

REDDITCH BOROUGH COUNCIL

DRAFT

**SUBSTANCE MISUSE
(DRUGS, ALCOHOL & OTHER SUBSTANCES)
AT WORK POLICY**

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**EXECUTIVE
COMMITTEE**

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24th July 2012

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1.0 INTRODUCTION

Concern has been expressed on a national level, about the rise in alcohol, drugs and other substances (e.g. solvents) consumption and the associated increases in violence and other anti-social behaviour linked to their use. Alcohol alone is responsible for an estimated 3-5% of all absences from work which equates to approximately 10 -14 million working days lost each year.

This document forms an integral extension to the policy statement contained within the authority's (Redditch Borough Council's) Health and Safety Policy document made under section 2(3) of the Health and Safety at Work Etc. Act 1974.

By promoting and implementing these arrangements and procedures, the authorities intend to raise employee's awareness and internally communicate the approach to the issue of drugs and alcohol related problems at work. This document will also assist the authorities in meeting their legal obligations.

Under the Health and Safety at Work Etc. Act 1974 every employer must ensure that employees do not endanger their own health and safety, that of their colleagues or others. Under the Misuse of Drugs Act 1971, it is an offence for non-prescribed drugs to be knowingly used, kept or supplied on the premises. It is also an offence to ignore these activities. Arguably, the employer is also at risk of civil law claims from any party injured by an employee under the influence of alcohol or drugs whilst at work.

Redditch Borough Council (RBC) is committed to ensuring a safe, healthy and productive working environment and to minimising problems arising from the misuse of drugs and alcohol at work.

2.0 THE LAW

Every employer has a general duty under the Health and Safety at Work, etc Act 1974 (the Act) to protect the workforce and others from risk. Under the Act, employees have duties to avoid causing injury to themselves and others, and the health effects of certain drugs, including alcohol, could make this possible.

Section 7 of the Health and Safety at Work Act requires employees to take reasonable care of themselves and others who may be affected by their acts and omissions at work. This clearly has implications for the use of alcohol and drugs that affect the safety of the individual and or others in and around the workplace.

Employers have a duty under the Management of Health and Safety at Work Regulations 1999, to assess the risk to the health and safety of our employees. Prosecution may be brought against an employer if the employer knowingly allowed an employee under the influence of drugs, alcohol and other substances to continue working and his or her behaviour places the employee or others at risk.

Under common law, there is also a potential for civil claims to be brought against an individual employee in the event of an accident, which resulted in damages or injuries being incurred by an employee under the influence of alcohol and drugs.

Employees should also be aware of their duties under the Road Traffic Act 1988 and the Transport and Works Act 1992. Drivers of road vehicles must not be under the influence of drugs or alcohol while driving, attempting to drive or when they are in charge of a vehicle on a road or other public place.

Please note that this procedure runs in conjunction with the Redditch Borough Council's Equal Opportunities Policy.

The right to privacy under article 8 of the Human Rights Act 1998 (HRA) extends to workplace and cannot be interfered with unless it is in accordance with law and necessary for a variety of purposes, including the protection of health and the protection of others.

3.0 AIMS & OBJECTIVES

By introducing this procedural document the authorities intend to ensure that employees' use of either alcohol or drugs does not impair the safe and efficient running of the organisation or the health and safety of its employees or others. It also intends to raise the awareness of all employees, regardless of status, to ensure, so far as is reasonably practicable, the health, safety and welfare of all its employees at work.

This procedural document will ensure that employees are made aware that the consumption of drugs and alcohol out of working hours may have an adverse affect on their performance at work for several days after the event of consumption.

OUR AIMS:

Successfully tackling substance misuse can benefit the authority and our employees by:

- Promotion of health, safety and welfare of all employees.
- Reducing the risk of accidents and damage caused by impaired judgement.
- Creating a more productive environment by offering support to those employees who declare a substance related problem and improving employee morale.
- Enhancing both the employees and the public's perception as a responsible employer.
- Reducing the cost of absenteeism or impaired productivity.
- Saving the cost of recruiting and training new employees to replace those whose employment might be terminated because of untreated substance misuse.
- And ultimately, contributing to society's efforts to combat substance misuse.

Our aims will be achieved through working towards and achieving the following objectives.

- By establishing if and where a drug or alcohol problem exists or may occur, and if it does to what extent.
- By intervening appropriately, at the earliest stage possible, where a drug, alcohol or substance misuse problem has been identified, for Health and Safety reasons only.
- By offering professional treatment and support where it is needed in order to maintain a safe and healthy workforce and environment.
- By agreeing a positive and progressive improvement programme and by setting realistic performance improvement targets for individual requiring assistance.

4.0 ORGANISATIONAL RESPONSIBILITIES

4.1 Heads of Service

Have the responsibility of ensuring that this procedure is implemented within each area of the authority, with an aim to improving the overall standards of health and safety.

4.2 Managers and Team Leaders

Managers and Team Leaders have the responsibility of implementing this procedure and ensuring that all action taken within their department is done so in accordance with this procedure and that reasonable steps are taken to maintain and where necessary, improve health and safety standards.

4.3 Human Resource & Organisational Advisors

It is the responsibility of the Human Resource & Organisational Development Advisors (HR & OD Advisors) to ensure that all employees, including new employees, are made aware of such policies, arrangements and procedures, at the start of their employment via the employee induction process.

4.4 Senior Advisor (Health, Safety & Wellbeing)

The Senior Advisor (Health, Safety & Wellbeing) is responsible for developing and maintaining such policies and procedures jointly with the HR & OD Section and communicating these policies and procedures to Managers and Trade Union Representatives.

4.5 Trade Union representatives

Trade union representatives are able to assist in informing the workforce on the benefits of these procedures and to encourage employees to seek voluntary help.

4.6 All Employees

All employees (no matter what level and status) have a responsibility for their own safety and the safety of others and to comply with these procedures. Employees also have a duty to report any potential health and safety risks or concerns that they become aware of to their manager.

4.7 Agency/Temporary Employees

All Agency/temporary employees will be made aware of this policy procedure during their induction. All Agency employees must comply with the contents of this procedure. Any Agency/temporary employee failing to comply with this procedure will be referred to their Employer (the Agency) for assistance and for this policy to be adhered to.

4.8 Sub-Contractors

All sub-contractors will be made aware of this policy procedure when applying or being commissioned to carry out any work for RBC. Sub-Contractors and their employees must comply with the contents of this procedure. Failure to comply with this procedure will mean the failing contractor being removed from the list of approved sub-contractors.

5.0 PROCEDURES

5.1 ESTABLISHING THE PROBLEM – Key Indicators

Managers and Team Leaders should be aware that the misuse of drugs, alcohol or other substances by employees might come to light in various ways. The characteristics highlighted within this section, especially when arising in various combinations, may indicate the presence of an alcohol, drug or other substance misuse related problem.

The indicators are for general guidance only and the presence of some or indeed all of them are not an exclusive list to alcohol or drug misuse. Other illnesses such as Alzheimer's, diabetes, thyrotoxicosis, epilepsy, depression or cerebral tumour and even the accidental misuse of 'over the counter' medication may mimic alcohol or drug misuse.

It is also important that employees notify their immediate supervisor if they are taking either prescribed drugs or taking 'over the counter' medication that may affect or impair their judgement or performance. Employees who are in doubt or have any concerns relating to any medication being taken or received that could affect their performance, should discuss this issue with their Line Manager or the Human Resource & Organisational Development Section (HR & OD Section). An Occupational Health Advisor can advise both the employee and the employer on the appropriate course of action.

General characteristics:

- Absenteeism
- High accident levels
- Work performance may be affected
- Mood swings
- Physical symptoms
- Misconduct

An employee's alcohol, drug or substance misuse problem may come to light as a mitigating factor in a disciplinary interview. It should be treated as a mitigating factor for certain "less serious" disciplinary offences, such as poor time keeping or lateness, provided the person is prepared to undergo treatment.

5.2 INTERVENTION

Managers and Team Leaders who feel an employee's unsatisfactory performance may be drug, alcohol or other substance related should inform their line Manager and the HR & OD Section in order to discuss the matter, logging any evidence/reasons for suspecting a problem.

It is important to remember to be non-judgemental and that it is not a foregone conclusion that an employee is guilty of using or being under the influence of alcohol, drugs or other substances without a full investigation into the facts. The issue must be dealt with, with integrity and with the employee's health as the foremost paramount importance. Employees will be treated with dignity and respect at all times.

If thought necessary the Manager or the Team Leader in conjunction with the HR & OD Advisor should arrange for a meeting with the employee. This should be arranged and conducted in private and without it becoming obvious to other colleagues.

During the interview all parties should endeavour to establish the cause of the problem (although it must be noted that some individuals with drugs or alcohol problems may go to great lengths to conceal the situation). Sensitive enquires should be made to whether there are any domestic issues causing concern or difficulties.

At the meeting the unsatisfactory performance or conduct should be discussed in detail with the employee and his/her representative, if requested. Employees should not be interviewed if the consensus of opinion of the interviewing panel is that the employee is not fit to be interviewed. In particular, if they suspected that the employee has been drinking, is actually drunk or suspected of being under the influence of another substance. In such cases management should reschedule the meeting.

The Manager and or the HR & OD Advisor should reiterate, in detail, the authority's expected and required standards of behaviour, ensuring the employee clearly understands what is expected of him or her.

The highlighted shortfall in standards or performance being currently achieved must be discussed in detail and the difference between his/her current performance and what is expected must be agreed. Measurable targets should then be set by the Manager and the HR & OD Advisor and communicated to the individual concerned in writing.

On health and safety grounds, it may be decided and necessary to refer an employee to an Occupational Health Advisor to ascertain the degree of the problem and to seek advice on the most appropriate course of action. The referral may interrupt the interview process, but corrective action should continue as soon as possible after the referral is concluded. The HR & OD Advisor may intervene in the interview process, if it is deemed the meeting is becoming unproductive or it is thought to be too stressful for the employee concerned.

The Data Protection Act (part 4) applies to the records being kept by the Occupational Health Provider and Redditch Borough Council.

The employee should be informed of the assistance the authority is prepared to give an employee who is trying to overcome a drink, drugs or other substance related problem and should also be informed and guided towards outside agencies where help can be obtained.

The employee should be informed that the authority requires his or her performance to be improved to a measurable, quantifiable and acceptable standard and that failure to achieve this over an acceptable, specific period of time may result in further action being taken.

Management should then agree a realistic and appropriate course of action is to be taken. Where it is established that alcohol, drugs or other substances is, or could be, the problem, an appointment will be arranged with the Occupational Health Advisor or Doctor as soon as possible.

However, if there are strong signs and suspicions that the employee's unsatisfactory performance is drug or alcohol related and he or she will not admit or acknowledge this, further encouragement & support should be given at all stages of the investigation to recognise the true underlying problem.

At all stages throughout this process the employee must be treated with respect and dignity and all information relating to the situation will be dealt with in the strictest confidence.

5.3 TREATMENT & SUPPORT

Where employees acknowledge that they have a problem and are given help and supportive treatment, this will be on the understanding that:

- (a) Whilst they are undergoing treatment, they will be on sick leave and will be entitled to the usual sick pay benefits. Some treatment may be built into a working pattern or programme and not effect work. To enable an employee to continue working, professional advice will be sought to ascertain an employee's ability to continue working in a safe manner.
- (b) Every effort should be made to ensure that on completion of the recovery programme employees are able to return to the same or equivalent work.

All those seeking help will be treated sympathetically and in confidence.

However, where such a return would jeopardise either a satisfactory level of job performance or the employee's recovery the Manager or HR & OD Advisor will review the full circumstances surrounding the case and agree a course of action to be taken. This may include the offer of suitable alternative employment within the organisation, subject to the individual's capabilities, the consideration of retirement on the grounds of ill-health or dismissal.

5.4 WHERE FURTHER ACTION IS LIKELY

Further action may be likely in certain circumstances as highlighted below.

- In the event of a relapse
- Where recovery is unlikely
- Serious misconduct caused by alcohol, drugs or other substances
- Alcohol, drugs or other substance abuse on the premises
- Supplying, selling, consuming or possessing drugs on the premises or whilst at work

5.4.1 Relapse

Where an employee, having received treatment, suffers a relapse, the authority will consider the case on its individual merits. Medical advice will be sought in an attempt to ascertain how much more treatment or rehabilitation time is likely to be required to facilitate a full recovery. At the authority's discretion, more treatment or rehabilitation time may be suggested or given in order to help the employee to recover fully. Accurate confidential records should be kept of all absences relating to this particular issue.

5.4.2 Recovery unlikely

If, after an employee has received treatment and a full recovery is reported as unlikely, affecting the employee's ability to return to full work duties, dismissal of the employee may result. Such action will only be taken after a full internal and medical investigation has been carried out.

6.0 SERIOUS CASES OF MISCONDUCT

Employees are expressly forbidden to take, consume, use or supply drugs, alcohol or other substances (such as solvents) when at work, on authority's premises or on authority's business. Breach of this rule could result in disciplinary action being taken which may result in summary dismissal

If an employee is known to be, or strongly suspected of being, intoxicated by alcohol, drugs or other substances during working hours, the Manager or HR & OD Advisor must be informed and consulted immediately.

Where a serious accident or incident has occurred or another employee has expressed a sincere concern or suspicion that an employee may be under the influence of alcohol, drugs or any other substance(s), the Manager and authority's Senior Advisor (Health, Safety & Wellbeing) must be informed immediately. In serious cases the Police are likely to be informed and involved in investigations.

In such extreme cases internally or externally qualified personnel will be requested to carry out immediately, or as soon as is practicably possible, a series of in-offensive and dignified, simple but scientific tests to ascertain whether the employee is under the influence of alcohol, drugs or other known substances at work.

To ensure that these tests are sensitively and professionally carried out the following principles apply:

- Selected personnel will be trained, qualified and competent to use such test equipment and to interpret and analyse the test results.
- The test equipment used will be a simple breath-test and or mouth swab test devices, which will be approved by Occupational Health and or the authority's Senior Advisor (Health, Safety & Wellbeing) / Health & Safety Advisor. Positive results will be referred to Occupational Health immediately. See attached **Appendix 1** for procedural information
- That a Trade Union Representative or another person within the organisation, of choice by the employee, is present while the test is being carried out.
- That the tests are carried out immediately or as soon as is practicably possible after the request is made.
- That the initial tests are only carried out in the workplace.
- That the tests are carried out sensitively and discretely.
- That the test results are shared with the employee and the representative immediately and are recorded as positive or negative evidence.
- That the Manager will lead the initial and immediate corrective action following a positive result. All positive results will be referred to Occupational Health immediately.

In the absence of a qualified person; the Senior Advisor (Health, Safety & Wellbeing) or the Health & Safety Advisor (qualified and competent persons) will carry out these tests adhering to the principles highlighted above.

Any employee refusing to participate in such a test, following a serious incident relating to their or another person's health and safety will be suspended pending an investigation. Usual suspension criteria apply.

A disciplinary investigation will be initiated immediately by the appropriate Manager who will be appointed by the Head of Service. The authority's disciplinary procedures and guidelines will be followed.

7.0 DRUG ABUSE ON THE PREMISES

Employees who take drugs, which have not been prescribed, on medical grounds will, in the absence of mitigating circumstances, be deemed to be committing an act of gross misconduct and will thus render themselves likely to be dismissed. Any employee believed to be buying or selling drugs, or in possession of unlawful (i.e. un-prescribed) drugs will also be committing an act of gross misconduct. In these cases the Police are likely to be informed and involved.

8.0 CONFIDENTIALITY

All matters relating to individuals employed by Redditch Borough Council concerning alcohol, drugs and other substances at work will be dealt with in the strictest of confidence. Only those people who need to know will be made aware of the problem. All employees are entitled to representation during all the stages of these processes, Trade Union or otherwise, and at the request of the individual concerned.

Detailed notes and records relating to these issues must be kept private and confidential. Management must ensure that the numbers of employees involved with an individual case and the procedural processes are kept to a minimum.

9.0 TRAINING AND DEVELOPMENT

All employees' will be made aware of the effects of alcohol, drug and other substance misuse. Employees will be encouraged not to cover up for colleagues that suffer with a drink, drug or substance misuse related problem, but alternatively to recognise that collusion represents a false sense of loyalty and that false sense of loyalty to one of our fellow colleagues, will, in the longer term, have a damaging or devastating effects on those employee's lives and quite possibly directly or indirectly on others.

Employees who recognise that they have a drink, drug or substance misuse related problem, or that they are at risk of developing one, should be encouraged to come forward for confidential and supportive help.

Employees should be encouraged to seek an appointment, in confidence, with an HR & OD Advisor, the Occupational Health Advisor or an independent professional.

Contacts of outside agencies where help can be obtained will be made readily available to all employees via staff notice-boards.

BREATHSCAN RAPID TEST FOR ALCOHOL INSTRUCTIONS

HOW TO USE



Wait for 15 minutes after ingesting alcohol as alcohol takes 15 minutes to enter the system, or drink or wash your mouth out with a glass of water to eliminate alcohol traces from the mouth, in order to avoid a false result.

15 mins prior to test



Squeeze the middle clear part of the outer plastic tube between thumb and forefinger to break the inner glass ampoule containing the yellow crystals to activate the test. Squeeze until you feel the ampoule break.

To use, test, the user first crushes the test between fingers.



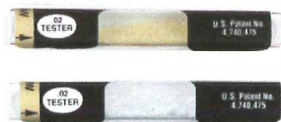
Take a deep breath and blow hard continuously, through the indicated end of the test (indicated by an arrow) for 12 seconds (preferably in one breath) **DO NOT INHALE FROM TEST**

The user then blows into the test for 12 seconds.

Shake the tester to distribute the crystals evenly. Put the tester in a horizontal position and wait two (2) minutes. Read the result, identifying the colour change of the majority of the crystals. The yellow crystals will change to a white/bluish or green/greyish colour if alcohol is present to or above the cut off level.

No Colour Change: Negative (Yellow)
Blood Alcohol concentration below the tester level

Any Colour Change: Positive (Often White/bluish, green/greyish).
Blood Alcohol concentration at or above the tester level.



The yellow crystals lose their colour, or change colour, in the presence of alcohol in both the 0.2 & 0.8 levels.