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East Herts Council

Alcohol, Drug and Substance Misuse Policy

June 2007

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Alcohol, Drugs and Substance Misuse Policy

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Introduction

The Health and Safety at Work etc. Act 1974 requires East Herts Council to ensure, so far as is reasonably practicable, the health and safety of its employees at work. It also owes a duty of care to third parties e.g. contractors, members of the public, guest and visitors etc to take reasonable care to ensure that they are not exposed to risks to their health and safety because of substance misuse or drug and alcohol related negligence.

All Employees are reminded that arriving at work under the influence of alcohol or banned or misused substances is considered gross misconduct and as such may be subject to disciplinary action.

It is not the practice of East Herts to intrude upon the privacy of its employees, particularly in health matters, where the condition does not affect them undertaking their normal range of duties or for delivering services to the community. However East Herts does become concerned where health or behaviour impinges on the health and safety of the individual or other employees and third parties, through neglect, poor work performance, and poor conduct and anti social behaviour.

Alcohol, drug and substance related misuse can for example:

- Jeopardise own and others health and safety
- Adversely affect working relationships
- Cause absenteeism and sickness absence
- Jeopardise personal achievement and career options
- Lead to unacceptable and abnormal conduct and behaviour
- Affect the image of the Council
- Reduce performance and productivity
- Lead to breakdown in personal and family relationships

In creating this Policy East Herts acknowledges that social occasions take place and are important in building teams, however, the Council will not condone the deliberate abuse and misuse of alcohol, drugs or substances.

Definitions

For the purpose of this policy, alcohol misuse is defined as:

'A level of alcohol intake, either intermittent or continuous, which interferes with an individual's health, work performance, capability, conduct or reputation, impairs judgement and affects the safety and performance of themselves and and/or others'

Drug and Substance Misuse is defined as:

'The use of illegally classed drugs, the accidental, deliberate or intentional misuse of prescribed or over the counter medication, either prescribed for self or others. The abuse and misuse of substances, solvents, cleaning agents etc that are harmful to, or have the potential to harm the individual, or through an individuals actions, to harm self or others'

Aims and Scope of the Policy

This policy has been designed to help protect the employer and employees from the exposure and danger of alcohol, drug and substance misuse and to encourage those who may have a problem to seek help.

The Council's approach and response, based on advice from specialist sources such as the Health and Safety Executive, Alcohol Concern and ACAS, where an employee has a dependency related problem, will be to provide support and assistance and to first deal with the misuse and abuse issue (as far as is possible) outside the disciplinary procedure.

The Council recognises that if employees can be helped through counselling and advice, it may be possible to retain their skills and knowledge as useful members of the workforce.

This policy is applicable during work related social occasions, which form part of our working environment and play an important role in forming cohesive teams.

Disciplinary action is reserved as a last resort when an individual persists in misusing alcohol, drugs and other substances, refuses treatment, or refuses to acknowledge the problem, as a result of alcohol, drug or substance misuse, commits an act of gross misconduct that may lead to summary dismissal under the Councils Disciplinary procedure.

Therefore, this policy applies to all employees of the Council and aims to:

- Promote greater awareness of how alcohol , drugs and substance misuse and/or dependency can be prevented
- Achieve a balance between employee support and discipline when dealing with isolated incidents of substance misuse or employees who have dependency problems;
- Encourage and support self-referral or intervention at an early stage of dependency; and
- Meet the Councils legal obligation to discharge its duty of care to its employees and clients.

Legal Duties

Management of Health and Safety at Work Regulations 1999 (MHSWR)

In accordance with these regulations, the Council will assess the risks to health and safety to which its employees are exposed while at work, and will not knowingly allow an employee under the influence of alcohol, drug or substance misuse to continue working, if that employee's behaviour or negligence puts themselves or others at risk, as this could amount to a criminal offence, should that risk materialise or be realised, the Council might also incur civil liability to anyone injured as a consequence. In such cases management may have no alternative but to suspend the employee, or send them home from work.

Control of Substances Hazardous to Health Regulations 2002 (COSHH)

These regulations govern the control, specifically in relation to the use, handling, storage and disposal of any substances deemed hazardous to health under COSHH. It requires that a proper COSHH assessment be carried out to record all substances used by the Council, there are also requirements to obtain information about certain chemicals under the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002 (CHIP). Certain chemicals, particularly solvents and adhesives, have strong volatile components and their misuse, e.g. 'glue sniffing' is a serious and harmful problem. Therefore, the Council will ensure that such substances are carefully controlled, recorded and monitored to ensure no such misuse can occur.

Misuse of Drugs Act 1971

Under this act certain types of drugs are controlled in respect to their supply, possession and use.

The possession, selling, supply and misuse of prohibited drugs or substances may be a crime for which the person concerned may be liable to prosecution. In some circumstances, if the possession, selling, supply or use takes place on an employer's premises, or during the time an employee is engaged on business for the employer, then the employer may also be guilty of committing an offence, whether it occurred with or without the employer's knowledge, connivance or consent.

The Council will take appropriate action against any employee who commits a criminal offence under this act. This action, including any disciplinary process and subsequent outcome, will be independent of any police investigation or subsequent criminal proceedings.

Any employee charged with an offence under the Misuse of Drugs Act 1971 must inform their Line Manager, Head of Service and Human Resources Officer upon receipt of a court summons. Any employee convicted of an offence under the act must inform their Line Manager, Head of Service and Human Resources Officer in writing immediately upon conviction.

Disability Discrimination Act 1995

While it is expressly provided that dependency on alcohol or any substance does not, of itself, amount to a disability for the purposes of the Disability Discrimination Act 1995, a condition caused by such dependency or addiction may give rise to such a disability

Drinking, Drugs and Driving

East Herts Council:

- Expects Employees who are on controlled prescription or over the counter medication that may affect their ability to drive to consult with their Line Manager if they are unable to use a vehicle.
- Considers driving under the influence of alcohol or prescribed and over the counter medication, illegal drugs and substances that adversely affect the drivers' capability to safely control a vehicle to be a disciplinary offence.

Employees driving in connection with Council business must comply with the requirements of the Road Traffic Act and supporting regulations. Therefore, the Council:

- Expects that employees whose duties require them to drive to abstain from consuming alcohol.

The following guidance has been taken from the Department of Transport and relates to retention of alcohol in the body.

'How much can I drink and still be under the legal limit'?

Alcohol limits cannot be calculated. There is no failsafe guide as to how much you can drink and stay under the limit. The amount and type of alcoholic drink and your weight, sex, age and metabolism will all play their part.

The quantity of alcohol in a half pint of beer is approximately the same as in a pub measure of port/sherry or a small glass of wine but:

- Many beers and wines are stronger than average
- Drinks poured at home are usually more generous than pub measures
- Cocktails and alcopops are very strong; their high alcoholic content is often masked by the taste of fruit juice

At twice the current legal limit you are at least 50 times more likely to be involved in a fatal collision

If you have been drinking in the evening how can you be sure if it's ok to drive the next morning.

You may still be affected by alcohol the following day, the following example from the Dft is based on drinking a half pint or ordinary strength beer:

- | | | |
|-----------------------|---|---|
| After just 10 minutes | - | 50% of the alcohol will be in your bloodstream |
| 60 Minutes | - | After an hour all the alcohol will be in your bloodstream |

An example of a Saturday night out drinking:

- | | | |
|-------------|---|--|
| At Midnight | - | You may have 200mg/100ml of alcohol in the blood |
| At 7.30am | - | When you get up, there is still 90mg/100ml in the blood and you are still over the current legal limit and unfit to drive |
| By Midday | - | You're down to around 20mg/100ml and under the current legal limit. But your driving may still be affected and you could be guilty of an offence |

It is impossible to get rid of alcohol any faster. Neither a shower, nor a cup of coffee, nor other ways of sobering up will help.

Those employees who are on call out duties must take particular care not to compromise their ability to drive and it is advised that they abstain from drinking alcohol. Disrupted sleep coupled with alcohol may affect judgement and lead to accidents.

Any employee charged with a drinking and driving related offence (e.g. failure to provide a specimen) or a drug related offence, must inform their Line Manager, Head of Service and Human Resources Officer upon receipt of a court summons. Any employee convicted of a drink/and or drug related offence must in for their Line Manager, Head of Service and Human Resources Officer in writing immediately upon conviction.

Responsibility of Individuals

East Herts Council recognises the importance of employees relaxing and enjoying themselves but this does not mean they should consume excessive amounts of alcohol.

The consumption of alcohol at work during working hours will be permitted on special occasions such as:

- Receptions
- Presentations
- Seasonal gatherings
- Employee leaving events
- Award and recognition events

On such occasions the provision of alcohol should be moderate and suitable non alcoholic alternatives made available. Individuals should never consume more than a reasonable amount. The word 'reasonable' is very difficult to define, therefore where there is uncertainty you should seek the guidance of your Manager. In general terms you should remain alert enough to carry out the duties of your post to an accessible level.

All employees must remember that they have a responsibility to ensure that no occasion gets out of hand, that excessive drinking is not acceptable and consumption is kept to a minimum.

The taking of illegal and banned drugs and substances at or prior to starting work is never acceptable. Such behaviour will be deemed as bringing the reputation of the Council into disrepute which would result in disciplinary action.

Responsibility of Managers

All management level officers must ensure they read and understand the requirements of this policy and that their respective teams are briefed.

Managers need to be aware of their responsibility to discourage drink or drug related unacceptable behaviour, and to ensure that excessive consumption alcohol does not occur:

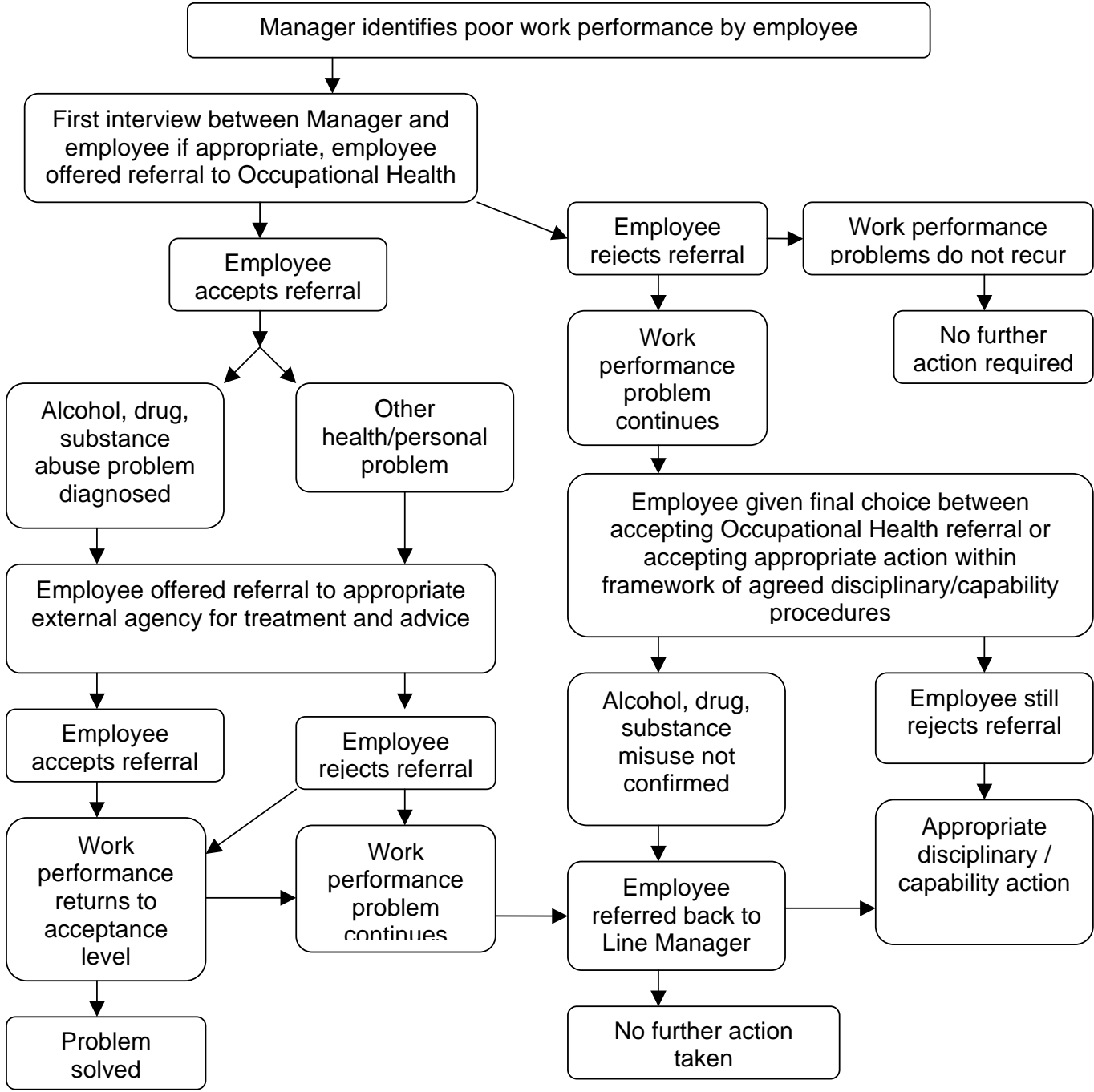
- At formal and informal organised events and gatherings
- During lunchtime periods between morning and afternoon attendance at work
- After work before attending any evening meetings or Council planned events
- At events organised by third parties where the Council is being represented

Employment tribunals usually view 'work parties' as taking place within the employment context, even if they not held at work premises. Therefore, behaviour at such parties should remain acceptable and care should be taken to prevent any negative impact on working relationships and the Council's reputation with outside contacts. Conduct deemed unacceptable on Council premises (e.g. sexual harassment associated with alcohol, drug or substance misuse) is also unacceptable and may be similarly dealt with through the Councils disciplinary apparatus.

Managers are advised to refer to the process flow chart before an initial meeting with an employee following an incident where alcohol, drug or substance misuse is suspected with guidance from Human Resources.

Process Flow Chart

Alcohol, Drug and Substance Abuse Flow Chart outlining possible courses of action



Monitoring absence and accident records is a normal part of managerial responsibility. Managers should be aware that increases in such rates might be linked to an alcohol, drug or substance misuse problem. If an employee's appearance or conduct deteriorates without any obvious reason, the Line Manager should talk about the change with the persons. If the reasons for the decline are still unclear following such a discussion, then, at the request of the Line Manager, the HR Team may make an appointment with the Occupational Health Service for that employee. The Line Manager should explain to the employee the reason for the referral.

Admission of an alcohol, drug or substance misuse problem may be very difficult for an individual to make and any such disclosure should be treated as strictly confidential, it is important to gain trust when someone has come forward in order to provide the best possible support. However, if the Line Manager believes that the law has been broken at work or that serious harm may result to the individual or others, advice on action to be taken should be sought immediately from the HR Officer assigned to the case.

Line Managers are asked to offer reasonable support; this includes treating absence, for treatment and rehabilitation, as normal sickness and recognising that relapses may occur.

Line Managers, in consultation with the Human Resource Team and the employee must discuss a return to work plan following successful treatment so that the employee returns to the same job they were undertaking.

If an admission of alcohol, drug or substance misuse problem is made but not linked to a commitment to a treatment programme or to the support mechanism of the Council, then it should be made clear that, if help is refused and there is underperformance or misconduct in the future, there is a possibility that the appropriate disciplinary procedures may be invoked. Please refer to the Councils 'Disciplinary Policy and Procedure'

Where other employees are aware of a colleague's alcohol, drug or substance misuse problem, appropriate support should also be extended to them because the situation may increase the pressure on them or there may be adverse reactions to the situation.

E.g. A strong smell of alcohol early or first thing in the morning or strange, abnormal behaviour, not normally associated with an individual.

You should advise your Line Manager, who will need to talk to the parties concerned, Line Managers are advised to refer to the process outlined by the flow chart.

Responsibility of Colleagues

It is likely that an employee with an alcohol, drug or substance misuse related problem will come to the notice of colleagues as there may be indications of:

- Inadequate, poor and failing performance
- Deterioration in outward appearance and health
- Changes in behaviour, responses and reactions to people and situations
- Heightened emotional state
- Increased absenteeism
- Physical symptoms such as smelling of alcohol, shaking, unable to concentrate or communicate clearly, perform at previous levels.

Line Managers are asked as part of the briefing process on this policy to suggest that colleagues encourage a person with an alcohol, drug or substance misuse problem to recognise his/her problem and to seek advice, either through his/her General Practitioner or a specialist agency.

Employees who are aware that a colleague is under the influence of alcohol, drugs or other substances should inform their Line Manager, particularly if they witness something that could be viewed as misconduct/gross misconduct i.e. where the safety of others, including clients or the reputation of the Council is at risk. In the case of regulated or prohibited substances there may even be a criminal liability on both the Council and the employees concerned. Concealment, therefore, may not be in the best interest of either party and could lead to action against the Council.

Reluctance by colleagues to take such an initiative is understandable but covering for neglect of self and duties is not beneficial as it services to delay, or worse to prevent the management of a situation to a successful outcome.

With-cause testing for all staff at all levels: The following process shall only be used **as a last resort** and where substantial and serious impact occurs resulting in fatality or extreme harm and damage arises.

An alcohol/drugs test will be carried out in all cases where the employee has had any involvement in a workplace accident or in any incident that has caused or could have caused a danger to health or safety. Testing will also be carried out where management has grounds to believe or suspect that an employee is or may be under the influence of alcohol or drugs

Role of Human Resources

The HR Team are available to provide support, guidance and assist with developing options for best resolution approaches to assisting with the management of individual cases.

All information will be treated in strictest confidence, unless criminal acts have taken place or health and safety has been, or is likely to be, put seriously at risk. If it is judged that such information cannot remain in confidence, then the person who disclosed the information shall be advised that this is the case.

Sources of Information and Advice

Details of organisations offering information and advice on alcohol and drug misuse are given here, there are local and national organisations listed.

Alcohol Concern

Is the national voluntary agency on alcohol misuse. Set up in 1984

Its principal aims are:

- To reduce the incidence and costs of alcohol related harm.
- To increase the range and the quality of the services available to people with alcohol-related problems.

Alcohol Concern
First floor
8 Shelton St
London WC2H 9JR

Tel: **020 7395 4000**

Fax: **0202 7395 4005**

E-mail: contact@alcoholconcern.org.uk

Website: www.alcoholconcern.org.uk

Alcoholics Anonymous (AA)

Alcoholics Anonymous - National Helpline
0845 76 97 555

Talk to Frank

The free national confidential information and advice service open
24 hours a day

Tel: 0800 776600

Web site: www.talktofrank.com

Chrysalis Drug Project Ltd

Contact Mr Kevin Michael, Director

2a Priory House
Priory Street
Hertford
Herts
SG14 1RN
Phone: 01992 504171

Fax: 01992 538638
email: kevmichael@talk21.com

Vale House Stabilisation Services

43 Cowbridge
Port Vale
Hertford
SG14 1PN

Tel: 08707 705787

Email: enquiries@valehouse.org

Department for Transport

Advice on alcohol and driving

Website: www.think.dft.gov.uk

Positive People Company (PPC)

Employee Assistance Programme

The Council has in place an Employee Assistance Programme (EAP) that is open to employees and their families.

We encourage employees to take full advantage of the range of services offered by the EAP.

You can call the EAP any time, day or night, free and in confidence.

Freephone 0800 282 193

'minicom users: **0800 085 4739 hearing/speech impaired only**'

Policy Review and Amendment

This Policy shall be reviewed Bi-annually and where changes in guidelines, contact details or new information useful to the execution of the policy are made in order to reflect the best possible level of support and management.