



Bassetlaw
DISTRICT COUNCIL
— North Nottinghamshire —

JOINT EMPLOYEE COUNCIL

AGENDA

Meeting to be held in the
Ceres Suite,
Worksop Town Hall, S80 2AH
on Wednesday, 24th January
2018 at 3.00pm

(Please note time and venue)

**Please turn mobile telephones to silent during meetings.
In case of emergency, Members/officers can be contacted
on the Council's mobile telephone: 07702 670209.**

In accordance with Regulation 4(6) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, audio/visual recording and photography at Council meetings is permitted in accordance with the Council's protocol 'Filming of Public Meetings'.

JOINT EMPLOYEE COUNCIL

Membership 2017/18

Councillors C. Entwistle, J. Evans, M. T. Gray, J. M. Sanger and J. White

Substitute Members: In the event of any member of either side being unable to attend any meeting, another representative may be appointed to attend in his/her place, provided that the substitute is drawn from the same area of representation as the member unable to attend

Quorum: 2 Members

Lead Officer for this Meeting

Karen Childs - Ext. 4123

Administrator for this Meeting

Bethany Pinkney - Ext. 3252

JOINT EMPLOYEE COUNCIL

Wednesday, 24th January 2018

AGENDA

1. APOLOGIES FOR ABSENCE
2. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS * (pages 1 & 2 D
(Members' and Officers' attention is drawn to the attached notes and form)
 - (a) Members
 - (b) Officers
3. MINUTES OF MEETING HELD ON 18TH OCTOBER 2017 * (pages 3 & 4 D
4. MINUTES FOR ACTION * (page 5 FD
5. OUTSTANDING MINUTES LIST * (page 6 HD

SECTION A – ITEMS FOR DISCUSSION IN PUBLIC

Key Decisions

None

Other Decisions

6. REPORT OF THE EMPLOYER'S REPRESENTATIVES *
 - (a) Alcohol and Substance Abuse at Work Policy and Procedure (pages 7 & 8 D

Exempt Information Items

The press and public are likely to be excluded from the meeting during the consideration of the following items in accordance with Section 100A(4) of the Local Government Act 1972.

SECTION B - ITEMS FOR DISCUSSION IN PRIVATE

Key Decisions

None

Other Decisions

7. REPORT(S) OF THE EMPLOYER'S REPRESENTATIVES *
 - (a) Pay and Grading Review (pages 9 & 10 D
 - (b) Review of Agency Workers (pages 11 & 12 FD
8. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS TO BE URGENT

- * Report attached
- + Verbal report

NOTES:

1. The papers enclosed with this Agenda are available in large print if required.
 2. Copies can be requested by contacting us on 01909 533249 or by email:
bethany.pinkney@bassetlaw.gov.uk
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DECLARATION OF INTEREST

COMMITTEE

DATE

NAME OF MEMBER :

Type of Interest

- 1. Disclosable Pecuniary
- 2. Non Pecuniary

Agenda Item No.	REASON *	Type of Interest (1 or 2)
Signed		
Dated		

Note:

* When declaring an interest you must also state the nature of your interest.

Completion of this form is to aid the accurate recording of your interest in the Minutes. The signed form should be provided to the Minuting Clerk at the end of the meeting.

A nil return is not required.

It is still your responsibility to disclose any interests which you may have at the commencement of the meeting and at the commencement of the appropriate Agenda item.

DECLARATION OF INTERESTS

HOW TO USE THIS FORM

There are now only two types of Declaration of Interest:

Disclosable Pecuniary Interests)	Details can be found in the Councillors
)	Code of Conduct which is contained in
Non Pecuniary Interests)	the Council's Constitution (a summary is
)	printed below)

Upon receipt of the attached form you will need to enter the name and date of the Committee and your own name. By looking at the Agenda you will no doubt know immediately which Agenda Items will require you to make a Declaration of Interest.

Fill in the Agenda Item number in the first column of the form.

Enter the subject matter and any explanations you may wish to add in the second column.

In the third column you will need to enter **either** if you are declaring a disclosable pecuniary interest, **or** a non pecuniary interest.

The form must then be signed and dated. Please remember that if during the actual meeting you realise that you need to declare an interest on an additional Agenda Item number please simply amend the form during the meeting.

The form must be handed into the Committee Administrator at the end of the meeting.

NB. The following is a summary prepared to assist Members in deciding at the actual meetings their position on INTERESTS it is not a substitute for studying the full explanation regarding INTERESTS, which is contained in the Council's Constitution and the Code of Conduct for Councillors, which is legally binding.

Members and Officers are welcome to seek, **PREFERABLY WELL IN ADVANCE** of a meeting advice from the Council's Monitoring Officer on INTERESTS.

Disclosable Pecuniary Interests

May relate to employment, office, trade, profession or vocation carried on for profit or gain
May relate to sponsorship
May relate to contracts
May relate to interests in land
May relate to licences to occupy land
May relate to corporate tenancies
May relate to securities

Action to be Taken

Must disclose to the meeting
- existence of the interest
- the nature of the interest
- withdraw from the room
- not seek improperly to influence a decision on the matter

Non Pecuniary Interests

May relate to any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council
May relate to any person from whom you have received a gift or hospitality with an estimated value of at least £25
A Member may also have a non pecuniary interest where a decision in relation to that business might reasonably be regarded as affecting wellbeing or the wellbeing of other council tax payers, or ratepayers or inhabitants in the electoral division or ward, as the case may be, affected by the decision.

Action to be Taken

Must disclose to the meeting
- existence of the interest
- the nature of the interest
- not seek improperly to influence a decision on the matter.

(Note – there are special provisions relating to “Sensitive Interests” which may exclude the above provisions in certain circumstances.)

JOINT EMPLOYEE COUNCIL

Minutes of the Meeting held on Wednesday, 18th October 2017 at Worksop Town Hall

Present:

Employer's Representatives:

Councillors J Evans, M T Gray and J Sanger.

Employee Representatives:

K Circuit (Chair), R Parr and J Whalley.

Officers in attendance: K Childs and B Pinkney.

(Meeting commenced at 3.07pm.)

(The Chair welcomed all to the meeting and read out the Fire Alarm/Evacuation Procedure. He also enquired as to whether any member of the public wished to film/record the meeting or any part thereof; however, there were no members of public present.)

12. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor C Entwistle and employee representative T Walstow.

13. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

(a) Members

There were no declarations by Members.

(b) Officers

There were no declarations of interest by officers.

14. MINUTES OF MEETING HELD ON 12TH JULY 2017

RESOLVED that the Minutes of the meeting held on 12th July 2017 be approved.

15. MINUTES FOR ACTION

RESOLVED that the Minutes for Action be received.

16. OUTSTANDING MINUTES LIST

RESOLVED that the Outstanding Minutes List be received.

SECTION A – ITEMS FOR DISCUSSION IN PUBLIC

Key Decisions

None.

Other Decisions

17. REPORT OF THE EMPLOYER'S REPRESENTATIVES

(a) Alcohol and substance abuse at work policy and procedure

Members were presented with a report that proposes a revised Alcohol and Substance Abuse at Work Policy and Procedure. An updated report was tabled at the meeting.

Members were advised that following a fatal accident injury that was conducted by the Sherriff's Court in Glasgow, into the death of six people who died when a bin lorry mounted a pavement in Glasgow City Centre a number of recommendations were published that identified areas which required consideration, to ensure that organisations operate safe practices in ensuring public safety.

It was noted that this was followed up by specific recommendations made by the Local Government Association to identify as best practise a number of processes and checks.

The Council has been working through the various recommendations in order to ensure that any necessary changes to policies and processes are addressed. As part of this work, the twelve member authorities of Nottinghamshire and Derbyshire Fleet and Transport Managers have worked together to review the recommendations and agree a set of recommendations. One of these was focussed on random alcohol and drugs testing of safety critical staff.

Members were advised that the council has commenced a review of the Alcohol and Substance Abuse at Work Policy and Procedure through the policies working group, which comprises of management and trade union representatives.

Members were advised that random and 'with cause' testing would be undertaken by suitable external providers with controlled processes for testing and handling of results.

RESOLVED that the report and the attached draft be noted, and to carry out a period of consultation with a view to finalising the Alcohol and Substance Abuse at Work Policy and Procedure for agreement at the next JEC.

SECTION B – ITEMS FOR DISCUSSION IN PRIVATE

Key Decisions

None.

Other Decisions

18. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RESOLVED that, in accordance with Part 1 of Schedule 12A of the Local Government Act 1972, and after considering the public interest test as set out by the officer in the body of the report, Members agreed that the following items of business involved the likely

disclosure of exempt information as defined in Paragraph 4, and therefore, in accordance with Section 100A of the Act, the press and public be excluded from the meeting:

Agenda Item No.7(a) – Pay and Grading Review – Paragraph 4
Agenda Item No.7(b) – Review of Agency Workers – Paragraph 4

SECTION B – ITEMS FOR DISCUSSION IN PRIVATE

Key Decisions

None.

Other Decisions

19. REPORT(S) OF THE EMPLOYER'S REPRESENTATIVES

(a) Pay and Grading Review

Members were given an update outlining progress on the Pay and Grading Review. The HR Service Manager advised that the focus has now turned to the pay modelling stage. Members were advised of the next stages of the review.

Members discussed the impact of job evaluation when staff leave and when job duties change.

RESOLVED that the report be noted.

(b) Agency Workers

Members were updated on the use of agency workers and consultants for the period 1st April 2017 to 30th June 2017. The data was appended to the report with a years' worth of data for comparison.

The data was discussed by Employee Representatives and elected Members.

RESOLVED that:

1. The report on the use of agency workers and consultants be noted.
2. In order to seek to reduce the incidence of agency workers, managers be required to complete the quarterly monitoring form and data be reported to the Joint Employee Council.

20. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS TO BE URGENT

As there was no other urgent business to discuss, the Chair thanked everyone for their attendance and closed the meeting.

(Meeting closed at 3.45pm.)

MINUTES FOR ACTION AND IMPLEMENTATION SHEET

JOINT EMPLOYEE COUNCIL

18/10/17

FROM: Democratic Services Officer TO: HRSM = HR Service Manager
(for forwarding to Unit Managers)

The following decisions are brought to your attention for action by the appropriate officers within your Service:

17. REPORT OF THE EMPLOYER'S REPRESENTATIVES

(a) Alcohol and substance abuse at work policy and procedure

RESOLVED that the report and the attached draft be noted, and to carry out a period of consultation with a view to finalising the Alcohol and Substance Abuse at Work Policy and Procedure for agreement at the next JEC.

HRSM

19. REPORT(S) OF THE EMPLOYER'S REPRESENTATIVES

(b) Agency Workers

RESOLVED that:

1. The report on the use of agency workers and consultants be noted.
2. In order to seek to reduce the incidence of agency workers, managers be required to complete the quarterly monitoring form and data be reported to the Joint Employee Council.

HRSM

JOINT EMPLOYEE COUNCIL

24th January 2017

OUTSTANDING MINUTES LIST

Members please note that the updated positions are shown in bold type following each item.
(HRSM= HR Service Manager)

<u>Min. No.</u>	<u>Date</u>	<u>Subject</u>	<u>Decision</u>	<u>Officer Responsible</u>
19(b)	18.10.17	Agency Workers	(2)In order to seek to reduce the incidence of agency workers, managers be required to complete the quarterly monitoring form and data be reported to the Joint Employee Council.	HRSM

See Agenda Item No. 7(b)

BASSETLAW DISTRICT COUNCIL

JOINT EMPLOYEE COUNCIL

24 JANUARY 2018

REPORT OF THE HR SERVICE MANAGER

**ALCOHOL AND SUBSTANCE ABUSE AT WORK
POLICY & PROCEDURE**

Cabinet: Leader of the Council
Contact: Karen Childs
Ext. 4123

1. Public Interest Test

- 1.1 The author of this report has determined in preparing this report that the contents are not of a confidential nature.

2. Purpose of the Report

- 2.1 Following consultation, to propose a revised Alcohol and Substance Abuse at Work Policy and Procedure, which includes random and with cause alcohol and drug testing, for agreement by members of the Joint Employee Council.

3. Background and Discussion

- 3.1 At the October meeting of the Joint Employee Council, a draft policy dealing with the misuse of alcohol and drugs was put forward, to commence consultation. Revisions were proposed in light of the recommendations made following the fatal accident inquiry that was conducted by the Sherriff's Court in Glasgow, into the death of six people who died when a bin lorry mounted a pavement in Glasgow city centre.
- 3.2 As part of this work, the twelve member authorities of Nottinghamshire and Derbyshire Fleet and Transport Managers have worked together to review the recommendations and agree a set of actions and priority areas for implementation or review. One of these was focussed on random alcohol and drugs testing of safety critical staff.
- 3.3 The term 'safety critical' is not directly defined in law. Nevertheless, in common usage it usually means an activity that, if it would go wrong, could put other peoples' lives and/or significant investments at risk. Bassetlaw District Council employs a number of people in safety critical roles which primarily relate to driving duties. As a result of the judgement, it has been identified there is a need to ensure the Council has in place appropriate policy and procedures for alcohol and drug testing for such roles.

3.4 As a consequence the Council has reviewed the Alcohol and Substance Abuse at Work Policy and Procedure through the Policies Working Group, which comprises of management and trade union representatives, and a proposed final version is attached for consideration by members of the JEC.

3.2.5 To summarise, the main purpose of this policy remains the same, which is to:

- Set standards expected by all Council staff and those carrying out work for or on behalf of the Council.
- Promote greater awareness of how alcohol and drugs dependency can be prevented.
- Meet the Council's legal obligation of duty of care for employees and third parties.
- Comply with relevant legislation.

3.2.6 The policy has been updated to:

- Retitle it to Alcohol and Substance Misuse (rather than abuse).
- Include details of the procedure and method of the random and 'with cause' alcohol and drug testing process for individuals in safety critical roles.
- Define which roles are deemed to be safety critical.
- Provide greater clarity on individual roles and responsibilities. This is of particular importance to ensure that testing is managed appropriately and fairly, and that everyone is clear about the process to adopt.
- Ensure that the external sources of help and support set out at the end of the Policy and Procedure are up-to-date.

3.2.7 Random and 'with cause' testing would be undertaken by suitable external providers with controlled processes for testing and handling of results. It is intended that training will be given to supervisors and managers to ensure that the approach to alcohol and drugs testing is fair, consistent and sensitively managed.

3.2.8 A copy of the draft policy and procedure is attached as appendix 1.

4. Implications

a) For service users.

It is extremely important to ensure that service users are not placed at risk due to the abuse of alcohol and or drugs by employee/workers.

b) Strategic & Policy

The revised policy supports the strategic priority: A Resilient Local Authority

c) Financial – Ref: 18-3470

Information provided by prospective suppliers of alcohol and drug testing indicates a cost of £550 per day for up to 20 random tests, with £100 lab fees for non-negative lab testing following the initial test. One-off with cause tests range from £75 to £125 plus the lab fees for non-negative results.

d) Legal - Ref: 213/01/2018

There is no specific regulation about substance abuse and the workplace. However, this issue is covered under general duty of care responsibilities:

- The Authority has a legal obligation to protect the health, safety and welfare of our employees and others who may be affected by our activities, as far as reasonably practicable, under the Health and Safety at Work Act 1974.
- The Misuse of Drugs Act 1971 makes it clear that allowing the production supply or intake of drugs on work premises is a criminal offence. Offences should be reported to the police; failure to do so could mean the Council is liable to prosecution.

The introduction of this policy demonstrates that the legal obligations placed upon the Council have been appropriately considered and measures put in place to ensure they are met.

e) Human Resources

Communication of the policy in an appropriate manner will be important in ensuring staff understand their obligations and responsibilities, and that managers can respond appropriately where staff may have dependency issues.

f) Community Safety, Equal Opportunity, Environmental

The policy is intended to ensure the Council can effectively manage and mitigate against risks that may arise where those delivering Council services may be affected by the consumption of alcohol or alcoholic dependency, the inappropriate, illegal or excessive use of drugs or other substances.

g) This is not a Key Decision.

5. Options, Risks and Reasons for Recommendations

5.1 Option 1

To note the contents of this report and the draft attached, and agree the Alcohol and Substance Misuse Policy and Procedure, for recommendation to Cabinet. This will ensure the Council has appropriate processes in place for dealing with alcohol and drug issues in the workplace.

5.2 **Option 2**

Not to approve the draft Policy and Procedure. There would be a risk that the Council does not have adequate measures in place to address drug and alcohol misuse by staff in safety critical roles.

6. **Recommendation**

To approve Option 1, which is to note the contents of this report and the draft attached, and agree the Alcohol and Substance Misuse Policy and Procedure, for recommendation to Cabinet.

Background Papers

Location

None

Alcohol and Substance Misuse at Work Policy and Procedure

Our Policy

What is this policy about?

Bassetlaw District Council is committed to ensuring the health and safety of its employees, workers, contractors and visitors by having clear procedures in place regarding the misuse of alcohol, drugs and other substances.

Alcohol and drug problems are prevalent in society and are associated with a wide variety of costs for both employers and employees. These costs include ill-health, sickness absence and reduced work performance. The consumption of alcohol and drugs has implications for health and safety at work since these substances impair co-ordination, judgement, decision making leading to an increased risk of accidents occurring.

Who does it apply to?

The policy and procedure apply to all Council employees.

This policy sets out the standard of conduct expected by all Council staff. It is not intended to restrict employees in the general exercise of their civil rights as citizens. However, all those carrying out work for or on behalf of the Council, including volunteers, agency workers, consultants and contractors (who will be subject to the HR policies and procedures of their own employer) are also required to adhere to the principles and rules of the policy. Failure to do so may lead to a withdrawal of work or cessation of any arrangement in place for carrying out work for the Council.

What are the policy intentions?

The Council recognises that the misuse of alcohol and/or drugs and/or other substances are medical and social problems. This policy clearly states the Council's position and management of alcohol, drug and other substance issues within the workplace and endeavors to ensure that advice and help are made available to any employee who feels they have a problem with alcohol and or drug misuse. Individuals are encouraged to voluntarily seek advice, help and assistance before their work performance is affected.

It is intended that the policy will enable the Council to effectively manage and mitigate against risks that may arise where those delivering Council services may be affected by the consumption of alcohol or alcoholic dependency, the inappropriate, illegal or excessive use of drugs or other substances (whether medically or non-

medically prescribed) and the effects of such use, possession and/or dependency.

Key principles

The policy will assist managers with the early identification of alcohol, drug and other substance problems, assistance with the management of potential misuse problems, and provide procedural guidance as to whether they should be dealt with as a management of performance and capability matter or a conduct matter.

The Policy and Procedure aims to ensure that employees are aware of the standards of conduct expected in relation to substance misuse and work and the consequences of being in breach of those standards.

In application of the policy:

- All employees and workers will be treated consistently and fairly in accordance with the policy
- The rules on alcohol and drugs will be strictly enforced.
- Those who admit to having a problem with alcohol shall be offered support by the Council.
- Employees with an illness related to alcohol and/or drugs are encouraged to disclose this at the earliest opportunity to ensure support and help with treatment.
- All matters concerning alcohol and or drugs shall be treated as confidential

The policy aims therefore to:

- Promote greater awareness of how alcohol and drugs dependency can be prevented
- Meet the legal obligation of duty of care for employees and third parties on the Council's premises
- Comply with relevant legislation

Guidance from the ACAS Code of Practice (Health, Work and Wellbeing), as well as best practice and legislation has been taken into consideration with the formulation of the policy and procedure.

Policy rules

The Council's policy is that during working hours and at times whilst on work premises employees, workers, consultants and contractors must be free from the influence of alcohol and drugs. This will help to ensure the health and safety of employees and others with whom they come into contact, to maintain the efficient and effective operations of the service, and to ensure customers receive the service they require.

For those reasons the following rules will be strictly enforced.

No employee, worker or contractor shall:

- Report or try to report to work when unfit* due to alcohol or drugs (whether illegal or not) or to substance abuse;
- Be in the possession of or consume alcohol or illegal drugs (as defined by the Misuse of Drugs Act) in the workplace;
- Supply others with illegal drugs (as defined by the Misuse of Drugs Act) in the workplace;

* Whether an employee, worker or contractor is fit for work is a matter for the reasonable opinion of management.

In addition, employees, workers, consultants or contractors must:

- Ensure they are aware of the side effects of any prescription drugs;
- Advise their line manager or Head of service immediately of any side effects of prescription or other legal drugs, which may affect work performance or the health and safety of themselves or others. It should be noted that legal drugs such as pain killers, analgesics and sleeping tablets can also have a impact on performance and sensory reactions.

Breach of these rules by employees may lead to disciplinary action, which could include dismissal. In the case of agency workers, consultants or contractors, services may be terminated immediately.

In addition, possession/use of or dealing in illegal drugs on Council premises will normally be reported to the Police.

What is substance abuse?

Substance abuse can best be defined as the 'problematic use of alcohol, drugs and other substances' Problematic use covers three main areas:

- inappropriate use where taking substances may aggravate an existing condition or situation they were intended to alleviate

- habitual usage where an individual becomes so dependent on the effects of a drug (including alcohol) the desire for these effects becomes a central and overriding concern of daily life and has adverse occupational and social consequences
- excessive use which may lead to physical and psychological illness and could be fatal

Education

The Council is committed to promoting healthy lifestyles to employees via the Health and Wellbeing programme. Alcohol and drug issues will be incorporated into the staff health programme and employees will be provided with information on the current health guidance in relation to safe and sensible drinking and the risks associated with using drugs.

This policy will be sent to all staff on launch and will therefore be held on the staff intranet website. New staff will be made aware of this policy at induction and will be sent copies with their contract of employment.

Managers' responsibilities

Monitoring of absence or accident rates is part of normal managerial responsibility. Managers should be aware that increases might be linked to a dependency problem.

If an employee's appearance or conduct deteriorates without any obvious reason, the manager should talk about the change with the person. If the reasons for the decline are still unclear following such discussion and alcohol or substance misuse is suspected, then at the request of a manager, Human Resources will make an appointment with the Council's Occupational Health Service for the employee. The manager should advise the employee of the reason for the referral. The role of the Occupational Health Service in this context would be to support the employee in a confidential manner and to give advice to the Council as to the management of the situation.

Admission of a drink or drug dependency problem may be difficult for an individual to make and such a disclosure should be treated as strictly confidential, subject to the provisions of the law. However, if the manager believes that the law has been broken at work or that serious harm may result to the individual, or another person, advice on action to be taken should immediately be sought from Human Resources.

The manager should offer reasonable support, this includes treating absence for treatment and rehabilitation as normal sickness and recognising that relapses may occur.

If admission of a dependency is made but this is not linked to commitment to treatment then it should be made clear that if help is refused and there is under-performance or misconduct in the future, there is a risk that disciplinary or capability procedures may be invoked.

Employees' responsibilities

It is the responsibility of employees (and workers, consultants and contractors) to ensure that their performance at work is not affected by alcohol consumption or substance misuse.

Employees need to be aware of their responsibility to ensure drink-related unacceptable conduct does not happen, by ensuring that excessive consumption of alcohol does not occur at Council arranged informal or formal events.

Behaviour at work parties and other social events linked to work should remain acceptable and care should be taken to prevent any negative impact on working relationships and the Council's reputation with outside contacts. Conduct, e.g. sexual harassment deemed unacceptable on the Council's premises or in work time is also not acceptable elsewhere including at social events and may be addressed under the Council's Disciplinary Policy and Procedure.

Employees undertaking safety critical activities (see below) should not consume alcohol in the course of the working day and should ensure that their performance is not impaired by alcohol consumed prior to starting work.

Employees are asked to co-operate with voluntary random testing, if asked to do so, to ensure and promote a safe working environment.

Colleagues' responsibilities

An employee who suspects or is aware that a colleague, employed in a safety-critical job, is under the influence of alcohol or drugs **must** inform their manager and/or Human Resources. If the colleague is not in their Service area, then HR must be informed. Concealment may not be in the best interest of either that colleague or others and could lead to a breach of the Health and Safety regulations.

An employee who suspects or is aware that a colleague, **not** employed in a safety-critical job, is under the influence of alcohol or drugs should consider informing their manager and/or Human Resources in order for appropriate action to be taken. This could include monitoring the situation, informal or formal discussions, referral to the Occupational Health Unit etc.

Safety critical activities

The term safety critical is not directly defined in law. Nevertheless, in common usage it usually means an activity that, if it would go wrong, could put other peoples' lives and/or significant investments at risk. See **appendix 1** for list of safety critical roles.

The Health & Safety Executive give examples of activities defined as "safety critical" including using heavy machinery, electrical equipment, ladders or driving in the course of their work.

Role of Human Resources

The role of the Human Resources Unit is to provide policy and procedural advice, support and guidance to managers and staff and it is advisable to seek advice at an early stage. Human Resources will liaise with other parties such as Occupational Health. Information given will be treated in strictest confidence unless criminal acts have taken place or health and safety has, or is likely to be put seriously at risk. If it is judged that such information cannot remain in confidence, then the person who disclosed the information will be advised that this is the case.

Procedure

If a manager suspects that an employee reporting for duty, or on duty, is not fit for work (e.g.) adversely affected by drink or drugs to such an extent that it:

- (a) affects their work performance, or
- (b) would result in breaking the law, or
- (c) would put themselves, their work colleagues or the public at risk, or
- (d) would cause an adverse customer reaction

Then that manager, after discussion with the employee and HR, may take immediate appropriate action. This may include:

- (a) referring the employee for a compulsory alcohol/drug test. If the employee has a safety critical role the line manager **must, before allowing them to undertake safety-critical duties**, refer the employee for a compulsory alcohol/drug (urine) test to establish whether the employee would be exceeding the legal limit/be under the influence of drugs.
- (b) remove the employee from the workplace for a reasonable period.

A manager who has reasonable evidence to support the view that an employee for whom they have responsibility may have a substance misuse-related problem, which is affecting his/her work performance or attendance at work should arrange to discuss this with the person concerned. The purpose of this discussion is not for the manager to 'diagnose a substance misuse-related problem', but to raise with the employee concerns regarding his/her work performance.

If the employee does not wish the matter to be considered under the Council's Substance Misuse Policy it will be dealt with under the appropriate procedure, i.e. Disciplinary, Capability or Managing Attendance.

If the employee accepts that there may be aspects of his or her performances that are substance related the manager will offer assistance.

In the case of employees who are medically certified as having a substance misuse-related problem and who self-refer for a course of treatment to resolve this problem, the Council will consider holding in abeyance any action under the Council's disciplinary, capability or managing attendance procedures, pending the outcome of the referral programme. Performance will continue to be monitored during this period. If as a result of the referral programme, the employee is within a reasonable timeframe able to sustain a return to working at an acceptable level of performance/attendance, this will be taken into account in determining the outcome of any disciplinary, capability or managing attendance pending actions. The period of sustained evidence of a successful outcome of the referral programme will normally be two years.

Employees who return to working at an acceptable standard but whose performance/attendance again deteriorates as a result of substance misuse related problems may, if appropriate, be given a further opportunity under the referral procedures. However, the opportunities to deal with problems created by substance misuses under the referral procedures will not be unlimited. If an employee appears incapable of dealing with the problem, the Council will take steps to terminate the employment on the grounds of capability, incapacity due to ill health and/or conduct.

Help and support

There is no obligation on an individual with a dependency problem to inform their manager. However, staff are strongly advised to do so if the problem is affecting work performance or conduct.

The Council will endeavour to ensure that advice and help are made available to any employee who feels they have a problem with alcohol or drug misuse. Employees with a dependency are encouraged in the first instance to seek help from their General Practitioner or make contact with the Councils Free Counselling Service providers or a specialist organisation (**appendix 2**) on an informal and confidential basis.

A referral can be made to the Authority's Occupational Health service to ensure that the Council receives appropriate advice on an employee's condition and implications for their work and performance. This will ensure that support may then be given at an early as possible stage of the dependency and help given to enable employees to attend therapy or follow a treatment schedule. The aim will be to maximise recovery with minimum disruption to work.

Any employee who seeks assistance from the authority in finding treatment for alcohol, drugs or substance misuse will have the Council's complete assurance of confidentiality.

With-cause alcohol and drug (compulsory) testing

Employees will be tested for alcohol and drugs in all cases where he/she has had any involvement in a workplace accident or in any accident that has caused or could have caused a danger to health or safety. Compulsory testing will also be carried out where managers have grounds to believe or suspect that the employee in a safety-critical role who has reported for work or during the course of their work is or may be under the influence of alcohol or drugs.

An employee, who unreasonably refuses to submit to a with cause alcohol and drug test will be subject to disciplinary action.

Random alcohol and drug testing

Random, voluntary alcohol and drug testing will be carried out on members of staff who work in safety-critical jobs, including those (working with machinery/whose job duties involve driving/whose job involves responsibility for the care of others).

Actions after a positive test

If a test proves positive, the matter will be taken forward under the Council's disciplinary policy & procedure. Following an investigation, the employee will be invited to a formal meeting, with a senior manager. The employee will have the right to be accompanied by a colleague or trade union representative at this meeting.

The outcome of the meeting will depend on the circumstances but could include:

- an offer for the employee to undergo a programme of medical treatment, rehabilitation or counselling, where the employee accepts that s/he has a problem with alcohol or drug misuse and is willing to co-operate with the Council in the provision of such support;
- disciplinary action short of dismissal, in which case the employee will be tested regularly to ensure no repetition
- dismissal, where the effects of employee's alcohol or drug taking are or could be serious, for example if the employee works in a safety-critical job and his/her use of alcohol or drugs could affect performance, or where a previous alcohol and drug test within the previous (two years) has produced a positive result.

Carrying out tests

Employees should note that a request for an employee to undergo voluntary alcohol and drug testing does not indicate that he/she is under suspicion of wrongdoing. This is strictly voluntary, and if an employee refuses to have the test, no action will be taken. However, if there are concerns about the behaviour or conduct of an individual, compulsory testing may be introduced.

Alcohol and drug testing will be carried out only by qualified and competent personnel from an external registered and certified organisation, who will use accepted and reliable methods and ensure that tests are carried out with the least possible intrusion into employees' privacy. Testing will be carried out in a suitable location with both private rooms and toilet facilities. All possible measures will be in place to ensure confidentiality of test results, and checks will take place to avoid any false results.

If a negative result is returned the sample will be destroyed within 7 days.

Test results will normally be sent to Human Resources within 24 - 48 hours. At this stage it will only indicate a negative or positive result, if the result, is positive further testing will be required to determine the type of drug and also the level of the alcohol/drug present, this will take up to 5 working days

Once the detailed analysis is complete and the results are made available to Human Resources, managers will then discuss the results with the employee and take appropriate actions.

Complaints

If an employee wishes to raise a complaint about the way an alcohol and/or drug test has been conducted, they should raise their concerns in writing to their line manager. The complaint will be investigated in line with the Council's Grievance Policy and Procedure.

Equality issues

In accordance with Bassetlaw District Council's equal opportunities and dignity at work policies, the authority will take steps to ensure this policy is not used in a discriminatory manner against any employees and that no individual is unfairly targeted. The Council will also take steps to ensure that employees' dignity is respected at all times.

The Council will ensure that testing (compulsory and voluntary) is a proportionate requirement and keep in mind the purpose which is to ensure workplace safety and safeguard service users and other people who come into contact with those delivering the Council's services.

Legal Position

There is no specific regulation about substance abuse and the workplace. However, this issue is covered under general duty of care responsibilities as outlined below:

- The Health and Safety at Work Act 1974 imposes a duty of care on the Council as an employer to protect the health, safety and welfare of our

employees and others who may be affected by our activities, as far as reasonably practicable.

- There is also a common-law duty of care to ensure that third parties, e.g. visitors or contractors, are not exposed to health and safety risks because of drug or alcohol-related neglect or misconduct.
- The Management of Health and Safety at Work Regulations 1999 requires the Council to carry out risks assessment to identify hazards in the workplace and put measures in place to minimise these risks. Knowingly allowing an employee under the influence of substance misuse to continue working could lead to prosecution against the Council, if their behaviour or negligence puts them or others at risk. Individual contracts of employment, by implication, oblige the Council to take reasonable care of employees' health and safety.
- The Equality Act 2010 specifically states that addiction to or dependency on alcohol or any other substance (unless resulting from the substance being medically prescribed) does not count as impairment under the Act, although a disability caused by such a dependency could be recognised.
- The Misuse of Drugs Act 1971 makes it clear that allowing the production, supply or intake of drugs on work premises is a criminal offence. Offences should be reported to the police, failure to do so could mean that the Council is liable to prosecution.

Under this act drugs are classified according to their perceived danger:

- Class A drugs include – ecstasy, cocaine, heroin, LSD, mescaline, methadone, morphine, opium and injectable forms of class B drugs.
- Class B drugs include – cannabis, cannabis resin, oral preparations of amphetamines, barbiturates, codeine and methaqualone (Mandrax)
- Class C drugs include – cannabis, cannabis resin, most benzodiazepine (for example, Temazepam, valium), other less harmful drugs of the amphetamine group, and anabolic steroids.
- The Road Traffic Act 1988 specifically 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.
- The Human Rights Act 1998, article 8 of the European Conventions on Human Rights, provide employees with the right to privacy. However, this right may be legitimately restricted in certain circumstances, such as Safety at work.

The Council will take account of the requirements placed upon it by the above legislation when taking any action in relation to the misuse of drugs or alcohol.

The 'small print'

Legal and General points:

- Nothing in this policy will override related prevailing legislation and/or regulations,
- This policy and procedure is written in compliance with current relevant legislation/regulations
- This Policy and Procedure over rides any earlier dates versions, in respect of dealing with new cases/issues arising post-implementation date.
- This Policy and Procedure is regarded as a non-contractual document.
- This policy and procedure will be periodically monitored and reviewed and may be subject to future amendments.
- Appendices 1 & 2 will be reviewed as and when necessary to ensure the information is up to date.

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Roles considered to be safety critical for the purpose of this Policy

The following roles are deemed to be safety critical by reference to the definition included in this policy.

- Grounds Maintenance staff including seasonal staff
- Vehicle Maintenance staff and supervisors
- Mechanical Street Sweepers
- Refuse and Street cleaning supervisors who routinely drive in the course of their duties
- Refuse Drivers and Relief Drivers
- Facilities Officers/senior caretakers who routinely drive in the course of their duties
- Skip Driver
- Street Cleaning Operative/drivers
- Market staff who routinely drive a tractor or other vehicle in the course of their duties

This list will be regularly reviewed and updated to ensure it is accurate.

DETAILS OF LOCAL SUPPORT SERVICES

Alcoholics Anonymous

Telephone No.: 0800 9177 650 (24hr freephone)

Email: help@aamail.org.uk

Live chat via website: www.alcoholics-anonymous.org.uk

Nottinghamshire

New Directions CGL - (Operates from four recovery centres in Mansfield, Hucknall, Worksop and Newark, as well as over 30 outreach locations)

Ground Floor

Crown House

Newcastle Avenue

Worksop

Nottinghamshire

S80 1ET

Telephone No.: 0115 896 0798

Email: notts@cgl.org.uk

Hetty's – Support for parents, carers and families

Marlborough House,

23 Woodhouse Road,

Mansfield, Nottinghamshire

NG18 2AF

Telephone No.: 0800 085 0941 (freephone)

Mobile No.: 07896 228547 (text helpline)

Email: info@hettys.org.uk

Nottingham Recovery Network

Telephone No.: 0800 066 5362 (freephone)

North Notts Community Drugs Service

The Maltings

Dame Flogan Street

Mansfield

Nottinghamshire

NG18 1DJ

Telephone No.: 01623 620121

Derbyshire

Derbyshire Healthcare – NHS Foundation Trust

St Andrews House
201 London Road
Derby DE1 2TZ

Telephone No.: 0300 790 0265

Talk to Frank

Telephone No.: 0300 123 6600 (24hr freephone)
Email: frank@talktofrank.com

Growing Recovery in Derbyshire (GRID)

Email: info@growingrecoveryinderbyshire.co.uk

Derbyshire Recovery Partnership

Telephone No.: [0845 308 4010](tel:08453084010) or [0124 620 6514](tel:01246206514)
Email: info@derbyshirerecoverypartnership.co.uk

Lincolnshire

Addaction Lincolnshire – Lincoln hub

26-30 Newland
Lincoln
Lincolnshire
LN11XG

Telephone No.: [0800 304 7021](tel:08003047021) (24hr freephone)

Breaking the Cycle – Lincoln

Telephone No.: 0800 3047021 (24hr freephone)

Young Addaction Lincolnshire

The New Avenue,
26-30 Newland
Lincoln
LN1 1XG

Telephone No.: 0800 304 7021 (24 hour freephone)

South Yorkshire

Addaction Sheffield – DIP Service

42 Sidney Street
Sheffield
South Yorkshire
S1 4RH

Telephone No.: 0144 253 6830
Email: infor@addaction.org.uk

Drink Wise Age Well - Sheffield

Suite B, 4th Floor,
Furnival House, 48 Furnival Gate,
Sheffield
S1 4QP

Telephone No.: 0800 032 3723

Sheffield Alcohol Support Service

646 Abbeydale Road
Sheffield
South Yorkshire
S7 2BB

Telephone No.: 0114 258 7553

Substance Misuse Service – Sheffield Health and Social Care NHS Foundation Trust

44 Sidney Street, (Matilda Street entrance),
Sheffield
South Yorkshire
S1 4RH
Telephone No.: 0114 3050500

Advice/Support is also available from: -

**Human Resources Unit
Bassetlaw District Council
Queens Building
Potter Street
Worksop
Nottinghamshire
S80 2AH
Telephone No.: 01909 53 3121
Email: HumanResources@bassetlaw.gov.uk**

