

The aim of this Policy is to deal with employee issues resulting from Drug or Alcohol misuse, either by providing support where it is accepted or resorting to the Disciplinary Procedure where support is not accepted or gross misconduct has occurred

1. Introduction

- 1.1 Warwickshire County Council (WCC) recognises that the misuse of alcohol and drugs¹ is a significant area of health and social concern. It also recognises that someone with such problems could well need help and support from WCC, as their employer.
- 1.2 Misuse of alcohol and drugs can have a detrimental effect on work performance and behaviour and WCC recognises that it has a responsibility to its employees and customers to ensure that this risk is minimised.
- 1.3 Accordingly, the Drug and Alcohol policy involves three approaches :-
- a) Provides reasonable assistance to the member of staff with an alcohol or drug misuse problem who is willing to co-operate in the treatment for that problem.
 - b) Disciplinary rules, enforced through Disciplinary Procedure, where the use of alcohol or drugs affects performance or behaviour at work, and where either (1) an alcohol or drug dependency problem does not exist or (2) where treatment has been offered but not accepted.
 - c) Disciplinary rules enforced as gross misconduct, with a consequence of summary dismissal, when an employee displays behaviour or undertakes any act under the influence of drugs or alcohol, which means that their presence can no longer be tolerated in the workplace

¹ The term 'drug' refers to both illicit substances controlled under the Misuse of Drugs Act 1971 and non-illicit substances such as solvents and legal highs. This policy does not apply in the case of prescribed or over-the-counter medicines.

2. Scope

- 2.1 This Policy covers all employees of the County Council (except Fire and Rescue who are covered by a separate policy).
- 2.2 All staff are responsible for adhering to the policy and reporting possible breaches of the policy to their manager. All employees must take reasonable care, whilst at work, to ensure they do not endanger themselves or anyone else by their actions.

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- 2.3 Managers and staff should always be mindful of the requirements of the Road Traffic Act 1988 which stipulates that drivers of road vehicles must not be under the influence of drink or drugs whilst driving, attempting to drive or in charge of a vehicle. Managers must exercise due diligence to ensure that their staff do not knowingly drive whilst unfit.
- 2.4 Managers at all levels are responsible for adhering to and implementing the policy and should always seek the advice of the HR Advisory Service as to its operation.
- 2.5 The essence of this policy applies to all other types of workers including, seconded staff when engaged to work on behalf of WCC, students, apprentices, volunteers, and contract workers although the method of implementing disciplinary action or the level of support that could be offered will depend on the nature of the relationship. Again, you should always seek the advice of the HR Advisory Service in such instances.

3. Support for a Member of Staff

- 3.1 If a Manager is concerned about the behaviour of a member of staff, they should engage in a private two-way discussion as soon as possible, highlighting the employee's shortcomings in conduct or performance and agree a plan for improvement or further action, if appropriate. (Where concern is raised but performance and behaviour are not an issue see Appendix A section 4)
- 3.2 Where it is suspected that the issues could be due to drug or alcohol misuse they should help the member of staff to recognise the nature of the problem through the early intervention of the Occupational Health service.
- 3.3 Provision of support and assistance will then depend upon the following conditions being met:
- The Occupational Health Service confirming an alcohol or drug misuse/dependency related problem.
 - The member of staff recognises that he/she is suffering from an alcohol or drug misuse problem/dependency and is prepared to co-operate fully with Occupational Health and accept onward referral to and treatment from appropriate sources.
- 3.4 If those conditions are met then Managers should provide support during the period of treatment and make all efforts to maintain confidentiality. This support may include a period of sick leave or the approval of a period of annual or unpaid leave at short notice.
- 3.5 Depending upon the circumstances it may also be appropriate for a manager to a) consider temporarily amending work patterns or transferring the person to other duties during this period and /or b) drafting a working agreement, to be signed up to by the employee, where progress is monitored and fitness to attend work is assessed on a daily basis.

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4. Disciplinary Action

4.1 In accordance with WCC's Disciplinary Procedure, the following circumstances would be regarded as gross misconduct and would normally result in summary dismissal :

- Attending work and/or carrying out duties under the influence of alcohol or drugs.
- Consumption of alcohol or drugs whilst on duty.

4.2 Managers and Staff must also recognise the following limits to the assistance that can be provided :

- Where a member of staff fails to co-operate in referral or treatment arrangements, no special assistance will be given and any failure in work performance and behaviour will be dealt with through the normal Managing Capability or Disciplinary Procedures.
- If the process of referral and treatment is completed but the member of staff becomes involved again in disciplinary situations resulting from alcohol or drug misuse related problems, these will be dealt with through the Managing Capability or Disciplinary Procedures.

5. Note for Schools

5.1 Where appropriate, references in this policy to "Manager" include the Headteacher or other members of the Leadership team. References to the Occupational Health Service or the HR Advisory Service include the relevant Occupational Health or HR service provider for the school. References to WCCs Disciplinary or Managing Capability procedures should be taken to mean the school's procedures for dealing with capability or misconduct.

6. Sources of Advice

6.1 The following web pages provide very useful sources of information relating to drug and alcohol misuse :-

<http://www.nhs.uk/Livewell/Addiction/Pages/addictionhome.aspx>

<http://www.warwickshire.gov.uk/alcohol>

<http://www.warwickshire.gov.uk/drugs>

6.2 Advice could also be sought by phoning the following helplines :-

National advice line (Drugs) 0800 77 66 00

National advice line (Alcohol) 0800 917 8282

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Appendix A - Further Guidance

1. Recognition of the existence of a possible alcohol or drug misuse problem.

- 1.1 Misuse of alcohol or drugs can affect performance and behaviour at work, ie, either through serious misconduct at work, (where there is a direct and demonstrable breach of the disciplinary rules regarding alcohol or drug misuse at work), or where there is a falling off of standards of work performance or behaviour, and misuse of alcohol or drugs is a possible cause.
- 1.2 The immediate line manager will be responsible for responding to such situations by carrying out a private two way discussion with the member of staff, supported by a more senior Manager if appropriate.
- 1.3 In the discussion the possible existence of an alcohol or drug misuse problem should be explored. However the line manager is not required to diagnose the existence of an alcohol or drug misuse problem, merely to assess whether such misuse is a possible factor.
- 1.4 As is normal practice in any such circumstances, the employee should be invited to be accompanied by a friend, trade union representative or fellow employee if they so wish.

2. Establishing the existence of an alcohol or drug misuse problem.

- 2.1 Should the discussion lead to the conclusion that an alcohol or drug misuse problem might exist and the member of staff accepts referral, the manager should immediately refer the matter to Occupational Health.
- 2.2 Occupational Health will be responsible for an assessment of the member of staff, collecting relevant information and providing a management report. Disciplinary action should not normally commence until Occupational Health advice is obtained, unless gross misconduct has occurred.
- 2.3 However, Managers do still need to consider at this point whether an employee should be suspended from duty if their continued presence constitutes a risk to other staff or customers.
- 2.4 If the interview fails to lead to the conclusion that an alcohol or drug misuse problem exists, or the member of staff rejects, or fails to co-operate in referral, then disciplinary action should commence immediately as the situation justifies.

3. Confirmation that an alcohol or drug misuse problem exists and treatment arrangements.

- 3.1 If a positive diagnosis of an alcohol or drug misuse problem is made, and the member of staff agrees to co-operate in treatment, then support should commence.

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- 3.2 Where necessary, the Occupational Health Service will advise the member of staff regarding treatment and relevant services and review as medically indicated.
- 3.3 Where medical certificates are submitted, sick leave should be given. Should the employee continue to be fit for work during the period of treatment, they should be permitted to continue in their post or alternative work unless such an arrangement would have an adverse effect on services. In such circumstances, annual or unpaid leave should be approved first. Suspension should only be considered if their continued presence constitutes a risk to other staff or customers and the Disciplinary Procedure is being invoked.
- 3.4 If a member of staff has been off work during the period of treatment, before returning to duty, they will be seen by the Occupational Health Service who will advise management regarding the capability for continuation in their own post and whether any special supervision or other arrangements are required.
- 3.5 Every effort should be made to comply with the advice provided by the Occupational Health Service. If it is not reasonably practicable to do so, and as a result, the member of staff is not able to resume duty then it is important to refer the matter to the HR Advisory Service. They will advise managers on the steps to be taken if it is predicted that the employment will need to be terminated on the grounds of incapacity (ill health).

4. Situations where a Disciplinary Situation does not exist

- 4.1 There may be situations where the possible existence of alcohol or drug misuse problems affecting a member of staff comes to a manager's attention, although there is, or has been, no discernible effect on work performance or behaviour. This could arise if a member of staff confides in their manager about an alcohol or drug misuse problem, or a manager could see a need to approach a member of staff after observing possible "indicators" of an alcohol or drug misuse problem i.e. an absence pattern, information provided by the member of staff's colleagues, etc.
- 4.2 In such situations, the Council would wish staff to feel they could seek help from their employer (in complete confidence) without worry that their job security would be in jeopardy.
- 4.3 If managers are faced with a situation of this type they should discuss the issues with the member of staff and, if appropriate, offer to arrange for the member of staff to be referred to the Occupational Health Service.
- 4.4 The Occupational Health Service would then play a facilitating role in seeking to establish whether a problem exists, advising and directing the member of staff towards appropriate forms of treatment and help.
- 4.5 These steps cannot be taken without the co-operation of the member of staff. If the member of staff does not wish to co-operate, no further action should be taken.

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Appendix B Frequently Asked Questions

1. Will searches be carried out at work for illegal substances?

- 1.1 Random/routine personal searches will not be carried out on employees whilst in the course of their work. If a person is suspected of concealing illegal drugs whilst at work managers will not carry out a personal search. Every effort will be made to persuade the person to hand over any substance voluntarily, in the presence of a second witness. Where the employee refuses, the drugs are believed to be illegal, and it is felt appropriate to proceed along formal lines, the police will be called. The manager is not permitted to detain a person without their consent.
- 1.2 Managers may search county property if they believe drugs to be stored there. Prior consent will always be sought. Employees will be made aware that if consent is refused the manager will balance the likelihood that an offence has been committed against the risk of infringing the individual's privacy without just cause. Managers will not search personal property without consent. Where consent is refused the police will be called if it is felt appropriate to proceed along formal lines.

2. What should I do if I find an employee in possession of a suspected illegal drug?

- 2.1 Managers should not try to search employees. However, a circumstance may occur where it is apparent that an employee is in possession of a suspected illegal drug. In this case you will need to:-
- ensure that a second witness is present throughout
 - seal the sample in a plastic bag and include details of the date and time of the find and the witness present
 - store it in a safe and secure location with limited access
 - without delay, notify the police who will also advise you of any further procedures to follow.
 - record full details of the incident including the police incident reference number.

3. What should I do if I find a needle/syringe?

- 3.1 Contact the Caretaker on site who will arrange the disposal of the items.
- 3.2 Needles or syringes should be removed with great care using a dustpan and brush or picked up with a litter picker or by using a thick leather gardening glove and placed in a plastic screw top bottle or other suitable container. This then has to go to clinical waste.

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4. Can I be tested at work for substance misuse?

- 4.1 This policy does not permit the random or routine testing of employees for alcohol or illegal drugs.

5. Can I have an alcoholic drink at lunchtime ?

- 5.1 This policy is clear that no employee should report to work whilst under the influence of alcohol. Accordingly therefore, even if alcohol is consumed in strict moderation, staff should ensure that they don't return to work exhibiting the effects of alcohol consumption such as slurring, being unsteady, smelling of alcohol, falling asleep etc.
- 5.2 It is every member of staff's personal responsibility to regulate their behaviour and therefore if they feel unfit to return to work they should be required to take the time off as leave (annual, flex or unpaid).

6. Can we offer alcoholic drinks at our staff Christmas Party or at a colleagues leaving party?

- 6.1 This policy is clear that no employee should report to work whilst under the influence of alcohol. Employees must be responsible for their consumption of alcohol if it is offered at a staff party.
- 6.2 However the Council recognises that these are important and infrequent events in the working life, and it is suggested that a reasonable compromise would be to hold such events at the end of the working day when staff would then normally leave to go home rather than to return to work (bearing in mind road safety considerations).

7. Will I be dismissed for bringing alcohol onto work premises?

- 7.1 No, but it would be reasonable for your Manager to query why you were doing so and to expect to receive an adequate explanation. Employees are reminded that actually consuming alcohol (or drugs) whilst on duty could well be grounds for summary dismissal on the grounds of gross misconduct, especially if there are no extenuating circumstances (see previous question).

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- 8. What should I do if I suspect a colleague or manager of being under the influence of alcohol or drugs at work?**
- 8.1 Report it at once to your manager (or their manager). If you believe they pose a risk to themselves or others this must be reported immediately.
- 8.2 (Schools only) In the case of a Headteacher, the matter should be reported to the Chair of Governors, who should seek support from the Local Authority.
- 9. If I declare to my manager that I have a problem, how can I be guaranteed confidentiality?**
- 9.1 Confidentiality will be maintained as far as is possible but disclosure may be required in relation to referring to external services. Every effort will be made to obtain your consent to the release of this information in these cases, for example, upon referral to Occupational Health services.

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