

## AGENDA

**AUDIT AND RISK MANAGEMENT  
DETERMINATION SUB-COMMITTEE**

**TUESDAY, 4 OCTOBER 2022**

**2.00 PM**

**COUNCIL CHAMBER, FENLAND HALL,  
COUNTY ROAD, MARCH**

Committee Officer: Linda Albon  
Tel: 01354 622229  
e-mail: [memberservices@fenland.gov.uk](mailto:memberservices@fenland.gov.uk)

Whilst this meeting will be held in public, we encourage members of the public to view the meeting via our YouTube channel: <https://youtu.be/1IxNJbGpHS4>

- 1 To receive apologies for absence.
- 2 Previous Minutes (Pages 3 - 6)  
  
To approve the public minutes of the meeting held 6 June 2022.
- 3 To report additional items for consideration which the Chairman deems urgent by virtue of special circumstances to be now specified.
- 4 Members to declare any interests under the Local Code of Conduct in respect of any item to be discussed at the meeting.
- 5 Revised Drugs and Alcohol at Work Policy (Pages 7 - 28)

The purpose of this report is to inform the Audit and Risk Management Sub Committee of the recently reviewed and updated Alcohol and Drugs at Work Policy

- 6 Items which the Chairman has under item 3 deemed urgent.

## **CONFIDENTIAL - ITEMS COMPRISING EXEMPT INFORMATION**

To exclude the public (including the press) from a meeting of a committee it is necessary for the following proposition to be moved and adopted: "that the public be excluded from the meeting for Items which involve the likely disclosure of exempt information as defined in the paragraphs 1, 2 and 4 of Part I of Schedule 12A of the Local Government Act 1972 (as amended) as indicated."

### **7 Senior Management (CMT) Restructure Proposals (Pages 29 - 46)**

The purpose of this report is to provide the Audit and Risk Management Sub Committee with a proposal for a revised Senior Management (CMT) structure that will achieve an ongoing efficiency saving whilst maintaining the required capacity and expertise to deliver members key priorities for the Council.

### **8 Previous Minutes (Pages 47 - 48)**

To approve and sign the confidential minutes of the meeting held 6 June 2022.

Monday, 26 September 2022

Members: Councillor Mrs M Davis (Chairman), Councillor I Benney, Councillor Mrs J French, Councillor J Mockett and Councillor F Yeulett

## AUDIT AND RISK MANAGEMENT DETERMINATION SUB- COMMITTEE



**MONDAY, 6 JUNE 2022 - 4.00 PM**

**PRESENT:** Councillor Mrs M Davis (Chairman), Councillor Mrs J French, Councillor J Mockett, Councillor M Purser and Councillor R Wicks

**OFFICERS IN ATTENDANCE:** Sam Anthony (Head of HR and OD), Nick Harding (Head of Planning), Phil Hughes (Acting Assistant Director), David Vincent (Health, Safety & Emergency Planning Manager) and Linda Albon (Member Services & Governance Officer)

### **ARSC1/22 PREVIOUS MINUTES**

The public minutes of the meeting held 4 February 2022 were agreed and signed.

### **ARSC2/22 CORPORATE HEALTH AND SAFETY ANNUAL REPORT 2021/22**

Members considered the Corporate Health and Safety Annual Report 2021/22 presented by David Vincent.

Members made comments, asked questions and received responses as follows:

- Councillor Mrs French stated that this is a very good report, however it does not record an accident involving a refuse driver who broke an ankle falling down a pothole last year. David Vincent advised that this incident occurred in March 2021, it was reported to the Health and Safety Executive at that time and appeared in the report statistics for 2020/21. The current report runs from April 2021 hence why it is not recorded in this report.
- Councillor Wicks asked what ongoing training exists to ensure safe lifting and manual handling. David Vincent responded that all activities should be recorded on individual team risk assessments where postholders are required to carry out lifting and/or manual handling. Training is available through courses and DVDs. Managers are responsible for reviewing risk assessments annually, and all training is refreshed every three years.
- Councillor Wicks asked what is done to identify potential slip/trip hazards. David Vincent responded that most slip and trips occur within the Refuse and Cleansing Team due to the nature of their work and being out and about in public spaces. Operatives are provided with suitable footwear and advised how to egress refuse vehicles safely and to be aware of environmental conditions such as ice, wet grass, frost etc. Furthermore, issues can be picked up in staff Health & Safety Committee meetings and there are specific Codes of Practice regarding Slips and Trips.
- Councillor Wicks asked what access staff have to the accident reporting book. David Vincent advised that there is a staff intranet page for reporting accidents and hard copy forms available for staff who do not have access to the electronic version. Refuse vehicle drivers also keep a supply of the forms in their cabs.
- Councillor Wicks asked if there are any defibrillators at Fenland Hall or the Base. David Vincent advised that there is one defibrillator outside the Civic Entrance at Fenland Hall but a discussion regarding further defibrillators is on the agenda for the next Health & Safety Panel meeting.

- Councillor Mrs Davis asked how many staff are still predominantly working from home and if they are being supported in health and safety matters. Sam Anthony responded that approximately 50% are still working from home regularly and yes, they are being supported in health and safety; they are also enabled to use Microsoft Teams and are provided with work mobile phones to keep in touch with managers and colleagues. David Vincent added that staff complete a working from home risk assessment which examines the homeworking set up and suitability of workspace and equipment such as chairs etc. All staff are supported by their managers and a bespoke approach is taken in each case. Where working from home is not suitable, arrangements are made to return staff back into the workplace.
- Councillor Mrs French said that in her view 50% seems a high number and asked when more staff will be returning to the office. Sam Anthony replied that this is dependent on a number of factors, one of which is the ongoing accommodation review.
- Councillor Mrs Davis queried the first and last items in Appendix 1 of the report and asked if she had misinterpreted the information. Both were marked green as completed but are referred to as ongoing. David Vincent responded that these items concern risk assessments therefore they are ongoing to ensure that the Council continues to comply with public health guidance; there is no end to these as they are always being updated.
- Councillor Purser asked if a line is drawn whereby an accident is deemed not worth reporting. David Vincent agreed that there is a degree of subjectivity in certain incidents where, for example, a paper cut would not be recorded, and accidents of this nature tend not to be reported. He added that there is, however, a 'near miss' reporting mechanism for staff to record incidents where there is a potential risk and something happens, but no injury occurs. Staff are encouraged to report these as they occur more regularly than accidents and can highlight potential issues.
- Councillor Purser asked what training is available for staff in managing challenging telephone calls. David Vincent replied that there is a specific e-learning course and videos case studies available for training purposes in how to manage and defuse challenging situations, as well as how not to take such incidents personally. Sam Anthony added that the Council has mental health champions in the workplace and all customer facing teams have several mental health first aiders working within them. In some instances where customers calling in are experiencing difficult times and are in crisis, they have been signposted to those individuals for support and to get them onto the services they need. Therefore, this is a service that exists externally as well as internally. Councillor Purser thanked Sam Anthony for the information.
- Councillor Wicks referred to the Council's risk register and said that in his view this is surely a live document which is never complete. David Vincent agreed and said that all teams are asked to submit a risk register so he can get a good overview of what they are all doing and need to do on an ongoing basis.

**Proposed by Councillor Mrs French, seconded by Councillor Wicks and AGREED to note the Council's performance within the report for 2021/22.**

### **ARSC3/22 TREE RISK MANAGEMENT AND PLANNING AND TREE WORK**

Members considered the Tree Risk Management and Planning and Tree Work report presented by Phil Hughes.

Members made comments, asked questions and received responses as follows:

- Councillor Mrs French said that she welcomes this and asked if the Council has a tree policy. Phil Hughes replied that there is not currently one in place but attached to the report is a Code of Practice. Councillor Mrs French stated that the Council must have a proper policy as it manages thousands of trees in parks across the district but repeated that she particularly welcomes this as some of the new trees recently planted in March West End Park for the Queen's Canopy were vandalised. Furthermore, it will not cost the Council much money and

will save the potential for being sued or the possibility of the Chief Executive facing charges of corporate manslaughter, which could happen if a branch falls and kills someone. In her view, a policy should be in place as soon as possible.

- Councillor Wicks stated he also welcomes this as a starting point; he has had long and detailed conversations on the matter over many years. In his opinion with the number of trees in Fenland it is so important that they are subject to regular scrutiny, and he agrees with Councillor Mrs French that there should be a policy in place to reinforce this. Phil Hughes commented that it should be noted, as mentioned in the report, that it will mitigate the risk but will never completely remove it. Once all the trees have been inspected, it will reduce the risk to the Council and the community and make the system more robust.
- Councillor Mrs Davis said that she also welcomes the report, she supports it whole heartedly and added that a policy is needed.
- Councillor Wicks asked if there will be a mechanism whereby members can highlight their areas of concern to aid the ongoing survey. Phil Hughes replied that members can always report concerns to the email address: [parks&greenspaces@fenland.gov.uk](mailto:parks&greenspaces@fenland.gov.uk) which will be passed onto the officer undertaking the inspections. He added that the survey will be a formal assessment with a particular piece of software which will record each individual assessment so the background data will be there along with evidence that the work has been undertaken.
- Councillor Mrs Davis asked if the arborist working with the Planning Team would be on call as she knew of occasions when people have chopped down trees with preservation orders on them as it was too late to prevent it by the time the relevant contact at the Council had been found. Phil Hughes said he could not confirm that they would be on call but if the Council has a full-time officer and they are working on that day, they would be able to get to the location to assess the situation. Nick Harding added that there will be a greater opportunity for the Council to be able to react if someone is available rather than is currently the case.
- Councillor Mrs French stated her concern that the person employed to deal with the trees is not then side-tracked and inundated with Planning work, so they are unable to deal with the trees for which they will be employed. She therefore suggested a six-monthly report on how the tree work is going. Phil Hughes agreed that this would be provided.
- Councillor Mockett suggested the report detail the time spent on planning against the time spent surveying trees. Councillor Mrs French said that there would be an element of time spent in Planning to look at tree preservation orders etc. but she would not want to find they were spending most of their time working on planning matters. Councillor Mockett added that is why he suggested the breakdown in the report. Phil Hughes added that it will not be a question of the officer working two days a week for Planning and the rest of the time on tree safety management; there will be a flexible and sensible approach to managing the team and he will work closely with Planning colleagues on that.

**Proposed by Councillor Mrs French, seconded by Councillor Mockett and AGREED to note the report and approve the proposed addition of a tree specialist to the Council's establishment.**

#### **ARSC4/22 PREVIOUS MINUTES**

The confidential minutes of the meeting held 4 February 2022 were agreed and signed.

*(Members resolved to exclude the public from the meeting for this item of business on the grounds that it involved the disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972)*

#### **ARSC5/22 PLANNING DEVELOPMENT MANAGEMENT TEAM STAFFING PROPOSAL**

Members considered the Planning Development Management Team Staffing Proposal report presented by Nick Harding.


Members made comments, asked questions and received responses.

**Proposed by Councillor Mrs French, seconded by Councillor Mockett and AGREED to approve the recommendations within the report.**

*(Members resolved to exclude the public from the meeting for this item of business on the grounds that it involved the disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972)*

5.15 pm

Chairman

Agenda Item No:	5	
Committee:	<b>Audit and Risk Management Sub Committee</b>	
Date:	<b>4 October 2022</b>	
Report Title:	<b>Revised Alcohol and Drugs at Work Policy</b>	

## Cover sheet:

### **1 Purpose / Summary**

The purpose of this report is to inform the Audit and Risk Management Sub Committee of the recently reviewed and updated Alcohol and Drugs at Work Policy

### **2 Key issues**

- The Council has a comprehensive framework of people and health and safety policies in place. These policies are reviewed in accordance with an ongoing programme of reviews
- The Council is committed to the health and wellbeing of its employees and has an overarching Health and Wellbeing programme to support employees at work. The Council has recently reviewed and updated the existing Alcohol and Drugs at Work Policy, which was first implemented in 2019.
- This policy relates to the misuse of alcohol and drugs at work, which might have a detrimental impact on the business and the confidence of our customers in the safety of our services. The aim of the policy is:
  - To positively encourage and assist employees to seek help when their drinking, or use of other substances, is affecting their life or work performance.
  - To ensure that employees use of substances does not affect the health and safety of the individuals themselves, their fellow workers, or others with whom they come into contact with during the course of their work.
  - To ensure that employees use of substances does not affect the efficient and effective operation of the Council's business.
  - To set out the Council's rules on the use and misuse of substances.
  - To ensure that employees understand that it may be a serious offence to drink alcohol or misuse drugs or other substances whilst on duty or be affected by substances when reporting for work or whilst working.
  - To minimise the danger of substance misuse by promoting responsible attitudes to substances through education and awareness programmes.

The Council carries out testing during employment in accordance with the terms of this policy. Any drug and alcohol testing of employees carried out on behalf of the Council in accordance with the terms of this policy is a necessary measure to ensure the health, safety and welfare of all who are engaged in work activities or whom may be affected by the Council's undertakings.

The recent review of the policy has recommended the addition of on-site initial testing to enable 'testing with cause' to be carried out in a more efficient way to minimise lost productivity where staff are required to wait for the current test providers to undertake the testing process.

The revised policy also introduces on-site testing for relevant post-holders on day 1 of employment.

A comprehensive consultation process has been undertaken over a number of months on this revised policy with CMT, the Council's wider Management Team and also with the Management and Trade Union and Staff Partnership group (MTSP), who have endorsed the changes.

This revised policy is now being recommended for formal adoption and communication to staff.

### 3 Recommendations

It is recommended that the Audit and Risk Management Sub Committee:

- Note the attached report.
- Approve the revised policy as set out at Appendix 1.

<b>Wards Affected</b>	All
<b>Forward Plan Reference</b>	N/A
<b>Portfolio Holder(s)</b>	Cllr Chris Boden – Portfolio Holder for Finance and Leader of the Council
<b>Report Originator(s)</b>	Sam Anthony - Head of Human Resources and Organisational Development
<b>Contact Officer(s)</b>	Sam Anthony – Head of Human Resources and Organisational Development David Vincent - Health, Safety and Emergency Planning Manager
<b>Background Paper(s)</b>	New Alcohol and Work Policy Report for Staff Committee Report 25 May 2019.





## **Alcohol and Drugs at Work Policy**

## **1. INTRODUCTION**

Fenland District Council has a responsibility to provide safe working environment for its employees; and therefore, has a clear policy on the possession and/or consumption of drugs (unless for legitimate medical reasons) and alcohol in the workplace, on attending work whilst under the influence of drugs and/or alcohol; and on the use of any prescription drugs that have not been prescribed for the user (or have been taken in inappropriate amounts). If taking medication that may affect an individual's behaviour/work performance, the employee will be required to inform their manager about such medication.

Any person working for the Council who works anywhere in the Council whilst affected by any substance compromises Council's interests, endangers their own health and safety, and the safety and welfare of colleagues, and members of the public.

The Council has its own digital fingerprint testing and breathalyser kit to undertake the workplace drug and alcohol testing process.

The misuse of drugs, alcohol, solvents, or any other substances may have adverse physical, psychological, or behavioural effects which may impair health, impair job performance, create unsafe working conditions, and compromises the Council's health, safety, environmental or security arrangements and which could render the Council, or the individual concerned liable to prosecution.

## **2. SCOPE**

The Council is committed to the health and wellbeing of its employees and has an over-arching Health and Wellbeing Strategy to support employees at work.

This policy relates to the misuse of alcohol and drugs at work by employees, (this includes individuals paid directly by the Council, and others working on behalf of the Council (i.e., agency) referred to in this policy as 'employees, of any substance that might have a detrimental impact on the business and the confidence of our customers in the safety of our services.

The aim of the policy is:

- To positively encourage and assist employees to seek help when their drinking, or use of other substances, is affecting their life or work performance.
- To ensure that employees use of substances does not affect the health and safety of the individuals themselves, their fellow workers, or others with whom they come into contact with during the course of their work.
- To ensure that employees use of substances does not affect the efficient and effective operation of the Council's business.
- To set out the Council's rules on the use and misuse of substances.
- To ensure that employees understand that it may be a serious offence to drink alcohol or misuse drugs or other substances whilst on duty or be affected by substances when reporting for work or whilst working.
- To minimise the danger of substance misuse by promoting responsible attitudes to substances through education and awareness programmes.

This policy will be supported by a programme of ongoing health promotion and educational events available to all employees, which will include the harmful effects of drugs and/or alcohol and

signposting to the appropriate support mechanisms. Full details of this programme will be posted on the Council's intranet

- Testing for drugs and alcohol will be used to ensure compliance. All testing will be undertaken by our nominated members of staff.
- The Council expressly prohibits the use of any drugs (unless for legitimate medical reasons). It is a criminal offence to be in possession of, use or distribute an illicit substance. If any such incidents take place on Council premises, in Council vehicles or whilst on Council duty, they will be regarded as gross misconduct and will be referred to the Council's disciplinary policy, which could result in disciplinary action including dismissal.

This policy will apply to all employees irrespective of level or status and contractors who are involved with activities which arise out of or in connection with Council undertaking to include agency employees.

### **3. RESPONSIBILITIES**

#### **Managers**

The Corporate Management Team (CMT), Heads of Service, managers and supervisors are responsible for ensuring that the aims of this policy are fully implemented and that there is a commitment to effectively induct and continually educate on the effects of substance misuse.

#### **All Employees**

All employees share the responsibility for ensuring the safety and welfare of others in the workplace which entails:

- Not to report (or attempt to report) for work having consumed drugs or alcohol likely to render him/her unfit or unsafe for work.
- Not to store drugs (unless for legitimate medical reasons) or partially consumed or opened alcohol in personal areas such as lockers and desk drawers, vehicles or on their person.
- Not to consume or be under the influence of alcohol or drugs (unless for legitimate medical reasons) or misuse any other substance whilst at work.
- Follow guidance and training provided.
- Encourage colleagues to seek help if appropriate, either through GP or the Council's EAP.
- Be aware that collusion, protection, denial or concealment of alcohol, drugs or substance misuse is unacceptable. Deliberate concealment etc. will be considered a disciplinary offence.
- Employees who are taking prescribed or other medication must inform their manager if they believe that the medication that they are taking may have an adverse effect on their ability to carry out their duties e.g., cause drowsiness.
- Any information obtained with regard to an individual's misuse of substances will be treated in strict confidence.

Any employee who believes or suspects that he/she or a colleague may have such a problem is encouraged to come forward to either their line manager or alternatively the HR team to discuss the problem in confidence. It is the Council's policy to offer support to any employee who has a problem associated with the misuse of alcohol or drugs. The employee will be offered support including, as appropriate, referral for advice, medical treatment, and counselling.

### **3.1 Rules on Alcohol and Drugs misuse at work**

The Council has a policy that the working environment be free from the influence of any substance which might affect performance. This will help to ensure the health and safety of our employees and others with whom they come into contact and to maintain the efficient and effective operation of our business. For these reasons the following rules will be strictly enforced.

No employee (regardless of their role and position within the Council) shall:

- Report or attempt to report, for duty having consumed drugs or alcohol likely to render him/her unfit and/or unsafe for work.
- Store drugs (unless for legitimate medical reasons) in personal areas such as lockers and desk drawers, vehicles or on their person.
- Consume or be under the influence of alcohol or drugs or misuse any other substance whilst at work.
- Attempt to sell or give drugs to any other employee or other person on Council premises or whilst being at work.

Failure to adhere to the above rules will be regarded as gross misconduct and will be referred to the Council's disciplinary policy, which could result in disciplinary action including dismissal.

### **3.2 Voluntary Referrals**

The Council will seek to provide reasonable support for employees who have, or believe they may have a substance misuse problem, such as drug or alcohol dependency. In such cases, employees are advised to seek medical advice to ensure that it does not affect their performance or conduct at work.

This advice may be sought by either the employee going to their own doctor, self-referring through our Employee Assistance Programme (EAP) or by seeking help through their line manager or the HR team, who will arrange for the employee to see Occupational Health or encourage the employee to contact our EAP helpline.

### **3.3 Treatment**

Any support or help will be for a designated period and each case will be reviewed on an individual basis.

- The employee will be required to adhere to and be willing to participate in any appropriate treatment regime determined by their doctor and/or specialist, in conjunction with Occupational Health.
- There will be a requirement for a regular review by Occupational Health who will provide a report to the Council detailing progress.
- If required, the Council will consider moving the employee to alternative duties or seek modified duties to help with recovery.
- Following initial recovery, should a subsequent relapse occur, provision of further support will be entirely at the Council's discretion.
- Failure to comply on the part of the employee with any of the above requirements will lead to the case being considered in accordance with the Council's normal disciplinary procedure.
- It is likely that retesting will form part of the process.

## **4 TESTING**

### **4.1 Cause Testing**

The Council may carry out testing during employment in accordance with the terms of this policy. Any drug and alcohol testing of employees/individuals carried out on behalf of the Council in accordance with the terms of this policy is a necessary measure to ensure the health, safety, and welfare of all who are engaged in work activities or whom may be affected by the Council's undertakings.

The Council reserves the right to require any employee or worker to submit to a drug or alcohol test in accordance with the policy on the following occasion:

- where the Council has grounds to believe or suspect that an employee is or may be under the influence of alcohol or drugs

Refusal to provide a sample for either alcohol and/or drug testing; or any attempt to interfere with the test process will be regarded as gross misconduct and will be referred to the Council's disciplinary policy, which could result in disciplinary action including dismissal.

### **4.2 Pre - Employment testing**

The Council will screen all new members of staff, employed in a safety critical role or if there is a need to drive in their role. This test will be carried out on day one of their induction. If the employee returns a positive test, employment will not be confirmed.

#### **Safety Critical roles:**

A position which requires the post holder to perform duties which are directly related to:

- ☐ the safe operation or security of premises, a piece of mechanical/operational equipment or a vehicle.
- ☐ handling of chemicals
- ☐ the supervision of children and vulnerable people
- ☐ work on the highway, at height or in confined spaces
- ☐ public facing roles
- ☐ the supervision of employees who carry out the above duties.

Perspective employees will be given notice of a pre - employment drug and alcohol screening at interview stage. This will form part of the pre - employment medical check.

### **4.4 Testing Failure levels**

Testing positive for drugs or alcohol will be regarded as gross misconduct and will be referred to the Council's disciplinary procedures, which could potentially result in disciplinary action including dismissal.

#### **4.2.1 Alcohol**

Alcohol – A positive alcohol test result will be recorded if alcohol is detected in the donor's breath sample at a concentration equal to or above 35 micrograms of alcohol per 100 millilitres of breath

in two consecutive breath tests. An employee or contractor will be in breach of this policy if they receive a positive alcohol test result.

#### 4.2.2 Drugs

Employees will be asked to provide fingerprint sample of each finger; this will analyse fingerprint sweat to establish if a substance is detected within 10 minutes of the sample taken. If a positive test is returned this will be sent to an ISO 17025 certified laboratory for confirmation testing to ensure an end -to-end chain of custody protocol is followed.

### 4.3 Legal obligations

Controlled drugs, often referred to as illegal drugs, are defined by the Misuse of Drugs Act 1971 and subsequent regulations made under this Act. In general, it is a criminal offence for a person to produce, supply, and offer to supply or be in possession of controlled drugs other than in accordance with the direction of a practitioner such as a registered doctor or dentist.

Possession of or dealing in illegal drugs on company premises will, without exception be reported to the police. In the event of a positive alcohol result that is over the legal limit permitted by law, or a non-negative screen test result for drugs, the employee will be requested not to drive any vehicle and offered transport to their home.

### 4.4 Refusal or interference with testing without good reason

Refusal to provide a sample for either alcohol and/or drug testing or any attempt to interfere with the test process will be deemed as Gross Misconduct and will be referred to the Council Disciplinary Policy and Procedure, which could potentially result in dismissal.

## 5.0 TESTING PROCEDURE

See appendices for '*with cause alcohol and drugs testing procedure*'

## 6.0 REVIEW

This Policy will be reviewed at intervals to ensure that it remains fit for purpose.

***Please contact Human Resources for further information.***

<b>Author</b>	<b>Human Resources</b>
<b>Date</b>	<b>24/06/2019</b>
<b>Status</b>	<b>Approved</b>
<b>Date of revisions (if applicable)</b>	<b>26/09/2022</b>
<b>Date agreed</b>	
<b>Date for revision</b>	
<b>Links to other People Policies</b>	Access to Occupational Health COP, Sickness Absence Policy, Disciplinary Policy

## Appendix A

### DEFINITIONS

**Drug** - Any substance that affects the way in which the body functions physically, emotionally, or mentally. This includes, but is not limited to, alcohol, solvents, over the counter and prescribed medicines, new legal highs, and illegal substances.

**Substance use** - the taking of medically prescribed drugs, over the counter medicines, alcohol or other substances that may affect an individual's behaviour and work performance.

**Substance misuse** - the taking of any drug, alcohol or other substance which does adversely affect an individual's behaviour and work performance, and which has not been medically prescribed or advised.

**Non-negative** - a test result for a screening test that requires further laboratory testing to confirm the presence of a drug (or breakdown product).

**Positive** – a test result that has gone through laboratory testing and confirms the presence of a drug (or breakdown product).

**EAP** - the Council's Employee Assistance Programme.

**Unfit for work** – a person will be considered unfit for work through substance use or misuse if they have consumed drugs or alcohol in a quantity and at a time that would cause them to test positive in a drug or alcohol test in accordance with this policy.

## **Appendix B – Alcohol and Drugs Testing Process.**

### **INTRODUCTION**

To undertake Fenland District Council Workplace Drug and Alcohol Testing Programme, the Council will use its own Digital fingerprint testing equipment

The alcohol test will consist of an on-site breath analysis using a calibrated electronic meter.

Drug testing is a multi-stage process in which fingerprint sample is collected, if a positive test is returned there will be a second fingerprint test taken and submitted for laboratory analysis. Comprehensive details of how the drug and alcohol testing process will be carried out are outlines in Appendix C.

All individuals to be tested will be tested for **both** drug and alcohol consumption irrespective of suspicion or admission to impairment by either drugs or alcohol.

### **1. Alcohol**

Alcohol as a substance is legal, freely available, and socially acceptable. However, if it is taken in excess, it can affect an individual's health, mental well-being, and job. The focus of this policy is on drinking patterns that may create problems in the workplace.

#### **1.1 Alcohol Testing Limit**

A positive alcohol result is where the level of alcohol concentration in the sample is greater than the Council's alcohol testing limit.

The Council's alcohol testing limit is as set out below and follows the drink-driving limit used by the Police in England:

Alcohol - 35 µg (micrograms) per 100 mls in breath (legal Driving Limit).

All employees and agency workers must not:

- Report for work (at the start of the working day or when returning to work after a rest/meal break) with a level of alcohol in the body which exceeds the legal limit.
- Consume alcohol at work.

### **2. Drugs**

The illicit use of substances or any of their derivatives is not in any circumstances acceptable. A positive drug result is where the drug concentrations in the sample are greater than the internationally accepted cut off levels for drug testing.

#### **2.1 Legitimate Medication**

Some prescribed and proprietary medicines have side effects which can be dangerous, particularly under working conditions. These include loss of concentration, dizziness, drowsiness, and even temporary loss of consciousness. Individuals must inform their doctor of the nature of their job



before medicines are prescribed and follow the advice/ instructions of the prescribing doctor and/or manufacturer and they must inform their manager of potential known side effects.

Individuals should notify the collector during drug testing of any prescribed medication taken, which may affect the outcome of the test.

To preserve medical confidentiality, the medication declared by the donor will not be visible on the employer's copy of the Chain of Custody form.

### **3. Test Categories**

Testing will be carried out for Cause and pre-employment (I.e., day 1) testing:

#### **3.1 For Cause**

For cause testing will apply to any employee or agency worker across all areas of the Council. When there is cause to believe that an individual's behaviour and/or performance at work are impaired by drugs/alcohol, they may be required to undertake the drug/alcohol testing procedure. See Appendix D for the procedure to be followed.

Some examples of circumstances where this may be appropriate are: -

- Obvious signs of mental and/or physical impairment.
- Recognition by managers, supervisors or colleagues of symptoms affecting work performance.
- Complaints from the public indicating that alcohol/drugs may be a factor.
- The discovery of items in the possession of an individual that could indicate involvement with alcohol/drugs.
- After an accident or incident.

### **4. Refusal to donate a sample for a drug or alcohol test**

In the event that an individual refuses to take a test, an initial discussion will be held with the individual and their manager/supervisor to ascertain any reasons for non-compliance, and every effort will be made to explain the procedure and address any concerns raised. Prior to the discussion the individual to be tested will be advised that a Trade Union representative or other work colleague may accompany them. This individual will only be acting as a witness not a representative.

If the individual to be tested requests a Trade Union representative to act as a witness and no such representative is available at the time, the procedure will not be delayed to accommodate this. The individual to be tested will be reminded that a work colleague may also be asked to attend as a witness. At the conclusion of this meeting the individual will be reminded of the likely consequences (see below) and given a 15-minute waiting period to reflect on the situation. If at the conclusion of the 15 minutes waiting period, the individual still refuses to take a test, they will be asked to sign a declaration indicating their refusal to comply with the procedure.

In the case of a refusal to undertake a drug or alcohol test, the following action will be taken:

Employee:

Refusal to provide a sample for alcohol and/or drug testing or any attempt to interfere with the test process will be regarded as gross misconduct and will be referred to the Council's disciplinary policy. The employee will be suspended on full pay pending the investigation process.

Agency worker / contractor:

The issue will be immediately referred to the employing company to deal with in accordance with their employment conditions and the terms of our procurement contract with them. The individual will not be re-engaged.

## **5. Results of Analysis**

### **5.1 Negative Results**

With cause tests will be subject to on-site screening which provides an immediate result for both drug and alcohol testing. Negative on-site screenings for drug testing will not be subject to confirmatory analysis at the laboratory. Individuals will be notified verbally of the negative result by the on-site collector. The result will also be communicated to Human Resources and the line manager who originated the request for testing

### **5.2 Non-Negative Results**

Testing is a two-stage process; the first stage is on-site screening which provides an immediate result for both drug and alcohol testing. Any individual screening non-negative at Stage 1 will be verbally notified of the preliminary non-negative (for drug testing) or the conclusive result (for alcohol testing) as well as the manager. The following action will also be taken:

Employee - if the non-negative result is due to alcohol consumption, the employee should be suspended with full pay pending the conclusion of a disciplinary investigation.

If the non-negative result is due to the potential of drugs consumption, consideration will be given to giving the employee a period of leave with pay or temporary allocation of suitable alternative work if appropriate pending confirmation of the non-negative result.

Agency/Contractor - the individual concerned will not be permitted to return to site and the issue will be referred to the employing company to deal with in accordance with their employment conditions and the terms of our procurement contract with them.

The second stage is confirmatory analysis (and applies only to drug testing), which requires the fingerprint sample to be sent to the laboratory under chain of custody conditions. A confirmed positive result is usually available within five working days from receipt at the laboratory. A positive result from confirmatory analysis will not be announced as such until the result has been subject to medical review. On receipt of notification from the medical review officer of a positive result the HR Team will notify the individual's line manager of the confirmed positive result.

If, as a result of confirmatory analysis and medical review, the sample is positive, the following action will be taken: -

Employee - the employee will be suspended on full pay or will be required to undertaking suitable alternative work if this is appropriate, pending the outcome of an investigation of the incident and the Disciplinary Policy and Procedure will be invoked. In the event that the employee admits prior to the day when the test takes place that they have an issue with either drugs or alcohol, the

Council will provide support via the Occupational Health Provider and other support mechanisms (as listed in this policy) available to the individual at the time.

Agency worker / Contractor - the individual concerned will not be permitted to return to site and the issue will be referred to the employing company to deal with in accordance with their employment conditions and the terms of our procurement contract with them.

## **6. Challenging Test Results**

If an individual wishes to undertake a formal challenge to a positive drug or alcohol test they must put their request in writing to the HR Team within 14 calendar days of receipt of notification of the confirmed positive result.

The individual must specify the name and address of the independent laboratory they wish to transfer their “B” specimen for re-analysis. The specimen will be transferred to the independent laboratory under Chain of Custody conditions. It will not be returned to the donor to make their own arrangements. This will be at the cost of the employee.

Any complaints about the administration of the drug and alcohol tests, e.g., selection, treatment during the test, etc., should be dealt with in accordance with the Council's Grievance Policy.

## **7. Trade Union Representation**

In all cases the individual to be tested will be advised that they may be accompanied by a Trade Union representative or other work colleague. This individual will only be acting as a witness not a representative. If the individual to be tested requests a Trade Union representative to act as a witness and no such representative is available at the time, the procedure will not be delayed to accommodate this. The individual to be tested will be reminded that a work colleague may also be asked to attend as a witness.

The witness must not interfere in any way with the sample collection and testing process, and the urine sample will be given in absolute privacy. The declaration of medication taken should be given in total privacy unless the donor permits the presence of someone other than the collector.

## **Appendix C**

### **1 The Drug Testing Process**

#### **(a) The Process**

The drug testing process may involve up to six stages depending upon whether a positive result is obtained, all of which are very strictly controlled by a process known as 'Chain of Custody'.

#### **(b) Chain of Custody**

The 'Chain of Custody' is the name given to the procedures which ensure that the sample travels in an intact and secure manner from the collection of the sample from the individual to the laboratory and all the way through the analytical process up to and including the reporting of the laboratory results and medical review, through to the eventual destruction of the sample.

#### **(c) Sample Collection**

Sample collection is the only part of the drug and alcohol testing process that is seen and experienced by the individual and as such will be carried out sensitively and properly.

#### **(d) The Collection Process**

When the collector is conducting a test, the sample will be screened on site, this provides an immediate preliminary result which allows all those who test negative to return to work immediately. If, however, the on-site screen proves non-negative the employee will be asked to provide a further two fingerprint samples and will be labelled and sealed with tamper-evident security seals.

One sample, the 'A' sample, is used for laboratory analysis, whilst the second 'B' sample is retained at the laboratory under secure conditions for future reference in case the individual wishes to challenge the laboratory results.

In the case of a challenge to a positive result the 'B' sample may be sent directly under Chain of Custody conditions to an independent laboratory of the individual's choice. Alternatively, the 'B' sample will be retained, in the case of a positive result, by the laboratory for one year after the test result is known.

All paperwork relating to the sample will be completed in the presence of the donor, they will be required to sign the 'Chain of Custody' form to verify that they have seen the samples taken, labelled, and sealed and that they give consent for the test to be analysed and for the results to be communicated to the Council. If they refuse to sign, it will be treated as a refusal (see Appendix B.).

Copies of the 'Chain of Custody' form are retained by the employee, the Council, the Company's chosen service provider and the medical review officer, and further copies are forwarded with the specimen to the laboratory. They will be stored securely in accordance with data protection legislation and best practice.

During the collection process the individual is given an opportunity to declare any drugs or medication which they have taken in the days leading up to the collection of the sample. This is an important part of the medical review process. If a positive test result is indicated, it will ensure that

the individual is not accused of drug abuse when they have only taken legitimate medication in the correct dosage.

(e) Adulteration Testing

The collection process is designed to minimise the risks of an individual successfully adulterating or tampering with the sample.

The analytical procedures employed by the laboratory include a number of additional tests to detect adulteration and/or attempted sample tampering.

(f) Laboratory Procedures

On arrival at the laboratory the specimens and their packaging are examined to check that they have not been tampered with that the security seals are intact and that the Chain of Custody has been preserved.

Sample 'A' is then opened for analysis. The fingerprint test is subject to initial analysis to exclude adulteration and then screened using Liquid Chromatography Mass Spectrometry techniques.

(g) Cut-Off Levels

Cut-off levels for both the screening and confirmatory analysis will be utilised. These cut-off levels, which are internationally accepted, are set to: -

- (i) permit the detection of recent drug use,
- (ii) exclude claims that the positive result was due to inadvertent or passive exposure to the drug,
- (iii) eliminate the risk of 'false positive' results due to analytical noise or sample matrix.

(h) Reporting of Results

All stages of the analytical process are continuously monitored by a suitably experienced and qualified toxicologist and all results are checked by them prior to release.

The checking procedure involves a thorough quality audit. After the toxicologist is satisfied with the quality of the results they are reported confidentially.

Positive results are reported to an independent medical review officer who is not employed by the laboratory undertaking the analysis.

(i) Medical Review

The independent preliminary medical review is used to explore the reasons for the positive result and may involve a discussion with the individual tested to determine whether there is any legitimate reason for a positive result. For example, a presumptively non-negative result will be declared as negative if it can be demonstrated that the donor has taken the correct dosage of medication prescribed for the donor or purchased over the counter. The overriding principle behind medical review is that if there is any doubt about the result, the beneficiary of that doubt will be the donor.

## **2. The Alcohol Testing Process**

The alcohol test will consist of an individual being asked to blow into a handheld electronic device configured to give blood alcohol readings which is the key indicator of possible impairment. The device has various functions built in to ensure that the subject provides a satisfactory breath sample while the result is produced on a digital display, normally with options to send the result to a printer. The breath test result will be available immediately.

A calibration check will be made on the breath test machine to confirm that it is reading accurately. The donor will be asked to confirm that he/she has not taken anything by mouth in the previous 20 minutes. This ensures that no medication or food or non-alcoholic drink can affect the result.

The donor will be asked to confirm that he/she has not smoked in the previous 10 minutes. Tobacco smoke does not have any effect on the result but can reduce the working life of the machine.

If the result of the initial breath test is zero, there will be no further breath testing. However, if it is positive (at or above the company's cut-off level) a second sample will be collected immediately. If this gives a result at or above the cut-off level the test will be reported as positive, if below the cut-off level on the second test, it will be reported as negative.

The donor will be asked to sign the test record confirming that they accept the result.

## Appendix D

### FOR CAUSE TESTING

If a manager or supervisor has reasonable cause to suspect that an individual is unfit to carry out the full duties and responsibilities of their post through the effects of drugs/alcohol while on duty or when reporting for duty, the following steps will be taken: -

- (i) The manager or supervisor will speak to the individual privately, inform them of the suspicion that they may be unfit to work through the effects of drugs/alcohol and arrange for them to be relieved of duty immediately.
- (ii) A further discussion will then take place. If after this discussion the manager still has cause for concern the individual will be requested to undertake a drugs/alcohol test by the Council's trained member of staff. Even if the individual admits to using drugs and/or alcohol a test for both drugs and alcohol should be undertaken.
- (v) All for cause tests will be subject to on-site screening which allows all individuals who test negative to be informed accordingly and allowed to resume work immediately.
- (vi) If, however, sample or breath test(s) screen non-negative for drugs or alcohol, the individual will be informed of the initial screen results and informed that the urine sample for drug testing will be sent away for confirmatory analysis and medical review. Consideration will be given to the use of suspension with pay or temporary allocation of suitable alternative work pending confirmation of the non-negative result, particularly if the individual occupies a safety critical post.
- (vii) All individuals to be tested will be tested for **both** drug and alcohol consumption irrespective of suspicion or admission to impairment by either drug or alcohol.

## Appendix E

### REFERRAL TO OCCUPATIONAL HEALTH

Employees who, outside of the testing process have admitted or who have declared prior to testing that they are experiencing problems resulting from the use of alcohol, drugs or other substances should be offered the opportunity to obtain specialist help via referral to the Council Occupational Health Provider.

A manager may also wish to discuss with the HR Team if they have any concerns regarding an individual employee's behaviour at work and action that should be taken.

#### Indicators

The following characteristics, especially when occurring in combination, **MAY** be indicative of an alcohol, drug, or substance related problem. However, it should be noted that these characteristics **ARE NOT** confined to such problems and caution should be exercised in their interpretation.

#### Absenteeism

- Multiple instances of unauthorised leave.
- Excessive sickness absence.
- Frequent absences occurring on the same day, e.g., Mondays and/or Fridays.
- Excessive lateness, e.g., Monday mornings or returning from lunch.
- Leaving work early.
- Unusual and increasing improbable reasons for absence.
- Frequent unscheduled short-term absence, with or without explanation.
- Unusually high absenteeism rates for diarrhoea, colds, flu, gastritis etc.

#### High Accident Rate

- Frequent accidents at work.
- Accidents elsewhere, e.g., at home, travelling to work.

#### Difficulty in Concentration

- Work requires greater effort.
- Tasks take longer than normal to complete.

#### Confusion

- Difficulty in recalling instructions, details etc.
- Increasing difficulty in dealing with complex assignments.
- Difficulty in identifying/recalling own mistakes.

#### Sporadic Work Patterns

- Alternating periods of high and low productivity.
- Increasing general unreliability and unpredictability.
- Repeated unnecessary absences from post.
- Frequent trips to the toilet etc.



- Extended tea/coffee breaks.

### **Reporting to Work**

- Reporting to work in an obviously inebriated condition, or apparently under the influence of drugs or other substances.
- Smelling of alcohol.
- Hand tremors.
- Deteriorating personal hygiene/appearance.

### **Deterioration in Job Efficiency**

- Missed deadlines.
- Mistakes due to inattention/poor judgement.
- Poor decision making.
- Implausible excuses for poor work performance.

### **Deterioration in Interpersonal Skills**

- Overreaction to real or imagined criticism.
- Unreasonable resentments.
- Irritability.
- Complaints from colleagues.
- Avoidance of supervisors, colleagues, or other staff.

### **Referral Process**

A referral can be made for specialist help at any time via the Council's Occupational Health Provider should the employee or managers identify a problem with which it could help.

However, if a manager or supervisor has reasonable cause to suspect that an individual is unfit to carry out the full duties and responsibilities of their post through the effects of drugs/alcohol while on duty or when reporting for duty, the manager should invoke the Workplace Drug and Alcohol Testing Procedure outlined within Appendix C.

### **Help Accepted**

If the employee comes forward at any time prior the day when the test is conducted and self refers for support through their line manager or the HR Team, a referral to Occupational Health will normally be conducted by the manager.

The Occupational Health Provider will refer the employee to an appropriate course of treatment or agency.

It is the employee's responsibility to ensure that the treating agency provides the Occupational Health Provider and then the Council with an update at the end of the agreed period indicating the employee's progress.

If the employee has not been performing their normal duties and if after a medical assessment from the Occupational Health Provider, the employee is considered fit to return to normal duties then they may do so. It may be that employees who are fit to return are still engaging with their treatment agency. The Council will, where operationally viable, support reasonable time off for this.

If the employee is not fit to return to work at the end of the agreed period, then they may be subject to action under the Council's Disciplinary Policy, the outcome of which could be dismissal.

In the event that the Occupational Health Provider is unable to secure feedback from the treating agency at the end of the agreed period the Occupational Health Provider will inform the HR Team accordingly. The manager will seek guidance from HR Team and may decide to proceed to take action under the Council's Disciplinary Policy with the information available at the time.

The Council aims to ensure that the confidentiality of any member of staff experiencing alcohol or drug-related problems is maintained appropriately. However, it needs to be recognised that, in supporting staff, some degree of information sharing is likely to be necessary.

If an employee seeks help with an alcohol or drug-related problem directly from Human Resources [or Occupational Health] and they wish to keep matters confidential from their manager/colleagues, this will be respected unless there is reason to believe that this could put the employee, their colleagues or anyone else at risk or carries some other material risk for the business. In those circumstances the Occupational Health Nurse or HR Team will encourage the employee to inform their manager and will give them sufficient time to do so before discussing the matter with them.

### **Help Rejected**

If the employee rejects an offer of help, the manager (in consultation with HR Team) should make a full assessment of the situation and decide whether it is appropriate to instigate action under the Council's Disciplinary Policy at this stage, or whether to allow the employee to continue at their place of work on the understanding that the situation will be kept under review. During the interview the manager should establish the future acceptable standards of work performance and pattern of behaviour. If at any time the employee should unreasonably fail to meet these requirements formal action will be taken. A further offer of a referral to the Occupational Health Provider for help will not be made in the event that drug or alcohol use is suspected or discovered. However, should an employee volunteer on a separate occasion that they have a problem, a request for help will be considered.

### **Recovery Programme Discontinued**

If an employee should prematurely discontinue a recovery programme, the manager should arrange to speak with the employee and determine what action should be taken (advice should be sought from HR Team).

### **Occupational Health Provider Unable to Assist**

In some circumstances the Occupational Health Provider may be unable to help the employee. For example, the provider may not perceive a problem for which it can provide help, the employee may deny the existence of a problem and may reject the need to undertake a recovery programme. Employees may also agree to a recovery programme in order to avoid disciplinary action and may not be committed to the programme. In these circumstances, the Occupational Health Provider will inform the HR Team and manager that it is unable to help, and it will then be for the HR Team and manager to assess what action should be taken.

### **Alternative Working Arrangements During Recovery Programme**

Should a return to work and/or continuation at work carry with it the risk of a recurrence of the problem or of jeopardising the health and safety of other employees, clients or third parties, a suitable alternative working arrangement should be provided if available.

## **Reintegration**

The manager has a key role to play in helping the employee to re-adjust to the work environment after their treatment. On successful completion of a recovery programme, the manager should arrange to interview the employee to congratulate them. At the interview the manager should explain their expectations of future work performance and behaviour and to offer continuing support.

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