



ORKNEY
ISLANDS COUNCIL

SUBSTANCE MISUSE

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1 POLICY STATEMENT

- 1.1 Alcohol and drug misuse and dependency can affect performance, behaviour and relationships at work and at home as well as the employee's health. Orkney Islands Council is committed to ensuring the overall health, safety and welfare at work of its staff and regards action in relation to difficulties with staff over substance misuse and dependency as an integral part of this duty.
- 1.2 The term substance misuse, which can be defined as the problematic use of alcohol, drugs and other substances, will be used throughout the policy unless there are specific actions and provisions relating to alcohol, the use of illegal drugs and the misuse of other substances, including prescribed drugs. (Further information is contained in the Substance Misuse Guidelines and Support document).
- 1.3 Use of substances is a personal matter which only concerns Orkney Islands Council if it has a bearing on the employee's performance, conduct or health. The aim of this policy is to motivate employees whose activities are causing issues at the workplace, to accept the appropriate counselling and treatment by identifying them at an early stage and providing the correct atmosphere to assist their full recovery, including complete confidentiality.
- 1.4 There are two aspects to this policy. The Council recognises that substance misuse and dependency may be a health related or a social issue, requiring specialist help and therefore the first area of this policy relates to the treatment and management of employees who may be dependent. Linked to this is the need to educate and raise awareness of the whole issue. The second relates to the possession and use of drugs and alcohol, on any of Orkney Islands Council's premises and their effects while at work. This, if proven, is regarded as misconduct and indeed the possession and use of illegal drugs is a criminal offence and as such should be reported to the police. Whilst support and encouragement to seek help are the keystones of the policy, the disciplinary procedure will be used for people found in possession of drugs at work, or whose ability to work is adversely affected by alcohol or drugs and who refuse assistance. In this latter case, the refusal should be explored and the offer of assistance reinforced, with emphasis on confidentiality of approach.
- 1.5 By consulting with staff through a partnership approach alongside the Trade Unions, the Council's policy is intended to recognise and manage substance misuse amongst its employees.
- 1.6 All managers and supervisors must consult Human Resources for information and advice on actions to take concerning employees whom they think may have an alcohol or substance misuse issue that may be contributing to impaired performance, sickness absence or an increased safety risk as well as on the disciplinary issues.

2 PRINCIPLES

- 2.1 The policy applies to all employees of Orkney Islands Council and to contractors and volunteers working for the Council and on all premises owned or occupied by the Council.
- 2.2 Orkney Islands Council employees are expected to behave responsibly at all times and to safeguard their own health & safety and that of those around them. It is the responsibility of employees to observe the policy towards substance misuse and in particular to ensure that they are free from the effects of alcohol and other substances at work.
- 2.3 The key aims of this policy are:
- To create a climate which encourages trust, openness, and honesty so that substance misuse issues can be effectively managed through following a clear procedure.
 - To help prevent substance misuse and to ensure that any employee identified as having dependency issues will be offered advice, support and any other appropriate assistance.
 - To define what action may be taken in the event of an employee being in possession of and/or using of illegal substances on Council premises.
 - To provide guidance for all staff on how to manage a situation in which an employee is believed to be under the influence of alcohol or drugs at work.
- 2.4 Employees must not consume alcohol or drugs (other than appropriate use of prescribed drugs and proprietary medicines) in the course of the working day or shift, including paid or unpaid breaks and should ensure that their performance is not impaired by alcohol consumed prior to starting work.
- 2.5 The Council recognises that misuse of certain substances has physical and mental symptoms which may manifest in misconduct, poor performance and ill-health. Absence from work on sick leave may therefore be necessary where an employee is referred for treatment to a specialist agency.
- 2.6 If poor performance or misconduct is considered to result from misuse of substances and the employee undertakes a course of treatment they will retain all rights to sick leave and sick pay, subject to 1.2.9 below.
- 2.7 An employee's initial voluntary decision to seek assistance with this condition will in no way affect their security of employment; subject to 1.2.9 below.
- 2.8 Strict confidentiality will be maintained throughout the period where an employee is seeking help. Any sharing of information between the Occupational Health Provider and external agencies will only take place with the employee's express consent.

- 2.9 By the very nature of the condition, people trying to cope with misuse of substances can, on occasions, suffer a relapse. If such a relapse affects their performance or conduct, the position will be sympathetically reviewed in the light of all the circumstances and the decision about whether to continue supporting the employee or to take disciplinary action will be taken after receiving the professional advice from Occupational Health. Human Resources will be involved in all cases other than voluntary referrals where they will be available to assist if required by either the manager or the individual employee
- 2.10 Employees who are considered to be under the influence of alcohol or drugs at work will be removed from their duties until they are in a condition to be sent home. Work time lost will not be paid.
- 2.11 This policy is intended to help those with an alcohol and drug related issue to be restored to health as quickly as practicable, to the benefit of themselves, their colleagues and the Council, and to return to an acceptable pattern of working.
- 2.12 Possession of controlled substances at work is illegal and as such will be regarded as gross misconduct.

3 SEA GOING EMPLOYEES

- 3.1 The main substance misuse policy and procedure applies to all employees. In addition to this policy paragraph 1.3 applies specifically to all sea going employees and those involved in marine operations, employed by the Council, Orkney Ferries and Orkney Towage Ltd.
- 3.2 All employees, whether permanent; temporary; fixed term; part-time; or seasonal are expected to comply with the Substance Misuse Policy including any supplementary guidelines or requirements when on the Company's ships, premises or property.
- 3.3 Because of the nature of the business and the possibility of an emergency arising at any time, employees are required to conduct themselves sensibly and to be alert at all times. For this reason, the Council also operates a supplementary additional Alcohol and Drugs policy for sea going employees and those involved in marine operations whereby an employee commits an offence if he or she is under the influence of alcohol or drugs whilst at work or on a tour of duty, or reporting to work or a tour of duty.
- 3.4 No sea going employees or those involved in marine operations shall drink alcohol or take non-medical drugs prior to work or during work.
- 3.5 The Council reserves the right to test any sea going employee or those involved in marine operations for alcohol or drugs. Such tests may take place at any time while the employee is at work and/or during medical examination.
- A breathalyser will be available;

- Where an individual is considered to be under the influence of alcohol in breach of the above policy, he will be so advised and given the opportunity to take an immediate breathalyser test;
 - In the event that a breathalyser is not available immediately or if the individual refuses to take a breathalyser test then it will remain a matter of judgement as to whether or not the individual is under the influence of alcohol;
 - Refusal to take or co-operate in a breathalyser test may be taken into account when forming a judgement as to whether or not the individual is under the influence of alcohol.
- 3.6 Sea going employees and those involved in marine operations must not be involved with drugs or engage in drug misuse (including possession) or in trafficking or dealing in drugs, when onboard or ashore and whether or not at work.
- 3.7 Under the influence of alcohol shall be deemed to mean that the proportion of alcohol in his or her breath exceeds the prescribed limits set down in the current Road Traffic Act 1988 and outlined in the Railways and Transport Safety Act 2003.
- 3.8 Any employee found contravening these directives would be deemed as having committed an act of gross misconduct, which may lead to summary suspension or dismissal.
- 3.8 No employee may consume alcohol on any Vessel or shore premises when on duty or during working hours without prior permission from the Head of Service, Transportation and Amenities.

4 ALCOHOL AT WORK

- 4.1 It is recognised that there will be occasions (e.g. staff leaving, Christmas) when it may be considered appropriate to relax the normal rule about drinking alcohol at the workplace. This may happen but only when authorised by the Head of Service. Such occasions must be organised with respect to time of day, staff rotas and sensitivity to members of the public.
- 4.2 If alcohol consumption is authorised by a Head of Service, those responsible for organising the event should ensure that non alcohol or low alcohol drinks will also be made available and a sensible limit should be placed on the amount of alcohol available. Employees should never consume more than a reasonable amount and excessive drinking at these functions is unacceptable.
- 4.3 All employees are expected to exercise responsibility for their own behaviour and level of consumption of alcohol during any attendance at work functions.
- 4.4 Incidents or inappropriate behaviour resulting from over consumption of alcohol at Council organised functions, even if outside normal working hours, are likely to be regarded as happening “in the course of employment”, and could therefore result in disciplinary action.

5 COMMUNICATING THE POLICY

- 5.1 Managers will ensure that the provisions of this policy and the accompanying procedures are made known to all employees. It will be placed on the Intranet and will form part of induction for all new employees.
- 5.2 Heads of Services will ensure that their managers are fully aware of their responsibilities in the management of substance misuse and the role they are required to play in the application of the procedures.
- 5.3 The policy and any future changes will be communicated to all employees in order to maintain awareness and to maintain support
- 5.4 The policy and procedure will be reviewed by Human Resources, every three years in consultation with the Trade Unions to ensure its compatibility with current legislation, healthy working lives initiatives and recognised best practice.

6 IMPLEMENTATION OF THE POLICY

- 6.1 Overall responsibility for the implementation of the policy lies with the Chief Executive although day-to-day responsibility will be with Heads of Services.
- 6.2 All managers and supervisors should consult Human Resources for information and advice on actions to take concerning any employee whom they think may have an alcohol, drugs or other substance misuse related issue (henceforth substance misuse is applied to all aspects).
- 6.3 Every employee will be given a copy of the substance misuse policy statement and it will form part of the induction of new employees.
- 6.4 Employees who are concerned about possible substance misuse difficulties should be able to discuss their concerns with their line manager, Head of Service or if appropriate a Member of Human Resources in confidence.
- 6.5 Information on drugs and alcohol misuse and local support services are available to all staff through Customers Services in the One Stop Shop, School Place.

7 CONFIDENTIALITY

- 7.1 Any case that involves substance misuse will be dealt with in strict confidence. Particular care will be taken by anybody involved in the case to ensure that the confidential nature of any discussion with an employee as well as any outcomes, including personal records, will be strictly preserved.
- 7.2 If an employee acknowledges a substance misuse or dependency difficulty and decides to seek counselling, therapy or other treatment with a suitable agency, Orkney Islands Council accepts that all records of that treatment will remain confidential. There will be no discussion with any agency about the employee without the employee's explicit permission.

- 7.3 At every stage of the procedure, confidentiality is paramount with information sharing restricted to those that need to know, in consultation with whom the information pertains.

8 PROCEDURE FOR MANAGING INDIVIDUAL CASES

- 8.1 The earlier a difficulty with substance misuse is identified the greater the success of any intervention. Listed below are possible indicators that an employee may have an issue with substance misuse or dependency:

- absenteeism – unauthorised absences, increased taking of sick leave, lateness, leaving early or frequent periods of unexplained absence during work hours
- increased incidence of accidents inside and outside of work
- low performance standards, unreliability, impaired concentration, memory and judgement
- interpersonal issues, irritability, paranoia, erratic or unacceptable behaviour
- deterioration of working relations
- physical issues, lack of concern for personal appearance and hygiene, flushed face, hand tremors, runny nose, dilated pupils and smell of alcohol.

Some of these may be obvious at certain points of the week, such as after lunchtime or Monday mornings. Other signs that can indicate substance misuse are the onset of financial difficulties, domestic difficulties or a change in appearance. However side effects from prescribed medication and certain medical conditions can produce similar effects and care should be taken not to jump to conclusions. Equally people with dependency issues will find ways to mask any effects and similarly, assumptions should not be made.

- 8.2 Staff who suspect that a colleague or a member of staff has an issue should encourage them to seek help.
- 8.3 If a manager becomes aware or has grounds to believe that an employee has a substance misuse related issue which affects their work, conduct or colleagues in any way, a confidential discussion with the employee, should be offered at an early opportunity. During the meeting the manager should discuss the concerns with the employee and identify the specific work matters without passing comment or judgement but should seek to identify whether the employee wishes to recognise an issue with dependency that relates to their current behaviour or if there are other causes. In all cases advice should be sought from Human Resources and the employee should be given the right to be accompanied by a trade union representative and colleague.
- 8.4 If in the course of the discussion, the employee acknowledges that he/she may have an issue, advice and guidance should be sought from Human Resources to arrange a referral for the employee to the Council's Occupational Health Service. If the offer is refused or the employee does not acknowledge the possible existence of substance misuse, the manager should make it clear that there are

concerns about the employee's work/ conduct and that in the absence of any other explanation he/she would have recourse to the disciplinary procedure

- 8.5 The Occupational Health Adviser will advise Human Resources and the employee's line manager on whether the employee has a dependency related issue and, where this is the case, what support would be appropriate. (See separate "Guidance notes on Substance Misuse" for local support agencies)
- 8.6 If attendance at counselling or other forms of support are recommended, these will be treated in the same way as hospital/doctor appointments where these necessarily occur in work time. Attendance for longer term treatment will be regarded as sickness absence.
- 8.7 There may be a requirement because of the specific nature of the employee's duties, for temporary re-deployment to other duties or a different location, in order to protect the employee, other members of staff and/or the public. If this is not feasible then consideration may be given to a period of special leave. This decision would be based on the manager's risk assessment, in consultation with the Health and Safety Advisor and Human Resources. During this period the employee shall receive their normal salary subject to full co-operation with the support programme.
- 8.8 The line manager and employee will meet regularly to monitor progress, including any information provided by the Occupational Health Adviser. These reviews should continue until the Council is satisfied, taking account of the advice from the Occupational Health Adviser, that the employee has successfully completed the prescribed course of treatment.
- 8.9 If an employee has a relapse during and/or after completing a course of treatment and the level of performance has again become impaired the situation will be re-assessed and a further opportunity to receive help/treatment may be given but see 2.4.1 below.
- 8.10 Where, following advice from the Occupational Health Adviser, a permanent redeployment is necessary, the employee shall be paid in accordance with the terms and conditions of service associated with the post to which he/she is redeployed.

9 REFERRAL OPTIONS

- 9.1 The existence of a substance misuse issue may come to light in one of several ways and which ever approach is taken, the employee should understand that if he/she fails to comply with the assistance and treatment without good cause, the support will be withdrawn and disciplinary action may be taken if warranted by the individual circumstances.

9.2 Voluntary Referral - Employee directly approaches supporting agency

Where an employee makes a direct approach for help, Orkney Islands Council will normally be unaware of the position unless a request for support, including

time off, is received. If an approach is made to the manager requesting support then Human Resources should be notified whilst maintaining confidentiality.

9.3 Voluntary Referral - Directly through Orkney Islands Council

Where an employee asks the Council for help or following discussion recognises an issue and seeks assistance, the following guidance will apply:

- The employee may contact the line manager and/or Human Resources.
- The line manager and/or Human Resources will meet the employee and arrange an appointment with either an approved helping agency or the Occupational Health Adviser.
- The helping agency or Occupational Health Adviser will confirm whether or not a substance misuse issue exists and if so, with the employee's co-operation, arrange a programme of treatment and help.

Note:

- The helping agency does not report on the results of the interview with the employee unless the recovery programme requires support from the council in the way of time off work etc.
- The employee may be granted reasonable time off to undergo counselling or treatment and this will be treated as sick leave within the terms of the sick pay scheme or treated as a hospital appointment as appropriate.
- On resumption of duties, or on return to work following a period of treatment, the employee will be able to return to the same job unless the Council decides on the advice from the Occupational Health Adviser. Where the effects of the employee's substance misuse issues renders him/her unfit or unsuitable to resume the same job or where the resumption of the same job would be inconsistent with the long term resolution of the employee's alcohol or drug related issue then suitable alternative employment will be sought.
- Following return to employment after, or during treatment, should work performance again suffer as a result of alcohol-related issues, each case will be considered on its merits and, if appropriate, a further opportunity to accept and co-operate with help and treatment will be offered. Further advice will be sought from the occupational health adviser.

10 DISCIPLINARY IMPLICATIONS

- 10.1 Subject to the specific issue, the Council's disciplinary procedure may be suspended pending a referral to the Occupational Health Adviser. If a dependency issue which is associated with misconduct or poor work performance is identified, this suspension will be continued on condition that the employee follows the recommended treatment and accepts professional assistance. The matter will be kept under review until the Occupational Health

Adviser has confirmed that the employee has successfully completed the prescribed course of treatment. Where misconduct or poor work is not involved then there is no question of disciplinary action although the procedure on sickness absence may be used. (Refer to Managing Sickness Absence Policy)

- 10.2 If an employee does not accept that he/she may have an issue relating to alcohol or drug misuse, the disciplinary procedure will be invoked in the case of misconduct or poor work.
- 10.3 There may be occasions where, following initial acceptance that he/she may have an issue, the employee refuses to participate in the programme recommended by the Occupational Health Adviser or does not attend appointments. Managers should recognise that some employees may find it difficult to constantly apply themselves to their prescribed treatment and setbacks could occur. In such circumstances the employee should remain on the programme provided the manager is satisfied that the employee is committed to addressing the issue. Where however no such commitment is evident the suspension of the disciplinary process may be lifted following consultation with Human Resources.
- 10.4 An employee has the right to be accompanied/ represented by a trade union representative or a colleague in discussions over substance misuse or dependency. They may initially find it helpful to seek the advice of a trade union representative or a colleague to assist in addressing the issue directly or through their line manager.
- 10.5 Although in most cases referral will be an alternative to disciplinary action, there may be instances where, in view of the nature of the incident, disciplinary action will be applied in conjunction with the referral process.
- 10.6 Dependency will not normally constitute grounds for disciplinary action but where performance levels or conduct are of a serious nature then action may be justified under the Councils Disciplinary and or the Managing Poor Performance at work Policies. In addition, possession, use and dealing in illegal drugs are criminal offences and as such should be reported to the police. In these circumstances, advice should be sought from Legal Services and Human Resources before taking any action.
- 10.7 Where work performance is unsatisfactory due to alcohol or a drug related issue and the individual refuses assistance, denies the substance misuse issue or discontinues a course of treatment and reverts to unsatisfactory levels of performance and/or conduct then the normal disciplinary procedures will apply.
- 10.8 Orkney Islands Council reserves the right to suspend an employee from duty where it has reasonable belief that the employee is under the influence of alcohol and/or illegal drug use.

11 DISCIPLINARY PROCEDURE

- 11.1 In line with the Council's disciplinary policy and procedure, the following will be regarded as serious misconduct:
- attending work and/or carrying out duties under the influence of alcohol or drugs.
 - consumption of alcohol or drugs whilst at work (other than where prescribed or approval has been given).
 - dealing in banned substances or illegal drugs
 - unacceptable behaviour whilst under the influence of alcohol, drugs or another substance
 - the employee refuses to accept there is an issue
 - the employee refuses to follow a treatment programme
 - the employee persists in presenting a health and safety risk to others.
- 11.2 If no substance misuse related condition is identified the disciplinary procedure will take its normal course, unless some other relevant health issue is discovered, in which case Occupational Health will advise on the appropriateness of continuing disciplinary action or supporting the employee with other specialised help/treatment.
- 11.3 Where a breach of these rules occurs, but it is established that an alcohol or drug misuse issue exists, and the member of staff is willing to co-operate in referral for specialist help and subsequent treatment, the Service will suspend any disciplinary procedures and provide assistance.
- 11.4 Staff who do not comply with the treatment suggested or continue to misuse alcohol or drugs will be subject to the application of the disciplinary procedure.
- 11.5 Where a member of staff, having received treatment, suffers a relapse the Council will consider the case on its individual merits. In these circumstances the Line Manager should immediately seek guidance from Human Resources to determine the appropriate procedure to be followed.
- 11.6 Human Resources will be responsible for monitoring the effectiveness of this policy. This will be done in liaison with Managers and the Trade Unions to ensure that the policy is clearly understood by all and that the procedures for tackling instances of substance misuse are helping to address the Council's commitment to the health and well-being of all staff
- 11.7 This policy is an integral part of the Council's responsibility for the health and safety and well being of all employees and will be subject to regular review.