



Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Drugs and Alcohol Policy

DOCUMENT CONTROL

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

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1 Introduction

- 1.1 This policy does not form part of any contract of employment or other contract to provide service and it may be amended at any time following consultation with trade union and subject to agreement from the Personnel Committee.
- 1.2 Cherwell District Council recognises 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.
- 1.3 This policy covers both legal and illegal drugs and applies to all Council employees, Agency Workers and Contractors.
- 1.4 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.
- 1.5 This policy is designed to comply with relevant legislation such as the Health and Safety at Work Act 1974 and the Misuse of Drugs Act 1971.
- 1.5 The Council's 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.
- 1.6 The Council has a responsibility to their employees and customers to ensure that any risk is minimised. The Council 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 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.

- 1.7 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 plant and machinery
- handling chemicals

1.8 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.

1.9 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.

1.10 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 1). 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.

1.11 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.

1.12 Confidentiality will be maintained at all times subject to the requirements of the procedures and within the framework of current legislation.

1.13 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

2 Drugs

2.1 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

2.2 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.

2.3 Recognising Drug, Alcohol and Substance Misuse Problems:

Drug, alcohol or substance misuse is an extremely sensitive and confidential matter and is not always easy to identify. However, misuse may present itself in some of the following ways:

- Sudden changes in behaviour, mood and energy unusual irritability or aggression
- A tendency to become confused
- Abnormal fluctuations in concentration and a noticeable lack of energy when performing daily activities impaired job performance
- Poor time-keeping
- Deterioration in appearance and cleanliness such as wearing inappropriate or dirty clothing and a lack of interest in grooming
- Smelling of alcohol
- Increased short-term sickness absence
- A deterioration / noticeable change in relationships with colleagues, customers or management
- Dishonesty and theft (arising from the need to maintain an expensive habit)
- Poor work performance, being chronically late to work, appearing tired and disinterested in work duties
- Unbalanced emotions
- Injecting can cause infection such as sores, abscesses, jaundice or blood poisoning
- Spending more money than usual or requesting to borrow money
- Issues with financial management, such as not paying bills on time
- Changes in appetite, such as a decreased appetite and associated weight loss
- Bloodshot eyes, poor skin tone, and appearing tired or run down
- Defensiveness when asked about substance use

- 2.4 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 and/or alcohol.
- 2.5 The Council has 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 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.
- 2.6 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.
- 2.7 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.
- 2.8 The employee and Occupational 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 Absence or Disciplinary Policy in a fair and consistent manner.

3 Alcohol

- 3.1 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.
- 3.2 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 Absence or Disciplinary Policy in a fair and consistent manner.

- 3.3 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 Absence or Disciplinary Policy and Procedure in a fair and consistent manner.
- 3.4 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.
- 3.5 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.
- 3.6 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.
- 3.7 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.
- 3.8 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.
- 3.9 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.
- 3.10 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 13 micrograms of alcohol per in 100 ml of breath
- equal to or greater than 39 milligrams of alcohol in 100 ml of urine

- 3.11 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 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 alcohol concentration level, it will be considered that the employee is presenting themselves in an unfit state for work.
- 3.12 If it is proved that an employee, who undertakes a safety critical role or a high risk safety critical role, has a positive result 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.

4 Role of Management

- 4.1 It is the responsibility of all supervisors and managers 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.
- 4.2 All Supervisors and 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.
- 4.3 All Supervisors and Managers should seek advice from Human Resources immediately if they suspect any employee to be under the influence of drugs or alcohol.

5 Role of Employees

- 5.1 Employees have a role to play in helping to create a climate at work which is conducive to good working practice.
- 5.2 Employees are not allowed to consume alcohol during working hours including when on standby and on call duties.
- 5.3 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.
- 5.4 Employees on prescribed medication which might affect a high-risk safety critical role or safety critical role must seek advice from the Council's Occupational Health provider to ascertain whether it is safe to continue in those duties.

- 5.5 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 Council's Health and 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.
- 5.6 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.
- 5.7 The Council will ensure that anyone who acts in good faith to disclose a concern or wrongdoing will be protected under the terms of the Council's Confidential Reporting (Whistleblowing) Policy.

6 General Procedures

- 6.1 Where an employee is found to be displaying the signs of drug or alcohol misuse (see section 2.3), 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.
- 6.2 Any employee who has a dependency problem will be referred to the Council's Occupational Health provider 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 Council's Occupational Health Adviser to have access to their medical records.
- 6.3 Testing will be carried out if, following reasonable suspicion, 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 Council's 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.
- 6.4 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.
- 6.5 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 Council's Capability, Sickness Absence or Disciplinary Policy in a fair and consistent manner.

- 6.6 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 provider.

7 Testing for Drugs and Alcohol

- 7.1 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.
- 7.2 This procedure is intended to ensure the safety of the individual employee, their work colleagues and members of the public.
- 7.3 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:

7.3.1 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 2.3 above
- Following a Police caution or charge and resulting points being added to a licence or disqualification

7.3.2 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.

7.3.3 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.

7.3.4 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.

7.3.5 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.

- 7.4 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 Assistant Director of Human Resources.
- 7.5 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 GDPR 2018.

- 7.6 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 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 provider and the employee's GP.

8 Refusal to take a test

- 8.1 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.

9 External Contractors and Agency Workers

- 9.1 Whilst undertaking any work for the Council all contractors, casual workers and agency workers will be fit to perform the task to which they have been assigned, and that they are not under the influence of drugs or alcohol.
- 9.2 If any such contractor / casual worker / agency worker is considered to be under the 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 tested in accordance with this policy.
- 9.3 All Contract Monitoring Officers will be responsible for providing a copy of this corporate arrangement document to all external contractors prior to work commencing.

10 Employee Support

- 10.1 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 Assistant Director of Human Resources will make the decision as to whether to permit another period of rehabilitation or invoke the disciplinary procedure.
- 10.2 Following an initial assessment, should there be a need for specialist referral to an appropriate agency, this will be arranged through Occupational Health.
- 10.3 The council also provides an Employee Assistance Programme to help and support employees.

11 **Sources of External Support**

Health and Safety at Work etc Act 1974

<https://www.hse.gov.uk/legislation/hswa.htm>

Misuse of Drugs Act 1971

<https://www.legislation.gov.uk/ukpga/1971/38/contents>

Alcohol and Drug Dependence

The Law on drugs misuse and driving:

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

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/agv1.pdf

Drugs misuse and Alcohol treatment / advice:

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

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

<https://www.alcoholics-anonymous.org.uk/>

<https://www.nhs.uk/Live-well/addiction-support/drug-addiction-getting-help/>

<https://www.nhs.uk/conditions/alcohol-misuse/>

APPENDIX 1 – HIGHER RISK SAFETY CRITICAL ROLES

Roles – Higher Risk Groups

This list is not exhaustive but applies to all roles which fall under the category of High Safety Critical:

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

Those whom have management/supervisory of employees occupying those roles are also included.

Street Scene Operative
Street Scene Supervisor
Driver/Labourer
Enforcement Officer
Environmental Health Officer
Environmental Protection Officer
Fleet Manager
Fleet Supervisor
Labourer
LGV Driver/Loader
LGV Sweeper Driver
Licensing Enforcement Officer
Lead Licensing Enforcement Officer
Street Cleansing Operative
Street Scene and Cleansing Manager
Street Cleansing Supervisor
Community Warden
Community Safety Development and Engagement Officer
Technician (Fleet)
Waste Collection LGV Driver/Loader
Waste Collection Loader
Waste Resource Collection Manager
Waste Resource Collection Supervisor
Youth Activator
Senior Youth Activator
Casual Activity Supervisor
Casual Activity Assistant
Casual Sports Facility Assistant
Casual Sports Facility Supervisor