

SUBSTANCE ABUSE  
POLICY AND PROCEDURE

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## **1. Policy Statement**

1.1 This policy reflects the council's commitment to promote avoidance of the misuse of alcohol, drugs and other substances, detrimental to health and work performance. Its purpose is to ensure that problems of substance misuse are recognised and reported by the individual concerned, at the earliest possible stage. This will allow the council to provide all possible help and support in assisting all employees to take steps to overcome the problem.

1.2 The policy recognises that employees affected by substance misuse require specialist help and support but it will achieve its objectives most effectively if problems are acknowledged and if individuals are willing to co-operate with the help and assistance offered. Where the employee's performance/conduct is in question, the procedure within this policy should be exhausted before any action is contemplated or continued under the appropriate performance management procedure that is the Capability or Disciplinary Procedure.

1.3 It must be recognised however, that although the council is committed to providing help and support to employees suffering from substance misuse, the possession of certain classes of drugs is a criminal offence under the Misuse of Drugs Act 1971, and employees should not under any circumstances be in possession of, or take, any illegal drugs whilst at work and employed by the council. Possession of such drugs will be dealt with under the council's Disciplinary procedure.

## **2. Scope of the Policy**

2.1 This policy and procedure applies to staff in all Departments. It does not apply to education establishments, including schools and colleges under local management. It is recommended that these establishments adopt the council's policy, but it is left for Governors to make this decision. Subject to this the policy will apply to all staff regardless of their status and employment.

## **3. Aims**

3.1 Successful management of drug abuse will benefit both the council and its employees by:

- Saving on the cost of recruiting and developing new employees to replace those whose employment is terminated as a result of untreated drug or other substance misuse
- Reducing the cost of absenteeism due to ill-health or impaired work performance
- Creating a more positive environment by ensuring appropriate and reasonable support is made available to those employees who declare a drug related problem
- Reducing the risk of accidents caused by impaired judgement

- Enhancing the public perception of the council as a responsible employer
- Ensuring that staff are aware of the council's policy and procedure regarding substance abuse
- Assisting managers in the early identification of employees with a substance abuse problem so that appropriate support can be given
- Provide assistance to employees, where appropriate who have admitted a problem with substance abuse, enabling them to obtain assistance as quickly as possible
- Setting a clear framework of rules and standards in relation to the effects of substance abuse on work and health in order to maintain a safe and healthy working environment.

#### 4. Definitions

4.1 Substance misuse is defined as the inappropriate, habitual and/or excessive use of alcohol, drugs or other substance to the detriment of work performance.

4.2 For the purposes of this policy the following terms have specific meanings as detailed below;

- **Intoxication** means an individual's behaviour being impaired or adversely affected as a consequence of the use of a substance or substances
- **Alcohol and intoxicating substances** including alcohol, drugs and volatile substances such a petrol, solvents and other chemicals
- **Legal drug** includes prescribed and over-the-counter medications and herbal remedies that have been legally obtained in the country where they are being used, and which are being used for the purposes for which they were prescribed or manufactured.
- **Illegal drug** means any drug or other substance that is not legally obtained in the county where it is being used or which is legally obtained but has not been legally obtained or is not used for the purpose for which it was obtained. The term includes prescription drugs not legally obtained and prescribed drugs and over the counter medication not being used for their intended purpose. The term also includes cannabis.

#### 5. Legal Requirements

5.1 Employers have a general duty under the Health and Safety at Work Act 1974 to ensure, as far as is reasonably practicable, the health, welfare and safety at work of all employees. Employees are also required to take reasonable care of themselves and others who could be affected by what they do at work.

5.2 The council has an additional duty under the Management of Health and Safety at Work Regulations 1999, to assess the risks to health and safety of its employees. If anyone knowingly allows an employee under the influence of drugs or alcohol to continue to work and their behaviour places the employee or others at risk, that person and the council could be prosecuted.

5.3 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.

5.4 The Misuse of Drugs Act 1971, makes the production, supply and possession of any controlled drugs unlawful except in certain specified circumstances (e.g. prescribed by a doctor). If anyone knowingly permits the production or supply of any controlled drugs, the smoking of cannabis to take place on council premises, or any private premises where a council employee is conducting council business or their personal property they could be committing an offence.

## **6. Identifying the problem**

6.1 There are effectively three mechanisms whereby management may become aware of substance misuse:

- Self disclosure to a line manager or occupational health;
- Through direct observation by manager or work colleague, member of the public or client;
- During the course of an investigation under some other council procedure (e.g. Attendance (sickness absence management), disciplinary or capability investigation).

Appropriate responses in each instance are outlined below.

### **Self-disclosure**

6.2 Where an employee recognises that their use of a substance(s) is having, or is likely to have, a detrimental effect upon their work or the reputation of the council they are encouraged and have a responsibility to disclose this fact prior to any performance or behavioural problems being identified at work. The following options are available to assist self-disclosure;

- 24 hour free confidential employee advice and support through the Council's free counselling provider (full details are available on the Intranet through Human Resources) .
- Line Manager and or HR are available to discuss the issue with an employee in a non-judgemental environment and in complete confidence. They will provide:
- Help and guidance as to the appropriate professional support specialists and rehabilitation options

- Encourage the employee to commit to seeking help in order to resolve the issue
- Provide ongoing support though out the rehabilitation period and beyond as appropriate
- Deal with the issue as a medical problem and record absence from work to attend treatment/counselling programmes as sick leave
- Assist the return to work programme in an understanding and confidential manner
- Referral, where appropriate to the council's Occupational Health provider in order to provide diagnosis and advice on options regarding rehabilitation and treatment, including those set out above.

Observation by manager, work colleague or member of the public/client 6.3 An employee's substance misuse may emerge as a specific incident, observation by or reported to a manager by a colleague/s or as part of a gradual decline in performance or interpersonal or other skills.

There are other signs that may indicate such problems, although managers should keep an open mind as the same symptoms may arise for other reasons such as trying to cope with stress, depression or bereavement.

Where an individual's appearance, behaviour, habits, mood and or work performance has altered or deteriorated, there may be suspicion that the individual has problematic consumption of alcohol, intoxicating substances or drugs.

**Appendix 1** provides a list of indicators and can be used as an observation sheet to identify the scope of the problem and any pattern that emerges over a period of time.

## 7. Raising the issue

7.1 Issues of drug, intoxicating substance or alcohol misuse should be raised in a sensitive and non-judgemental manner. A line manager's intervention should balance support with affirming boundaries of acceptable standards of behaviour and work performance.

When raising the issue, the following points should be remembered:

- Issues should be raised privately and away from all interruptions
- It is important to focus on specific inadequate work performance, absences and behaviour at work which have presented themselves and **not** to make moral judgements or vague accusations.

- Assumptions should not be made – an employee's behaviour/performance may not be due to alcohol, substance or drug misuse, they may have personal issues or a physical or mental health problem.
- The employee should be encouraged to accept that a problem exists when it does and to seek treatment voluntarily.
- If the employee denies substance misuse, the employee should be tactfully informed that failure to acknowledge the problem and seek appropriate assistance could lead to more serious performance problems, about which formal action could be taken.
- Managers, even where qualified to do so, are not expected to be alcohol, intoxicating substance or drug specialists or counsellors. Their primary role is to address declining or unacceptable standards of work performance or behaviour whilst encouraging the individual to seek help.
- Throughout these discussions, the emphasis must be on the council's willingness to assist the employee to overcome the substance misuse problem.
- Whilst at this stage it is intended that any such conversations should be part of the normal manager/employee supervisory dialogue, the employee must be asked whether they wish to be accompanied by a Trade Union Representative or work colleague in order to assist with the resolution of the matter. Equally, the manager or the employee may request assistance from their Departmental Human Resources Team.

## **8. Supports for Employees**

8.1 Where the employee has recognised that their consumption/ingestion of alcohol, intoxicating substances or drugs is problematic, the Council will aim to support the individual by providing the following assistance:

- Helping them to recognise the nature of the problem
- Confidentiality and support during a period of treatment
- Time off, with appropriate sick pay, for treatment
- Access to free counselling service
- Referral to the Occupational Health provider
- The opportunity to remain or return to work following the completion of a course of treatment, as far as is practicable or appropriate; in either the employee's own post or an alternative role.

**Appendix 2** identifies sources of specialist help and support.

8.2 The provision of this assistance will depend upon the following conditions being met:

- An assessment of an alcohol, substance or drug misuse problem from a specialist practitioner from a substance misuse agency.
- The employee recognises that there is a problem and is prepared to co-operate fully in referral and engage with a treatment programme from the appropriate sources

8.3 The following limits to the assistance that can be provided should be recognised:

- Where the employee fails to recognise that they have a problem with substance misuse or to co-operate in the referral or treatment arrangements, any failure in work performance and or behaviour will be dealt with through the Disciplinary or Capability Procedure, as appropriate. (Should the employee come to recognise the problem at a later date access to this policy/procedure will be made available).
- If the process of referral and treatment is completed but is not successful or the employee suffers a relapse, further treatment and support will be offered. Should this not be accepted and failure in work performance or behaviour occurs, consideration will be made as to whether these will be dealt with through the Disciplinary or Capability Procedure, as appropriate, as will repeated lapses that directly negatively affect service provision.

## **9. Referral for Specialist Treatment and Rehabilitation**

9.1 Initial advice and support may be arranged through the council's occupational Health provider, the employee's trade union; the Departmental Human Resources Team, or an appropriate outside agency. At this point, decisions will be made about the course of treatment, advice and support to be undertaken. OHS will make available advice on specialist agency treatment and referral pathways and any treatment intervention routes that maybe appropriate. OHS will be responsible for monitoring progress and advising the manager concerned. This advice should be available at least monthly following commencement of treatment and thereafter as agreed.

9.2 The council will grant paid time off for authorised treatment and counselling sessions and such time off will be regarded as sick leave. Note Attendance procedure only requires absences of more than 3.5 hours to be recorded as sick leave therefore if employee reconciles hours, etc, the absence will not be recorded. Management may require sight or proof of appointments and



attendance. The council will require the employee to give their consent so that OHS may liaise with any outside agency.

9.3 Whilst the council will make every reasonable endeavour to ensure that treatment is successful, it reserves the right, in conjunction with OHS, to take a view as to whether there is a point beyond which the length of treatment becomes unreasonable, and that, therefore, there is no option but to view the problem under the Disciplinary procedure. Alternatively should the employee not be able to resume their role or any other suitable alternative post, employment may be terminated on the grounds of capability on the grounds of ill health.

9.4 The council recognises that even where treatment has been successful; there is still the potential for relapse. Should this occur and following discussion with the HR team and OHS, further support may be granted in order to undertake further treatment.

## **10. Following Treatment**

10.1 Where the treatment is successful, the employee will return to, or continue in, the same job unless this would be incompatible with their full recovery,(as certified by OHS and in consultation with the appropriate specialist agency) or would cause service provision difficulties.

10.2 Where there is a need for the employee to leave the current job, the Council will attempt to find re-deployment opportunities in accordance with the normal sickness procedures. Where such re-deployment cannot be found, the Medical Advisor's view will be sought. Where an ill-health certificate is issued, the ill-health retirement procedure will be implemented. Where an ill-health certificate is not issued, employees may be subject to dismissal on capability grounds. However, the council views this option as a last resort.

10.3 Where the employee declines to accept offers of assistance and or support or discontinues the agreed course of treatment, the employee will be advised of the advantages of proceeding with the treatment in the presence of, and in conjunction with, their trade union representative or work colleague. If appropriate, further offers of assistance and support may be made. Where such advice is rejected, the employee will either revert to the Disciplinary process where those procedures have previously been suspended, or will be advised that there will be a likelihood of Disciplinary or Capability proceedings should performance either be affected, or continue to be affected, by substance misuse.

10.4 If following treatment the expected level of safety and/or performance is not achieved, or if there is a subsequent relapse into the substance misuse problem, a further opportunity to accept and co-operate with treatment may be provided, dependent on the merits of each case. If this course of action is not thought justified a case conference will be convened by Human Resources to include the line manager and in conjunction with OHS to consider whether the Disciplinary or Capability procedure should be implemented. OHS should be consulted at all stages.

10.5 Where an employee remains in the employment of the Council after being subject to the application of the Substance Misuse Policy, the employee's behaviour and performance will be formally monitored by the line manager for a period of up to one year after the conclusion of appropriate proceedings, during which time the employee will be expected to continue at a satisfactory level of performance.

10.6 Such a review will include recorded meetings with the employee's line manager, the Departmental Human Resources Advisor and OHS. The employee may choose to be accompanied by a representative from a recognised Trade Union or a work colleague. (Consideration of another appropriately identified individual may be considered at the discretion of the manager and HR).

10.7 The outcome of the advice and treatment provided should be confirmed in writing and all communication regarding substance will be removed from the personal file 18 months after the agreed course of treatment has been successfully concluded.

## **11. Disciplinary Action**

11.1 The work related conduct associated with substance abuse may be such as to require disciplinary action in accordance with the Council's Disciplinary Procedure. Where during the course of disciplinary procedures the conduct under review may have been influenced by substance abuse and this has not been recognised before, the disciplinary procedures will be temporarily suspended to provide opportunity for further investigation and treatment. The purpose of such an investigation is to confirm whether or not substance abuse was a contributory cause to the disciplinary allegation. The form of the investigation will vary according to the circumstances of the case, but must involve referral to the council's Medical Advisor. Where it is determined that substance misuse was not a contributory factor, then the disciplinary procedures will be reopened.

11.2 If an investigation confirms the case that substance misuse is the cause of the alleged misconduct, the employee will be encouraged to accept treatment and/ support. Where treatment and or support is refused, disciplinary action may be reopened if there has not been the required improvement in performance. The agreed treatment and support should be confirmed in writing, by the line manager to the employee once it has been agreed by OHS in line with the specialist advisor.

11.3 It would not be appropriate however, to suspend the disciplinary procedures in cases where substance misuse has caused alleged misconduct involving theft or assault, endangering life or property, etc., where any help to overcome the problem has been refused or where a random instance of substance misuse has resulted in serious misconduct. Substance abuse by staff should not constitute grounds for dismissal unless their actions or performance reach an unacceptable level.

11.4 Possession, supply or likely intention to supply illegal drugs at work will result in disciplinary action up to and including dismissal as will any employee convicted of supply or possession.

11.5 Any use of alcohol, intoxicating substances, or drugs by an employee in safety critical positions will be dealt with as gross misconduct and will normally result in summary dismissal. Examples of safety critical positions are: drivers of Council vehicles whether on business or not: staff on waking nights in charge of a residential service and staff in customer facing roles.

11.6 Where the employee may or may not have a dependency upon substances but continues to present themselves at work for example with breath smelling of alcohol, clothes smelling of cannabis despite being advised that this is unacceptable behaviour s/he will be subject to the disciplinary procedure.

11.7 Employees consuming (without permission\*) selling or giving away alcohol or other intoxicating substances whilst at work will be subject to the Disciplinary procedure.

\*there may be occasions such as social functions held during working hours where the senior managers present have given permission for alcohol to be served – see the Code of Conduct on this point.

11.8 Where disciplinary allegations involve substance misuse, the investigating officer and Head of Service should suspension be considered, will take into account whether the behaviour would make the continuing employment of the employee intolerable or would give rise to a situation where maintenance of a service would be at risk. In such circumstances, it may be appropriate for the employee to be suspended from duty on full pay until the investigation is completed. As an alternative, temporary re-deployment may be considered.

11.9 The employee must be informed that, whilst further investigation is being undertaken, there is an expectation that they should make every effort to ensure that the work related misconduct, which was alleged at the disciplinary hearing does not recur.

11.10 Where disciplinary action has been taken as a result of serious misconduct, the council will be willing to offer the employee treatment. In all cases, the employee will be written to, explaining the reason for the suspension of the disciplinary hearing, and outlining that they will be referred to the OHS for an opinion.

11.11 Whilst it will normally be the council's intention that disciplinary action should not be reintroduced where treatment has been successful and behavioural or performance difficulties are no longer present, in the cases of alleged gross misconduct, the disciplinary allegations will require the reopening of formal disciplinary proceedings.

## **12. Contractors**

12.1 Under the Health and Safety at Work Act 1974, Section 3 provides that employers shall ensure that their work activities do not place at risk other persons, not employed by them. This applies to main contractors and sub-contractors.

12.2 All contractors undertaking work for the council will be subject to the same standards to those applicable to council employees. It is the responsibility of the managers who authorises the work to ensure that the contractor has a full understanding of the policy. It should be made clear that any contractor found to be under the influence of drugs or alcohol whilst on council premises or in clients homes would be reported to their own managers and prohibited from undertaking further work.

## **13. Confidentiality**

13.1 The council will continue to maintain strict confidence with regard to an employee's personal and medical records including information on personal and medical matters brought to light during the course of any disciplinary proceedings. Only those needing to know information will be given access to it.

## **14. Monitoring and Review**

14.1 The application of this policy and accompanying procedure will be monitored and its effect reviewed on an annual basis and in line with related legislation in consultation with the recognised trade unions.

## Work Performance Issues – Checklist

In completing these checklists it is important to gather specific examples of behaviour to demonstrate why you have indicated that this area is one of concern.

WORK PERFORMANCE	
	Deteriorating Standards of Work
	Reduced quality and quantity of work
	Poor decision making
	Increased number of mistakes
	Increased errors in judgement
	Does not perceive the significance of advice, directions or instructions
	Loss of interest in work
	Does not plan work properly and shifts from one task to another without reason
	Failure to meet deadlines
	Task takes more time
	Violates safe working practices
	Shows signs of stress
	Does not respond well to training

ACCIDENT RECORD	
	Accidents at work, at home or on the road
	Frequent trips to team first aider
	Trauma from accidents or fights

PHYSICAL EVIDENCE	
	Multiple bruises on arm
	Loss of weight
	Gaunt appearance
	Injection marks on arms
	Tremor or sweating
	Intoxication, e.g. slurred speech, confused, bleary eyed
	Smelling of alcohol in the morning
	Tiredness/exhaustion
	Hangover
	Lack of physical well being

ABSENCE FROM WORK AND WORKING	
	Longer than normal average absence from the service
	Leaving work early
	Physical illness whilst at work
	Frequent absenteeism
	Patterns of absenteeism e.g. following weekends or pay day
	Unduly worried about health and has repeated absence due to minor illness which are blown out of all proportion
	Poor timekeeping
	Peculiar reasons for absence
	Unexplained absence

HABITS AND MOOD STATE	
	Becoming less concerned with dress and or appearance
	Excessive care in dress
	Fluctuations in mood in a single day
	Increased irritability, nervousness and argumentativeness
	Poor relations with colleagues
	Poor relations with managers
	Minimum emotional involvement with others
	Does not concentrate
	Has sulks, surly or self pitying attitude
	Wide swings in morale
	Seeks advances on salary
	Borrows regular amounts of money from other staff
	Tendency to blame others
	Tendency to become confused

## Sources of Help and Support

<b>Organisation</b>	<b>Telephone No</b>	<b>Service</b>
National Drugs Helpline	0800 77 66 00	Free confidential advice 24 hours a day
Drinkline	0800 917 8282	Free information service offering advice on all aspects of drinking. Information on drug treatment and care, prevention and education
DrugScope	0207 928 1211	Provides specialist advice on policy development to reduce drug related risk
ADFAM – National charity for the friends and family of drug users	020 7928 8900	Confidential support for families and friends, counselling and information.
Crimestoppers SNAP	0800 555111	Confidential /anonymous line for members of the public to give information about drug crime
Alcohol Concern	020 7928 7377	Provide information and materials on alcohol
Re-Solv	0800 800 2345	Offers advice, guidance and publications on solvent and volatile substance abuse
Release	0207 603 8654	24 hour confidential helpline offering advice on drug use and legal issues
Ppc – Employee Assistance Programme	0800 282193	LBM's external 24 hour confidential provider of staff advice and specialist counselling and support services

MOST COMMONLY MISUSED SUBSTANCES IN THE UK – Produced by the HSE

NAME	USUALLY TAKEN	HARMFUL EFFECTS	LEGAL STATUS
Heroin	Injection, snorted or smoked	Physical dependence, tolerance, overdose can lead to coma/death. Sharing injecting equipment brings risk of HIV or hepatitis infection	Class A
Cocaine	Snorted in powder form, injected	Dependence, restlessness, paranoia, damage to nasal membranes	Class A
Crack	Smokable form of cocaine	As for cocaine but, because of the intensity of its effects, crack use can be extremely hard to control, damage to lungs	Class A
Ecstasy	Swallowed	Possible nausea and panic, overheating and dehydration which can be fatal. Use has been linked to liver and kidney problems. Longer term effects may include depression and mental illness	Class
LSD	Swallowed	There is no way of stopping a 'bad trip' which may become a very frightening experience. Increased risk of accidents can trigger off	Class A



		long-term mental problems	
Magic Mushrooms	Eaten raw or dried, cooked in food to taken in tea	As for LSD with the additional risk of sickness and poisoning	Not illegal in raw state but Class A once dried or processed in any way
Cannabis	Rolled in tobacco and smoked or eaten	Impaired co-ordination and increased risk of accidents, poor concentration, anxiety, depression, increased risk of respiratory diseases including lung cancer	Class B
Barbiturates	Swallowed	Dependency and tolerance overdose can lead to coma or death. Severe withdrawal symptoms	Class B
Amphetamines	In powder form, dissolved in drinks, injected, sniffed/snorted	Insomnia, mood swings, irritability, panic.	Class B
Tranquillizers	Swallowed or injected	Dependency and tolerance, increased risk of accidents, overdoes can be fatal, severe withdrawal symptoms	Class B – available only on prescription. Supply is illegal apart from Temazepam, not illegal to possess without a prescription
Poppers	Vapours from bottle are breathed in through mouth or nose	Nausea and headaches, fainting, loss of balance, skin problems around the mouth and nose	Not illegal to possess but supply without permission is illegal and can be an offence
Solvents	Sniffed or breathed into the lungs	Nausea, blackouts, increased risk of accidents. Fatal heart problems can cause instant death	Not illegal to possess but it is illegal for a shopkeeper to sell solvents to anyone under 18, if they suspect they are intended for misuse

