

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

5th November 2009

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Management and Finance – Lead Cabinet Member – Councillor Terry Laing

SUBSTANCE MISUSE POLICY

1. Summary

This is a new policy which has been produced as a supportive measure to employees who have a substance misuse problem. Its aim is to ensure employees are aware of the risks associated with substance misuse and the consequences, including any legal consequences, of their actions. The policy also sets out clearly, the health and safety risks associated with substance misuse and promotes a consistent approach to this issue across the Council. Members are asked to defer a decision on the implementation of random drug and alcohol testing to employees until the scheme currently being developed for taxi drivers can be assessed.

2. Recommendations

Cabinet is recommended to:

1. Approve the Substance Misuse Policy.
2. Defer consideration of the application of drug and alcohol testing to employees until the scheme for taxi drivers has been in operation for a period of 6 months.

3. Reasons for the Recommendations

Substance misuse means using a substance inappropriately or to excess, so it negatively affects the way the user feels or acts and/or has a detrimental effect on the user's health and wellbeing. It includes alcohol, illegal or legal drugs, prescription medicines such as tranquillisers and anti-depressants, over the counter medicines and other substances such as solvents, glue and lighter fuel.

The inappropriate use of substances can damage the health and wellbeing of employees and have far reaching effects on their personal and working lives. At work, substance misuse can result in reduced levels of attendance, sub-standard work performance and increased health and safety risks, not only for the individual concerned but also for others, for example work colleagues, members of the public, contractors and service users. Furthermore, the effects of substance misuse could be detrimental to the Council's reputation, image and its ability to deliver high quality services.

The aims of the policy are to:

- Promote a culture in which substance misuse is unacceptable.
- Prevent substance misuse by raising awareness.
- Give a clear understanding on the Council's rules on taking drugs and alcohol
- Provide clarity and practical guidance on how to deal with substance misuse effectively

- Promote a safe working environment
- Recognise substance misuse problems primarily as a health matter needing help and treatment.
- To encourage employees, wherever possible, who suspect or know they have a substance misuse problem to seek help voluntarily and provide assistance to these employees to overcome their problem.
- Maintain and improve employee performance
- To take appropriate action under the disciplinary or capability procedure, where necessary.
- Implement a policy which will both protect the employee and the Council

4. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

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SUMMARY

This is a new policy which has been produced as a supportive measure to employees who have a substance misuse problem. Its aim is to ensure employees are aware of the risks associated with substance misuse and the consequences, including any legal consequences, of their actions. The policy also sets out clearly, the health and safety risks associated with Substance misuse and promotes a consistent approach to this issue across the Council. Members are asked to defer a decision on the implementation of random drug and alcohol testing to employees until the scheme currently being developed for taxi drivers can be assessed.

RECOMMENDATIONS

Cabinet is recommended to

1. Approve the Substance Misuse Policy.
2. Defer consideration of the application of drug and alcohol testing to employees until the scheme for taxi drivers has been in operation for a period of 6 months.

DETAIL

1. Drug and alcohol misuse is a serious problem in society today. The increasingly widespread availability of alcohol and illegal drugs can lead to experimental, recreational and dependant use which in turn may affect an individual's ability to do their job effectively. Even if substances are taken only at the weekend, the after effects can last well into the working week.
2. It is important for employers to be aware that drug and alcohol misuse is a problem in society that will affect the workplace either directly or indirectly. This could be due to lower work performance, increased sickness absence or members of staff coping with family members affected by substance misuse.
3. The Health and Safety at Work etc Act 1974 has an over-arching requirement that employers should keep employees and third parties free from risk of harm as far as reasonably practicable. Employees are also required to cooperate with and implement their employer's policies in this respect.
4. The Management of Health and Safety at Work Regulations 1999 require a suitable and sufficient assessment of risks arising from workplace activities to be undertaken, and this includes risks arising from potential drug and alcohol use. In addition, the regulations place a legal duty on employees to inform their employer

of any situation that could be considered to constitute risk, and therefore must report any other employee who appears to be under the influence of drugs or alcohol. Tackling substance misuse in the workplace however, can be a daunting prospect for managers and a policy which sets out the relevant procedures to be followed and offers advice on how and when an employee can seek treatment will be of benefit.

7. This policy has been produced to ensure that employees are therefore aware of the risks associated with substance misuse and the consequences, including any legal consequences, of their actions. In addition, one of the key aims of the Employee Health and Well Being Strategy is to support the health priorities for the borough, one of which is to address alcohol consumption. As the council employs nearly 10,000 staff of whom 74% live within the borough, it is expected that this policy will have a positive impact on the health of our citizens.
The policy is written to be supportive in the first instance, to encourage those who have a problem to admit to it so that it can be appropriately treated. It would only be necessary to take more formal action if the member of staff refused to accept help and all other reasonable steps to address the issue had been tried.
8. The aims of the policy are to:
 - Promote a culture in which substance misuse is unacceptable.
 - Prevent substance misuse by raising awareness.
 - Give a clear understanding on the Council's rules on drugs and alcohol
 - Provide clarity and practical guidance on how to deal with substance misuse effectively
 - Promote a safe working environment
 - Recognise substance misuse problems primarily as a health matter needing help and treatment.
 - To encourage employees, wherever possible, who suspect or know they have a substance misuse problem to seek help voluntarily and provide assistance to these employees to overcome their problem.
 - Maintain and improve employee performance
 - To take appropriate action under the disciplinary or capability procedure, where necessary.
 - Implement a policy which will both protect the employee and the Council
9. The Trade Unions have been consulted in the policy and are broadly supportive of the approach. However, they have expressed some concerns over the proposal in the policy which requires employees not to consume alcohol at all during working hours.
10. On 5th March 2009, Cabinet considered a report on drug and alcohol testing for taxi drivers. In approving the report, Cabinet resolved that "Officers investigate the introduction of random drugs testing for all who drive vehicles or operate heavy machinery on behalf of the Council". The development of testing protocols, training and discussions with the taxi drivers are nearly complete and it is anticipated that testing will begin shortly. For employees, the introduction of testing will need to be agreed with the Trade Unions and incorporated into a specific policy showing clearly the benefits to be gained and the financial implications associated with this approach. Currently testing is not widespread in local government and evidence for its introduction is not therefore readily available. It is therefore recommended that a decision on this issue is deferred until the operation of the scheme for taxi drivers has been in operation for 6 months. This will enable a clearer assessment of the benefits of the application of the scheme to employees to be fully understood.

FINANCIAL IMPLICATIONS

There are currently no financial implications associated with the policy.

LEGAL IMPLICATIONS

The policy provides guidance and a procedure for the Council, as the Employer, and the Employee to follow in cases of substance misuse. A failure to follow a fair process can potentially result in the Employee being able to claim unfair dismissal or discrimination in the workplace. The Policy has taken in to account relevant legislation including, Health and Safety at Work Act 1974, Human Rights Act 1998, Misuse of Drugs Act 1971, Drugs Act 2005, Road Traffic Act 1988 and the Data Protection Act 1998.

RISK ASSESSMENT

This substance misuse policy is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

EQUALITIES IMPACT ASSESSMENT

This report has been subject to an Equality Impact Assessment and has been judged to have a positive impact. No remedial actions are required.

A summary version of the EIA will be published on the Council's website.

CONSULTATION INCLUDING WARD/COUNCILLORS

This is not a Ward specific matter.

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Background Papers **None**

Ward(s) and Ward Councillors: **Not Ward Specific**

Property **Not applicable**