

# **Cherwell District Council**

## **Personnel Committee**

**11 March 2015**

### **Draft Drugs and Alcohol Policy**

#### **Report of Head of Transformation**

This report is public

#### **Purpose of report**

To seek Member approval of a revised Drugs and Alcohol Policy, that can be used across both Cherwell District Council and South Northamptonshire Council.

#### **1.0 Recommendations**

The meeting is recommended:

- 1.1 To approve the revised shared Drugs and Alcohol Policy.

#### **2.0 Introduction**

- 2.1 Although alcohol is not illegal outside of the workplace, and neither are some drugs, the use and misuse of alcohol and drugs at work is illegal and is a serious issue that needs to be dealt with appropriately by any employer. This is even more serious where the employee occupies a safety critical role, which could lead to a serious breach of health and safety and/or reputational damage for the Council. The policy will enable a positive management approach to be used when any issue in relation to misuse of drugs and alcohol is identified or suspected within the workplace, to ensure such risks are mitigated effectively.
- 2.2 Both Cherwell District Council and South Northamptonshire Council have their own Drugs and Alcohol policies in place at present, and although not hugely different, their application does create some inconsistencies which also need to be addressed.
- 2.3 One of the main concerns with the use of alcohol and/or drugs by employees will be when this has a detrimental effect on work performance, or is, or may be, prejudicial to the safety of the individual, other employees or members of the public. Thus creating a serious risk to health and safety for all involved.

- 2.4 As from 1st March 2015, the new changes in law will make it an offence to drive while over specified limits for a total of 16 drugs. Eight of the drugs could be used for medicinal purposes although the specified limit allows for the normal recommended doses that most patients would be prescribed. If a driver is stopped by the police at the roadside and tests positive for drugs and/or alcohol, the driver's licence may be revoked for a certain period. This may mean that if the employee's role is to drive on Council business, they may not be able to continue in that role.
- 2.5 The new shared policy will provide a framework to enable protection to both Councils in relation to health and safety standards and to ensure that a prompt and consistent approach is taken to mitigate any future risk.

### **3.0 Report Details**

- 3.1 The draft policy seeks to bring together areas of good practice from both Council policies and from the Health and Safety Executive and DVLA. Successful tackling of drug and alcohol misuse can benefit the Councils by:
- reducing short term absences and associated costs
  - reducing the risk of accidents and ensuring safety to employees and public
  - enhance the public's perception of the Councils
  - contributing to society's efforts to combat drug misuse in the workplace
- 3.2 Both Councils will operate a zero tolerance stance to the misuse of illegal drugs and alcohol consumption (if above the legal limit) by employees. This will protect the Councils against any reputational damage as well as legal action against Health and Safety claims as a result of drugs and alcohol misuse by employees. Each Council has a duty of care to protect its employees and the same must be said of the employees, who have a duty of care to declare any reason why they are unfit to undertake their duties, therefore employees must not come to work or undertake any work in an unfit state through drugs misuse or alcohol.
- 3.3 The draft Drugs and Alcohol Policy is attached at Appendix 1, and in summary the following has been amended:-
- 3.3.1 Further clarity on reasonable suspicion and being able to then test employees suspected of being under the influence of drugs and/or alcohol.
- 3.3.2 More information is provided on how long alcohol and certain drugs stay in the system after consumption. Drugs and alcohol misuse can alter the way a person thinks, perceives and feels, and this can lead to either impaired judgement, concentration and a delayed response when driving.
- 3.3.4 Strict guidelines are outlined for what action should be taken when the Supervisor or Manager has or receives reasonable suspicion of alcohol or drugs misuse within the work place. This action includes testing and will be instigated using our contracted company Synergy who test within a strict chain of custody procedure. The results of which are likely to be upheld in any tribunal case brought against the Council, should this be required as evidence.

- 3.3.5 When an employee voluntarily comes forward and admits to a drug or alcohol problem (prior to any reasonable suspicion being received) the current disciplinary proceedings may be suspended and the Councils will offer rehabilitation for a certain period.
- 3.3.6 Following reasonable suspicion and a positive test result, the Councils' Disciplinary and Dismissal Policy will be invoked immediately alongside Occupational Health support being offered.
- 3.3.7 If colleagues have reasonable suspicion over one of their colleagues they will be protected under the Council's Whistle Blowing Policy.
- 3.3.8 If the Council has cause for concern then random testing can be invoked but there must be reasonable suspicion first that there is a real issue.
- 3.3.9 The Councils should take steps to ensure that any policy is not used in a discriminatory manner against any employee and that no individual is unfairly targeted. The Councils will take steps to ensure that employees' dignity is respected at all times. This is in order to ensure compliance with the Equality Act.

## **4.0 Conclusion and Reasons for Recommendations**

- 4.1 The draft Drugs and Alcohol Policy will ensure that the Councils are complying with best practice and legislation but will also mitigate the Councils against any claim that might be made as a result of an issue involving drugs and alcohol misuse. This is a complicated and sensitive area of employee welfare and needs handling carefully, however this new policy will ensure consistent and appropriate management.

## **5.0 Consultation**

CDC/SNC Joint Management Team	Support the proposals
Cherwell District Council Trade Union	Support the proposals
Cherwell District Council staff Consultation Group	Support the proposals
South Northamptonshire Trade Union	Support the proposals

## **6.0 Alternative Options and Reasons for Rejection**

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Retain the current individual policies of each council, which would not provide a clear, consistent process across the two partner Councils which may laterally lead to challenge by employees and external parties.

## **7.0 Implications**

### **7.1 Financial and Resource Implications**

7.1.1 There are approximately 300 employees across both Councils who perform safety critical roles. The cost of testing is outlined below:

- £160 call out fee for half a day
- £40 per test.

7.1.2 Testing is carried out with a Manager and HR representative present to ensure that the process is undertaken respectfully and fairly and in adherence with the policy.

7.1.3 Staff could either be suspended or placed on alternative duties during a period of testing or welfare considerations, which can require a need to backfill staff. This is however necessary to protect both the employee and the organisation during this period.

Comments checked by:

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### **7.2 Legal Implications**

7.2.1 The Misuse of Drugs Act 1971 makes the production, supply and possession of certain controlled drugs unlawful except in certain very specific circumstances (for example when they have been prescribed by a Doctor).

7.2.2 Driving whilst over the legal limit of alcohol is illegal.

7.2.3 By virtue of the Health and Safety at Work Act 1974, the Management of Health and Safety at Work Regulations 1999 as amended and in accordance with the Council's Safety Policy, employees have a statutory duty to report to their employer any work situation which is reasonably considered to represent serious and imminent danger to health and safety.

Comments checked by:

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## **8.0 Decision Information**

### **Wards Affected**

N/A

## Links to Corporate Plan and Policy Framework

N/A

## Lead Councillor

None

## Document Information

Appendix No	Title
Appendix 1	Draft Shared Drugs and Alcohol Policy
Appendix 2	Staff Consultation Feedback
Background Papers	
None	
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