

Drug and Alcohol Use - Guidance for Managers



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Document Control

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Purpose

Derbyshire County Council is fully committed to the provision of a safe and healthy working environment for all employees. This can be put at risk by those who use alcohol or drugs to such an extent that it affects their health, performance, conduct or relationships at work.

Across society as a whole, the consumption of alcohol, recreational and prescription drugs has risen markedly over the last decade and research has shown that substance use is a significant factor in absence from work.

The Council does not support or condone the use of any substances which are illegal and reserves the right to take appropriate action should this happen in the workplace or if staff present for work unfit from using illegal substances. However, the Council recognises substance use is primarily a health issue and is committed to the wellbeing of our employees and to support and the recovery of employees who seek to overcome their problems.

These guidelines are intended to assist in recognising, managing and supporting employees who use substances to such an extent that it affects their work and to ensure the continuing health, safety and wellbeing of individual employees, their colleagues and others who may be affected by their actions.

This guidance falls within the Wellbeing Strategy which focuses on how best Derbyshire County Council can support its employees.

Scope

This guidance applies to all departments and all employees of Derbyshire County Council.

This guidance has been produced as part of the Council's health and safety arrangements. Whilst recognising that some departments/services will have specialist requirements over and above this guidance which necessitate additional specialist arrangements, it sets out the minimum health and safety requirements required across all departments to ensure the Council can implement the stated aims of its Safety Policy and comply with its Statutory Requirements. All managers and employees should therefore make themselves familiar with the requirements of this guidance and ensure they are followed



Introduction

The Council is committed to ensuring the wellbeing of its employees and the support and rehabilitation of employees who seek to overcome their personal problems associated with substance use, where this is impacting on their ability to undertake their role.

To fulfil this commitment the council will:

- Signpost to and raise awareness of proactive health promotion programmes.
- Create an atmosphere in which employees can seek assistance and support for alcohol or drug related issues.
- Provide appropriate information, guidance and support to help employees recognise and deal with these issues.
- Evaluate and review the effectiveness of this guidance.

The Council does however reserve the right to invoke disciplinary / capability action, where this is appropriate, either in the first instance, or where counselling and treatment do not resolve the workplace issues. The council will also take any action necessary to ensure employees who are suspected of being unfit to work through drug or alcohol use do not endanger themselves, colleagues or members of the public and will ensure they do not drive vehicles on Council business, operate machinery or undertake potentially hazardous duties (e.g., work at height).

If the employee agrees to enrolling on the Occupational Health Substance Use Programme, disciplinary / capability procedures will not be invoked in relation to their current work difficulties whilst on the programme. Programmes will be tailored to individual need following consultation with an OH professional. The employee will also be made aware that if they do not attend Occupational Health appointments, do

not comply with treatment or do not improve their work performance that the appropriate procedures will be invoked.

Although this guidance is primarily concerned with support for employees, it has to be recognised:

- that an employee who has a drug or alcohol problem may not admit to this;
- they may not wish to have support; and / or
- they may try to give up alcohol or drugs but show no signs of improvement.

In these instances, where the effects are impacting on work, the disciplinary / capability procedures will be implemented.

Roles and Responsibilities

Corporate Management Team (CMT)

- Will endorse and support the guidance and ensure that sufficient resources are provided to ensure compliance with this guidance.

Departmental Senior Management Team (SMT)

- Will ensure that sufficient resources are provided to ensure compliance with this guidance, tailored to the specific requirements of their department.

Head of Service (HoS)

- Will ensure suitable and sufficient resources are provided to comply with the requirements of this guidance.
- Provide local Union Safety Representatives with all information, relevant to this guidance on request.

Line Manager

- Is responsible for familiarising themselves with this guidance and ensuring that their employees read and understand this guidance.
- Listen to an employee who reaches out for support and ensure they are signposted for additional support.
- Must ensure any employee that presents for work unfit due to substance use must not drive, operate machinery or undertake hazardous duties (e.g., work at height, caring or safeguarding roles, construction and maintenance etc.,) and if necessary are sent home. (If you deem them unfit to drive you must instruct them not to do so, and that if you suspect they are driving that the Police will be informed).
- Must demonstrate an understanding of the employee's situation and support them in an empathetic and equitable way.
- Ensure the health and safety of employees and themselves.
- Uphold the law.
- Safeguard the professional reputation of the council.

- Maintain appropriate standards of service.
- For those employees unable to access this document electronically, print off a hard copy of this guidance and any relevant hyperlinks.
- Refer employees to Occupational Health for support to enrol on their substance use programme.

Employee

- Must take reasonable care for the health and safety of themselves and others who may be affected by their actions.
- Co-operative with the council in matters of health and safety and comply with health and safety policies and guidance.
- Self-referral to specialist support services e.g., online support, Derbyshire Recovery Partnership, etc
- Are encouraged to seek support through their GP, line manager, Occupational Health, and the Employee Assistance Programme (EAP) as necessary.
- To agree to enrol on the Substance Use Programme with Occupational Health where the employee will be given support to seek help and / or treatment from external agencies and primary care to overcome their substance use issues.
- Will not report or try to report for work or be at work whilst under the influence of drugs or alcohol such that it compromises their ability to undertake their duties in a safe and competent manner, nor will they be in possession of illegal drugs in the workplace.
- When taking prescription / legal medication, if there are any side effects which may affect fitness for work, you must inform your line manager as soon as possible.

HR Advice and Support Team

The role of the HR Advice and Support team is to support managers in the implementation of this guidance by advising on the appropriateness of disciplinary and capability procedures and / or use of this procedure, bearing in mind the provisions of the guidance.

Although this guidance is primarily concerned with support for employees, it has to be recognised:

- that an employee who has a drug or alcohol problem may not admit to this;
- they may not wish to have support; and / or
- they may try to give up alcohol or drugs but this continues to impact on their work performance

In these instances, where the effects are impacting on work, the disciplinary / capability procedures may be implemented.

Health, Safety and Wellbeing Function (HSW)

Occupational Health will:

- Provide support for the employee if they are agreeable to enrolling on the Substance Use Programme where the employee will be provided with support and will be signposted to further help from external agencies and primary care.
- Provide reports to the line manager with the employee's consent.
- Seek assistance from specialist organisations when necessary.
- Support and attend appropriate training where required.

The Health, Safety and Wellbeing Function will:

- Monitor the effectiveness of this guidance.

Arrangements

Definition

Substance use in this guidance means the use of illegal drugs and the problematic or inappropriate use of prescribed drugs or alcohol. In addition, the use of solvents or “over the counter” medications can fall within the definition of substance use when they are used in such a way that attitude, behaviour or performance at work are likely to be negatively affected.

The use by employees, of alcohol, drugs or other substances which could have an adverse effect on their performance at work can have serious implications for health and safety within the workplace. This can also have implications for the professional image and reputation of the council.

Possible signs of inappropriate substance use could include any of the following as examples. These, however, could be caused by a number of other reasons. Line Managers should discuss these and the causation as part of their regular 1:1 / supervision with the employee.

Reduced work performance characterised by:

- Confusion
- Lack of judgement
- Impaired memory
- Difficulty in concentrating on work
- Periods of high and low productivity

Absenteeism and time keeping

- Poor time keeping
- Increased absence
- Peculiar and increasingly improbable excuses for lateness and absence

Personality change

- Sudden mood changes

- Irritability and aggression
- Over-reaction to criticism
- Friction with colleagues

Physical signs

- Smelling of alcohol
- Loss of appetite
- Unkempt appearance
- Lack of hygiene

Unusual Behavioural Traits

- Attempting to borrow money from colleagues
- Dishonesty

As you will be aware, if these signs are present, they are not necessarily due to substance use, but it is a factor to bear in mind when discussing with the employee any issues related to their conduct or their work.

Where there are issues with an employee's conduct or performance, there may be many reasons for this. If the employee does not acknowledge that they have a problem - even if you suspect alcohol or drugs may be involved – you will have to proceed by implementing the council's disciplinary / capability policies. You should consult the HR Advice and Support Team for advice on this issue.

Recognition

It is not the intention of the council to interfere in employees' private lives. The council will only be concerned where this impacts on an employee's conduct, work relationships or work performance.

There are many short-term and long-term health consequences of using alcohol and/or drugs.

There are a number of possible indications of alcohol or drug problems. These may relate to a specific incident e.g., where you suspect acute intoxication or discover the employee using what you suspect are illegal drugs; or over the medium to longer term where there is a discernible pattern suggestive of an underlying problem.

NB Employers have a legal duty to protect employee's health, safety and welfare. Understanding the signs of drug and alcohol use will help to manage health and safety risk in your workplace and support employees.

Your responsibility to act in the event of an employee misusing drugs on work premises does not oblige you to report the employee to the police. However, in some cases you may believe that the employee should be reported to the police, e.g., when an employee is found to be supplying or attempting to supply drugs to vulnerable service users. You may seek advice from legal services at any time.

Acknowledgement of the Problem

How will you know if an employee has a problem with substance use?

- An employee may approach a line manager to volunteer that they have a problem with alcohol or drugs and ask for help and support.
- The employee may acknowledge that they have a problem during a discussion with you; either as a part of a return to work discussion; review meeting or where you are discussing issues relating to a deterioration in their behaviour, work or work performance (e.g., 1:1 meeting or PDR).
- An employee who has a problem with either alcohol or drugs, can get help, support and time to overcome any difficulties. Specialist support and advice is available from a number of external agencies. Occupational Health can provide support and will help signpost the employee to the relevant external agencies.

- Where an employee has acknowledged to a manager that they have a problem with either drug or alcohol use and this has affected their work, performance or attendance, any capability or disciplinary action can / may be temporarily suspended while measures are put in place to try to overcome the problem.
- Guidance and support will be given, including time off to attend treatment / counselling sessions, whilst the employee is committed to this course of action. However, it should be noted that the procedures will be formally implemented after a 3-6 month period or earlier if the employee is not able to demonstrate their commitment.

Responses

When dealing with an employee who has acknowledged they have a problem with substance use, there are a number of steps line managers can take:

- Seek appropriate advice from the HR Advice and Support Team.
- Ensure prompt referral to Occupational Health for enrolment on the Substance Use Programme where the employee (with their written agreement) will agree to abstaining / reduce their substance use according to the advice of the Occupational Health Nurse and undertake any appropriate treatment / rehabilitation as advised.
- Ensure an appropriate level of confidentiality.
- Provide support, both practical and emotional during regular discussions with the employee.

Monitoring and Support

Employees who have acknowledged they have a problem will be seen by an Occupational Health Nurse who will provide support and will in addition, fulfil a monitoring role. Specialist treatment and / or counselling will generally be required for the employee which will be advised by the Occupational Health Nurse.

The employee will be asked to sign an agreement that the Occupational Health Nurse may liaise with whichever support service is providing treatment for them.

Derbyshire County Council's counselling service / Employee Assistance Programme (EAP) are able to offer support even if the employee is attending another agency (, Alcoholics Anonymous) or advise them about where to obtain appropriate support.

The employee will then be reviewed by Occupational Health on a regular basis over the agreed period – usually between three to six months – to encourage and monitor progress. Brief reports will be issued to the line manager (with the employee's written consent) after each review with a full report provided at the end of the agreed period. Although the appointments will be arranged by Occupational Health, the appropriate line managers will be asked to provide information regarding work performance if the employee is not on sick leave.

Commitment to Treatment

Whilst each case will be considered and monitored individually, there will generally be a time limit set of between three to six months to show an improvement in work performance

Although an employee will be given support, guidance and time to seek help with their problem, it should however be made clear that this support and suspension of disciplinary / capability / performance / attendance procedures is conditional upon their co-operation with any appropriate treatment / counselling and can be invoked at any time. An agreed period of between three to six months will be the usual timescales. This agreement with the employee will be in writing (see Appendix 1).

If any employee wishes to have support, they will be required to sign a commitment to:

- Follow the treatment and rehabilitation regime.
- Abstain from the abused substance or follow a guided reduction plan.
- Meet agreed expectations in relation to work.
- Agree to Occupational Health receiving progress reports from your treatment providers.

- Agree to Occupational Health providing update reports to the line manager.

The employee may need to have time off (in line with council policies) to access treatment for an extended period of time or they may remain at work with time off to attend hospital appointments, counselling, etc.

There are other policies and procedures which may assist during the difficult early days of treatment, e.g., changes in hours / duties on a temporary basis.

No-one expects the line manager to provide specialist counselling but setting aside some time for regular informal sessions to encourage and support the employee will be extremely helpful.

As with all personal issues, confidentiality should be maintained wherever possible. However, there may be circumstances when the employee's right to have matters treated in confidence will be overridden by other considerations, for example the welfare of service users.

Non Compliance with Treatment

Where an employee does not comply with the course of treatment or counselling, fails to attend Occupational Health appointments or fails to improve their work performance, they may be referred to the Occupational Health Physician for a longer term prognosis or where workplace issues are not resolved, the disciplinary / capability procedures may be invoked.

Confidentiality

As with any other personal issue which is discussed with a line manager, this will be kept in confidence, with the only over-riding provisos relating to legal and / or health, safety and wellbeing issues.

Legislation

There are a number of legal requirements relevant in the implementation of the substance use guidance. These are in the areas of health and safety, use of drugs, road safety, disability discrimination and common law liability.

Health and Safety Legislation

The Health and Safety at Work etc Act and the Management of Health and Safety at Work Regulations place a general duty on the council to maintain a safe and healthy working environment and require that the council assess the risks to its employees and others who may be affected by the work activities and eliminate/reduce these risks so far as is reasonably practicable. They also place a duty on employees to take reasonable care for the health and safety of themselves and others who may be affected by their actions, and to co-operate with the council in matters of health and safety.

Misuse of Drugs Act 1971

Illegal substances are those controlled by the Misuse of Drugs Act. This law relates to the use, possession, production and supply of illegal substances. It is however also an offence if someone allows premises which they manage to be used for drug use, supply or offering to supply drugs. The Act makes it an offence to allow, whether by a positive act or by ignoring the fact, premises to be used to produce or supply controlled drugs or to smoke cannabis, cannabis resin or prepared opium. An employer will be obliged to take action so as not to commit an offence, e.g., by requesting that the person involved remove the drugs from the premises.

Road Traffic Act 1988

This states that drivers must not:

- Drive, attempt to drive or be in charge of a motor vehicle while 'unfit to drive through drink or drugs'.
- Drive with a breath alcohol level higher than 35 µg/100 ml (equivalent to a blood alcohol level of 80 mg/100 ml).
- [Changes to drug driving law - GOV.UK](#)

Equality Act

Although the Equality Act specifically does not cover addiction to substances, the physical or mental effects of an addiction, e.g. severe liver disease, can fall within the provisions of the Act. Should an employee fall within the provisions of the Act, caution should be exercised when considering any disciplinary or capability measures.

Common Law Liability

An employer is responsible for the acts of his employees during the performance of their duties, through the principle of vicarious liability. Failure to respond to substance use, or to respond appropriately in the circumstances, may render the employer liable for injury or loss suffered by a third party as a result of the employee's actions.

Appendix 1 – Employee Agreement

Confidential

Substance Use Guidance

Employee Agreement

(To be completed by Occupational Health during an assessment with the employee)

I understand that at the present time disciplinary / capability procedures will not be invoked in relation to my current work difficulties, however, I understand that should I attend work under the influence of substances that puts myself, my colleagues and / or members of the public at risk due to my role that the disciplinary / capability procedures will be applied.

I will be given support from Derbyshire County Council and an agreed timeframe in which to seek help and / or treatment to overcome my issues.

This agreement will be in place for (X) months but is conditional upon me

- Abstain from (substance) / follow a guided reduction plan
- Undertake any appropriate treatment / rehabilitation required
- Improve my work performance
- Agree to Occupational Health receiving progress reports from my treatment / support agency.
- Agree to Occupational health sending update reports to my line manager.

I am aware that if I do not attend Occupational Health appointments, do not comply with treatment, if there are further repetitions / incidents in the workplace or if my work performance does not improve to a satisfactory standard then the appropriate disciplinary / capability procedures will be invoked.

Signed: _____ Date: _____

Print Name: _____ Employee No: _____

NB: An appropriate agreement will be drawn up by **Occupational Health** to reflect individual circumstances.

Appendix 2 - Support

For support with substance use, you can access any of the support functions below:

Employee Self-Referral

[Derbyshire Recovery Partnership](#) (adult treatment services for alcohol and drugs) or telephone 01246 206514 or email info@derbyshirerecoverypartnership.co.uk

[Lower My Drinking App](#) - free to all who live or work in Derbyshire just by using your postcode. Fully confidential app-based service for people who want to reduce their alcohol consumption for any reason. NB this is not for dependent drinkers who should access support from Derbyshire Recovery Partnership before attempting any reduction due to the serious health risks of doing so. Download the app:

[Growing Recovery in Derbyshire \(GRID\)](#) - for access to information and local support for people in or seeking recovery from alcohol and drug use. Also includes information about AA/NA meetings.

Alcohol:-

- [Alcoholics Anonymous](#) (Tel: 0800 9177 650)
- [Drinkaware](#) (Tel: 0300 123 1110)
- [Al-Anon Family Groups](#)
- [Alateen](#)
- [Alcohol Change UK](#)

Drugs:-

- [Narcotics Anonymous](#) (Tel: 0300 999 1212)
- [Cocaine Anonymous](#)
- [Talk to Frank](#) (Tel: 0300 123 6600)
- [Re-solv](#) (Tel: 01785 81076)

Drugs and Alcohol:-

- [Adfam](#)
- [DrugFam](#) (Tel: 0300 888 3853)
- [With You](#)
- [Action on Addiction](#)
- [Families Anonymous](#)

- [Derbyshire Recovery Partnership](#)

Occupational Health Referral

Occupational Health has a team of experienced nurses and doctors who specialise in occupational health issues, supported by a dedicated administrative team. They offer specialist advice and support and provide a chance to ask questions.

Occupational Health will work with employees and the Line Manager to look for reasonable ways of helping with any health problems and support employees to remain at work or return to work as soon as possible. Occupational Health records are strictly confidential.

Referrals to the Occupational Health team should be made by the Line Manager.

You can contact the Occupational Health Team for advice. The service is available Monday to Friday from 9am to 5pm - 01629 536943 or email

occupational.health@derbyshire.gov.uk

Information regarding Occupational Health and the Occupational Health referral form can be found on the following links.

[Occupational Health](#)

[Occupational Health Referral Form](#)

Cognitive Behavioural Therapy (CBT)

Cognitive Behavioural Therapy (a talking therapy that can help manage problems by changing the way you think and behave), can be offered following an Occupational Health Assessment. This is funded from your departmental budget so you would need to authorise this funding for your employee.

Please use the following link to contact occupational.health@derbyshire.gov.uk

Information regarding Occupation Health can be found on the following link.

Workplace Counselling Service

The self-referral service gives employees a place to talk about issues that trouble them, allowing them to find their own solutions to problems or develop better ways to manage issues. It is not about giving advice, but about providing a non-judgmental, empathic and accessible means to allow employees to find a way forward.

The areas where Occupational Health cannot assist are with legal and financial issues. There are organisations such as Citizens Advice who can help with these issues. In addition, most trade unions also offer support for members.

The counsellors are also available to advise and support you as managers when you are dealing with difficult issues.

Each member of staff will be offered up to 6 face-to-face counselling sessions based on their individual circumstances.

Information regarding Occupational Health can be found on the following link

[Occupational Health](#)

You can contact the Occupational Health Team for advice. The service is available Monday to Friday from 9am to 5pm - 01629 536969 / 536954 or email

occupational.health@derbyshire.gov.uk

Employee Assistance Programme (EAP)

An EAP is a confidential employee benefit designed to help deal with personal and professional problems that could be affecting your home life, or work life, health and general wellbeing. The EAP service provides a complete support network that offers expert advice and compassionate guidance 24/7, covering a wide range of issues.

The EAP service is provided by an external organisation. Support and advice is completely confidential.

Employees can call the confidential care line as often and for as long as required to discuss issues that require support. Employees can also get a referral for structured counselling, if the employee and the telephone advisor decide that may be helpful.

In addition to emotional support, employees can also get practical support in a number of specialist areas.

[Employee assistance programme - Our Derbyshire](#)

Live Life Better Derbyshire

Live Life Better can offer support and advice to help achieve employee goals for feeling fitter, losing weight or quitting smoking.

[Live Life Better Derbyshire](#)

Signposting to other support pathways

As part of a Joined Up Care Derbyshire (JUCD) initiative, employees can take advantage of a number of free activities that can help with overall wellbeing.

[Free wellbeing activities for employees - Our Derbyshire](#)

[Fitness Studio exercise videos \(www.nhs.uk\)](#)

[Physical activity guidelines for adults aged 19 to 64 - NHS \(www.nhs.uk\)](#)