

Meeting date: 24 November 2022

Report to: Governance Committee

Report title: Drugs, Alcohol and Substance Misuse Policy

Report from: Director of Resources and Deputy Chief Executive

Report author/lead contact officer: Helen Flinter – Policy Development & HR Business Manager

Wards affected:

- All Wards | Bickenhill | Blythe | Castle Bromwich | Chelmsley Wood |
 Dorridge/Hockley Heath | Elmdon | Kingshurst/Fordbridge | Knowle |
 Lyndon | Meriden | Olton | Shirley East | Shirley South |
 Shirley West | Silhill | Smith's Wood | St Alphege
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Public/private report: Public

Exempt by virtue of paragraph: N/A

1. Executive Summary

- 1.1 The purpose of this report is to present proposed changes to the Council's Drugs, Alcohol and Substance Misuse policy for the consideration of the Governance Committee.
- 1.2 The policy delivers the framework to manage the harmful effects of drug, alcohol and substance abuse within working environments at the Council and to reduce or eliminate any risks associated with misuse in order to protect employees' health, safety and wellbeing.
- 1.3 The policy was last updated in 2018. This review incorporates stakeholder feedback around areas in which the policy could be developed and reflects best practice and legal recommendations following the introduction of hybrid working.
- 1.4 The inclusion of the proposed changes results in a more robust policy document that clarifies employees' obligations explicitly by establishing that any misuse neither compromises individuals' health and safety nor jeopardises the ability to deliver business functions efficiently.

2. Decision(s) Recommended

- 2.1 For Governance Committee to approve the amended Drugs, Alcohol and Substance Misuse policy for implementation.

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3. Matters for Consideration

- 3.1 The policy has been refreshed as part of the ongoing project comprising a review of the Council's HR policies and guidance documents. Learning outcomes from recent cases were taken into account when the proposed changes were compiled in order to specify the standards of professionalism all employees are required to uphold, and to recognise that drug, alcohol and substance dependency can potentially be treated successfully if addressed early with appropriate support mechanisms put in place. The key changes that have been put forward are detailed below.
- 3.2 Further examples illustrating how misuse can manifest in the workplace, including signs that indicate a potential concern, and explanations around how these should be sensitively and appropriately managed are contained in order to provide managers with the confidence to deal with these emotive and difficult situations.
- 3.3 A greater number of specific instructions for employees to follow is listed in order to cultivate professionalism at all times and ensure that the obligation to behave in a responsible manner is not neglected, because, as public workers, employees must maintain acceptable standards of conduct. Section 12 in the policy has been bolstered by confirming that disciplinary action is not limited to certain circumstances relating to potential misuse and may, in fact, apply to a range of possible misconduct scenarios.
- 3.4 It is expressly stated (on page 7 of the policy) that alcohol consumption at work cannot be tolerated, including within hybrid working arrangements, and also clearly stipulated that public funds should not be used to purchase alcohol at any Council event or meeting without the express approval in writing from either the Chief Executive, Director of Resources and Deputy Chief Executive or a Director.
- 3.5 Expectations that employees must abide by during work-related functions occurring outside normal working hours have been clarified to remove any ambiguity or uncertainty. It is emphasised that employees are prohibited from drinking alcohol if still at work or at events where children and young people will be present.
- 3.6 It is proposed within the policy that a moderate amount of alcohol may be permissible in exceptional circumstances - at a Long Service Award ceremony, for example - if a Director or the Chief Executive provides prior authorisation in writing. It is reinforced that during these special occasions, employees need to consider non-alcoholic alternatives and must not return to work exhibiting any negative effects from alcohol consumption.
- 3.7 A requirement confirming that the Council will not tolerate its employees drinking alcohol throughout the course of the working day (unless, as indicated above, in specified circumstances), including during any breaks, has been highlighted in order to underline the importance of employees honouring their duties and responsibilities.
- 3.8 Additional content (on page 8 of the policy) has been included to clarify the standards of behaviour that must be observed during work or social events outside working hours. It is suggested that a manager, if present, should oversee any event. Any instances of

harassment or offensive deeds would not be tolerated, in the same way they would not within a Council workplace, including instigating disciplinary action.

- 3.9 More detailed guidance urging employees with worsening problems around misuse to seek necessary assistance voluntarily in order to benefit their own wellbeing and safeguard others has been produced to provide an assurance that the Council will, wherever possible, assist any employee seeking to overcome dependency issues. Disciplinary action would not ensue if an employee completed a course of treatment successfully and did not display an adverse impact on their judgment or performance at work.

4 What options have been considered and what is the evidence telling us about them?

- 4.1 An alternative approach, which proposed permitting employees who do not work in safety critical roles or interact with vulnerable service users to drink alcohol at lunchtimes, was considered during the scope of the review in order to seek a consensus around an acceptable position for the Council to adopt.
- 4.2 Some stakeholders were not in agreement, however, believing an inconsistent approach would result as a consequence, and the members of the Assistant Director Group confirmed that they also would not endorse this stance because subsequently it would be difficult to promote and sustain professional integrity.
- 4.3 Previously, it could have been easier to separate conduct occurring at a work event from behaviour within the workplace, but recent developments and case law have shown that the Council could potentially be vicariously liable for wrongful acts committed by an employee even if, as an employer, it has perpetrated no wrongdoing itself.
- 4.4 Different circumstances are involved in each situation regarding misuse of drugs, alcohol or substances. In the future, difficulties may transpire in reconciling necessary management action in accordance with the various strands of the current policy if the document were to be maintained in its existing form, because it has been identified that the content in particular areas needs to be strengthened.

5 Reasons for recommending preferred option

- 5.1 It is important to foster a supportive working culture, so that employees experiencing difficulties are encouraged to receive crucial support but balance this requirement against the management imperative to take preventative action and instigate disciplinary proceedings where misconduct is alleged or unacceptable behaviour is evident.
- 5.2 Consideration needs to be given to the negative perception members of the public may form if the smell of alcohol could be detected on Council employees performing a public duty.
- 5.3 Enforcing this approach will help employees maintain clear and relevant boundaries because formal proceedings would be instigated in light of a noticeable breach.
- 5.4 Clear accountability and appropriate governance are enabled through this approach by

ensuring a high level of restriction for the availability of only a limited amount of alcohol at certain events.

5.5 The option proposed in 3.7 has been evaluated as the most suitable because it can be easily understood and would not confuse employees.

5.6 Adopting the recommended approach in 3.8 will help secure the Council’s position from a legal standpoint if expectations are clarified to employees from the onset.

6 Implications and Considerations

6.1 State how the proposals in this report contribute to the priorities in the [Council Plan](#):

Priority:	Contribution:
<p>People and Communities:</p> <ol style="list-style-type: none"> 1. Improving outcomes for children and young people in Solihull. 2. Good quality, responsive, and dignified care and support for Adults in Solihull when they need it. 3. Take action to improve life chances and health outcomes in our most disadvantaged communities. 4. Enable communities to thrive. 	n/a
<p>Economy:</p> <ol style="list-style-type: none"> 5. Develop and promote the borough’s economy, with a focus on revitalising our town and local centres. 6. Maximising the opportunities of UK Central and HS2. 7. Increase the supply of affordable and social housing that is environmentally sustainable. 	n/a
<p>Environment:</p> <ol style="list-style-type: none"> 8. Enhance our natural environment, improve air quality and reduce net carbon emissions. 	n/a
<ol style="list-style-type: none"> 9. Promote employee wellbeing 	<p>The Council does not acknowledge drug, alcohol or substance misuse as primarily a disciplinary matter, but a health, safety and wellbeing issue, also. By encouraging and supporting employees to seek specialist, professional help in the first instance, the Council will demonstrate its duty of care to staff by taking a holistic and proactive</p>

Priority:	Contribution:
	approach and not resorting to disciplinary action by default immediately.

6.2 Consultation and Scrutiny:

6.2.1 A range of managers across different service areas were invited to comment on the viability of the proposals from an operational perspective, and the Trade Unions did not challenge the feasibility of the changes during formal consultation. The Assistant Director group and CLT have also ratified the updated policy.

6.2.2 Financial implications:

6.2.3 It is affirmed that the use of Council funds for the purchase of alcohol should only be authorised by a Director or the Chief Executive in specific, limited circumstances.

6.3 Legal implications:

6.3.1 The Council would not be exposed to any legal risk by implementing the proposals outlined in the policy draft.

6.4 Risk implications, including Risk Appetite:

6.4.1 No risks were identified whilst formulating the revised policy.

6.5 Equality implications:

6.5.1 Negative effects on employees with protected characteristics under the Equality Act 2010 have not been identified.

6.5.2 There could be a common link between alcohol, drug abuse and disability, where either a disability may arise from the abuse or a where person with a disability, due to a number of factors including stress, trauma, anxiety or trying to overcome physical pain, may be affected by high rates of alcohol abuse and addiction. It is therefore important in our approach to managing alcohol abuse or addiction that we signpost staff to the right information and support to help an individual manage or overcome their abuse.

6.6 Linkages to our work with the West Midlands Combined Authority (WMCA), Local Enterprise Partnership or the Birmingham & Solihull Integrated Care System (ICS):

6.6.1 N/A

7 List of appendices referred to

7.1 Drugs, Alcohol and Substance Misuse Policy Draft

8 Background papers used to compile this report

8.1 N/A

9 List of Other Relevant Documents

9.1 N/A