

# **Substance Misuse Policy & Guidance**

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  3. Implementation
  4. Monitoring
  5. Managers' Guidelines
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## **1. Introduction**

Derbyshire County Council is fully committed to the provision of a safe and healthy working environment.

The misuse, by employees, of alcohol, drugs or other substances which alter mood and consciousness can have serious implications for health and safety within the workplace. This can also have implications for the professional image and reputation of the Council. There are a number of legal requirements relevant in the implementation of the substance misuse policy. These are in the areas of health and safety, misuse of drugs, road safety, disability discrimination and common law liability.

A Substance Misuse Policy with guidance for managers and employees has been developed to ensure the continuing health and safety of individual employees, their colleagues and others who may be affected by their actions.

This Policy falls within the 'Employee Wellbeing' strand of the Human Resource Strategy. It focuses on employees enjoying good health and a safe working environment with support mechanisms in place to assist with work-life balance issues.

## **2. Policy Statement**

The Council recognises that substance misuse is primarily a health issue and is committed to the education of employees in the dangers of substance misuse and to the support and rehabilitation of employees who seek to overcome problems of substance misuse.

To fulfil this commitment the Council will:-

- Provide proactive health promotion programmes.
- Create an atmosphere in which employees can seek assistance and support for alcohol or drug related addictions.
- Provide appropriate information and support for managers to help them recognise and deal with these issues.
- Provide appropriate support and guidance for employees.
- Evaluate and review the effectiveness of the Policy and procedures as required.

The Council does however reserve the right to invoke disciplinary/capability action, where this is appropriate, either in the first instance, or where counselling and treatment do not resolve the workplace issues.

### **3. Implementation**

Each Strategic Director shall have responsibility for ensuring that all employees within their Department are made aware of the procedures laid out in this Policy.

The Trade Union's accredited safety representatives will be provided with relevant information concerning this Policy.

### **4. Monitoring**

The responsibility for monitoring and evaluating the policy and its implementation remains with the Director of HR.

### **5. Managers' Guidelines**

#### **1. Introduction**

Derbyshire County Council is fully committed to providing a safe and healthy working environment for all employees. This can be put at risk by those who misuse alcohol or drugs to such an extent that it affects their health, performance, conduct or relationships at work.

The consumption of alcohol and recreational drugs has risen markedly over the last few years and research has shown that excessive alcohol consumption is a significant factor in absence from work. The use of drugs is less widespread, of more recent origin and also illegal, therefore less is known. It is however a growing problem in the wider community.

These Guidelines are intended to assist you to recognise, manage and support employees who misuse substances to such an extent that it affects their work.

#### **Definition**

Substance misuse means the use of illegal drugs and the problematic or inappropriate use of prescribed drugs or alcohol. In addition, the use of solvents or "over the counter" medications can fall within the definition of substance misuse when they are used in such a way that attitude, behaviour or performance at work are likely to be negatively affected.

#### **2. Legislative Background**

##### **(a) Health and Safety Legislation**

The Health and Safety at Work etc Act 1974 and the Management of Health and Safety at Work Regulations place a general duty on the Council to maintain a safe and healthy working environment, and require that the Council assess the risks to its employees and others who may be affected by the work activities and eliminate/reduce these risks so far as is reasonably practicable.

They also place a duty on employees to take reasonable care for the health and safety of themselves and others who may be affected by their actions, and to co-operate with the Council in matters of health and safety.

**(b) Misuse of Drugs Act 1971**

Illegal substances are those controlled by the Misuse of Drugs Act 1971. This law relates to the use, possession, production and supply of illegal substances.

It is however also an offence if someone allows premises which they manage to be used for drug use, supply or offering to supply drugs. The Act makes it an offence to allow, whether by a positive act or by ignoring the fact, premises to be used to produce or supply controlled drugs or to smoke cannabis, cannabis resin or prepared opium. An employer will be obliged to take action so as not to commit an offence, eg by requesting that the person involved remove the drugs from the premises.

**(c) Road Traffic Act 1988**

This states that drivers must not:

- drive under the influence of drink or drugs.
- Drive with a breath alcohol level higher than 35 µg/100 ml (equivalent to a blood alcohol level of 80 mg/100 ml).

**(d) Disability Discrimination Act**

Although the Disability Discrimination Act 1995 (DDA) specifically does not cover addiction to substances, the physical or mental effects of an addiction, eg severe liver disease, can fall within the provisions of the Act. Should an employee fall within the provisions of the Act caution should be exercised when considering any disciplinary or capability measures.

**(e) Common Law Liability**

An employer is responsible for the acts of his employees during the performance of their duties, through the principle of vicarious liability. Failure to respond to substance misuse, or to respond appropriately in the circumstances, may render the employer liable for injury or loss suffered by a third party as a result of the employee's actions.

### **3. Your Role**

#### **(a) Responsibilities**

As a manager you have a responsibility to:-

- ensure the health and safety of your employees, and yourself.
- uphold the law.
- safeguard the professional reputation of the Council.
- maintain appropriate standards of service.

Employees who misuse substances to the extent outlined above can constitute a risk to themselves and others who may be affected by their actions or inactions.

Early recognition and appropriate action in line with these Guidelines are essential to ensure you meet your responsibilities.

#### **(b) Recognition**

It is not the intention of the Council to interfere in employees' private lives. You as a manager will be concerned only where this impacts on an employee's conduct, work relationships or work performance.

There are many short-term and long-term health consequences of misusing alcohol and/or drugs. These are detailed in the employee guidance.

There are a number of possible indications of alcohol or drug problems. These may relate to a specific incident eg where you suspect acute intoxication or discover the employee using what you suspect are illegal drugs; or over the medium to longer term where there is a discernible pattern suggestive of an underlying problem.

**NB** Where the substance is an illegal drug, please remember your responsibilities as an agent of the employer (see p2 Misuse of Drugs Act 1971). Your responsibility to act in the event of an employee misusing drugs on work premises does not oblige you to report the employee to the police. However, in some cases you may believe that the employee should be reported to the police, eg when an employee is found to be supplying or attempting to supply drugs to vulnerable service users. You may seek advice from Legal Services at any time.

## ***Possible signs of substance misuse***

Reduced work performance characterised by:

- Confusion
- Lack of judgement
- Impaired memory
- Difficulty in concentrating on work
- Periods of high and low productivity

Absenteeism and time-keeping

- Poor time-keeping
- Increased absence
- Peculiar and increasingly improbable excuses for lateness and absence

Personality change

- Sudden mood changes
- Irritability and aggression
- Over-reaction to criticism
- Friction with colleagues

Physical signs

- Smelling of alcohol
- Loss of appetite
- Unkempt appearance
- Lack of hygiene

Feeding the addiction

- Attempting to borrow money from colleagues
- Dishonesty

As you will be aware, if these signs are present they are not necessarily due to substance misuse, but it is a factor to bear in mind when discussing with the employee any issues related to their conduct or their work.

Where there are issues with an employee's conduct or performance, there may be many reasons for this. If the employee does not acknowledge that they have a problem - even if you suspect alcohol or drugs may be involved – you will have to proceed by implementing the Council's disciplinary/capability policies. You should consult your DPO/Attendance Manager for advice on this issue.

**(c) Acknowledgement of Problem**

How will you know if your employee has a problem with substance misuse?

1. The employee may approach you to volunteer that they have a problem with alcohol or drugs and ask you for help and support.
2. The employee may acknowledge that they have a problem during a discussion with you; either as a part of a return to work discussion; review meeting or where you are discussing issues relating to a deterioration in their behaviour, work or work performance.

**(d) Responses**

When dealing with an employee who has acknowledged they have a problem with substance misuse, there are a number of steps you should take:

- Seek appropriate advice from your personnel officer/attendance manager.
- Ensure prompt referral to Occupational Health
- Ensure appropriate level of confidentiality
- Provide support, both practical and emotional during regular discussions with the employee

**Commitment to Treatment**

Although the employee will be given support, guidance and time to seek help with their problem, it should however be made clear that this support and suspension of disciplinary procedures is conditional upon their co-operation with any appropriate treatment/counselling and can be invoked at any time. An agreed period of between three to six months will be the usual timescales. This agreement with the employee will be in writing (see Appendix 1).

The agreement commits the employee to:

- Follow the treatment and rehabilitation regime
- Abstain from the abused substance
- Meet agreed expectations in relation to work
- Agree to Occupational Health receiving progress reports from the treatment providers

Your employee may need to have sick leave to access treatment for an extended period of time or they may remain at work with time off to attend hospital appointments, counselling, etc.

There are other policies and procedures which may assist during the difficult early days of treatment, eg changes in hours/duties on a temporary basis.

No-one expects you to provide specialist counselling, but setting aside some time for regular informal sessions to encourage and support your employee will be extremely helpful.

As with all personal issues, confidentiality should be maintained wherever possible. However there may be circumstances when the employee's right to have matters treated in confidence will be overridden by other considerations, for example the welfare of service users.

#### **4. Role of the Occupational Health Unit**

The Occupational Health Unit operates a two tier system. Initial support is provided by the Occupational Health Nurses, with the Occupational Health Physicians providing advice in the event of non-compliance with treatment.

##### **a. Monitoring and Support**

When an employee acknowledges that they have an alcohol or drug problem, you should refer them to the Occupational Health Unit via your usual referral route.

They will be seen by an Occupational Health Nurse who will provide support and will in addition fulfil a monitoring role. Specialist treatment and/or counselling will generally be required for the employee. This will be arranged either directly by the employee or by their general practitioner.

The employee will be asked to sign an undertaking that the Occupational Health Nurse may liaise with whichever agency is providing treatment for them. The Council's EAP (Employee Assistance Programme) provider is able to offer support even if the employee is attending another agency eg A.A; or advice about where to obtain appropriate support.

The employee will then be reviewed by Occupational Health on a regular basis over the agreed period – usually between three to six months – to encourage and monitor progress. Brief reports will be issued to the line manager after each review with a full report provided at the end of the agreed period. Although the appointments will be arranged by Occupational Health, the appropriate line managers will be asked to provide information regarding work performance if the employee is not on sick leave.

##### **b. Non Compliance with Treatment**

Where the employee fails to attend the Occupational Health appointments, fails to comply with treatment or fails to make progress, they will be referred to the Occupational Health Physician for a longer term prognosis.

## **5. Role of Personnel/Attendance Management**

The role of Personnel and Attendance Management is to assist in the implementation of this policy by advising you on the appropriateness of disciplinary and capability procedures and/or use of this procedure; bearing in mind the provisions of the policy.

Although this policy is primarily concerned with support for employees, it has to be recognised:-

- a) that an employee who has a drug or alcohol problem may not admit to this
- b) they may not wish to have assistance
- c) they may try to give up alcohol or drugs, but show no signs of improvement.

In these instances, where the effects are impacting on work, the disciplinary/capability procedures may be implemented.

Your personnel/attendance management contact should be informed when you are making a referral to Occupational Health because the employee has acknowledged they have a problem, and when there are difficulties with their work which warrant further action.

## **6. Employee Guidelines**

### **1. Introduction**

Derbyshire County Council is fully committed to providing a safe and healthy working environment for all employees. This can be put at risk by those who misuse alcohol or drugs to such an extent that it affects their health, performance, conduct or relationships at work.

The consumption of alcohol and recreational drugs has risen markedly over the last few years and research has shown that excessive alcohol consumption is a significant factor in absence from work. The use of drugs is less widespread, of more recent origin and also illegal, therefore less is known. It is however a growing problem in the wider community.

### **2. Policy Statement**

The Council recognises that substance misuse is primarily a health issue and is committed to the education of employees in the dangers of substance misuse and to the support and rehabilitation of employees who seek to overcome problems of addiction.

### **3. Definition**

Substance misuse means the use of illegal drugs and the problematic or inappropriate use of prescribed drugs or alcohol. In addition, the use of solvents or “over the counter” medications can fall within the definition of substance misuse when they are used in such a way that attitude, behaviour or performance at work are likely to be negatively affected.

### **4. Your Responsibilities**

As an employee, you have a responsibility under the Health and Safety at Work etc Act 1974 to take reasonable care for the health and safety of yourself and others who may be affected by your actions. You are also required to co-operate with the Council, your employer, in matters of health and safety and comply with health and safety policies.

It is expected that an employee will not report, or try to report for work, or be at work, whilst under the influence of drugs or alcohol such that it compromises their ability to undertake their duties in a safe and competent manner; nor will they be in possession of illegal drugs in the workplace.

When taking medication, if there are any side effects which may affect fitness for work, you must inform your line manager as soon as possible.

### **5. Scope of the Policy**

There is a wealth of information available for you about the effects of alcohol and/or drugs on the mind and body. It is obviously a personal decision whether or not to take alcohol and/or drugs.

The Substance Misuse policy is only concerned about the effects which these can have on your work.

### **6. If you have a problem**

If you have a problem with either alcohol or drugs, you can get help, support and time to overcome your difficulties. Specialist support and advice is available from a number of agencies both external and internal.

Where you have acknowledged to your Manager that you have a problem with either drug or alcohol misuse and this has affected your work, performance or attendance, any capability or disciplinary action can/may be temporarily suspended while you try to overcome your problem.

Guidance and support will be given, including time off to attend treatment/counselling sessions where appropriate, whilst you are committed to this course of action.

However, you should note that the procedures will be formally implemented after a 3-6 month period or earlier if you are not able to demonstrate your commitment to resolving your problem.

## **7. Your Commitment**

If however you wish to have this support, you will be required to sign a commitment to:

- Follow the treatment and rehabilitation regime.
- Abstain from the abused substance.
- Meet agreed expectations in relation to work.
- Agree to Occupational Health receiving progress reports from your treatment providers.

Whilst each case will be considered and monitored individually, there will generally be a time limit set of between three to six months to show an improvement.

## **8. Non Compliance**

Where you do not comply with the course of treatment or counselling and where the workplace issues are not resolved, the disciplinary/capability procedures may be invoked.

## **9. Confidentiality**

As with any other personal issue which you discuss with your manager, this will be kept in confidence, with the only over-riding provisos relating to legal and/or health and safety issues.

Confidential

***SUBSTANCE MISUSE POLICY***

**Employee Agreement**

I understand that at the present time disciplinary/capability procedures will not be invoked in relation to my current work difficulties, and that I will be given support from the Council and time in which to seek help and/or treatment to overcome my addiction.

This agreement will be in place for (X) months but is conditional upon me

- Abstaining from (substance)
- Undertaking any appropriate treatment/rehabilitation required
- Improving my (work performance)
- Agreeing to Occupational Health receiving progress reports from my treatment/support agency.

I am aware that if I do not attend Occupational Health appointments, do not comply with treatment or do not improve my (work performance) that the appropriate procedures will be invoked.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Employee No: \_\_\_\_\_

NB: An appropriate agreement will be drawn up by **OCCUPATIONAL HEALTH** to reflect individual circumstances.