

Alcohol, drug and substance misuse policies – why you should introduce one and what it should include

To: All Chief Executives, Main Contacts and APSE Contacts in England, Northern Ireland, Scotland and Wales.

Key Points

A recent network query from an APSE member local authority has shown an increase in the number of developed drug and alcohol policies, as well as an interest in establishing them in other local authorities.

This briefing summarises some of the approaches taken by councils and will provide information on:

- Why should we introduce a policy?
- Who should the policy apply to?
- What should the policy contain?
- What testing procedures should we use?

1.0 Defining alcohol, drug and substance misuse

The development and implementation of alcohol, drug and substance misuse policies has become more common amongst local authorities over the last several years.

There have been several different approaches to this with some introducing policies for safety critical staff only and others opting for policies that cover the full Council.

The term 'substance' generally covers other products and chemicals that can be accidentally or intentionally misused such as prescription or over-the-counter medication, legal highs (also known as new psychoactive substances) and everyday substances like glue, lighter fuel, paint thinners, aerosols and solvents.

Some of the definitions from council policies include:

- “Substance misuse is defined as any alcohol or drug use, either intermittent or continual, which interferes with an employee’s health and welfare, social interaction at work, conduct or work capability”
- “Drug use (as defined by the Misuse of Drugs Act 1971) that harms social functioning – either dependant use (physical or psychological) or use as part of a wider spectrum of problematic or harmful behaviour”
- “The term ‘substance misuse’ can be defined as the problematic use of alcohol, drugs and other substances and that substance misuse may be the cause or the symptom of a variety of problems at work”

2.0 Why should we introduce a policy?

The introduction of an alcohol, drug and substance misuse policy appears to be for the following reasons:

- To provide a framework for employees to seek support and encourage employees with a problem to come forward
- To ensure the health and safety of employees at work
- To guard the Council from potential reputational risk
- To establish a formal process for dealing with incidents involving alcohol, drug and/or substance misuse
- To ensure service performance standards are met
- To meet the requirements of legislation
- To raise employee awareness of the risks and potential harm associated with misuse

To provide a framework for employees to seek support and encourage employees with a problem to come forward

Many of the policies state:

- Employees will not be disciplined for seeking help for an alcohol, drug or substance misuse problem (as long as they do so at the earliest possible time, and that it is not made after or immediately before required testing)
- Employees who self-identify with management and/or occupational health will have their issue dealt with in confidence
- Alcohol, drug or substance misuse problems may be treated the same as any other illness (as long as this is presented before an incident that triggers screening/testing procedures)

To ensure the health and safety of employees at work and service users

Many policies mentioned the need for the Council to undertake all reasonable steps to ensuring the health, safety and welfare of its employees and service users. As stated in one policy, “there is a risk of impairment of judgement and decision making with potentially serious implications for the safety of service users and wider public”. Employees are expected to remain in a fit and safe condition throughout the working day.

To guard the Council from potential reputational risk

Incidents involving Council staff and alcohol, drug and/or substance misuse could have serious reputational consequences for the local authority. It is important that a robust policy is in place to prevent incidents from occurring and actions that could lead to incidents being identified and dealt with appropriately.

To establish a formal process for dealing with incidents involving alcohol, drug and/or substance misuse

Having a clear, accessible process for dealing with incidents involving alcohol, drug and/or substance misuse is considered good practice, with clear rules set so that employees are aware of the likely consequences for their employment.

To ensure service performance standards are met

For the service, alcohol, drug and/or substance misuse problems can lead to issues with:

- Under-performance
- Accidents
- Stress
- Behaviour / personality changes
- Sickness and absence
- Mistakes
- Timekeeping
- Standards of work

To meet the requirements of legislation

There are several pieces of UK legislation that would fall under the introduction of an alcohol, drug and substance misuse policy. They include (but are not limited to):

[Health and Safety at Work etc Act 1974](#)

The Health and Safety at Work etc Act 1974 contains several relevant sections for alcohol, drug and substance misuse policies relating to the duties of employers:

- “1 (1) (a) securing the health, safety and welfare of persons at work”
- “1 (1) (b) protecting persons other than persons at work against risks to health or safety arising out of or in connection with the activities of persons at work”

- “2 (1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees”
- “7 It shall be the duty of every employee while at work – (a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work”

Misuse of Drugs Act 1971

The Misuse of Drugs Act 1971 makes it a criminal offence for illegal drugs to be knowingly used, kept or supplied on an organisation’s premises or for these types of activities to be ignored:

- “8 Occupiers etc of premises to be punishable for permitting certain activities to take place there – A person commits an offence if, being the occupier or concerned in the management of any premises, he knowingly permits or suffers any of the following activities to take place on those premises”

Psychoactive Substances Act 2016

The Psychoactive Substances Act 2016 makes reference to substances that could be considered under the “substance abuse” section of policies:

- “2 (1) In this Act “psychoactive substances” means any substances which (a) is capable of producing a psychoactive effect in a person who consumes it, and (b) is not an exempted substance.”

Depending on the type of policy your organisation pursues, other pieces of legislation that may apply to your workforce include the Transport and Works Act 1992 and the Road Traffic Act 1988. It is important to familiarise yourself with the legislation above in the development of your own policy.

To raise employee awareness of the risks and potential harm associated with misuse

Raising awareness among employees of the potential harm and risks associated with the misuse of drugs, alcohol and/or other substances is important too, as they could be at risk of damaging both their physical and mental health by misusing them.

3.0 Who should the policy apply to?

There have been several different approaches taken, with some authorities’ policies applying to all members of staff and others applying only to safety critical staff (with varying definitions of what is considered safety critical).

'Safety critical' roles

There are many different variations of what local authorities consider to be safety critical roles. Employees should be informed if their role is considered safety critical, and this should be defined as such in their job profiles. Safety critical roles may include those that carry out (please note that this list is not exhaustive):

- Operation of vehicles, machinery, plant equipment
- Responsible for the safety of others and/or supervising employees
- Security of a facility
- Supporting customers in their own homes
- Customer facing posts
- Employees working in close proximity to highways
- Electricians
- Supervision of children/adults and vulnerable members of the community
- Working at height or in excavations
- Working in confined spaces
- Responsible for strategic decision making and expenditure
- Responsible for risk assessments
- Employees involved in traffic management
- Child and adult safeguarding roles

With-cause testing

With-cause testing seems to be the most common policy among those council policies viewed in preparation of this briefing. This may be undertaken for some of the following potential reasons.

- There is reasonable suspicion that the employee may be under the influence
- There is reasonable suspicion that the employee has an addiction or substance misuse habit or this has been reported (in what is believed to be good faith)
- Where there has been an accident or a near miss involving the employee
- Possession of a controlled substance / discovery of an alcohol container with a broken seal

Common signs of alcohol misuse include:

- An increase in absence and/or sick leave
- Multiple bathroom visits
- Poor appearance/hygiene
- Physical signs like hand tremors, flushed face
- Regularly arriving late to work
- Change in behaviour – such as irritability, quick temper
- Poor concentration and judgement
- Smell of alcohol

Common signs of drug and substance misuse include:

- Behaviour change
- Confusion
- Irritability
- Emotionally unstable/unbalanced
- Physical conditions like sores, abscesses

Random testing

Some authorities also undertake random testing of employees on an annual basis. The percentage of staff, the types of roles included and the selection processes vary from authority to authority. Below are some examples:

- “A minimum of 5% of employees in safety critical roles and up to 5% of those in non safety critical roles. Employees on temporary contracts and workers will be included in the selection process. Selection for testing will be genuinely random and will be at all levels including the Directors”
- “High risk (up to 10%) – employees who work in live traffic, at height, required to drive a vehicle and/or operate specialist plant and machinery. Employees who have a specific responsibility for the safety of others and/or have responsibility for risk assessments. Medium risk (up to 5%) – employees who are required to drive a car and/or operate machinery as part of their role. Low risk (up to 2%) – Driving and operating machinery are not essential requirements of the job role”
- “The council will undertake random alcohol or drug testing for certain safety critical roles. These roles are identified by Directors on the basis of risk assessment. Employees will be made aware if their role is identified as safety critical.”

4.0 What should the policy contain?

While every alcohol, drug and substance misuse policy will be differently constructed depending on the council’s standards for a policy, there were common themes amongst them that should be considered for inclusion in the development of your own council’s policy.

1. Definitions of what is considered alcohol, drug and substance misuse
(e.g. stating that employees are not permitted to report for work or be at work under the influence of any of the above) (information may also include information on those in possession of unlawful drugs / those believed to be buying or selling drugs)
2. Justification of why the policy has been established
(e.g. to protect employees and the public from the risks of safety critical activities,

to adhere to legal responsibilities in the Health and Safety at Work Act 1974 and Misuse of Drugs Act 1971)

3. Information on who the policy applies to and the selection process(es)
4. What is expected of employees, colleagues and managers
(e.g. are colleagues expected to report an employee's problems, and what protections are they offered for whistleblowing)
5. Information on the type of screening and testing used
(e.g. what happens in the event of refusal of consent from an employee to the taking of a sample)
6. Information on self-identifying as having an alcohol, drug and/or substance misuse problem
(e.g. who to approach, reassurances this be dealt with in confidence and the level/types of support that will be available)
7. Contact information for alcohol, drug and substance misuse support services
(ideally both Council provided and externally provided local services)
8. Information on instances when alcohol consumption is acceptable on Council premises or during Council working hours/business
(e.g. permission granted by a Director for a retiral function) (you may wish to include a definition of what constitutes council business or a corporate event)

Other things you may wish to include are:

- A flowchart of the process for dealing with alcohol, drug and/or substance misuse
- Information on commonly misused substances and how they can impair and affect your ability to work safely (how they are usually taken, the effects sought, the harmful effects and their legal status)
- Information on other Council policies which may assist and/or enable recovery (e.g. access to external counselling services, career breaks, purchase of annual leave, flexible working)
- Information on the storage and possession of prescribed/over the counter medication (e.g. ensuring prescription medication is stored in a place not accessible to others, and consulting with line managers on possible side effects of medication)
- Information on who has approved the policy and when it will next be reviewed

5.0 What testing procedures should we use?

Several different approaches have been taken by local authorities when it comes to testing procedures for alcohol, drugs and substance misuse.

Testing should only be undertaken by an individual who has went through specific training for administering tests, such as a manager or through an independent accredited laboratory. Employees must consent to testing prior to any testing being carried out and have a right to refuse testing, though generally refusal will be treated as a positive result and will lead to disciplinary procedures.

Below is a brief overview of some of the types of testing methods used by local authorities:

Alcohol

- Breath test - generally using a Home Office approved calibrated electronic meter
- The alcohol testing limit should be set at national drink-driving limits

Drugs / substance misuse

- Urine sample – generally collected and divided into an A and B sample (tested by an accredited independent laboratory)
or
- Saliva swab (tested using a drug test kit or independent laboratory)
- Skin/sweat testing

Testing can also be carried out during pre-employment screening prior to offering individuals a contract of employment with the Council.

6.0 APSE Comment

Local authorities have a duty to protect and ensure the safety of staff, and APSE views the development of a robust alcohol, drug and substance misuse policy as an important part of this. It is important for the protection of employees from harm, and the council from reputational damage. Employees should know how to access support from the council for any alcohol, drug and/or substance misuse issues, either through the council or through other means locally. Establishing a policy sets out clearly how to access support, and the consequences of not disclosing any issues; it provides both reassurance for those struggling with issues, and acts as a deterrent for misuse.

There are many barriers to development and implementation, and where possible this should be carried out in full consultation with trade unions and staff from the earliest opportunity to encourage buy-in.

Discussions on the continual development of alcohol, drug and substance misuse policies is taking place at APSE advisory groups which are free to attend for members. For more information on these groups, please [click here](#) or contact Garry Lee at glee@apse.org.uk. In addition, APSE Training can also provide inhouse training on this area. Please contact FSuttonWilson@apse.org.uk for more information.

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