

# Alcohol, Drugs and Substance Misuse Policy



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Note: Please be aware that any printed copies of this document may not be the most recent version. You should check on the Intranet to ensure that you are using the current version.

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## 1. Introduction

- 1.1 The inappropriate use of alcohol or drugs can damage the health and well-being of employees and have far-reaching effects on their personal and working lives. At work, alcohol or drug misuse can result in reduced levels of attendance, sub-standard work performance and increased health and safety risks not only for the employee concerned but also for work colleagues, service users and members of the public.
- 1.2 Service users and members of the public have a right to expect that Council employees are not under the influence of alcohol or drugs whilst carrying out their duties. The Council will not tolerate this from employees and will act promptly to deal with any situation where this occurs.
- 1.3 Employees who consume alcohol or use drugs whilst on Council business or who are under the influence of alcohol or drugs whilst at work will be subject to the **Council's disciplinary procedures**.
- 1.4 The Council recognises the right of all employees to a private life and to follow outside interests of their choice. However, this must not impinge on work performance or compromise health and safety whilst at work.
- 1.5 The Council recognises that an employee may have a dependency on alcohol or drugs and that this may be a medical condition. In such cases, the Council may offer reasonable support to employees. Notwithstanding this, if performance, attendance or behaviour is unacceptable, and breaches of this policy occur, irrespective of any support and assistance that can be offered, disciplinary action and ultimately dismissal may be unavoidable.
- 1.6 Employees in designated safety critical roles, as determined by their Head of Service/Operational Director, are subject to additional restrictions on the consumption of alcohol (see Section 4.1).

## 2. Scope

- 2.1 This policy applies to employees at all levels of the Council, up to and including Head of Service/Operational Directors/Corporate Directors. It excludes employees engaged at or based at Schools, who may wish to adapt the policy for their own use.
- 2.2 The Council also expects agency and casual workers, consultants, contractors, volunteers and others working on its behalf to adopt the standards outlined within this policy, which should be referred to as part of their recruitment and induction. Any breaches will be investigated by the service and the nominated officer responsible for the contract/working arrangements and may lead to the working arrangements being terminated.
- 2.3 The policy covers the use and misuse of intoxicating substances, which include alcohol, solvents, legal and illegal drugs, prescription and over-the-counter medicines and other substances that could adversely affect work performance and/or health and safety.

### 3. Legislation

#### 3.1 Misuse of Drugs Act 1971

The primary objective of the Misuse of Drugs Act 1971 is the control of the use and distribution of dangerous and harmful drugs. The Act classifies the drugs according to the degree of harm likely to be involved in their use. They are defined as "controlled drugs" of Classes A, B or C. The possession, sale, supply or purchase of controlled drugs is illegal.

Undertaking any of the above whilst carrying out Council authorised work constitutes gross misconduct which may lead to dismissal. In such cases the Council has an obligation to notify the local Police authority, and will do so. The Act lists the drugs that are subject to control and classifies them in three categories according to their relative harmfulness when misused. The list of substances within each class can be amended by the Home Office who can either upgrade or downgrade or remove from the list a previously controlled drug.

**Class A includes: heroin, cocaine, crack, MDMA ("ecstasy"), methamphetamine, LSD and psilocybin mushrooms.**

Class B includes: amphetamine, cannabis, codeine and methylphenidate.

Class C includes: GHB, ketamine, diazepam, flunitrazepam and most other tranquilisers, sleeping tablets and benzodiazepines as well as anabolic steroids.

#### 3.2 Health & Safety at Work Act 1974

Employers have a statutory duty to ensure the health, safety and welfare of their employees. Employees also have a duty to take reasonable care of themselves and others who might be affected by their acts or omissions at work (including colleagues, service users and members of the public).

#### 3.3 Management of Health and Safety at Work Regulations 1999

These regulations state that an employer has a duty to assess risks to the health and safety of its employees. If it knowingly allows an employee to continue working if they are affected by drugs or alcohol and their behaviour places the employee or others at risk, the employer could be liable for prosecution.

#### 3.4 The Road Traffic Act 1988 states that any person who, when driving or attempting to drive a motor vehicle on a road or other public place, is unfit to drive through drink or drugs shall be guilty of an offence. It is expressly forbidden for employees to drive a Council vehicle or their own vehicle whilst on Council business whilst under the influence of alcohol and/or drugs.

#### 3.5 The Data Protection Act 1998

All health and medical information is sensitive personal data under the terms of this act. All information concerning possible drug or alcohol misuse must be handled securely and confidentially.

#### 3.6 The Human Rights Act 1998

Article 8 of the Human Rights Act is the right to respect for private and family life home and correspondence. It is a qualified right, so in certain circumstances public authorities can interfere with the private and family life of an individual. Such interference must be proportionate, in accordance with law and necessary to protect national security, public safety or the economic wellbeing of the country;

to prevent disorder or crime, protect health or morals, or to protect the rights and freedoms of others.

## 4. Policy

### 4.1 Employees in designated Safety Critical posts

4.1.1 Heads of Service/Operational Directors are responsible for identifying employees within their service who are in a designated Safety Critical role. This is most likely to be (but not restricted to) posts where the employee:

- Drives, operates equipment or machinery
- Is responsible for the care and welfare of vulnerable adults and/or children

4.1.2 In addition to following the requirements of this policy, employees in designated Safety Critical roles are prohibited from consuming alcohol at any time during their normal working hours, including breaks.

4.1.3 Departments with employees in Safety Critical roles may implement additional arrangements for dealing with alcohol, drug or substance misuse. This may include:

- Specific workplace rules related to the job/service
- Conducting searches (e.g. of lockers)
- Arrangements for drug/alcohol testing

4.1.4 Departments who wish to implement alcohol/drug testing must complete a number of actions first, as outlined below:

- Carefully consider the rationale for introducing testing and undertake a risk assessment
- Identify which posts are safety critical
- If employees are to be subject to random testing this must be clearly indicated in their employment contract. Departments must consult with HR Employment Relations and the Head of Human Resources on the contractual implications for the employees concerned. Note: Advice from Legal Services may also be required;
- Any proposals must be authorised by a Head of Service/Operational Director in consultation with their Corporate Director and the Head of Human Resources. In some instances, there may be a requirement to inform the relevant **Committee, should employees' terms and conditions** of employment need to be amended
- Consult with the Trade Unions
- Ensure that all employees in safety critical posts are notified of this in writing and fully informed about the implications of the proposed arrangements, including any contractual employment implications
- Employees should be given written guidance on how the arrangements (e.g. random testing) will operate and managers should be trained, as appropriate.
- Departments should have a clear process for the secure storage, retrieval and disposal of records and documentation pertaining to testing. The Employment Practices Data Protection Code (which supports the Data Protection Act 1998), advises employers to consider:

- The purpose of the monitoring
- The likely adverse impact on staff (and others)

- Any alternatives which will achieve the same objective
- Any obligations which monitoring will create
- Whether, on balance, monitoring is justified

## 4.2 Consumption/use of alcohol/drugs other substances

- 4.2.1 Employees are expected to report for work, and remain throughout the working day, in a fit and safe condition to undertake their duties and not be under the influence of alcohol or drugs or other substances.
- 4.2.2 Employees must not consume, or be under the influence of, intoxicating substances before coming on duty/reporting for work or when they may be required to attend work at short notice, for example when they are on call. Employees are personally responsible for allowing sufficient time for the intoxicating substance to leave their system before reporting for work (see 4.1.3 below).
- 4.2.3 Intoxicating substances such as alcohol may remain in the system for several hours and even small amounts can impair performance and jeopardise safety. In general, alcohol is removed from the blood at the rate of about one unit an hour. But this varies from person to person. It can depend on:
- Size and gender (men tend to process alcohol quicker than women)
  - How much food has been consumed
  - The state of the liver
  - Metabolism (how quickly or slowly the body turns food into energy).

Note: From January 2016 the recommended alcohol limit for men has been **lowered to be the same as for women. The UK's Chief Medical Officer (CMO)** guideline for both men and women is that:

You are safest not to drink regularly more than 14 units per week. This is to keep health risks from drinking alcohol to a low level  
If you do drink as much as 14 units week it is best to spread this evenly across the week.

Further details are available on the [Drinkaware website](#).

- 4.2.4 Employees must not consume alcohol or drugs or misuse other substances:

- On Council premises during their normal working hours
- Whilst engaged on Council business at any time

Note: this does not include drugs prescribed for the employee or over-the-counter medicines used for their intended purpose (in accordance with the instructions given by a GP, pharmacist or manufacturer) and where the safety of the individual or others with whom they come into contact is not compromised (please see 4.3 below).

- 4.2.5 Employees are expressly prohibited from possessing, storing, trading or selling controlled drugs on Council premises. Undertaking any of the above whilst carrying out Council authorised work constitutes gross misconduct, which may

lead to dismissal. In such cases the Council has an obligation to notify the local Police authority, and will do so.

#### 4.3 Social functions on Council premises

4.3.1 **In exceptional circumstances (e.g. social occasions to recognise employees' leaving/retirement, Christmas celebrations),** the organiser of the function should seek the written permission of a Head of Service/Operational Director (or Corporate Director, where appropriate) for the consumption of alcohol during working hours and/or on Council premises. Permission will not unreasonably be withheld, but the provisions of this policy and associated standards will continue to apply.

4.3.2 Notwithstanding the above, employees will be expected to behave in a responsible manner. Employees in designated safety critical roles who attend social functions at which alcohol is available must not consume any alcohol if they are expected to report for work (see section 4.1)

#### 4.4 Prescription drugs and other medication

4.4.1 Certain medicines available either with or without a prescription can affect an **employee's ability to perform their work activities effectively and safely.** Employees should inform their GP or pharmacist of the work they do and seek advice on possible side effects.

4.4.2 Employees should inform their manager of any drugs or medication they are taking, which is likely to affect their ability to carry out their duties effectively and safely. Where there are known and likely side effects that may affect work performance (for example operating machinery or driving) the manager should prohibit, restrict or re-allocate duties as appropriate.

4.4.3 Similarly, employees who experience side effects as a result of taking prescribed or over-the-counter medicines that impair their ability to perform their duties safely and satisfactorily must notify their line manager immediately.

4.4.4 It is recognised that some prescription drugs can be addictive. In such cases, the Council may offer reasonable support in line with this policy, where appropriate and practicable (see section 5.5 below).

#### 4.5 Driving

4.5.1 The Road Traffic Act 1988 states that any person who, when driving or attempting to drive a motor vehicle on a road or other public place, is unfit to drive through drink or drugs shall be guilty of an offence. It is expressly prohibited for employees to drive a Council vehicle or their own vehicle whilst on Council business whilst under the influence of alcohol and/or drugs.  
**All drivers are also subject to the Council's [Drivers Safety Policy](#).**

4.5.2 If it is proven that an employee has driven a Council vehicle (or their own vehicle on Council business) whilst under the influence of alcohol or drugs, this will constitute gross misconduct and could result in dismissal.

- 4.5.3 If an employee normally drives as part of their work or in the course of Council business and they are taking prescribed or over-the-counter medication which may affect their ability to drive, they must inform their manager immediately and they will be required to refrain from driving duties.
- 4.6 Reporting incidents outside of work
- 4.6.1 If an employee is convicted of a criminal offence related to alcohol or , (e.g. driving whilst under the influence of alcohol) they are required to notify their manager as soon as possible.
- 4.6.2 Where it becomes untenable for an employee to continue in their role at the Council as a result of a criminal conviction related to alcohol/drugs, this may lead **to dismissal. The employee's manager should** seek advice from Employment Relations before taking disciplinary action.
- 4.7 Support for employees with an alcohol/drug/substance dependency
- 4.7.1 Where an employee voluntarily seeks help and support for alcohol, drugs or substance dependency, the manager must:
- Hold an informal meeting with the employee to ascertain the nature of the problem;
  - Seek Occupational Health advice as appropriate;
  - Provide reasonable support to assist the employee with rehabilitation;
  - Agree a plan to monitor and improve performance/conduct and confirm this in writing.
- 4.7.2 **Employees should be encouraged to make use of the Council's free 24 hour [Employee Helpline Service](#).** (tel: 0800 282 193) This is operated by a third-party organisation and is completely confidential. A list of [specialist external support agencies](#) is **available on the Council's intranet.**
- 4.7.3 Where an employee accepts help (e.g. for counselling, treatment or rehabilitation) this should take place outside of working hours. Where this is not possible, the employee will be required to take annual leave, flexi-leave or unpaid leave. Any agreed treatment will be for a finite period, where resources allow and where service levels can be maintained.
- 4.7.4 Employees are expected to co-operate with any support and assistance provided by the organisation to address an alcohol or drug misuse problem.
- 4.7.5 Some performance/behaviour problems and frequent and/or regular sickness absence may be indicators of alcohol/drug /substance misuse and if persistent, of a dependency. (See [further guidance on the intranet](#)). A manager may refer an employee to Occupational Health for an assessment and/or discuss the issue with the Occupational Health Advisor. Occupational Health will advise the manager to enable them to determine an appropriate course of action.
- 4.7.6 Repeated sickness absence related to alcohol or drug misuse will be dealt with **under the Council's [Sickness Absence Management Procedure](#) and the Council's** trigger points will apply.



- 4.7.7 Confidentiality will be respected as far as is legitimately and legally possible. However, it may be necessary for information concerning the employee to be **shared with others, (for example Occupational Health), with the employee's agreement.**
- 4.7.8 If work performance, attendance or behaviour is unacceptable, and the employee breaches this policy, irrespective of any reasonable support and assistance that can be offered, disciplinary action up to and including dismissal may be unavoidable.
- 4.8 Dealing with breaches of policy
- 4.8.1 Employees who are in breach of this policy will be subject to disciplinary action. Each case will be considered on its individual merits and factors such as previous conduct, and any mitigating circumstances will be taken into account.
- 4.8.2 Where a manager becomes aware, or has a reasonable belief, that an employee may be misusing alcohol/drugs or other intoxicating substances they should seek advice from HR Employment Relations on the approach to be adopted. [Further guidance](#) is available on the intranet.
- 4.8.3 Managers are expected to deal promptly with any breaches of the policy, including **carrying out investigations and instigating the Council's [Disciplinary Policy and Procedures](#)** where appropriate.
- 4.8.4 If it is apparent that an employee is under the influence of alcohol or drugs, or there is a reasonable belief that they are, the Council reserves the right to take immediate action to minimise any risk to the employee, their colleagues, service users and members of the public.
- 4.8.5 **Depending on the nature of an employee's work and the severity of any risk they pose to themselves or to others, a manager may:**
- Instruct an employee to stop work immediately
  - Transfer the employee temporarily to low risk duties, and arrange for a colleague to cover for them.
  - Instruct the employee to leave the workplace and suspend them on full pay whilst an investigation is carried out (Note: ER advice should always be sought before instigating a suspension).
- 4.9 Monitoring and review of policy
- 4.9.1 Managers will be responsible for monitoring the following:
- The number and type of alcohol/drug tests carried out;
  - The results of tests;
  - The reason for the test (e.g. for cause, post incident or random tests on safety critical post-holders);
  - Equality data concerning disciplinary cases and alcohol/drug tests, including: grade, gender, ethnicity, age, disability and other protected characteristics.

- 4.9.2 The application of this policy will be monitored and the policy will be reviewed on a regular basis.
- 4.9.3 The Head of Human Resources has delegated authority to make minor amendments to the Policy, in consultation with the Cabinet Member for Resources, should this be necessary, as a result of operational experience legislative changes.