

ABERDEEN CITY COUNCIL

COMMITTEE	Staff Governance
DATE	29 June 2018
REPORT TITLE	Managing Substance Misuse policy
REPORT NUMBER	RES/18/049
DIRECTOR	Steve Whyte
CHIEF OFFICER	Morven Spalding
REPORT AUTHOR	David Forman and Keith Tennant
TERMS OF REFERENCE	Purpose of Committee 6 Remit of Committee 4 (4.1)

1. PURPOSE OF REPORT

- 1.1 The purpose of the report is to seek approval for a revised Managing Substance Misuse policy. At the Committee of 4 May 2018, it had been requested that consideration of this report be deferred until the Committee of 29 June 2018 to enable further consultation with the trades unions to take place. The further consultation has since been undertaken with certain changes (detailed under 3 below) made to the policy document to take account of the views of the trades unions.

2. RECOMMENDATION(S)

- 2.1 That the Committee:-
- (a) Approves the attached revised Managing Substance Misuse policy.

3. BACKGROUND

- 3.1 The Managing Substance Misuse Policy and Procedure was reviewed under the rolling programme of HR policy reviews in order to bring it up-to-date with best employment practice.
- 3.2 As part of the review, engagement was undertaken with various parties in the organisation, including the HR policy focus group, in order to elicit views on the operation of the current policy and on what changes might be required to it. A legislative review was also undertaken to identify any changes in law that might impact on the policy. In addition, benchmarking was carried out with other relevant organisations to identify any best practice in relation to the management of substance misuse issues.

- 3.3 The review also took account of the criteria under the 'Healthy Working Lives' accreditation in relation to what should be contained in a substance misuse employment policy, to help ensure maintenance of the Council's silver award.
- 3.4 It was identified from the review that a number of changes were required to the policy. The main changes to the policy document are shown under paragraphs 3.41 to 3.60 below. It should be noted that three additional changes were made to the document following the further trade union consultation and these are detailed under paragraphs 3.58 to 3.60.
- 3.41 Where there was mention in the policy of 'alcohol/substance abuse' this has been replaced with 'substance misuse', being an inclusive and up-to-date term.
- 3.42 A section on 'Other Considerations' has been added (on page 4) containing two bullet points that were previously under 'core principles', including what should occur where an employee is identified as being in possession of an illegal substance in the workplace, and stating that it is unacceptable for employees to consume alcohol or illegal substances during working time.
- 3.43 In the 'Definition' section (on pages 4-5) reference is now made to the Psychoactive Substances Act 2016 and there has been an extension of the list of substances covered by the policy to incorporate all intoxicants, legal or otherwise.
- 3.44 There has been an addition to the Prescribed Medication section (on page 5) stating that, where employees have declared the use of a medication that may affect their ability to work, management must ensure that measures are put in place to allow the employee to work safely. It also includes details of the potential consequence for an employee (where an incident occurs) of not informing their management of prescribed medication use that may affect their ability to carry out their day to day duties.
- 3.45 A section has been added under 'Supporting Provisions' (on pages 9-10) in relation to those employees who voluntarily identify themselves as possibly having a substance misuse problem. It indicates that these employees may not be subject to any Council procedure (discipline, attendance or performance) at the time but will receive similar support to those who are referred through the management or disciplinary routes. The details of supporting provisions are shown.
- 3.46 One of the supporting provisions under the management and disciplinary referral routes (on pages 8-9) has been amended, to make it clear that where an employee is unable to continue in their substantive post reasonable efforts will be made to identify an alternative post.
- 3.47 In the 'Managers' sub section in the 'Organisational Responsibilities' section (on page 6), the responsibility for managers to maintain employee confidentiality in relation to substance misuse is now explicit in the policy.

- 3.48 In the 'Employees' sub section in the 'Organisational Responsibilities' section (on pages 6-7), the responsibility for employees to be free of the detrimental effects of substances has been clarified and extended to both employee performance and behaviour.
- 3.49 Also in the 'Employees' sub section in the 'Organisational Responsibilities' section, the information relating to intoxicating substances and their capacity to remain in the system has been removed, this detail not being required in the policy.
- 3.50 In Section 2: Managing Substance Misuse procedure, the sections on Management and Disciplinary referral (on pages 7-8) have been expanded on, to detail the consequences of not accepting the support provided or where no underlying problem has been found.
- 3.51 Where an employee is considered under the policy through a disciplinary referral (on page 8), the process has been amended stating that disciplinary cases should be dealt with following receipt of the occupational health assessment report, where a substance misuse issue has been identified which has contributed to the conduct issue, rather than being adjourned until after the employee has undergone a treatment/support programme. The section on Disciplinary Action (on page 11) has also been updated to reflect this.
- 3.52 A section on Relapse and how it should be dealt with has been added (on pages 10-11). Employees should only be permitted one instance of relapse and if a further instance arises they will normally be managed under the appropriate Council policy/procedure.
- 3.53 Also under Relapse (on pages 10-11), a bullet point has been included covering cases where an employee has been relapse free for a period of 12 months or more from initial occupational health assessment, with the substance misuse problem being regarded as resolved after this time for the purposes of the policy.
- 3.54 In the Section on Capability (on page 12) details of the process for undertaking a capability hearing have been moved to the guidance notes.
- 3.55 The list of drugs tested for has been updated to reflect current practice (on page 12).
- 3.56 The appendices to the current policy, including the flow chart of the processes, the template support agreement and the general information on identifying alcohol and substance misuse etc., have been removed from the policy and will now only be part of the guidance accompanying the policy.
- 3.57 Where there was mention of a recovery programme, this has been amended to support programme.
- 3.58 A sentence has been added to the Prescribed Medication section (on page 5) stating that a manager will not ask an employee what the actual medication is

that they are taking, with it only being the effect of the medication that requires to be known about (so that appropriate measures can then be put in place to ensure health and safety).

- 3.59 A line has been added under the 'with cause' testing on page 12 referring managers to the accompanying guidance notes for details on recognising potential substance misuse, so that managers understand what signs to be aware of that indicate a possible employee substance misuse problem.
- 3.60 A change has been made to the section on testing as part of a 'support programme' on page 12, with the words 'up to two' added in in respect of the number of further random tests within a 12-month period, rather than there being no specified number indicated. This will ensure that employees and managers are both clear on the testing arrangements in respect of a support programme.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

- 5.1 There was one legislative change taken account of in the review of this policy, namely the introduction of the Psychoactive Substances Act 2016 which had the effect of making the production and supply of so called former 'legal highs' illegal. The list of substances covered by the policy was extended to incorporate all intoxicants, legal or otherwise.

6. MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	None	N/A	N/A
Legal	If the revised policy were not approved then account would not be taken of the legislative change relating to substances; namely the introduction of the Psychoactive Substances Act 2016 (with the list of	Low	The approval of the revised policy will mitigate this risk.

	substances covered by the policy extended to incorporate all intoxicants, legal or otherwise).		
Employee	If the revised policy which reflects current best practice and is legislatively up-to-date were not approved, it may mean that the management of future employee substance misuse issues may be undertaken less effectively which could affect employee wellbeing and morale.	Low	The approval of the revised policy should help to mitigate this risk.
Customer	If the revised policy were not approved, this may mean that the management of future employee substance misuse issues may be undertaken less effectively and could affect employee wellbeing and morale. This could have a knock on effect in relation to the service some employees provide to customers of the Council.	Low	The approval of the revised policy should help to mitigate this risk.
Environment	There is no identified environmental risk.	N/A	N/A
Technology	There is no identified technological risk.	N/A	N/A
Reputational	There is no identified reputational risk.	N/A	N/A

7. OUTCOMES

Local Outcome Improvement Plan Themes

	Impact of Report
Prosperous Economy	Applying good employment practices are important in maintaining employee morale and engagement. With levels of employee engagement linked to productivity and resource efficiency, having an up-to-date Managing Substance Misuse policy should assist the Council in delivering services as cost effectively as it can. Given the role that the Council plays in fostering an environment where the local economy can thrive, having an engaged workforce delivering efficient cost effective services is a key element of achieving this.
Prosperous People	N/A
Prosperous Place	N/A
Enabling Technology	N/A

Design Principles of Target Operating Model	
	Impact of Report
Customer Service Design	N/A
Organisational Design	N/A
Governance	Links to the 'Governance' design principle in that the revised policy helps ensure the organisation is legislatively up-to-date.
Workforce	Links to the 'Workforce' design principle in that the policy, which incorporates up-to-date best practice in addressing substance misuse issues, contributes to the culture the Council is aiming to provide.
Process Design	N/A
Technology	N/A
Partnerships and Alliances	N/A

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Full EHRIA required

Privacy Impact Assessment	Not required
Duty of Due Regard / Fairer Scotland Duty	Not applicable

9. BACKGROUND PAPERS

CIPD Survey Report – Managing Drug and Alcohol Misuse at Work

HSE Drug Misuse at Work - a guide for employers

ACAS Health, Work and Wellbeing booklet

Healthy Working Lives Alcohol & Drugs Policy Assessment Tool

10. APPENDICES

Appendix 1 – Draft Managing Substance Misuse Policy

11. REPORT AUTHOR CONTACT DETAILS

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