student’s privacy and confidentiality. Test results will be treated as highly confidential and kept on a personnel or student confidential file.
- 5.4. In the case of alcohol testing, a report will be provided to UCOL outlining the level of alcohol according to current NZ law outlined in the Land Transport Act<sup>1</sup>.

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<sup>1</sup> The legal drink drive limit for drivers under 20 years of age is a blood alcohol concentration (BAC) of zero. The legal drink drive limits for drivers 20 years and over are a breath alcohol limit of 250 micrograms (mcg) of alcohol per litre of breath and a blood alcohol limit of 50mg of alcohol per 100ml of blood.

- 5.5. Where an incident, injury or illness occurs that is a Notifiable Event to Work Safe NZ, then testing is mandatory for those involved.
- 5.6. Where an incident, injury or illness occurs that is not a Notifiable Event to Work SafeNZ, testing is at the discretion of the Director People & Safety.
- 5.7. Employees in safety sensitive roles may be subject to random testing for drug and alcohol.
- 5.8. Reasonable cause for testing can be established if an employee or student's behaviour, actions or conduct suggest that he/she is under the influence of alcohol and/or drugs. Further information about reasonable cause indicators is provided in the Drug and Alcohol Testing Procedure.
- 5.9. UCOL may, at its sole discretion, monitor and randomly test employees and/or students who have previously returned a positive test for drug or alcohol in accordance with their rehabilitation programme. Random rehabilitation testing is applicable to anyone who has returned a positive test (Reasonable Cause/Post Incident) and is subject to an agreed rehabilitation programme.
- 5.10. Employees who have voluntarily agreed to be part of a Drug and Alcohol Rehabilitation Programme will be randomly tested as per the rehabilitation testing programme.
- 5.11. Testing will be conducted in accordance with the applicable UCOL Drug and Alcohol Testing Procedure.

## **6. Refusal to Undertake Testing**

- 6.1. Student – A refusal to undergo a test will be regarded as a positive result and will result in the suspension of the student until further notice whilst an investigation is undertaken. The Student Discipline Statute will be followed.
- 6.2. Employee - A refusal to undergo a test will be regarded as a positive result and may result in the employee being subjected to the Disciplinary Procedure.

## **7. Attempt to falsify**

- 7.1. Any attempt to falsify, delay or compromise the integrity of any drug or alcohol test may involve the disciplinary procedure for an employee or the Student Discipline Statute process for a student.

## **8. Search and Surveillance**

- 8.1. In order to further assist with achieving the objectives set out in this policy, UCOL may undertake search and surveillance. In particular:
  - UCOL may search any property (including employee and student property) located within any area in UCOL's possession or control (UCOL premises). This may include offices, vehicles, workstations, lockers and storage areas.
  - UCOL already operates electronic surveillance equipment within its premises and this may be used when investigating suspected drug and alcohol related activity
  - UCOL may employ specialist drug detection technology and/or a drug detection dog team to conduct inspections within the UCOL premises.
  - If a drug detection dog or other detection technology indicates the recent possession and or use of drugs by an employee or student, UCOL may require that person to undergo drug testing in accordance with this policy.
- 8.2. For the avoidance of doubt, by bringing personal property onto UCOL premises, an employee or student is deemed to have consented to his or her property being searched or inspected in accordance with this policy.

## 9. Breach of Policy

In addition to testing, removal, suspension or any other action under this Policy;

- 9.1. Any employee will be dealt with in accordance with the Conduct Expected of Employees Policy, their employment agreement and the Disciplinary Procedure.
- 9.2. Any student will be dealt with in accordance with the Student Disciplinary Statute.
- 9.3. In respect of Illicit drugs the matter may also be referred to the New Zealand Police.

## 10. Contractors and Visitors

- 10.1. Contractors (including contractor's subcontractors and employees) who contract to abide by UCOL policies must comply with clauses 1.2 and 2.1 of this policy as if they were UCOL staff members. Where there is any issue with a contractor, the person concerned from the contractor will be required to leave the UCOL campus and UCOL activities.
- 10.2. Visitors who agree to abide by UCOL policies must comply with clauses 1.2 and 2.1 of this policy as if they were UCOL staff members, Where there is any issue with a visitor the person concerned will be asked to leave the UCOL campus or UCOL activities.

## 11. Confidentiality and Privacy Act

- 11.1. All information gathered for the purpose of implementing and achieving the objectives of this policy will be collected and held in accordance with the Privacy Act 1993. Such information includes consent forms completed prior to testing and test result notifications.
- 11.2. The employee, student or contractor tested, their authorised representative, and or their manager may be informed of non-negative or positive test results.
- 11.3. Any documentation supporting a positive or non-negative result will be held on the employee's file. In the case of a negative result, only the negative result will be recorded.
- 11.4. All information held on a file will be treated confidentially as per normal protocols for personal information and may only be accessed by persons with authorised access for a legitimate purpose.
- 11.5. All employees and students may ask for access to their drug and alcohol test results and may ask that UCOL correct those results depending on the final result from the Accredited Testing Laboratory.
- 11.6. Employees and students acknowledge information about them will be collected from them and from testing entities about them and may be used by UCOL for the purposes of this policy and for the purposes of the Student Discipline Statute in respect of students and for potential disciplinary matters for staff members.

## Definitions

**"Alcohol"** means any alcoholic drink, including spirits, wine or beer.

**"Drugs"** means:

- Illicit Drugs
- Any legally controlled substance that it is illegal to possess unless it is prescribed by a doctor and used in accordance with medical directions that when absorbed, inhaled, injected or ingested has a physical or psychoactive effect on the body or mind and has the ability to impair cognitive and or physical capacity.
- Any controlled substance which is not legally obtainable or is legally obtainable but was not legally obtained.
- Prescription drugs or over the counter medications.

- Any psychoactive substance as defined in Section 9 of the Psychoactive Substances Act 2013.

**“High Risk Area”** means any Trades, Catering or Science Facility.

**“Illicit Drugs”** are those Drugs under New Zealand law that are prohibited.

**“Positive and Non-Negative Test Results”**

- Any test performed by any person, other than by an accredited laboratory, which returns a positive result, will be known as a non-negative result only. Non-negative means the initial test has indicated that there may be drugs or alcohol present in the sample.

**“Notifiable Event”** has the meaning provide in Section 25 of the Health and Safety at Work Act 2015.

**“Safety Sensitive UCOL Area and/Position and/or Work** are:

- Is any area and/or position and/or work (whether carried out by an employee or a contractor) where there is significant and foreseeable risk of injury (including workshops operating machinery areas) may be defined by location or by activity. In respect of employees only, are those where an employee has contact with other employees and/or students or where their actions or omissions may impact the wellbeing of UCOL students or the safe working of UCOL employees.

**Identified Safety Sensitive Areas are:**

- Catering, Baking and Cooking
- Construction and Timber Trades
- Electrical Trades
- Engineering & Mechanical Trades
- Exercise & Sport
- Exercise Physiology
- Facilities Management
- Farm, Horticulture, Agriculture and Apiculture Training
- Health Science and Science
- Medical Imaging
- Nursing
- Photography
- Security Training
- Vet Nursing
- Any course delivered in a High Risk Area
- Operating a UCOL vehicle or private vehicle while conducting UCOL business

**“Employees”** means employees of the Chief Executive of UCOL.

**“Contractors”** means contracts of the Chief Executive of UCOL” who are providing services to UCOL.

**“UCOL Campus”** means UCOL’s Campuses at Whanganui, Wairarapa, Palmerston North, Auckland, and all other properties that UCOL owns, occupies, or leases.

## **Relevant Legislation**

- Health and Safety at Work Act 2015
- Health Information Privacy Code 1994
- Human Rights Act 1993
- Misuse of Drugs Act 1975 (including Regulations)
- New Zealand Bill of Rights Act 1990

- Privacy Act 1993
- Psychoactive Substances Act 2013
- Land Transport Act 1998

## **Related Documentation**

- [Drug and Alcohol Testing Procedures](#)
- [Conduct Expected of Employees Policy](#)
- [Privacy Policy](#)
- [Disciplinary Procedure](#)
- [Student Discipline Statute \(Non-Academic\) 2016](#)