

Alcohol & Drug Misuse Policy Report - Background Paper (policy document)



**ALCOHOL & DRUGS MISUSE POLICY & TESTING
PROCEDURE**

Version	Date	Author	Rationale
1	Jan 2013	HR	First draft
2	Jul 2018	HR	Review
3	Nov 2023	HR & Safety & Resilience	Review including testing procedure

Second draft following Unison comments 08.11.23

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ALCOHOL & DRUGS MISUSE POLICY

1. Introduction

Chichester District Council (CDC) acknowledges that the wellbeing of its workforce is vital to the effective delivery of its services. It is concerned, therefore, with ensuring that good working practices are adopted, which promote the health, safety and welfare of all its employees. Procedures will be developed for all managers and employees to enable them to deal effectively with issues relating to alcohol and drug misuse or dependency. The initial approach aims to treat such difficulties, where appropriate, as essentially a medical/welfare issue rather than taking a disciplinary approach. Consequently, the Council seeks, and expects that all employees and managers will adopt a constructive and positive attitude towards resolving such situations.

The Alcohol & Drugs Misuse Policy involves two approaches which work in parallel:

- To aid employees with an alcohol or drug abuse problem who are willing to co-operate with treatment for problems.
- Disciplinary rulings, to be enforced through relevant disciplinary procedures, where use of alcohol or drugs (other than that of prescription or over the counter medication) affects performance or behaviour at work.

CDC does not have the internal resources to provide or arrange treatment or other forms of specialist assistance although advice can be sought from the Wellbeing Team. Specialised services are provided via GPs, hospitals, and charitable organisations. Through this policy, CDC may seek to assist a colleague in obtaining such specialist help and to ensure that everyone is treated in a fair and consistent manner.

1.1 Scope

This policy relates equally to all staff including staff on probation. It also applies where indicated to contractors and agency workers engaged by the District Council.

This policy statement will be brought to the attention of all CDC employees and will be reviewed from time to time.

Safety critical roles for testing include the following posts and categories which may be subject to amendment and additions:

Waste & Recycling Drivers
Waste & Recycling Loaders

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Grounds Maintenance Operatives

Streets Operatives

Workshop – Vehicle Maintenance Operatives

Caretakers (using vehicles/tools)

Foreshores Officers

Staff working at the CCS depot who regularly access high risk areas of the site, e.g. the yard, vehicle wash-down area, workshops, and near potentially hazardous equipment and machinery.

All Essential, Casual, Pool Car Drivers and any other staff who drive their own vehicle on council business (termed Grey Fleet) or drive a Council owned vehicle (e.g. Civil Enforcement Officers and Community Wardens).

1.2 Legislation

Health and Safety at Work etc. Act 1974 - Details the responsibilities of employers to provide a safe working environment and the obligations on employees to cooperate with the employer and to work in a safe manner.

Management of Health and Safety at Work Regulations 1999 – to assess the risks to the health and safety of our employees.

Road Traffic Act 1988 – any person who when driving or attempting to drive a motor vehicle on a road or other public place is unfit through drink or drugs shall be guilty of an offence.

Misuse of Drugs Act 1971 – the production, supply and possession of controlled drugs is unlawful. If certain activities, such as smoking of cannabis, take place on an organisation's premises or in vehicles an offence is being committed.

Psychoactive Substances Act 2016 – makes it an offence to produce, supply, offer to supply, possess with intent to supply, import or export psychoactive substances.

2 Roles & Responsibilities

2.1 Directors

Directors have ultimate responsibility for ensuring that health, safety and welfare arrangements are suitable and sufficient within their Directorate. In addition, they are responsible for monitoring and reviewing the execution of the Council's Health and Safety Policy.

Directors must check, monitor and review to ensure that their Divisional Managers have fully undertaken their duties in respect to this alcohol and drugs policy.

2.2 Divisional Managers

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Divisional Managers are responsible for ensuring that their managers and supervisors within their service areas are following this alcohol and drugs policy and testing procedure and have had appropriate conversations and carried out testing where appropriate. Human Resources should be consulted throughout the process.

2.3 Line Managers

Should an employee's ability to work normally appear to be impaired as a result of suspected alcohol or drug abuse, his/her manager should initially discuss the matter with the employee and keep a record of performance or related incidents. This should be used in any formal discussion later.

Trained managers/supervisors will be required to supervise onsite screening of staff in safety critical roles, in accordance with this policy - see section 5 below. This will be conducted by an external company who will be contracted to attend within 2 hours of being called and carry out the requisite tests (see testing procedures in section 5 for full information).

Confidentiality in relation to information received from other members of staff should be preserved at all times.

2.4 Human Resources

HR must treat employees referred to them under this policy in strict confidence. HR will also offer advice and help, and will liaise with the Divisional Manager and managers on the same basis as with all other health problems that affect work standards or behaviour.

HR must accept self-referral from employees who are worried about their own drink or drug dependency and such cases may not require the involvement of management at all. Contact should be made directly with HR.

If an employee is referred to an Occupational Health specialist, the actual treatment record of the employee must remain strictly confidential to the Occupational Health specialist with no access to its contents by management without the employee's consent.

HR can refer staff to counselling via the Employee Assistance Programme or to the Wellbeing team, who can support these types of problems.

HR will maintain the testing contract and advise with implementing the testing procedure as appropriate to the situation, where needed. Supervisors and managers can contact the testing company directly to arrange testing of an

employee. This is particularly important in the case of CCS staff who may work outside of normal council working hours.

2.5 Employees

Each employee is the main person responsible for her/his own health.

Employees who are taking legal drugs which may impair their ability to work safely, especially those who drive on Council business or operate dangerous machinery, should report this to their manager.

Any employee who has an alcohol or drug-related problem can approach the Wellbeing Team for advice and anyone can encourage a colleague to seek advice from them confident that an approach will be treated sympathetically and confidentially. HR can also be contacted at any time for advice and support.

The employee may accept the manager's request to seek medical help but may prefer to receive diagnosis, care and/or treatment from his/her GP. All matters relating to the continued care of such an employee at work and any changes in employment arrangements will be considered by the appropriate Divisional Manager in conjunction, where appropriate, with HR.

It is the responsibility of the employee to decide whether to receive specialised counselling and treatment. No employee will be required to comply unwillingly with a treatment programme.

When a supervisor or manager is concerned that an employee is showing signs or symptoms of being under the influence of drugs or alcohol, this will give 'cause' to require the individual to be undergo testing. When an employee is informed of this requirement, the employee is expected to undertake the test. If the employee refuses to be tested then this could be treated by the employer as a positive test, and disciplinary action may be taken.

Employees may if they wish at any stage be accompanied by a union rep or a work colleague if available. As testing is time critical it cannot be delayed by this.

3. Policy Standards

3.1 What is Alcohol and Drug Misuse?

Alcohol misuse is defined as a habitual/excessive and uncontrollable drinking of intoxicating liquor by an employee whereby the employee's ability to perform his or her duties is impaired or his/her attendance at work is interfered with.

Drug misuse is defined as the taking of drugs by an employee, other than drugs

prescribed as medication, whereby the employee's ability to perform his/her duties is impaired or his/her attendance at work is interfered with.

3.2 Why is a Policy Needed?

There are health and safety at work implications for the employee, co-workers and the public if an employee is either intoxicated or under the influence of drugs.

There is a financial cost to the organisation of replacing either temporarily or permanently those staff unable to work because of alcohol/drugs misuse. Absenteeism or impaired productivity from alcohol or drugs misuse is known to be a significant cost for employers nationally.

The Council wishes to develop a workplace culture which takes account of individual circumstances and ensures that all employees are encouraged and facilitated to give their best at all times.

3.3 Effects of Alcohol and Drugs Misuse in the Workplace

Drug and alcohol misuse can affect the performance of employees in several different ways:

- *Accidents*: an increased possibility of accidents in the work place, particularly when complex machinery is involved. Being under the influence of alcohol or drugs whilst driving, as part of your CDC duties is a disciplinary offence.
- *Sickness and absenteeism*: possible increased levels of sickness, lateness and unauthorised absence.
- *Poor quality of work performance*: errors of judgement or memory lapses can be expensive and can leave a bad impression with other staff and the general public.
- *Difficult working relationships*: those affected by drugs/alcohol may be tired, unpredictable or irritable. Work colleagues may feel that they are not "pulling their weight". This can lead to work related stress and morale problems.
- *Criminal activities*: Alcohol and drug dependency can be an expensive habit and may lead to criminal acts.

3.4. Signs of Alcohol/Drug Misuse

Managers should be aware of certain symptoms and changes in behaviour of staff under their control that may indicate alcohol or drug dependency/misuse. These can

include, but are not limited to -

- sudden mood swings
- physical evidence such as alcohol on the breath
- unusual irritability or aggression
- a tendency to become confused
- abnormal fluctuations in concentration and energy
- impaired job performance
- poor timekeeping
- increased short term sickness absence
- deterioration in relationships with colleagues, customers and management
- dishonesty and theft

N.B. Please note that these signs can also be caused by other factors such as stress, fatigue, etc.

4. General Principles to follow

No employee shall attend work if their fitness to perform their duties is impaired by the effects of alcohol and/or drugs. If found to be in this state or suspected to be under the influence of alcohol and/or drugs the employee may be subjected to a 'With Cause' Drug & Alcohol test if they fall within the roles detailed in this policy.

CDC also views drug and alcohol misuse as a medical issue that requires specialist treatment and help. Managers will offer support /guidance with these issues. However, should employees refuse the offer of help and/or the intervention of the occupational health service, disciplinary proceedings may be invoked.

Individuals experiencing problems in this area will be dealt with in confidence in accordance with data protection principles within the limits of our legal and health & safety requirements and responsibilities.

As a general rule, alcohol must not be consumed during working hours. There may however be limited occasions when permission may be given by the Strategic Leadership Team (SLT). For example, it may be permitted when a member of staff retires, or during a celebratory event. Alcohol consumed during such occasions or during lunch/rest periods should be minimal and subject to the limitations as outlined in the rest of this policy.

The sale, possession or use of illegal drugs on or around Council premises is strictly prohibited and may result in summary dismissal.

4.1 Individual Employee's Responsibility

It is the responsibility of any employee who is suffering from alcohol or drug problems that affects their work to acknowledge the need for medical advice or counselling as soon as possible.

If the situation is affecting their work performance the employee is strongly encouraged to speak, in confidence to their manager, or alternatively contact the HR team.

There is a heightened responsibility for staff in defined safety critical roles. These staff must inform their line manager of any issues that may impact on their ability to perform their work safely. This includes, but is not limited to, drug and alcohol misuse. Staff will receive the support and guidance noted in this policy if they inform their manager as soon as possible. The consequences of an accident could be significant so failure to disclose alcohol or drug problems being experienced will result in disciplinary proceedings and the potential for dismissal on grounds of gross misconduct.

The employee will normally be seen by their line manager or the HR team. Should it be thought appropriate an appointment may be made with the Council's Occupational Health service. It will be viewed unfavourably if an employee, whose work performance was being affected by suspected alcohol or drug misuse declined such an appointment without good reason. If assistance is refused and/or impaired performance continues disciplinary action may be taken.

Absence for treatment or rehabilitation will be at the discretion of the Human Resources Manager and may be regarded as normal sickness absence.

If an employee has a problem with alcohol/drug misuse they can also contact the following agencies:

Alcoholics Anonymous (Great Britain) – www.alcoholics-anonymous.org.uk
National Helpline 0800 9177650

Narcotics Anonymous UK
[Welcome to UKNA | UKNA | Narcotics Anonymous in the United Kingdom](http://www.ukna.org.uk) –
National Helpline 0300 999 1212

The Chichester Wellbeing service - www.chichesterwellbeing.org.uk - 01243 521041 or by email to wellbeing@chichester.gov.uk . Their website also has

information and contact details for other more locally based support.

Samaritans <https://www.samaritans.org/how-we-can-help-you> –116123

5. ALCOHOL & DRUG MISUSE PROCEDURE

In line with the best interests of maintaining a safe workplace, CDC will conduct alcohol and drug testing across limited areas of the workforce in certain circumstances and for

certain roles as set out in section 1.1 of this policy, 'Scope', above. A refusal to undergo an alcohol and drug test could be viewed as a failed test with the employee being subjected to the disciplinary process.

Alcohol and drug testing will take place via the form of:-

With Cause (i.e. where behaviour is deemed to indicate the employee may be under the influence of alcohol or drugs) – testing for defined safety critical staff, all staff who drive a Council vehicle **and** any other staff driving their own vehicle in pursuance of their Council duties (where this may impact on their capacity to do their job as they are due to drive for work that day). Potential With Cause testing therefore includes all drivers of grey fleet i.e. council Essential and Casual users and other staff driving their own vehicles for work, and all drivers of Council owned vehicles. Contractors and agency workers working for the District Council will also be asked to agree to having a test in the same circumstances, and if this is refused the service manager will arrange for the engagement to be ended with immediate effect. Testing may also be initiated where management receive credible information that a worker in the categories above is misusing alcohol or drugs in a way that may be impacting on their safety or the safety of others. In respect of driving such testing would also be justified on the basis that there are existing legal requirements (under the Road Traffic Act) with regards to anyone driving on the highway whilst under the influence of drugs and alcohol. The legally prescribed limits for drugs and alcohol when driving are already set and staff would be measured against them under our testing regime.

The alcohol and drug testing process will be carried out by a fully trained and competent external company, using valid and calibrated equipment supplied by the company's chosen external drug and alcohol testing partner.

The result(s) of the alcohol and or drug test may result in the employee being subjected to the Council's Disciplinary & Contract Termination Procedure [Disciplinary and contract termination procedure - Intranet \(chichester.gov.uk\)](#) which may in turn result in gross misconduct and summary dismissal without notice in line with the CDC disciplinary procedures. See below for full procedures.

5.1 Alcohol Testing

Alcohol testing will be conducted using an electronic breathalyser device in a private room with the process administered by an external testing company (with full privacy/data protection principles in place). The company's privacy statement will be available for the employee to see. The unit collects samples of an employee's breath, which is then analysed to produce a legally defensible result. In the event of the initial breath sample producing an above zero reading, a second breath/urine sample will be taken (a 20-minute period must be allowed between sample collections). The second test will confirm or not the initial test result.

CDC reserves the right to suspend the employee on full pay following a positive alcohol test result, to allow for an investigation and potential disciplinary hearing to take place.

A test result will be measured by the equivalent legal limits for driving in terms of being acceptable. In all instances, a test result on or above the legal driving limit will mean that an employee or contractor/agency worker will be instructed not to drive home. They should be directed to an alternative method of transport (e.g. taxi, bus). CDC may assist with this process, but it will be the sole responsibility of the individual to bear the cost of the alternative transport. If the individual refuses and attempts to drive their vehicle, then CDC will inform the local police force.

In the event of an agency worker or contractor being on or above the legal driving limit, the result will be reported back to their employer, where applicable, and the individual will be instructed to leave site. The service manager will then arrange for the engagement to be terminated with immediate effect.

5.2 Drug Testing

Drug testing will be conducted via the use of a certified drug testing device. This will collect a sample of the employee's skin deposits (through collection of a sweat sample) and a collection of the employee's saliva. Both samples will be analysed to give an indication if there are drugs present in the employee.

Should the result of the test return a positive screen (to be referred to as an initial positive result), the employee will then be requested to provide a urine specimen to undergo laboratory confirmation. Both stages will have been undertaken via a fully trained and competent external Collection Technician in a private room who will attend within a target time of 2 hours. During this 2-hour period the employee is to remain at work until the urine sample has been taken (even if this requires paid overtime) and

is to be always supervised by a supervisor or manager. They will be offered a private room to wait in if they wish. The confirmation results will be provided to Human Resources by the external UKAS accredited laboratory within an estimated 3 working days from receipt at the laboratory.

CDC reserves the right to suspend the employee on full pay following the initial positive screen result to allow for an investigation and potential disciplinary hearing to take place. This will include the waiting time for the confirmation results to be provided by the laboratory.

In the event of an initial positive screen result being obtained from an agency worker or contractor, the result will be reported back to their employer where applicable and the individual will be instructed to leave site. The service manager will then arrange for the engagement to be terminated with immediate effect.

5.3 Management call out procedure

If it is suspected that a member of staff needs to be tested then their manager must inform them of this and the reasons why. This must be done by a supervisor/manager on site.

The person to be tested will be informed that they will need to remain on site in an allocated private room until the independent company (current provider; Hampton Knight) who carry out the tests arrive on site, this will be within two hours. They may drink water but will not be allowed to consume anything else and will not be able to smoke or vape.

The manager will then call the independent company and also notify HR as soon as possible.

On arrival on-site, the testing company's collection technician will go about securing the sample collection location. The chosen location should afford visual and aural privacy for the donor and allow access only to the collection technician and donor. For the urine collection, there must be a toilet and washbasin for the exclusive use of the donor. The collection technician will advise the location manager of the full details and will take precautions in accordance with best practice.

A quiet area, such as a small office, will also be required so that documentation, including details of medication taken, can be completed in private. It usually takes about 20 minutes to collect breath and urine samples from a donor.

Once the breath and urine samples are taken the results will be given to the manager on site and also the donor. If there are any concerns and they test over the limit then they will be suspended on full pay until full lab results are back and an investigation has taken place.

If all results are clear then the donor will be return to work.

5.4 Dealing with results of lab tests

Where samples are sent to the lab for further testing, following an initial positive result from the test on site, HR will deal directly with the testing company. Supervisors/managers from service areas will not be able to discuss lab test results directly with the testing company. All laboratory test results will be sent directly to HR who will then discuss the result with the manager and advise accordingly on any further action that is required.

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