
Report to: Council

Date of Meeting: 2 February 2023

Subject: Drugs & Alcohol Policy

Report by: Chief Executive

1.0 Purpose

- 1.1. This paper seeks Council approval of the revised Drugs & Alcohol Policy.

2.0 Recommendations

Council is asked to:

- 2.1. **Challenge** and **comment** on the paper as appropriate.
- 2.2. **Approve** the Drugs & Alcohol Policy which is attached at Appendix 1.
- 2.3. **Note** that training will be delivered to managers to support the implementation of the policy together with a Council wide programme aimed at raising employee awareness of alcohol, drug and other substance misuse.
- 2.4. **Note** that there has been extensive discussion at Policy Group, SLG and Executive Health & Safety Committee over several years regarding the policy and its implementation. These discussions have lead to significant changes to the policy including the removal of random testing, ensuring testing is non intrusive, ensuring support is in place to staff who indicate they may have alcohol or drugs dependency issues as well as a commitment to joint engagement with Unions on training and roll out.
- 2.5. **Note** that the policy was fully and robustly discussed at a special meeting of the Tripartite meeting on 9th January 2023.

3.0 Considerations

- 3.1. HR and Workforce Development continues, as part of its rolling programme, to review and update the Council's policies and procedures related to HR, H&S, OD and Payroll. This policy is about how we support those who work with or for us, rather than how we provide services to the wider community.

- 3.2. Drug and Alcohol misuse remains an increasing issue in Scottish society. In 2020, 1339 people died from drug-related causes, with 1190 deaths related to alcohol misuse. Audit Scotland's report Drug and Alcohol Services: An update from March 2022 highlights that that people in the most deprived areas are 18 times as likely to have a drug-related death as those in the least deprived areas, and 8 times more likely to have an alcohol-related death or hospital stay.
- 3.3. Between July and September 2022 135 people in Clackmannanshire were referred for specialist alcohol & drug support. This is equivalent of 1% of the local population, which if replicated in our employee workforce could potentially mean 20 employees are facing these/similar issues every quarter.
- 3.4. Whilst Alcohol and drug testing has not, over the years, been common place in Scottish Local Authorities, a number of Councils are now taking this approach. These include Aberdeen City Council, Dumfries and Galloway, East Ayrshire, East Dunbartonshire, Shetland Council, North Lanarkshire and West Lothian.
- 3.5. The Council as the employer has a general duty under the Health and Safety at Work Act 1974 to ensure, as far as reasonably practicable, the health, safety and welfare at work of its employees. If the Council knowingly permitted an employee to work under the influence of alcohol or drugs misuse then the Council could be prosecuted. While the Chief Executive has overall responsibility for health and safety management, there is case law which confirms that Elected Members provide the "Controlling Mind" of Council in such matters, so may face prosecution themselves.
- 3.6. Under what is know as the common law duty of care, all employers must take reasonable care of employees or they may be able to bring a claim of negligence. Equally all employees have an individual legal responsibility in relation to their colleagues and their own health and safety.
- 3.7. Common law principles of vicarious liability can be important considerations in the law surrounding alcohol and drugs. The legal test for vicarious liability means that employers will be liable for wrongful acts of employees that are carried out in the course of employment and sufficiently closely connected with the employment, to justify the imposition of liability. Employers are therefore exposed to liability when there is an increased risk of inappropriate behaviour and injury from alcohol or drug consumption.
- 3.8. The overall aim of the proposed policy is to develop a supportive workplace with consistent processes that look to assist staff with health and wellbeing issues, while also setting out clear expectations of staff behaviour and the potential consequences for failing to meet these expectations.

- 3.9. The revised policy in relation to privacy and data protection considerations is in line with section 4 of the Employment Practices Data Protection Code, "Information about Workers Health" as issue by the Information Commissioners Office i.e.
- 3.9.1. Only use drug or alcohol testing where it provides significantly better evidence of impairment that other less intrusive means
 - 3.9.2. Use the least intrusive form of testing practicable to deliver the benefits to the business that the testing is intended to bring
 - 3.9.3. Tell workers what drugs they are being tested for
 - 3.9.4. The policy should be outlined in the staff handbook, as well as the consequences for workers breaching this policy
 - 3.9.5. Base any testing on reliable scientific evidence of the effect of particular substances on workers
 - 3.9.6. Limit testing to those substances and the extent of exposure that will have a significant bearing on the purpose(s) for which the testing is conducted.
- 3.10. The revised policy would be supported by:
- 3.10.1. Appropriate training, developed in collaboration with Trade Union Colleagues, to be rolled out to support managers in implementation of the policy. This will include the creation of online and face to face resources, as appropriate to meet the specific needs of both staff and managers, and to ensure that the policy is understood and implemented as designed;
 - 3.10.2. A programme to be developed, in conjunction with Trade Union Colleagues, to raise employee awareness of substance misuse, impacts and the support the Council can offer. This will be rolled out Council wide and will be informed with the assistance of appropriate partners such as the Clackmannanshire and Stirling Health and Social Care Partnership, and Police Scotland, in order to ensure that messaging is both relevant and appropriate to all Directorates of the Council.
 - 3.10.3. A communication campaign in relation to the introduction of the revised policy utilising recently developed communication channels such as video production, in addition to regular channels such as the Council's intranet, Keeping Connected staff magazine, and cascade briefings.

Policy Development

- 3.11. A Drugs and Alcohol policy was first drafted in October 2017. The policy sought to address the health & safety concerns which can occur around alcohol and drug misuse, while providing support to employees who may be finding such issues challenging. Several rounds of consultation took place with trade union colleagues and a policy was finally agreed at the Executive Health & Safety Committee in February 2019.
- 3.12. This policy relied on Field Impairment Testing. This is a suite of tests which involves tests such as walking in a straight line and being able to touch your nose with your finger. Services and Trade Unions nominated representatives to be trained in this and procurement commenced for training to allow this to take place.
- 3.13. The only provider of this type of training in the UK went out of business and as such impairment testing could not be introduced.
- 3.14. A revised Drugs and Alcohol policy, which included random testing, was considered by the Council's policy group in August 2021 with the testing elements, at that time, based on using blood/urine samples. This approach was similar to that in operation in West Lothian Council.
- 3.15. The policy set out a supportive approach to tackling drug and alcohol issues wherever possible.
- 3.16. A number of meetings have taken place with our trade union colleagues over the period which resulted in a number of significant changes being made. These included:
- Withdrawal of random testing to “with cause testing” so that testing would only be where there was a reason to reasonably suspect someone was under the influence. Whilst the Council position remains that random testing could be legitimately introduced, it was recognised that the ongoing strength of opposition from Trade Union colleagues would have made the introduction of random testing difficult to achieve.
 - Testing using fingerprint and/or breathalyser testing to make tests less intrusive for employees.
- 3.17. Despite these changes the overall trade unions remain highly concerned about the introduction of testing and oppose its introduction.

Benefits of Testing

- 3.18. Testing reaffirms our commitment to ensuring an environment where the health and safety of our staff is a priority and can lead to a safer working environment.
- 3.19. Testing can also reduce the liability to the Council should an accident occurs as it helps demonstrate that all reasonable steps are being taken to prevent alcohol and drug misuse.

- 3.20. Testing can also help benefit employees as it can provide evidence that they are not impaired as there could be other reasons why they are showing signs which might suggest that they are.
- 3.21. Drug and alcohol misuse can cause absences and a testing regime can help to reduce these and ensure that employees get appropriate support more quickly as well as potentially leading to a reduction in workplace accidents.
- 3.22. There is also a benefit to testing in providing a deterrent to employees who may be tempted by alcohol or drug misuse. This can be particularly important to employees who have admitted a problem and are seeking support to recover.
- 3.23. The cost of carrying out the testing would be £5000 in the first year with ongoing costs of £400 per 25 employees tested. This should be considered against the potential cost of even one employee using drugs and being involved in an accident which as a result could lead to costs against the Council in the millions; this could be seen as a proportionate mitigation to have in place. There are also potential cost benefits from productivity from ensuring that employees are not impaired at work.

4.0 Sustainability Implications

4.1 Not applicable

5.0 Resource Implications

5.1 Financial Details

5.2 The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate.

Yes

5.3 Finance have been consulted and has agreed the financial implications as set out in the report.

Yes

5.4 Staffing

6.0 Exempt Reports

6.1 Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) Our Priorities

The area has a positive image and attracts people and businesses

Our communities are more cohesive and inclusive

- People are better skilled, trained and ready for learning and employment
- Our communities are safer
- Vulnerable people and families are supported
- Substance misuse and its effects are reduced
- Health is improving and health inequalities are reducing
- The environment is protected and enhanced for all
- The Council is effective, efficient and recognised for excellence

8.0 Equalities Impact

- 8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?
 Yes No

9.0 Legality

- 9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

- 10.1 Drugs & Alcohol Policy
- 10.2 Drugs & Alcohol EQIA

11.0 Background Papers

- 11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered) Yes

TUC – Drug Testing in the Workplace: Guidance for workplace representatives

CIPD – Managing drug and alcohol misuse at work (A guide for employers)

ICO – Data Protection: The employment practices code.

National Bureau for Economic Research, Digest 3 March 2000.

Fingerprint Drug Testing: A Revolution for Workplace Drug Screening

Intelligent Fingerprinting: Clackmannanshire Council Proposal

West Lothian Council: Substance Misuse Policy

North Lanarkshire Council: Alcohol & Drugs Policy

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Drugs & Alcohol Policy 2023



DOCUMENT CONTROL SHEET:

Key Information:

| | |
|------------------------------|-------------------------------------|
| Title: | Drugs & Alcohol Policy |
| Date Issued: | |
| Date Effective From: | |
| Version Number: | 1.4 |
| Document Type: | Draft |
| Document Status: | Draft |
| Author: | Seonaid Scott |
| Owner: | H&S Manager |
| Approver: | Executive Health & Safety Committee |
| Approved by and Date: | |
| Contact: | Seonaid Scott |
| File Location: | |

Revision History:

| Version: | Date: | Summary of Changes | Name: | Changes Marked: |
|-------------------|-----------------------------|---|--------------|------------------------|
| <u>0.1</u> | | <u>Draft</u> | | <u>N/A</u> |
| <u>0.2</u> | <u>Nov 2018</u> | <u>Updated following comments at January Policy group & further research</u> | | |
| <u>0.3</u> | <u>January 2019</u> | <u>Updated following policy group comments</u> | | |
| <u>1.1</u> | <u>August 2021</u> | <u>Redrafted for further review</u> | | |
| <u>1.2</u> | <u>December 2021</u> | <u>Redrafted after discussion at Exec H&S Committee</u> | | |
| <u>1.3</u> | <u>March 2022</u> | <u>Updated following policy group comments</u> | | |
| <u>1.4</u> | <u>January 2022</u> | <u>Minor amendments following discussion at Tripartite</u> | | |

1. Policy Statement

- 1.1. Clackmannanshire Council recognise that substance misuse related problems are an area of health and social concern. The Council also recognises that misuse of various substances can have a significant detrimental impact on work performance, behaviour and employee safety. Persons impaired by the consumption of alcohol and/or drugs may pose a risk to themselves and to the people working with or near them.
 - 1.2. Under the Health and Safety at Work etc. Act 1974, the Council has a duty to ensure the health, safety and welfare of all its employees. In addition we are obliged to comply with the Misuse of Drugs Act 1971, and to notify police if we become aware of the use or supply of illegal substances on Council premises. It is a further offence to knowingly allow any person under the influence of alcohol or drugs to take control of a motor vehicle.
 - 1.3. Clackmannanshire Council recognises the right to privacy or private life as enshrined in the European Convention of Human Rights (Article 8) and the need to ensure that this policy does not infringe on that right unnecessarily.
 - 1.4. It is Clackmannanshire Council policy that it is strictly forbidden to:
 - Bring onto, or be in possession of, illegal substances on Council premises or when at work.
 - Be impaired by alcohol, drugs or other substances when reporting for work, when on Council premises for work purposes, when driving a Council vehicle or driving on Council business
 - Consume alcohol, drugs or other substances on Council premises or when at work. This does not apply to functions which are out with work but which happen to take place in Council premises.
 - 1.5. The Council will always seek to support individuals who declare that they are experiencing some form of substance misuse. However, in order to protect the safety and health of employees and those others who may be affected, the Council reserves the right to:
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- Refuse entry to sites or premises to any person (e.g. employee, contractor, visitor etc.) whom it suspects of being impaired by alcohol, drugs or other substances and to remove from sites or premises any person who is so suspected.
 - Invoke Council disciplinary procedures against any employee in contravention of this policy. A breach of this policy may be deemed Gross Misconduct under Council disciplinary procedures.
 - Where practicable and available, transfer persons taking prescribed or over the counter drugs, who have informed their line manager in advance, to other duties whilst taking that medication.
- Conduct testing where it is suspected that an employee may be under the influence of drugs or alcohol.

1.6. The Council recognises that substance misuse is a problem in society that can have significant health implications for the individuals concerned. In this regard, the Council are not seeking to victimise any persons and we will offer support and assistance to anyone who recognises that they have a substance misuse related problem. Any person who approaches the Council for help, or is found to have an issue with substance misuse, and is prepared to undergo an agreed form of treatment, will be provided with all possible assistance.

1.7. The Council recognises that staff may not realise they have a substance misuse issue and will provide training to all of its management team to ensure any concerns are dealt with in a reasonable, supportive and confidential manner. Our key focus will be on safety and in supporting our staff members deal with any issues in this regard.

1.8. The Council recognises that staff are entitled to a private life and will only take disciplinary action where an impairment due to the consumption of alcohol or drugs has a detrimental impact on work performance or where safety is a concern.

2. Introduction

- 2.1. Clackmannanshire Council has a duty under the Health and Safety at Work etc. Act 1974, to ensure the health, safety and welfare of all its employees.
- 2.2. It is an offence under the Misuse of Drugs Act 1971 for any individual to knowingly allow the production, supply or use of controlled substances, except in specified circumstances, for example, when they have been prescribed by a doctor.
- 2.3. Under the Road Traffic Act 1988 and the Transport and Works Act 1992, drivers of road vehicles or individuals in charge of a motor vehicle must be free from illegal drugs, novel psychoactive substances, prescribed drugs for which no valid prescription is available and/or alcohol above the Scottish legal drink-drive limit while driving or attempting to drive a vehicle.
- 2.4. Under the Management of Health and Safety at Work Regulations 1999, Clackmannanshire Council has to assess the risks to the health and safety of employees. If an individual within the Council knowingly allows an employee who is impaired by a substance to continue working and the employee's behaviour places them or others at risk, Clackmannanshire Council or the individual could be prosecuted.
- 2.5. Clackmannanshire Council recognises an individual's right to privacy as enshrined in the European Convention of Human Rights (Article 8) and will take a balanced approach when considering what actions to take in cases where the suspected consumption of alcohol or drugs leads to an impairment or safety concern.
- 2.6. 'Substance misuse' is a broad term and covers the use of illegal drugs, novel psychoactive substances, prescribed drugs for which no valid prescription is available, alcohol and substances such as solvents.
- 2.7. Any employee with a drug or alcohol related problem is encouraged to come forward and seek help. Any employee who notifies us of any such problem

will be supported to seek professional help. Managers will discuss any concerns with staff and encourage them to seek or accept assistance.

2.8. The Council recognises that work related stress can lead to increase in consumption of Alcohol & Drugs. It is recommended that the provisions of the Mental Health & Wellbeing policy are carried out to reduce stress therefore negating the need for the member of staff to use alcohol/drugs.

3. Purpose and Scope

3.1 The purpose of this policy is to:

- Provide a framework within which substance misuse problems can be managed in a fair and consistent manner whilst protecting the reputation of Clackmannanshire Council.
- Prevent the presence of substance misuse problems at work
- Ensure that the misuse of substances does not affect health and safety on Council premises.
- Ensure that the misuse of substances does not affect the efficient operation of the Council's business.
- Provide a policy which encourages an environment where employees experiencing problems with substance misuse have the confidence to admit the problem and seek help.
- Provide a policy in which supports managers to deal with substance misuse in a fair, sympathetic and consistent manner.

3.2 The policy aims to ensure that all employees are aware of the risks associated with alcohol and drug misuse, the consequences of their actions in relation to this and the support that is available to them.

3.3 This policy applies to all employees of Clackmannanshire Council. It also applies to all consultants, contractors or other third parties employed or engaged by or on behalf of Clackmannanshire Council. However it is recognised that testing will be used mainly in safety critical work which will make it more likely to be used in some areas of work than others.

4. Responsibilities

Employee/Individual Responsibilities

4.1. All employees and contractors are required to take reasonable care of themselves and others who could be affected by what they do at work. All individuals have a duty to attend work and ensure they are fit to undertake their duties.

4.2. All individuals are not permitted to consume or provide drugs or alcohol while on duty, except the consumption of prescribed or over the counter medication which is being used to treat an ailment. Individuals are not permitted to

possess illegal drugs in the workplace.

4.3. When required, all individuals are obliged to participate fully in the testing process outlined below.

4.4. All individuals have a responsibility to tell their doctor, dentist or pharmacist about their job role when being prescribed or buying medication and/or herbal products. It is the individual's responsibility to check whether any medication they are taking has any side effects which may impair their ability to work safely. If there are such side effects, the individual must inform their manager who will confidentially discuss the possibility of making reasonable adjustments.

4.5. All employees have a responsibility to report any situation that may present a danger to health and safety. If any employee suspects that a work colleague may not be fit for work they have a duty to report this to their line manager, a member of the Corporate Health & Safety Team, or HR Business Partner.

Line Management (including supervisory staff) Responsibilities

4.6. Managers and Supervisors have a duty to provide a safe place of work and engage employees who work safely. It is their responsibility to implement this Policy and ensure that all employees have knowledge and understanding of the policy. They will also make sure that all employees are aware that to use, possess, consume, store or sell illegal drugs, or prescribed drugs where no prescription is in place, on any Council site is considered gross misconduct and will result in disciplinary action, which is likely to lead to dismissal.

Corporate Health and Safety Team

4.7. The Corporate Health and Safety Team will be responsible for ensuring testing can be carried out by an appropriately qualified officer.

Human Resources

4.8. HR will ensure that support is available to employees who declare an issue related to substance misuse. Any such declaration will be confidential and shall not incur disciplinary action.

4.9. HR will support managers in dealing with any issues requiring disciplinary action as a result of substance misuse.

5. Support for Substance Misuse

5.1. It is important to recognise a dependency at the earliest opportunity to enable treatment to be sought and received. Please refer to Appendix 1 for further information on recognising alcohol and drug problems.

Seeking Support

5.2. Individuals are encouraged to voluntarily disclose any issue with substance misuse. Clackmannanshire Council recognises that an addiction may be a health issue. Individuals who voluntarily admit to a dependency problem will be supported through a rehabilitation programme, providing the employee is committed to resolving their dependency.

5.3. All information will be treated confidentially and individuals will be encouraged to seek professional help from their GP and other external organisations.

5.4. Employees may be referred to Occupational Health for assessment and advice including any adjustments to role. In addition, where appropriate, access to counselling may be offered to help employees with the rehabilitation.

5.5. A list of other support sources is available in Appendix 2.

Rehabilitation Monitoring Programme

5.6. A rehabilitation monitoring programme will involve regular discussions between a manager and employee on how the employee's dependency is affecting their ability to carry out their role. This may involve occupational health referrals, regular meetings, additional supervision, temporary adjustments, and an allowance of limited relapses.

5.7. If an employee refuses to participate in a rehabilitation monitoring programme, the matter will be dealt with in accordance with the Council Disciplinary Policy and/or Capability Policy.

6. Alcohol & Drug Testing

6.1 Any employee may be asked to consent to undertaking an alcohol and drugs test, where a manager has reasonable cause to suspect that an employee is under the influence of alcohol or drugs while at work.

6.2 Reasonable cause might include:

- Observation of reduced work performance, personality changes, physical signs such as smelling of alcohol or of other drugs. A Manager's Checklist of indicators that could be symptomatic of impaired fitness for work through alcohol or other substances is provided in Appendix 1.

- An incident or accident in the workplace where a manager has reason to suspect that an employee involved has been under the influence of alcohol or drugs.

- A complaint or whistleblowing disclosure alleging that an employee or group of employees have been under the influence of alcohol or drugs at work.

In each case there must be some indication of impairment in the employee before testing is requested.

6.3 If a line manager has a belief that an employee is under the influence of drugs or alcohol they must contact a member of the Health & Safety Team and a Trade Union representative before taking any action other than the initial step of preventing the employee from driving or operating machinery. The line manager should meet with the employee in a private setting and convey

his/her concerns with a view to establishing whether there is a reasonable explanation for the employee's behaviour. Wherever possible it is recommended that another member of management/supervisory staff is present during this discussion to help validate the manager's suspicion that the employee is under the influence of alcohol or drugs. The employee may be accompanied by a Trade Union Representative or work colleague if available at that time.

- 6.4 Managers should seek immediate advice from the Health & Safety Team who will arrange for an alcohol and drugs test to be carried out if that is deemed to be necessary.
- 6.5 Testing will not be necessary where an employee admits to being under the influence of alcohol or drugs and in these circumstances, the matter will be dealt in accordance with Section 5 of this policy.
- 6.6 A member of the Health & Safety team will normally attend the workplace within 2 hours of being requested to undertake the test. Testing for drugs will be undertaken using fingerprint testing and alcohol testing will be undertaken by breathalyser.
- 6.7 The administering officer will advise the manager of the initial results immediately following the test. If a positive test is identified, the sample taken will have further laboratory tests in a UKAS Accredited facility will provide additional information and confirmation of the initial results within 48 hours.
- 6.8 The line manager should arrange to discuss the results with the employee in the presence of a Human Resources Business Partner. A Trade Union Representative or work colleague may accompany the employee. Where

there is a positive result for which the employee cannot offer a reasonable explanation, the matter will be dealt with in accordance with the council's Disciplinary Procedure. A reasonable explanation could be that the employee has been taking medically prescribed drugs but has underestimated any potential side effects.

- 6.9 If the testing process indicates that the employee may have an alcohol or drug dependency related problem the matter will be managed in accordance with section 5 of this policy.

7. Principles of Testing

7.1 The administering and management of drug and alcohol testing will be underpinned by the following key principles:

- Written consent will be sought on each occasion before an employee is asked to submit to a drug or alcohol test;
- Employees will be advised of the drugs they are being tested for in accordance with the best practice guidance issued by the Information Commissioner's Office, Employment Practices and Data Protection Code;
- Drug and alcohol test results constitute sensitive personal data and must therefore be handled in accordance with data protection requirements. In addition any action taken or support provided to employees is strictly confidential in accordance with the requirements of the General Data Protection Regulations (GDPR);
- Testing will be conducted by a Health & Safety team member who will be responsible for ensuring a tamper proof process, the provision of accurate and

reliable results and for carrying out tests with the least possible intrusion to employees' privacy;

Failure to Consent to Testing

- 7.2 An employee who refuses to give consent to testing without due cause may be subject to investigation under the disciplinary policy.
- 7.3 Where consent is withheld for 'with cause' testing, the circumstances surrounding the decision to invoke the testing process such as observed behaviour, a workplace accident/incident or whistle-blowing complaint will be investigated without the benefit of test results and any disciplinary action will be taken on the basis of reasonable suspicion of wrongdoing.

Action in the Event of Positive Test Result

- 7.4 The action to be taken following a positive test result will depend on the circumstances which will be investigated as part of a disciplinary investigation. It is proposed that a flexible approach which takes account of a range of factors is adopted, providing the ability to apply a stricter sanction where the risk/implications justify a more robust disciplinary response. Therefore, all cases will be considered on their merits taking into account level of risk/potential implications for harm to other parties (including fellow employees, clients and general public), reputational damage and repeated incidences.
- 7.5 Where appropriate the employee will be offered help and support for drug or alcohol dependency but it may also be necessary invoke the Council's disciplinary policy.

- 7.6 Employees taken through disciplinary proceedings following a positive test result will have a right to appeal under the normal provisions of the Disciplinary Policy.

8. Awareness & Communication

- 8.1. All employees will be provided with awareness training in relation to this policy. All employees will be required to sign off that they understand the policy.
- 8.2. All contractors will be made aware of this policy as part of the procurement process.
- 8.3. All employees with line management responsibility will be provided with training to support the implementation of this policy in a fair and consistent manner.

9. Monitoring and Review

- 9.1 This document is subject to monitoring by management and Trade Unions on an ongoing basis. Revisions and updates will be implemented by the Council following consultation with recognised Trade Unions.

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| Policy Name | Drugs & Alcohol |
|-------------|-----------------|

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|--|---|
| Department | Partnership & Performance |
| Policy Lead | H&S Manager |
| Equality Impact Assessment | |
| Has a EQAI been completed | Stage 1 <input type="checkbox"/> Stage 2* <input type="checkbox"/> |
| <p>* In no please provide rationale</p> <p>Policy applies equally to all Council employees and does not negatively impact on any group which falls within any of the 9 protected characteristics</p> | |
| Date Full EQAI complete | |
| Date Approved | |
| Review Date | |

Possible signs of Alcohol or Drug misuse

Signs to look out for include:

- sudden mood changes;
- unusual irritability or aggression;
- a tendency to become confused;
- abnormal fluctuations in concentration and energy;
- physical changes such as dilated pupils, red eyes or instability while standing;
- increased appetite;
- impaired job performance;
- poor time-keeping;
- 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).

Remember: all the signs shown above may be caused by other factors, such as stress, and should be regarded only as indications that an employee *may* be misusing drugs.

Sources of Support for those with Drug or Alcohol Issues

Know The Score. 0800 587 5879 or www.knowthescore.info

Drinkline Scotland 0800 7314 314 or www.drinkaware.co.uk

PAM Assist 0800 882 4102 or www.pamassist.co.uk

Change, Grow, Live

Limetree House, North Castle Street, Alloa, FK10 1EX.

Tel: 0808 1962188 Mon-Fri 9am – 9pm, Sat 9am-1pm

Forth Valley Substance Misuse Service

St Ninians Health Centre, Mayfield Street, Stirling, FK7 0BS

Tel: 01786 468282

Falkirk Community Hospital, Falkirk, FK1 5SU

Tel: 01324 673670

Community Alcohol & Drug Service

Stirling Community Hospital, Livilands Gate, Stirling, FK8 2AU

Tel: 01786 434430

Transform Forth Valley (was Signpost Recovery)

Office 2.6, The E-Centre, Cooperage Business Village, Alloa, FK10 3LP

Tel: 01259 272112

E: info@transformfv.org.uk www.transformfv.org.uk

Other agencies may also exist if the employee lives in a different area. A listing of local services is available on the Know the Score website.

Appendix 3

Alcohol & Drug Testing Process

1. The line manager should in the first instance, meet with the employee in a private setting and convey their concerns with a view to establishing whether there is a reasonable explanation for the employee's behaviour. Wherever possible it is recommended that another member of management or HR staff is present during this discussion to help validate the manager's suspicion that the employee is under the influence of alcohol or drugs. The employee may be accompanied by a Trade Union Representative or work colleague if available at that time. It may be necessary to change an employees work location and/or duties if an employee is suspected of having consumed or be under the influence of alcohol or illegal drugs during working hours until the test is undertaken or where an employee refuses to take a test. In some circumstances the employee may be suspended.
2. Managers should contact the Health & Safety Team immediately on 01259 452225 who will arrange for an alcohol and/or drugs test to be carried out if required. A member of the Health & Safety team will normally attend the workplace within 2 hours of being requested to undertake the test. Testing for drugs will be undertaken using fingerprint testing and alcohol testing will be undertaken by breathalyser.
3. Testing will not be necessary where an employee admits to being under the influence of alcohol or drugs and in these circumstances, the matter will be dealt in accordance with Section 5 of this policy.

4. Prior to any test being administered written consent will always be sought on each occasion before an employee is asked to submit to a drug or alcohol test. Employees will be advised of the drugs they are being tested for in accordance with the best practice guidance issued by the Information Commissioner's Office, Employment Practices and Data Protection Code. As part of the consent process employees will be asked about any medication they are taking.
5. Testing will be conducted by a Health & Safety team member who will be responsible for ensuring a tamper proof process, the provision of accurate and reliable results and for carrying out tests with the least possible intrusion to employees' privacy.
6. The administering officer will advise the manager of the initial results immediately following the test. If a positive test is identified, further laboratory tests in a UKAS Accredited facility will provide additional information and confirmation of the initial results within 48 hours.
7. Drug and alcohol test results constitute sensitive personal data and will be handled in accordance with data protection requirements. In addition any action taken or support provided to employees is strictly confidential in accordance with the requirements of the General Data Protection Regulations (GDPR);
8. The line manager should arrange to discuss the results with the employee in the presence of a HR Business Partner. A Trade Union Representative or work colleague may accompany the employee. Where there is a positive result for which the employee cannot offer a reasonable explanation, the

matter will be dealt with in accordance with the council's Disciplinary Procedure.

9. If the employee declares an alcohol or drug dependency related problem following a positive test result the matter will be managed in accordance with section 5 of this policy.

Equality and Fairer Scotland Impact Assessment - Screening

| | |
|-------------------------|---------------------------|
| Title of Policy: | Drugs & Alcohol Policy |
| Service: | Partnership & Performance |
| Team: | Health & Safety |

| | |
|---|---|
| Will the policy have to go to Council or committee for approval | Yes* Executive H&S Committee not Council Committee |
| Is it a major policy, significantly affecting how functions are delivered? | No |
| Does it relate to functions that previous involvement activities have identified as being important to particular protected groups? | No |
| Does it relate to an area where the Council has set equality outcomes? | No |
| Does it relate to an area where there are known inequalities? | No |
| Does it relate to a policy where there is significant potential for reducing inequalities or improving outcomes? | No |

IF YES TO ANY - Move on to an Equality & Fairer Scotland Assessment

IF NO - Explain why an Equality & Fairer Scotland Assessment is not required

The policy will apply equally to all and monitoring will be undertaken to ensure that different groups are not adversely affected.

APPROVAL

| NAME | DESIGNATION | DATE |
|------|-------------|------|
|------|-------------|------|

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| | | |
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NB This screening exercise is not to be treated as an assessment of impact and therefore does not need to be published. However, if you decide not to assess the impact of any policy, you will have to be able to explain your decision. To do this, you should keep a full record of how you reached your decision.

Equality and Fairer Scotland Impact Assessment - Scoping

| |
|--|
| Purpose of the proposed policy or changes to established policy |
| <p>The policy and procedure aim to provide a framework within which substance misuse problems can be managed in a fair and consistent manner. In addition it aims to promote greater awareness of how alcohol, drugs and substance misuse and/or dependency can be prevented, achieve a balance between employee support and discipline when dealing with incidents of substance misuse or employees who have dependency problems, encourage and support self-referral or intervention at an early stage of dependency; and meet the Council's legal obligation to discharge its duty of care to its employees and clients.</p> <p>The Council's policy is not intended to intrude upon the privacy of its employees, particularly in health matters, where their condition does not affect their conduct or performance. However the Council is concerned where health or behaviour impairs conduct or work performance and impacts on the health and safety of other employees or clients. It is recognised that alcohol, drugs or other substances can be a cause of such impairment, and the aim of this policy is to mitigate the risks associated with this.</p> |
| Which aspects of the policy are particularly relevant to each element of the Council's responsibilities in relation to the General Equality Duty and the Fairer Scotland Duty? |
| General Equality Duty - |
| ➤ Eliminating unlawful discrimination, harassment and victimisation and other prohibited conduct |
| <p>The policy and procedure provides a framework which aims to ensure all employees are treated fairly and consistently in its application. Having a framework to ensure consistency should assist with the removal of potential harassment or victimisation by providing clear guidelines and transparency to processes.</p> |
| ➤ Advancing equality of opportunity between people who share a relevant protected characteristic and those who do not |
| <p>Having due regard for advancing equality involves removing or minimising disadvantages suffered by people due to their protected characteristics. The procedure sets out a clear framework for dealing with suspected incidents of alcohol and drugs misuse whilst encouraging self referral where problems may exist and ensuring relevant support is available.</p> |
| ➤ Fostering good relations between people who share a protected characteristic and those who do not. |
| <p>This element of the Duty is more relevant to the Council's role as a service provider, and there is relatively limited direct relevance to this particular procedure.</p> |
| Fairer Scotland Duty - |
| ➤ Reducing inequalities of outcome caused by socioeconomic disadvantage |
| <p>Alcohol-specific deaths are nearly seven times higher in the most deprived decile compared to the least deprived decile whilst hospital admissions are eight times higher. The disease burden of drug use disorders is seventeen times higher in the most deprived areas compared with the least deprived, whilst 54% of drug-related hospital admissions were patients living in the 20% most deprived areas (Scottish Government).</p> |

A positive outcome of this policy could be the potential to prevent alcohol, drug or substance misuse by early intervention and support. Alcohol and drugs misuse can have significant financial impact on individuals and families, therefore through early intervention this policy could potentially mitigate the associated financial impacts on households.

In addition, increased levels of wellbeing and therefore reduced absence levels reduce potential for formal council processes which could result in employment being concluded. This maintains employability and income.

| To which of the equality groups is the policy relevant? | | |
|--|---|---|
| Protected Characteristic | Y e s/ N o * | Explanation |
| Age | N o | <p>There is a perception that young people are more likely to use drugs and alcohol but it is an issue that impacts upon all age groups.</p> <p>On average, higher-risk drinking causes around 686 hospital admissions and 22 deaths a week. In total, there were over 1,136 alcohol-specific deaths and 1,187 drug-related deaths in Scotland in 2018. Three quarters of the people suffering a drug-related death were over 35 years old, demonstrating a clear trend of an ageing population for which drug use has become more harmful over time.</p> <p>This Policy is consistent in its approach to the management of drug and alcohol related problems regardless of the employee's age.</p> |
| Disability | N o | An employee taking medication for a health condition is protected from unfair treatment under the Equality Act 2010 |
| Gender Reassignment | N o | The findings of a survey from the Transgender Inclusion in Drug and Alcohol Services suggested that trans people in Scotland may use drugs at higher rates than the general population. 67% of respondents had tried drugs, compared to just 23% of the general population. |

| | | |
|--------------------------------|--------|--|
| Marriage and civil partnership | N o | |
| Pregnancy and Maternity | N o | |
| Race | N o | |
| Religion and Belief | N o | |
| Sex | N o | <p>Evidence suggests greater drinking/substance misuse in males than females</p> <p>This Policy is consistent in its approach to the management of drug and alcohol related problems regardless of the employee's sex.</p> |
| Sexual Orientation | N o | <p>Research suggests that LGBTI people are more likely to drink alcohol, and more likely to drink excessively, than the general population (Emslie et al. 2015). Despite limited academic work undertaken on alcohol in the LGBTI community in Scotland, work that has been done has shown that alcohol plays a major role in the social and sexual lives of LGBTI people, was implicated in violence and impaired decision making around sexual risk taking. Gay and bi-sexual men in particular are at higher risk of certain sexually transmitted infections and alcohol use can play a role in this.</p> |

* Delete as required

What evidence is already available about the needs of relevant groups, and where are the gaps in evidence?

The evidence referred to above includes evidence from Scotland's Census Results, the Equality and Human Rights Commission, regional employment patterns, publications on poverty and income inequality, the Scottish Health Survey and statistics published by Police Scotland.

In terms of internal evidence, reference has been made to the most recently published staff equality data.

Gaps remain in our data as there are areas where staff have not answered or have indicated prefer not to say,

Which equality groups and communities might it be helpful to involve in the development of the policy?

The procedure has been developed in consultation with recognised trade unions, along with elected manager representatives who will be involved in the review of the draft policy and procedure at policy group. Discussion will take place at policy group on the content or the policy procedure and suggested amendments/additions will be agreed collectively.

Next steps

The council will take steps to ensure that this procedure is understood and applied fairly by managers.

Briefing sessions and training will be available to managers. In addition, advice, guidance and support will be provided from our Health and Safety staff.

In addition a wellbeing campaign aimed at raising awareness on the impacts of Alcohol and Drugs will be undertaken.

The Council will monitor the implementation of the policy so as to ensure fairness is its application.

Equality and Fairer Scotland Impact Assessment - Decision

| Evidence findings | |
|---|---|
| <p>There are no evidence findings to suggest that any protected group will be impacted more than others through the application of this policy.</p> <p>This new procedure provides a clear framework on its use as well as potential positive impacts in terms of staff wellbeing.</p> | |
| Details of engagement undertaken and feedback received | |
| <p>This Procedure has been developed in consultation with recognised trade unions who, along with Council Management, form the Council's Policy Group. In addition the policy/procedure will be considered by, and approved by, the Councils Executive Health and Safety Committee..</p> | |
| Decision/recommendation | |
| <p>Having considered the potential or actual impacts of this policy, the following decision/recommendation is made:</p> | |
| <u>Tick</u> | <p>Option 1: No major change</p> <p>The assessment demonstrates that the policy is robust. The evidence shows no potential for unlawful discrimination and that all opportunities have been taken to advance equality of opportunity and foster good relations, subject to continuing monitoring and review.</p> |
| ✓ | |
| | <p>Option 2: Adjust the policy – this involves taking steps to remove any barriers, to better advance equality or to foster good relations. It may be possible to remove or change the aspect of the policy that creates any negative or unwanted impact, or to introduce additional measures to reduce or mitigate any potential negative impact.</p> |
| | <p>Option 3: Continue the policy – this means adopting or continuing with the policy, despite the potential for adverse impact. The justification should clearly set out how this decision is compatible with the Council's obligations under the duty.</p> |
| | <p>Option 4: Stop and remove the policy – if there are adverse effects that are not justified and cannot be mitigated, consideration should be given to stopping the policy altogether. If a policy leads to unlawful discrimination it should be removed or changed.</p> |
| Justification for decision | |
| <p>This assessment finds no indication that the procedure will unlawfully discriminate against protected groups, and that a systematic approach has been taken to ensure that the procedure does not discriminate and takes into account the diverse needs and circumstances of individuals. Steps to monitor the equality impact have been agreed, along with practical to promote fair use.</p> | |
| APPROVAL | |

| NAME | DESIGNATION | DATE |
|------|-------------|------|
| | | |