

Policy on the Misuse of Alcohol, Drugs and Other Substances

Managers' Guide



Revised September 2019

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PURPOSE

The purpose of this guide is to assist managers implement the terms of the council's Policy on the Misuse of Alcohol, Drugs and Other Substances.

The Policy applies to all employees and supports the council's commitment to ensuring a healthy and safe working environment by promoting a 'zero tolerance' approach to the misuse of alcohol, drugs and other substances.

GUIDANCE

- **How does the council define alcohol/substance misuse?**

The Policy on the Misuse of Alcohol, Drugs and Other Substances defines alcohol misuse as any drinking of alcohol, either intermittent or continual, which interferes with an individual's work capacity/performance, safety, conduct, health or attendance.

Drug Misuse is defined as use of illegal drugs or misuse (whether deliberate or unintentional) of prescribed drugs, over the counter medication, solvents or psychoactive substances which interferes with an individual's work capacity/performance, safety, conduct, health or attendance.

- **What do I do if an employee comes to work smelling of alcohol or their behaviour leads me to believe that they are under the influence of drugs?**

As a manager and employee of the council you have a responsibility to ensure that your health, safety and welfare and that of your colleagues and users of council services is not put at risk due to the actions or behaviour of other employees.

If you observe or it is reported to you that an employee appears to be under the influence of alcohol or drugs at work you should immediately arrange to meet with the employee in private to discuss your concerns and establishing whether there is a reasonable explanation for their behaviour.

The Observation Checklist is provided so that you can record any observations which may be linked to alcohol or drug use. It should however be noted that observed irregular or unusual behaviour could also be symptoms of other issues and therefore should not automatically be attributed to alcohol or drug use.

Wherever possible it is recommended that another member of management/supervisory staff is present during this discussion to validate your observations. The employee may be accompanied by a Trade Union Representative or work colleague if available at that time.

After this discussion, you should seek immediate advice from Human Resources who will arrange for an alcohol and drugs test to be carried out if that is deemed to be necessary. In exceptional circumstances, where workplace support is not immediately available, managers must seek advice directly from the specialist testing provider whose contact details are held by the council's Contact Centre.

The Management Protocol for With Cause Testing provides further details of the step by step process for arranging testing.

What do I do if an employee refuses to consent to testing?

All employees have a duty to take care of themselves and others affected by their activities at work and to co-operate with the council's actions taken to meet its duties under Health and Safety Regulations. You should remind the employee of this duty and of the fact that testing is applied as a reasonable measure for the protection of employees, service users and members of the public from the risks associated with alcohol and drug misuse.

You should try to ascertain the employee's reason for withholding consent and attempt to alleviate any concerns that they have. You should also advise the employee that withholding of consent will be considered as wilful failure to comply with council policy and that they will be subject to disciplinary action in accordance with the council's Disciplinary Procedure.

If after discussion, the employee continues to withhold consent, you should conduct a Risk Assessment to determine whether:

- it is safe for the individual to return to normal duties;
- the employee should be allocated alternative duties for a specified period; OR
- the employee should be sent home and suspended on full pay.

You should confirm that the matter will also be investigated in accordance with the council's Disciplinary Procedure.

The Management Protocol for Obtaining Consent provides further details of the step by step process for obtaining consent.

• What do I do in the event of an employee failing an alcohol or drugs test?

If an alcohol level is detected that is above 22 micrograms per 100 millilitres of breath (the legal drink drive limit) or one of the 6 identified substances is detected in the oral fluid test, the employee will be asked to remain at the test site to discuss the matter with you.

You should ask the employee whether they can provide an explanation for their non-negative test result and you should explain that further laboratory tests will be conducted where one of the 6 identified substances has been detected in the oral fluid test. The employee should be sent home and arrangements made to discuss the matter further the following day. The employee should not return to normal duties prior to this meeting.

Prior to meeting the employee the following day, you are required to conduct a Risk Assessment to determine whether:

- it is safe for the individual to return to normal duties;
- the employee should be allocated alternative duties for a specified period; OR
- the employee should be suspended on full pay.

At the meeting you should advise the employee that the matter will be investigated in accordance with the council's Disciplinary Procedure.

What should I do if an employee's pattern of behaviour suggests that they have a long-term alcohol or drug dependency problem?

Don't rush to any conclusions. Bear in mind that there may be a reason for the employee's behaviour, which is unconnected with the consumption of alcohol or drugs. They may be suffering from an underlying medical condition affecting their speech, co-ordination or behaviour.

If you suspect an employee is misusing alcohol/drugs you should speak to them in private with a view to establishing whether there is a reasonable explanation for their behaviour.

You should use the Observation Checklist for recording your observations for the purposes of discussing these with the employee.

• What do I do if an employee declares an alcohol or drug dependency issue?

If an employee declares an alcohol or drug dependency issue you should refer the employee to Occupational Health for confirmation of the dependency issue and advice on how the employee can be supported. It is likely that a referral to an external support agency will be recommended.

On receipt of confirmation of an alcohol or drug dependency issue you should arrange to meet with the employee to discuss:

- the proposed recovery treatment
- the estimated duration of any treatment
- the impact on the employees working arrangements during the recovery programme
- the availability of support agencies
- the council's expectations in terms of the employee's cooperation and commitment to any recommended recovery programme.

The above should be recorded on a Recovery Programme and the employee should be asked to sign to agree to attend all appointments necessary to assist with their recovery as recommended by Occupational Health or the relevant support agency.

A declaration of drug or alcohol dependency that is not prompted by testing arrangements or misconduct will not result in disciplinary action.

However, a declaration of drug or alcohol dependency will not prevent or stall a disciplinary investigation or potential disciplinary action if the declaration is made:

- after being selected for random testing;
- after being advised of the requirement for with cause testing; OR
- after a positive test result.

• If an employee admits they have a problem with alcohol/drugs what assistance can the council offer them?

Assistance and support is available through the Council's Occupational Health Service. The service can arrange treatment or counselling or put the employee in touch with other sources of assistance as appropriate.

Appropriate time off with pay will be granted to an employee to attend the relevant agency to undergo a recovery programme.

Dependent upon the employee's job it may be necessary, for a short time, to temporarily redeploy them to other duties or to a different work location while they complete their course of treatment. This decision will be made based on the manager's assessment of the risk involved if the employee remains in their job during treatment

- **What do I do if an employee denies they have a problem with alcohol/drugs, however their behaviour suggests they do?**

Problems arising as a result of an employee's behaviour will be dealt with as a matter of conduct under the terms of the council's disciplinary procedure. If the employee does not admit to having a problem with alcohol or drugs then this cannot be taken into account as a mitigating factor during the investigation or disciplinary hearing.

- **If an employee admits they have a problem with alcohol/drugs does this mean no disciplinary action will be taken?**

No. In the case of alcohol or drug related misconduct, the normal disciplinary process will be followed and a decision taken at the disciplinary hearing on the appropriate action, if any, to be taken. The disclosure of an alcohol/drug dependency problem will however be taken into account as a potential mitigating factor in determining the level of disciplinary sanction, if any, to be applied.

Depending on the nature of the misconduct and confirmation that a drug and/or alcohol dependency exists following specialist medical assessment, disciplinary action may be suspended on condition that the employee successfully completes any recommended recovery programme and demonstrates a significant improvement in conduct/ over a monitoring period.

Where the employee successfully completes any recommended recovery programme and there are no further instances of unacceptable behaviour, the proposed disciplinary action may be withdrawn or a lesser disciplinary sanction than that originally determined may be applied.

If a dependency problem is not confirmed, or if an employee does not complete any recommended recovery programme, the disciplinary action originally proposed will be confirmed and implemented.

- **What do I do if an employee has received treatment and support for alcohol or drug misuse and has a relapse?**

It is not unusual for an employee undergoing treatment for alcohol/drug dependency to relapse during treatment. If this occurs, during or following a recovery programme, the same support procedures may be offered to the employee at the discretion of his/her line manager and depending on the circumstances of the case. The employee should be referred to the Council's Occupational Health Service for review.

If at any time however, an employee appears incapable of dealing with an addiction related problem, it may be appropriate to deal with the matter under the council's Disciplinary Procedures on the grounds of capability and/or conduct.

- **When an employee is on call from home does this policy apply?**

Yes. When an employee is on call the same conditions apply to them in respect of the consumption of alcohol/drugs as do when they are at work. All employees are expected to ensure that their consumption of alcohol or use of prescribed drugs does not interfere with their ability to perform their duties safely and effectively or to deal with customers or clients to the required standards.

The council reserves the right to impose a ban on the consumption of alcohol during working time for certain categories of employee on safety, legal and/or operational grounds.

- **If I suspect an employee is consuming alcohol during working hours can I search their bag?**

You can only search the individual's belongings if they give permission for you to do so.

- **What do I do if I find drugs in the workplace?**

Report the incident to your Service Manager, who will arrange for the police to be informed.

Do not remove the drugs from where you found them unless their location poses a threat to the health and safety of users of the council's services. If the location of the drugs does pose a threat to the health and safety of council service users, they may be removed in the presence of a colleague to a safe location awaiting collection by the police.

- **Under what circumstances may alcohol be consumed on council premises?**

The consumption of alcohol or drugs as defined in this policy is prohibited on council premises during working hours. This excludes prescribed and/or over the counter medication taken for a genuine medical reason and in accordance with directions for use subject to the need to observe health and safety rules.

In terms of the consumption of alcohol on council premises during working hours, an exception may be made where specific events are formally approved by the council, Chief Executive, Depute Chief Executive, or Head of Service at which the consumption of alcohol is expressly permitted in the particular circumstances. In these circumstances, employees are required to adhere to the standards of behaviour as set out in this policy, in the council's Health and Safety Policy and as contained in any other relevant workplace rules.

- **Does this policy prohibit employees from consuming alcohol before work or at lunchtime?**

Employees are encouraged not to consume alcohol before work or during lunch breaks, however the policy does not expressly prohibit this. Employees should remember that they have a responsibility to ensure that any consumption of alcohol before starting work or during lunch breaks does not:

- breach any specific requirements or controls regarding alcohol or drugs as determined as a result of workplace risk assessments; or
- impair their ability to work safely and effectively or to deal with customers or clients to the required standards.

The council reserves the right to impose a ban on the consumption of alcohol during the working day for certain categories of employee on safety, legal and/or operational grounds.

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