

Public Document Pack



South Northamptonshire Council

Committee: Joint Commissioning Committee
Date: Thursday 9 February 2017
Time: 6.30 pm
Venue: The Forum, Moat Lane, Towcester, NN12 6AD

Membership

Councillor Barry Wood (Chairman)	Councillor Ian McCord (Vice-Chairman)
Councillor Ken Atack	Councillor Anthony S. Bagot-Webb
Councillor Phil Bignell	Councillor Rebecca Breese
Councillor Roger Clarke	Councillor Mike Kerford-Byrnes
Councillor Chris Lofts	Councillor G A Reynolds
Councillor Barry Richards	Councillor Dan Sames

AGENDA

- 1. Apologies for Absence and Notification of Substitutes**
- 2. Declarations of Interest**

Members are asked to declare any interest and the nature of that interest that they may have in any of the items under consideration at this meeting.

- 3. Petitions and Requests to Address the Meeting**

The Chairman to report on any requests to submit petitions or to address the meeting.

- 4. Chairman's Announcements**

To receive communications from the Chairman.

Cherwell District Council
Bodicote House
Bodicote
Banbury
Oxfordshire
OX15 4AA

South Northamptonshire Council
The Forum
Moat Lane
Towcester
Northamptonshire
NN12 6AD

www.cherwell.gov.uk

www.southnorthants.gov.uk

5. **Minutes** (Pages 1 - 2)

To confirm as a correct record the Minutes of the meeting held on 26 January 2017.

6. **Update on the Establishment of a Joint Revenues and Benefits Teckal Company and Sister Trading Company** (Pages 3 - 8)

Report of Assistant Director - Transformational Governance

Purpose of report

To update members on progress with regards to the setup of joint local authority owned companies.

Recommendations

The meeting is recommended:

- 1.1 To note the progress on activities that is taking place with regard to the establishment of the companies, the communication plan activity, the sequence for the company establishment and transfer of revenues and benefits provision.
- 1.2 To agree that final sign off of the articles and shareholder agreement/ memorandum of understanding and the business plans of the revenues and benefits teckal company and sister trading company be delegated to the Head of Law and Governance in consultation with the Chairman of Vice-Chairman of JCC, Chief Finance Officer and Assistant Director – Transformational Governance.
- 1.3 To request officers to bring a gateway decision report to the committee in September to decide on the transfer date and to review the business and financial plans. This report will also include an update on governance specifically in relation to shareholder arrangements.

7. **Notification of Urgent Action: Revised Drugs and Alcohol Policy**
(Pages 9 - 28)

Report of Joint Chief Executive

Purpose of report

To inform Members of the decision taken by the Joint Chief Executive under urgent powers in consultation with the Councillor Wood (Chair of JCC) to adopt a revised Drugs and Alcohol Policy, across both Cherwell District Council and South Northamptonshire Council.

Recommendations

The meeting is recommended:

- 1.1 To note the urgent action taken by the Joint Chief Executive to adopt the revised shared Drugs and Alcohol Policy (Appendix 1) with immediate effect.

8. Urgent Business

The Chairman to advise whether they have agreed to any item or urgent business being admitted to the agenda.

9. Exclusion of the Public and Press

The following items of business contain exempt information as defined in the following paragraphs of Part 1, Schedule 12A of Local Government Act 1972.

- 1 Information relating to any individual
- 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information)
- 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

Members are reminded that whilst the following items have been marked as exempt, it is for the meeting to decide whether or not to consider each of them in private or in public. In making the decision, members should balance the interests of individuals or the Council itself in having access to the information. In considering their discretion members should also be mindful of the advice of Council Officers.

Should Members decide not to make a decision in public, they are recommended to pass the following recommendation:

“That, in accordance with Section 100A(4) of Local Government Act 1972, the press and public be excluded from the meeting for the following items of business, on the grounds that they could involve the likely disclosure of exempt information as defined in paragraphs 1, 3 and 4 of Schedule 12A of that Act and that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

10. ICT Strategy 2017-2020 (Pages 29 - 62)

Exempt Report of Commercial Director

11. Commercial Development Update: Exploring New Models to Maximise the Benefits from Growth and Development (Pages 63 - 82)

Exempt Report of Commercial Director

12. Recommendation from the Joint Chief Executive's Appraisal (Pages 83 - 90)

Exempt Report of Chief Finance Officer / Deputy Head of Paid Service

Information about this Meeting

The agenda, reports and associated documents for the above meeting are available at the offices and websites of Cherwell District Council and South Northamptonshire Council at the addresses and websites set out on the agenda front sheet.

Apologies for Absence

Apologies for absence should be notified to natasha.clark@cherwellandsouthnorthants.gov.uk or 01295 221589 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Evacuation Procedure

When the alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the assembly point as directed by Democratic Services staff and await further instructions.

Access to Meetings

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

Mobile Phones

Please ensure that any device is switched to silent operation or switched off.

Queries Regarding this Agenda

Please contact Natasha Clark, Democratic and Elections
natasha.clark@cherwellandsouthnorthants.gov.uk, 01295 221589

Sue Smith
Chief Executive

Published on Wednesday 1 February 2017

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Agenda Item 5

Cherwell District Council and South Northamptonshire Council

Joint Commissioning Committee

Minutes of a meeting of the Joint Commissioning Committee held at The Forum, Moat Lane, Towcester, NN12 6AD, on 26 January 2017 at 6.30 pm

Present: Councillor Ian McCord (Vice-Chairman, in the Chair)

Councillor Anthony S. Bagot-Webb
Councillor Phil Bignell
Councillor Rebecca Breese
Councillor Mike Kerford-Byrnes
Councillor Chris Lofts
Councillor G A Reynolds
Councillor Dan Sames

Substitute Members: Councillor D M Pickford (In place of Councillor Ken Atack)
Councillor Tony Ilott (In place of Councillor Barry Wood)
Councillor Peter Rawlinson (In place of Councillor Roger Clarke)

Also Present: Richard Vialor, Investigating Officer, PriceWaterHouseCooper

Apologies for absence: Councillor Barry Wood
Councillor Ken Atack
Councillor Roger Clarke
Councillor Barry Richards

Officers: Sue Smith, Chief Executive
Paula Goodwin, Human Resources and Organisational Development Manager
Nigel Bell, Team Leader - Planning / Deputy Monitoring Officer
Natasha Clark, Interim Democratic and Elections Manager

60 **Declarations of Interest**

There were no declarations of interest.

61 **Petitions and Requests to Address the Meeting**

There were no petitions or requests to address the meeting.

62 **Chairman's Announcements**

There were no Chairman's announcements.

63 **Minutes**

The Minutes of the meeting held on 1 December 2016 and the Minutes of the Special meeting of the Committee held on 1 December 2016 were agreed as correct records and signed by the Chairman.

64 **Urgent Business**

There were no items of urgent business.

65 **Exclusion of the Public and Press**

Resolved

That, in accordance with Section 100A(4) of Local Government Act 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that it could involve the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Schedule 12A of that Act and that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

66 **Disciplinary Investigation**

The Chief Executive submitted an exempt report which presented the Investigating Officer's report on a disciplinary investigation.

Resolved

(1) As set out in the exempt Minutes.

The meeting ended at 6.40 pm

Chairman:

Date:

Cherwell District Council and South Northamptonshire Council

Joint Commissioning Committee

9 February 2017

<p>Update on the Establishment of a Joint Revenues and Benefits Teckal Company and Sister Trading Company</p>
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Report of Assistant Director - Transformational Governance

This report is public

Purpose of report

To update members on progress with regards to the setup of joint local authority owned companies.

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the progress on activities that is taking place with regard to the establishment of the companies, the communication plan activity, the sequence for the company establishment and transfer of revenues and benefits provision.
- 1.2 To agree that final sign off of the articles and shareholder agreement/ memorandum of understanding and the business plans of the revenues and benefits teckal company and sister trading company be delegated to the Head of Law and Governance in consultation with the Chairman of Vice-Chairman of JCC, Chief Finance Officer and Assistant Director – Transformational Governance.
- 1.3 To request officers to bring a gateway decision report to the committee in September to decide on the transfer date and to review the business and financial plans. This report will also include an update on governance specifically in relation to shareholder arrangements.

2.0 Report Details

Background

- 3.1 The Revenues and Benefits Business Case was considered and approved by the Joint Commissioning Committee in May 2016 and Cabinet and Executive in June 2016. The business case set out the proposal to establish a Joint Revenues and

Benefits Service across Cherwell District Council (CDC) and South Northamptonshire Council (SNC). The new joint team would be established and fully resourced in time for the insourcing of the current CDC capita contract in May 2017.

- 3.2 On implementation the new joint service would deliver the current revenues and benefits functions for CDC and SNC (including managing the Capita contract at CDC). The capacity of the service would then need to be increased in preparation for the insourcing of the current CDC Capita contract. The proposal represents an opportunity for both Councils to deliver significant revenue savings of approximately £260,000 from 2017/18 onwards.
- 3.3 In addition to the financial savings, the business case provides an opportunity to maintain and improve performance, harmonise ICT and processes and integrate first point of contact delivery with the proposed Joint Customer Service team. The business case provides an opportunity for the Councils to create a service that is aligned to the Councils 'Confederation approach' and is capable of being delivered through an alternative delivery vehicle.
- 3.4 It was agreed in the business case that the additional staff that would need to be recruited to enable the joint service to deliver the CDC insourced service would be appointed by a wholly council owned company as part of the confederation model ahead of the implementation of this business case.
- 3.5 Following the insourcing of the Capita contract in May 2017, the remainder of the Revenues and Benefits service would transfer into this company structure (subject to separate decision and appropriate consultation with staff and trade unions).

Progress Update

- 3.6 Since the last meeting there has been further progress in establishing the company to deliver revenues and benefits. There have been further regular meetings of the officer project team with a number of work streams, project plan and risk register established.

One of the key considerations of the project group is been to mitigate risks to service delivery during a period of major change. The nature of the change that is in sourcing a service, providing a service from newly formed unified team to both councils, harmonising to a single system whilst transferring the service to a newly formed standalone company.

In order to manager this risk, the project team are taking a cautious approach to the sequencing of this change with the object of ensuring that critical council services are not adversely impacted. Given this the project team together with the project sponsor have agreed the following route map:

- Companies (trading and teckal) set up (February 2017)
- New staff will be recruited to the companies with dual contracts of employment (March – April 2017)
- CDC Revenues and Benefits will be insourced from Capita to the councils; (May 2017 – September 2017)
- Staff will be supplied from the newly established trading company to the councils in order to manage the work levels with CAPITA used on a call off

- basis as necessary in order to ensure a smooth transition (May 2017 onwards)
- Service stabilised and incubated (May 2017- September 2017)
 - Discussion between Councils and Company board to refine service specification and adopt shareholder agreement/ Memorandum of Understanding (May 2017- September 2017)
 - JCC Gateway decision on when to TUPE council staff and revenues and benefits service to company (September 2017)
 - Company begins full service provision in October 2017 or April 2018

Based on the revised sequencing as set out above further time can be taken to develop the detailed business and financial plan for the Revenues and Benefits Teckal Company, using real data obtained during the first few months of service provision, the business plan and financial model will be brought back to the committee for agreement prior to the commencement of trading and following discussion with the board.

The only trading activity will take place through the sister trading company which will simply be the provision of revenues and benefits staff to the council to deal with the increased workload arising from the insourcing of the CAPITA contract. Whilst there will be some tax payable as a result of the provision of staff from the trading company to the council, this will not be significant and can be contained within the overall business case in terms of cost of service.

Progress in the various project work streams is outlined below:

Systems Integration

Work is progressing well on systems harmonisation in terms of ICT and business process design. This work stream includes managing the interface between the Revenues and Benefits service and the customer contact centre.

Pensions

Officers have been working with KPMG with regard to the procurement of an alternative pension scheme, a service specification has been created and an invitation to tender will shortly be procured. Discussions have continued with Northamptonshire and Oxfordshire County Councils with regard to admitted body/recognition of pension status for existing employees and a way forward has been identified and will be progressed once the companies have been incorporated.

Human Resources

Work on pay grades and a rewards package is nearing completion. At this stage the project team have not recommended performance related pay for the company employees. A flexible benefits platform will be offered to staff in the company.

Business Plan and Financial Model

A draft business plan has been prepared and the financial model for the company will be based on a 4 year cycle (to sit alongside the councils' commissioning framework).

- Year 1 (2017/18) will be based on the provision of staffing resources from the companies to the councils to support service delivery.
- Years 2 - 3 (2018/19 – 2019/20) will be based on the delivery of the full revenues and benefits service, including support services (from the councils to the company as per the recharging model)
- Year 4 will see a shift to a more commercial focus with the companies seeking further customers and review of the support charges on a more commercial basis.

This business plan will ensure a gradual shift to a more commercial provision of the service and the receipt of support services. The business plan for the teckal will develop over this period if additional services are transferred. The sister company will also develop a business plan which reflects this delivery model.

Service Specification

A service specification document has been drafted ready to form the basis of the service contract between the council and the company. It will come into use when the service is finally transferred to the teckal. The provision of support services to the company will be managed via a suite of service level agreements.

Communications and Engagement

A communications plan underpins the delivery of the project. To date a series of events have been held with current revenues and benefits staff to keep them updated about the project and how the teckal arrangement will work operationally. We have reassured staff likely to be TUPE'd that whilst their employer will change their terms and conditions will not.

Governance Structure

Trowers and Hamlins have continued to work on the articles for the company as well as the shareholder agreement/memorandum of understanding and service contract. Discussions have been held regarding the heads of terms and documents for discussion with the board when appointed. These will be provided in the coming days and consequently it is requested that the committee delegate the sign off of these documents as set out in recommendation 1.2.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The recommendations set out in this report are in line with the agreed recommendations of the Revenues and Benefits Business case, the legal and financial advice received and are necessary to ensure that the business case can be delivered and the associated savings achieved.

5.0 Consultation

Consultation has taken place on the original Revenues and Benefits Business case with staff, trade unions and elected members. The transfer of staff into the company

structure will be subject to separate decision and appropriate consultation with staff and trade unions.

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: To agree the recommendations as set out in the report

Option 2: To amend the recommendations as set out in the report

Option 3: To reject the recommendations as set out in the report. This is not recommended, as the recommendations set out what is believed to be the optimum operating model. In addition the councils' will reduce the potential to deliver the revenues and benefits business case savings unless a suitable employment vehicle is established.

7.0 Implications

Financial and Resource Implications

7.1 On-going work with Trowers and Hamlin and KPMG is funded through transformation budgets. The cost of delivering the service is reflected in 2017/18 budgets. Any tax incurred on the provision of staff from the councils owned companies to the councils for the revenues and benefits service will be minimal (and for a period of less than one year) and can be met within the tolerances set out in the business case.

Comments checked by: Paul Sutton, Chief Finance Officer - 0300 003 0106
paul.sutton@cherwellandsouthnorthants.gov.uk

Legal Implications

7.2 The proposals set out in this report are in accordance with the legal framework and legal advice received from Trowers and Hamlins.

Comments checked by: Kevin Lane, Head of Law and Governance – 0300 0030107
kevin.lane@cherwellandsouthnorthants.gov.uk

Risk Implications

7.3 Risk will be considered fully as part of the legal and financial work being undertaken. This report in itself is as a result of due diligence and the consideration of risk.

Comments checked by: Ed Bailey Corporate Performance Manager, 01295 221605
edward.bailey@cherwellandsouthnorthants.gov.uk

8.0 Decision Information

Key Decision

Financial Threshold Met: No

Community Impact Threshold Met: No

Wards Affected

All

Links to Corporate Plan and Policy Framework

Grow the District (SNC)

Sound budgets and customer focused council (CDC)

Lead Councillor

Councillor Ian McCord, Leader of the Council, SNC

Councillor Barry Wood, Leader of the Council, CDC

Document Information

Appendix No	Title
None	
Background Papers	
Draft Report of KPMG – Tax Advice on group structure Exempt from publication by virtue of paragraph 3 of Part 1, Schedule 12A	
Report of Trowers and Hamlins Vires for an LLP - Exempt from publication by virtue of paragraph 5 of Part 1, Schedule 12A	
Report Author	James Doble, Assistant Director - Transformational Governance
Contact Information	01295 221587 james.doble@cherwellandsouthnorthants.gov.uk

Cherwell District Council and South Northamptonshire Council

Joint Commissioning Committee

9 February 2017

<p style="text-align: center;">Notification of Urgent Action Revised Drugs and Alcohol Policy</p>

Report of Joint Chief Executive

This report is public

Purpose of report

To inform Members of the decision taken by the Joint Chief Executive under urgent powers in consultation with the Councillor Wood (Chair of JCC) to adopt a revised Drugs and Alcohol Policy, across both Cherwell District Council and South Northamptonshire Council.

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the urgent action taken by the Joint Chief Executive to adopt the revised shared Drugs and Alcohol Policy (Appendix 1) with immediate effect.

2.0 Introduction

- 2.1 As the Committee will be aware, a revised drugs and alcohol policy was introduced across the two Councils in September 2015.
- 2.2 As a result of this more stringent policy, which allowed the Councils to undertake random drug and alcohol testing, it has emerged that there a small number of staff, who, as a result of drinking heavily and regularly during the previous evening arrive at work first thing in the morning, with relatively high levels of alcohol still in their system.
- 2.3 Although below the current legal drink drive blood alcohol level in England and Wales the previous Drugs and Alcohol Policy stipulated that action could only be taken against a member of staff where the level of alcohol exceeded the legal drink driving blood alcohol level in England and Wales.
- 2.4 This left the Councils in a more vulnerable position as it can be shown that staff who undertake their duties under the influence of alcohol or after regular and persistent drinking are at a higher risk of having an accident.

3.0 Report Details

- 3.1 In September 2015 the drug and alcohol policy was extensively reviewed and rewritten to include random drug and alcohol testing specifically relating to those staff that operate in safety critical roles or high risk safety critical roles. As part of this testing procedure it emerged that a small number of staff were arriving at work in the morning with alcohol in their system as a result from drinking the previous night. Under the policy it was only possible to take action against a member of staff where their alcohol test exceeded the current UK drink drive level of 80 milligrams of alcohol per 100ml of blood. In situations where staff had been tested in the morning although the level of alcohol was relatively high it had been below the current drink drive limit in England and Wales and as a result it was not possible to take any action against members of staff, as it did not contravene the current policy.
- 3.2 Staff have a fundamental duty to come to work in a fit state ready to undertake their normal duties. Where staff frequently and regularly drink heavily the night before they come to work, it has been shown that this will have a detrimental effect, in the long term, on their ability to safely undertake their duties. This is specifically relevant where staff are involved in safety critical or high risk safety critical duties, as there is an associated increase in the risk of accidents and injuries, not only to themselves, but also colleagues and members of the public. The Institute of Alcohol Studies asserts that heavy and consistent drinking can have a serious effect on an employee's performance at work, and the HSE state that even at blood alcohol levels lower than the current legal drink drive limit reduces both coordination and reaction speeds, as well as thinking, judgement, and mood.
- 3.3 Where this occurs as a one off this can be dealt with through the policy, but due to the ability to be able to randomly test staff in safety critical roles it has been identified that for a small number of staff this is happening on a regular and frequent basis
- 3.4 In the event that there is a serious incident the fact that the Councils have knowingly allowed staff to undertake their safety critical duties with levels of alcohol in their system would reflect badly on the Councils reputation.
- 3.5 It has been considered necessary therefore to introduce into the drugs and alcohol policy a reduced limit for those undertaking safety critical roles. For employees undertaking a safety critical role the following revised limits apply:
- 3.6 29 milligrams of alcohol per 100ml of blood
13 micrograms of alcohol per in 100 ml of breath
39 milligrams of alcohol in 100ml of urine
- 3.7 For a member of staff undertaking a safety critical role or a higher safety critical role, a positive result is one which is equal to or above these limits.
- 3.8 Where it can be shown that a member of staff who undertakes safety critical or higher safety critical duties, and who regularly and persistently attends work with lower levels of alcohol in their system, as this can, over a longer term have a detrimental effect on their performance as well as their health, it will be considered that these members of staff are not arriving at work in a fit state and as a result formal action may be instigated using an appropriate HR policy.

4.0 Conclusion and Reasons for Recommendations

- 4.1 This revision to the drugs and alcohol policy was needed to ensure that this complicated and sensitive area could be dealt with quickly and effectively to ensure that the Councils are acting in the best interest of both staff and customers. Staff who undertake their duties under the influence of either drugs or alcohol risk bringing the Councils into disrepute as well putting staff and members of the public at an increased risk of an accident or injury. Accordingly the Joint Chief Executive adopted the revised policy appended using her urgency powers in consultation with the JCC Chairman.

5.0 Consultation

CDC/SNC Joint Management Team
Cherwell District Council Trade Union

Approved the revision
Approved the revision

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.

There are no alternative options as this is an information report for noting.

7.0 Implications

Financial and Resource Implications

- 7.1 There are no specific additional charges identified as part of this revision to this Policy.

Comments checked by:

Paul Sutton, Chief Finance Officer, 0300 0030106,
paul.sutton@cherwellandsouthnorthants.gov.uk

Legal Implications

- 7.2 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).
- 7.3 Driving whilst over the legal limit of alcohol is an offence.
- 7.4 By virtue of the Health and Safety at Work etc 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.

7.5 As the policy was adopted using urgency powers it is necessary for the JCC to receive this report for information.

Comments checked by:
Kevin Lane, Head of Law and Governance, 0300 0030107
kevin.lane@cherwellandsouthnorthants.gov.uk

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	Revised Shared Drugs and Alcohol Policy
Background Papers	
None	
Report Author	Dave Bennett, Corporate Health and Safety Officer
Contact Information	Dave.bennett@cherwell-dc.gov.uk 01295 221738



**DRUGS AND ALCOHOL
POLICY**

DOCUMENT CONTROL

Organisation(s)	Cherwell District Council (CDC) South Northamptonshire Council (SNC)
Policy title	Drugs and Alcohol Policy
Owner	Human Resources
Version	1.2
Date of implementation	1 September 2015

DOCUMENT APPROVALS

This document requires the following approvals:

Meeting	Date of approval
Joint Management Team	7 December 2016

DOCUMENT DISTRIBUTION

This document will be distributed to all employees of Cherwell District and South Northamptonshire Council.

REVISION HISTORY

Version	Revision date	Summary of revision
1	Dec 2014	Aligning both SNC and CDC Drugs and Alcohol Policies together.
2	Aug 2015	Clarification of random testing and definition of zero tolerance
3	Dec 2016	Implement revised drug and alcohol limits for safety critical duties and high risk safety duties.

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1 Policy Statement

- 1.1 Cherwell District and South Northamptonshire Councils recognise that alcohol and drug related problems are an area of health and social concern. They also recognise that an employee with such problems needs the help and support of his/her employer.
- 1.2 This policy covers both legal and illegal drugs and applies to all Council employees.
- 1.3 This policy sets out rules regarding the use of intoxicating / illegal substances so that employees are made aware of the likely consequences in relation to their employment if they misuse them. New and current employees will have access to this policy.
- 1.4 The Councils' main concern with the use of alcohol and/or drugs by any of their 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 while the employee is conducting Council business.
- 1.5 Both Councils have a responsibility to their employees and customers to ensure that any risk is minimised. Both Councils operate a zero tolerance stance to the misuse of illegal drugs and alcohol consumption (which is above the legal limit); therefore employees must not come to work or undertake any work in an unfit state through drugs misuse or alcohol. This is particularly important if those employees who occupy a safety critical role (as defined below).

Zero Tolerance: If an employee occupying a safety critical role is tested and found to be over the legal limit with alcohol or produces a positive drug test from an accredited laboratory, this will be regarded as gross misconduct and the employee can expect to be dismissed.

- 1.6 A **safety critical role** is one in which the post-holder is required to perform duties which are directly related to:
 - driving a Council vehicle, (or their own vehicles) while undertaking Council duties
 - supervision of children or vulnerable adults
 - driving / working on the highway, at height or in confined spaces
 - dealing face to face with members of public / partner agencies
 - operating machines/equipment which falls under H&S
 - handling chemicals

If any of the above are not performed properly, it may result in a serious safety risk or environmental hazard to employees, premises or to the general public.

An employee who is responsible for supervising employees, who perform safety critical duties, shall also be considered as occupying a safety critical position. All customer facing posts will be deemed to be safety critical due to the responsibility an employee has for a customer when on or off Council premises.

However it is also considered that this is a broad definition and within this definition there are roles which can be defined as **high risk safety critical roles** (see appendix A). This would include:

- HGV drivers,
- Those working on the highway
- those operating machinery,
- those supervising vulnerable adults and children
- those with enforcement duties

Those managers or supervisors that manage or supervise those staff that undertake high risk safety critical roles are also included.

- 1.7 Employees with drinking and/or drug problems should comply with the law and are encouraged to seek help voluntarily before their job performance is affected.
- 1.8 Confidentiality will be maintained at all times subject to the requirements of the procedures and within the framework of current legislation.

2 Introduction

- 2.1 The Head of Transformation is responsible for the overall administration and implementation of this Policy.
- 2.2 Inappropriate drinking and/or drug misuse can have a detrimental effect on the following at the workplace:-
- impaired job performance
 - a deterioration in relationships with colleagues, managers and customers
 - serious breach of Health and Safety rules at the workplace
 - absenteeism and poor time keeping
 - bad behaviour, poor discipline and sudden mood changes
 - adverse effect upon Council reputation and customer relations
 - decision making

3 Drugs

- 3.1 Drugs misuse at work is illegal and a serious issue which requires a positive management approach when identified and suspected within the workplace. It is difficult to determine how long a particular drug will stay in a system simply because everyone is different. There are numerous variables that determine drug duration including metabolism, hydration, body mass, and amount and frequency of use (see chart below). For example detectable times for common drugs are listed below:-

Cannabis (see chart below)	2 days -11 weeks
Cocaine	2 days – 30 days

Cannabis Detection Time Chart

1 time only	5-8 days
2-4 times per month	11-18 days
2-4 times a week	23-35 days
5-6 times per week	33-48 days
Daily Usage	49-90 days

- 3.2 Drugs can affect the brain and the body in a number of ways. They can alter the way a person either thinks, perceives and feels, and this can lead to impaired judgement, concentration and a delayed response when driving. Drug misuse can also bring about the neglect of general health and well-being. This may adversely influence performance at work, even when the misuse takes place outside the workplace.
- 3.3 Signs of drug misuse which you might look for include:
- sudden mood changes
 - unusual irritability or aggression
 - a tendency to become confused
 - abnormal fluctuations in concentration and energy
 - impaired job performance
 - poor time-keeping
 - deterioration in appearance and cleanliness
 - smelling of alcohol
 - increased short-term sickness absence
 - a deterioration in relationships with colleagues, customers or management
 - dishonesty and theft (arising from the need to maintain an expensive habit)
- 3.4 All the signs shown above are not exhaustive and may be caused by other factors, such as stress, and therefore should be regarded only as indications that an employee may be misusing drugs.
- 3.5 Both Councils have a general duty under the Health and Safety at Work etc Act 1974 to ensure, as far as is reasonably practicable, the health, safety and welfare at work of their employees. If the Council knowingly allows an employee under the influence of drug misuse to continue working and his or her behaviour places the employee or others at risk, the employing Council could be prosecuted. Employees are required to take reasonable care of themselves and others who could be affected by what they do at work.
- 3.6 The Road Traffic Act 1988 states that any person who, when driving or attempting to drive a motor vehicle on a road or other public place, is unfit to drive through drink or drugs shall be guilty of an offence following testing at the roadside. An offence is also committed if a person unfit through drink or drugs is in charge of a motor vehicle in the same circumstances.

3.7 The Misuse of Drugs Act 1971 makes the production, supply and possession of controlled drugs unlawful except in certain specified circumstances (for example, when they have been prescribed by a doctor). The penalties for offences involving controlled drugs depend on the classification of the drug.

3.8 The employee and Occupation Health both have a legal duty to inform the DVLA about any drug misuse, drug dependency or medical condition that could potentially affect safe driving. If the DVLA then decides to revoke an employee's licence for a certain period this will mean the employee, if occupying a role where the requirement is to drive on Council business, may not be able to carry out their role fully. If this occurs the Council will look to manage this employee through its (dependent upon circumstances) Capability, Sickness or Disciplinary Policy in a fair and consistent manner.

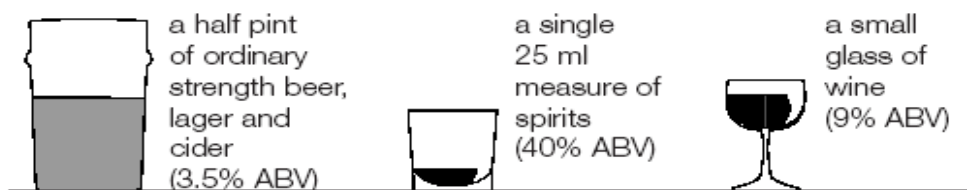
4 Alcohol

4.1 Many people drink alcohol on occasions and enjoy doing so. However, alcohol, if misused, can also inflict a great deal of damage. Drinking moderate amounts of alcohol does not usually cause any serious problems. However, drinking too much can be harmful. You may not realise if the amount you drink is more than the recommended daily limit, so it's important that you keep an eye on how much you're drinking.

4.2 The guides below show how long certain measures stay in your blood stream.

Box 1 What happens when you drink alcohol

- Alcohol is absorbed into your bloodstream within a few minutes of being drunk and carried to all parts of your body including the brain.
- The concentration of alcohol in the body, known as the 'blood alcohol concentration', depends on many factors, but principally, how much you have drunk, how long you have been drinking, whether you have eaten, and your size and weight. It is difficult to know exactly how much alcohol is in your bloodstream or what effect it may have.
- It takes a healthy liver about 1 hour to break down and remove 1 unit of alcohol. A unit is equivalent to 8 gm or 10 ml (1 cl) of pure alcohol. The following all contain one unit of alcohol:



- If someone drinks 2 pints of ordinary strength beer at lunchtime or half a bottle of wine (ie 4 units), they will still have alcohol in their bloodstream 3 hours later. Similarly, if someone drinks heavily in the evening they may still be over the legal drink drive limit the following morning.
- Black coffee, cold showers and fresh air won't sober someone up. Only time can remove alcohol from the bloodstream.

Women

- If you drink between 2 and 3 units a day or less, there are no significant risks to your health BUT...
- If you consistently drink 3 or more units a day, there is an increasing risk to your health.

Note: the benchmarks don't apply to young people who have not reached physical maturity.

- 4.3 If an employee appears to be under the influence of alcohol and enters the workplace, testing will be arranged immediately if the employee occupies a safety critical role. Following a breath test and if the results are positive, the employee will be sent home and the Council will look to manage this employee through its (dependent upon circumstances) Capability, Sickness or Disciplinary Policy in a fair and consistent manner.
- 4.4 If an employee who occupies a non-safety critical role appears to be under the influence of alcohol and enters the workplace, the employee will be sent home and the Council will look to manage this employee through its (dependent upon circumstances) Capability, Sickness or Disciplinary Policy in a fair and consistent manner.
- 4.5 Employees are required to ensure that they pose no risk and do not drive whilst over the UK legal limit. In England and Wales, the alcohol limit for drivers is 80 milligrams of alcohol per 100 millilitres of blood, 35 micrograms per 100 millilitres of breath or 107 milligrams per 100 millilitres of urine.
- 4.6 It is important that staff realise the importance of presenting themselves in a fit state ready for work. Where the duties are safety critical role or high risk safety critical, employees must consider the effects that the amount of alcohol they consume will have on their work performance.
- 4.7 The institute of Alcohol Studies state that heavy and consistent drinking can have a serious effect on an employee's performance at work, which may include absenteeism, inefficiency, poor decision-making and damaged customer relations. Specific productivity problems include procrastination, inconsistent performance, neglect of detail, poorer quality of work, less quantity of work and more frequent mistakes.
- 4.8 The HSE state that even at blood alcohol concentrations lower than the legal drink/drive limit, alcohol reduces physical co-ordination and reaction speeds. It also affects thinking, judgement and mood. This is of particular concern where the employee undertakes safety critical duties which could result in a serious or fatal incident.
- 4.9 Employees should also recognise the effect that consuming alcohol the previous evening can have on their body and performance the following day. The only way to remove alcohol from your bloodstream is time. There's nothing you can do to speed this process up. Alcohol can only be removed from your bloodstream at a steady rate of approximately one unit per hour, on average, varying from person to person. Therefore consuming alcohol during the evening can result in an employee exceeding the drink drive limit or still having alcohol in their system the following day.
- 4.10 Regular heavy drinkers may not appear intoxicated even after drinking large amounts of alcohol. However, even small amounts of alcohol affect a person's ability to react quickly to things like unexpected situations. They will still have alcohol concentrations similar to non-regular drinkers.

4.11 For an employee undertaking a safety critical role or a high safety critical role when they present themselves for work, or at any time whilst they are undertaking their duties, even if the alcohol was consumed in the employees leisure time, it will be considered a positive result of alcohol for the purposes of this Policy if the results of the test are:

- equal to or greater than 29 milligrams of alcohol per 100 ml of blood
- equal to or greater than 13 micrograms of alcohol per in 100 ml of breath
- equal to or greater than 39 milligrams of alcohol in 100 ml of urine

4.12 If due to testing it can be demonstrated that an employee, who undertakes a safety critical role or a high risk safety critical role is consuming alcohol to such an extent that they arrive at work with a positive blood alcohol level, regardless of the level of alcohol detected, and it can be shown that this is on a regular and persistent basis, because of the long term detrimental effect that this can have on an individual's work performance, the employee will be issued a warning in writing. Should the employee not heed this warning and they continue to arrive at work with any positive blood alcohol concentration level, it will be considered that the employee is presenting themselves in an unfit state for work.

4.13 If it is proved that an employee, who undertakes a safety critical role or a high risk safety critical role, has a positive result (equal to or greater than 0.29 milligrams of alcohol per 100ml of blood) or it is considered that they have presented themselves in an unfit state for work due to alcohol consumption, the employee will be sent home on unpaid leave until the employee is either fit for work or further formal action is instigated using an appropriate HR policy.

5 Role of Management

5.1 For the purposes of this policy, management is defined as Directors, Heads of Service and Line Managers.

5.2 It is the responsibility of all managers (outlined 5.1) to communicate the Drugs and Alcohol Policy and to ensure that all employees for whom they are responsible have knowledge and understanding of the policy.

5.3 Managers should not wait until complaints, job performance or unsafe working practices are brought to their attention if they are aware of an employee's behaviour, which is, or may be, related to the misuse of drugs or alcohol.

5.4 The signs outlined previously (see 3.3) may be caused by other factors, such as stress, and should be regarded only as indications that an employee may be showing signs of alcohol dependency or drug misuse.

5.5 Managers should seek advice from Human Resources immediately if they suspect any employee to be under the influence of drugs or alcohol.

6 Role of Employees

6.1 Employees have a role to play in helping to create a climate at work which is conducive to good working practice.

- 6.2 Employees are not allowed to consume alcohol during working hours including when on standby and on call duties.
- 6.3 No employee may use/deal/possess illegal drugs during work times. Any breach will immediately be reported to the police and the Disciplinary Policy will be invoked.
- 6.4 Employees on prescribed medication which might affect a high risk safety critical role or safety critical role must seek advice from the Councils' Occupational Health Adviser to ascertain whether it is safe to continue in those duties.
- 6.5 By virtue of the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations, and in accordance with the Councils' 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.
- 6.6 Employees who have reasonable cause to suspect that a colleague is under the influence of alcohol or drugs (whether or not there is a perceived risk to their own health and safety and that of others exposed to their activities), must report this to their line manager as quickly as possible.
- 6.7 The Councils will ensure that anyone who acts in good faith to disclose a concern or wrong doing will be protected under the terms of the Council's Whistle Blowing Policy.

7 General Procedures

- 7.1 Where an employee is found to be displaying the signs of drug or alcohol misuse (see section 3.3 above), the subject should be broached immediately with the employee by their line manager or supervisor. The conversation should be private and confidential and the employee should be treated sympathetically. Advice should always be sought from Human Resources.
- 7.2 Any employee who has a dependency problem will be referred to the Councils' Occupational Health Adviser and the employee's own General Practitioner. In order to assist an employee with a dependency problem, they will be expected to co-operate by agreeing to permit the Councils' Occupational Health Adviser to have access to their medical records.
- 7.3 Testing will be carried out if, following reasonable suspicion received, the employee is in a safety critical role or a high safety critical role.. Following a positive result, the Council will look to temporarily redeploy into a non-safety critical role (if appropriate) or suspend pending the outcome of a full disciplinary investigation. The Councils' Disciplinary Policy will be invoked regardless of the fact that an employee is following a recovery programme unless the employee came forward originally before reasonable suspicion.
- 7.4 A positive test result for drugs or/and alcohol is a serious breach of Health and Safety rules and falls under gross misconduct, and the employee can therefore expect to be dismissed.

- 7.5 If the employee is not in a safety critical role, then, following Occupational Health Advice, the individual will be managed, dependent upon the circumstances, through the Councils' Capability, Sickness or Disciplinary Policy in a fair and consistent manner.
- 7.6 Where an employee is taking prescribed drugs which may have an impact on their ability to undertake their regular duties safely, they should ask their General Practitioner or Pharmacist if the medication may affect them at work. If the member of staff is concerned then further advice can be sought from the Council's Occupational Health Advisor.

8 Testing for Drugs and Alcohol

- 8.1 This policy applies to testing of breath and/or bodily fluids for the purposes of determining whether an employee has alcohol and/or drugs in their body whilst at work.
- 8.2 This procedure is intended to ensure the safety of the individual employee, their work colleagues and members of the public.
- 8.3 Testing will be carried out randomly or where a manager/supervisor has reasonable cause for suspicion that an employee in a higher safety critical role or safety critical role is or may be under the influence of alcohol or drugs. Testing will be carried out to ascertain the levels of drugs and/or alcohol levels in the blood in circumstances which are set out below. The circumstances in which the Council can request an employee (or potential employee) to agree to testing falls into any of the following:

8.3.1 Reasonable Cause of Suspicion: In cases where there is reasonable cause of suspicion of alcohol/drug misuse, the Council reserves the right to ask and obtain the consent of an employee to arrange for testing. In these circumstances, any judgment must be based on evidence such as, but not limited to:

- Abnormal speech
- Smell of alcohol on the breath
- Behaviour that may be due to the effects of alcohol/drugs
- Allegation made by another person which there is no cause to disbelieve
- Allegations made by another person under the Whistle Blowing Policy
- Reasonable grounds to suspect that the employee's act or omissions contributed to any accident or incident whilst at work. This requirement can take place either prior to commencing or during work.
- Any signs as outlined in section 3.3 above
- Following a Police caution or charge and resulting points being added to a licence or disqualification

8.3.2 Accident / Incident: Following an accident or incident, testing may be carried out if there is evidence to suggest those involved might have consumed/abused/used alcohol and/or drugs in contravention of this policy. This may require the testing of not only those who are injured, but also any employees who potentially contributed to the accident or incident event in any way.

8.3.3 Random testing: Testing will be carried out on a random basis for staff who undertake high risk safety critical roles for the Council; these roles are identified at Appendix A. Random testing will consist of testing 25% of those high risk safety critical roles each year on a rolling programme.

8.3.4 Rehabilitation: As part of the rehabilitation and aftercare process, employees may be required to undergo random periodic screening/testing. Random periodic screening/testing may also be advised as an outcome following a disciplinary hearing.

8.3.5 Legal Highs Legal Highs (Novel Psychotic Substances) are substances that are relatively new substances and are not defined under the Misuse of Drugs Act 1971. They are not licensed by the Medicines' and Healthcare products Regulatory Agency and are not licensed for human consumption, as there is insufficient research about them to know about their potency, the adverse effects they have from human consumption, or what effect they will have when they are used with other substances such as alcohol. 'Legal highs' cannot be sold for human consumption, so they are often sold as incense, salts or plant food to get round the law. The packaging may describe a list of ingredients but there is no certainty that this is what the product will contain.

The test for legal high substances is limited to circumstances when an initial "standard" screening for illegal substances has been undertaken, and a negative laboratory result has been obtained, but there is still some on going concern about drug abuse. This would mean that unlike the standard screening, which would be carried out for all staff employed in high risk safety critical roles over the next four years, screening for legal highs would only be triggered in cases of suspicion or concern, and following the standard screening.

- 8.4 Subject to meeting any of the above conditions the employee should immediately be withdrawn from work and a breath or urine test requested to determine specific levels. The employee will be stood down from his/her safety critical role during this period, until the result of the test(s) have been confirmed. Suspension may be considered depending upon the situation/incident and in discussion with the Head of Transformation.
- 8.5 During testing procedures, the employee may wish to have a trade union representative or a work colleague present; however, consideration must be given to the practicalities and timing if required and the process will not be delayed or halted. Due to the sensitive nature of the testing process, the Council will endeavour to ensure that strict confidentiality is observed by all involved in this process. A Human Resources Representative will arrange the test and ensure the tests are carried out in a confidential, sensitive and fair manner. All test results will be kept confidential and in accordance with the Data Protection Act 1998.
- 8.6 If an employee passes the drug and / or alcohol tests undertaken then further investigation and discussion will be required with the individual to determine the cause for their impaired performance. They will not be allowed to undertake a safety critical role until has it has been determined that they will be able to undertake the duties safely. Further advice may

be required from Human Resources, the council's Health and Safety Officer, the council's Occupational Health Adviser and the employee's GP.

9 Refusal to take a test

- 9.1 If an employee refuses to take a test without good reason, then management will have no alternative but to consider this to be an indication of guilt and therefore the Disciplinary Policy will be invoked.

10 External Contractors and Agency Workers

- 10.1 Whilst undertaking any work for the Council all contractors and agencies will ensure that their workers are fit to perform the task to which have been assigned, and that they are not under the influence of drugs or alcohol.
- 10.2 If any such contractor / agency worker is considered by Council management to be under such an influence and behaving in a way that puts the health and safety of themselves or others at risk, they will be removed from the site/premises and the contractor / agency informed of the situation.
- 10.3 All Contract Monitoring Officers will be responsible for providing a copy of this corporate arrangement document to all external contractors prior to work commencing.

11 Employee Assistance

- 11.1 The Head of Transformation will, where possible, make available an independent counselling service for all employees on a confidential basis.
- 11.2 When an employee voluntarily comes forward and admits to a drug or alcohol problem prior to any reasonable suspicion being received and dependent upon circumstance, the current disciplinary policy may be suspended and the organisation will offer rehabilitation for a certain period. However where there is a relapse coupled with a positive test result, the Head of Transformation will make the decision as to whether to permit another period of rehabilitation or invoke the disciplinary procedure.
- 11.3 Following an initial assessment, should there be a need for specialist referral to an appropriate agency, this will be arranged through Occupational Health.

12 Further guidance and information can be sought from the following websites/addresses:

The Law on drugs misuse and driving:

<https://www.gov.uk/drug-driving-law>

HSE; Drugs Misuse at Work Policy:

<http://www.hse.gov.uk/pubns/indg91.pdf>

Drink driving and the Law:

www.drinkaware.co.uk

<http://www.talktofrank.com/news/think-new-drug-drive-law>

A guide to the current medical standards of fitness to drive:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418165/aagv1.pdf

Drugs misuse and Alcohol treatment / advice:

<http://www.talktofrank.com/>

<http://www.nta.nhs.uk/>

PHE Drugs, Alcohol, and Tobacco Team

2nd Floor, Skipton House

80 London Road

London SE1 6LH

Tel: 020 3682 0503

APPENDIX A – HIGHER RISK SAFETY CRITICAL ROLES

Roles – Higher Risk Groups
<p>This list is not exhaustive but applies to all roles which fall under the category of High Safety Critical:</p> <ul style="list-style-type: none"> • HGV drivers • working on the highway • operating machinery • supervising vulnerable adults and children • enforcement duties <p>Those whom have management/supervisory of employees occupying those roles are also included.</p>
Bus Station Safety Officer
Caretaker/ Facilities Operative
Driver/Labourer
Duty Manager
Enforcement Officer
Environmental Enforcement Manager
Environmental Health Officer
Environmental Protection Officer
Fleet Manager
Fleet Supervisor
Fraud Investigation Officer
Labourer
LGV Driver/Loader
LGV Sweeper Driver
Licensing Enforcement Officer
Maintenance Operative
Night Safe Officer
Pest Control Officer
Recreation & Sport Activator
Street Cleaning Operative
Street Cleansing Manager
Street Cleansing Supervisor
Street Warden
Street Warden Supervisor
Technician (Fleet)
Vehicle Parks & Town Supervisor
Vehicle Parks & Town Team Leader
Vehicle Parks & Town Warden
Waste Collection LGV Driver/Loader
Waste Collection Loader
Waste Resource Collection Manager
Waste Resource Collection Supervisor

Waste Services Driver
Youth Activator

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