



ADUR & WORTHING
COUNCILS

9 November 2020

Joint Staff Committee	
Date:	17 November 2020
Time:	6.30 pm
Venue:	Remote Meeting

Committee Membership:

Adur District Council: Councillors; Brian Boggis (Adur Chairman), Kevin Boram (Adur Vice-Chairman) and Lavinia O'Connor

Worthing Borough Council: Councillors; Karen Harman (Worthing Chairman), Paul Baker (Worthing Vice-Chairman) and Carl Walker

Agenda

Part A

1. Substitute Members

Any substitute members should declare their substitution.

2. Minutes

To approve the minutes of the Joint Staff Committee meeting held on 25 November 2019, copies of which have been previously circulated.

3. Declarations of Interest

Members and officers must declare any disclosable pecuniary interests in relation to any business on the agenda. Declarations should also be made at any stage such an interest becomes apparent during the meeting.

If in doubt contact the Legal or Democratic Services representative for this meeting.

4. Public Question Time

So as to provide the best opportunity for the Committee to provide the public with the fullest answer, questions from the public should be submitted by midday on Friday 13 November 2020.

Where meetings are held remotely, no question will be permitted from the public unless such notice has been given.

Questions should be submitted to Democratic Services - democratic.services@adur-worthing.gov.uk

5. Items Raised under Urgency Provisions

To consider any items the Chairman of the meeting considers to be urgent.

6. Leave Policy (Pages 1 - 16)

To consider the report by the Director for Digital Sustainability and Resources, attached as Item 6.

7. Alcohol and Drug Policy (Pages 17 - 48)

To consider the report by the Director for Digital Sustainability and Resources, attached as Item 7.

8. Exit Cap Payments (Pages 49 - 54)

To consider the report by the Director for Digital Sustainability and Resources, attached as Item 8.

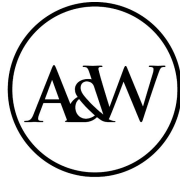
Recording of this meeting

The Council will be voice recording the meeting, including public question time. The recording will be available on the Council's website as soon as practicable after the meeting. The Council will not be recording any discussions in Part B of the agenda (where the press and public have been excluded).

For Democratic Services enquiries relating to this meeting please contact:	For Legal Services enquiries relating to this meeting please contact:
Heather Kingston Democratic Services Officer 01903 221006 heather.kingston@adur-worthing.gov.uk	Beverley Rayner Lawyer 01903 221035 beverley.rayner@adur-worthing.gov.uk

Duration of the Meeting: Four hours after the commencement of the meeting the Chairperson will adjourn the meeting to consider if it wishes to continue. A vote will be taken and a simple majority in favour will be necessary for the meeting to continue.

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ADUR & WORTHING
COUNCILS

Joint Strategic Committee
17 November 2020
Agenda Item 6

Key Decision: No

Ward(s) Affected: N/A

Leave Policy

Report by the Director for Digital Sustainability & Resources

Executive Summary

1. Purpose

- 1.1 This report seeks approval of the change to the Adur & Worthing Councils Leave Policy.
- 1.2 The amended Adur and Worthing Councils Leave Policy is attached as Appendix 1.

2. Recommendations

- 2.1 The Joint Staff Committee is recommended to approve the amended Leave Policy and for it to be implemented with immediate effect.
- 2.2 The Joint Staff Committee is asked to delegate authority to the Head of Human Resources (in consultation with the Chief Financial Officer and the Head of Legal Services, where relevant) in order to make minor and non-consequential amendments to the Policy at any time.

3. Context

- 3.1 The Parental Bereavement Leave and Pay Regulations changed with effect from 6th April 2020 to implement a statutory right to a minimum of 2 weeks' leave for all employed parents if they lose a child under the age of 18, or suffer a stillbirth from 24 weeks of pregnancy irrespective of how long they have worked for their employer.
- 3.2 Parents will be able to take the leave as either a single block of 2 weeks, or as 2 separate blocks of one week each taken as different times across the first year after their child's death.

4. Issues for consideration

- 4.1 The proposal is that instead only providing the 2 weeks bereavement leave under the specific legislation is that all staff are offered up to 10 days bereavement leave as per point 7.5 of the policy (Appendix 1).
- 4.2 As there are specific rights attached to the legislative bereavement leave under The Parental Bereavement Leave and Pay Regulations these have been detailed in Appendix A of the policy.

5. Engagement and Communication

- 5.1 Unison have been consulted with and agreed the change to the Leave Policy at JONG on 4th November 2020.

6. Financial Implications

- 6.1 Under our existing policies, the Council already allows up to 5 days bereavement leave and the cost of the first five days is already accommodated within our budgets.
- 6.2 By increasing the amount of bereavement leave under the new policy, there is the potential for additional costs where the work associated with the bereaved staff member cannot be absorbed within the workload of the team. An example of a service which would incur additional costs associated with the extra 5 days include the waste teams where agency staff would need to be employed to cover for the missing team member. However, the costs would be relatively minor as such leave is infrequent.

7. Legal Implications

- 7.1 The Councils have various legal obligations in relation to leave arrangements for staff. These are set out in the attached Leave Policy.
- 7.2 The Leave Policy is not a contractual policy and therefore does not form part of the terms and conditions of employment.

Background Papers

- Adur & Worthing Councils Leave Policy

Officer Contact Details:-

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Sustainability & Risk Assessment

1. Economic

Matter considered and no issues identified.

2. Social

2.1 Social Value

Matter considered and no issues identified.

2.2 Equality Issues

The proposal allows all staff to access the same amount of leave in relation to a bereavement of a family member.

2.3 Community Safety Issues (Section 17)

Matter considered and no issues identified.

2.4 Human Rights Issues

Matter considered and no issues identified.

3. Environmental

Matter considered and no issues identified.

4. Governance

Matter considered and no issues identified.



ADUR & WORTHING
COUNCILS

Leave Policy

1.0 Overview

- 1.1 The Councils are committed to all its staff being able to enjoy a quality of life. This leave policy is intended to help staff achieve a healthy work-life balance and to provide a standard and equitable approach to the management and calculation of annual leave and public holiday entitlements for staff.
- 1.2 Areas covered in this policy include annual leave; carrying forward and buying leave; career breaks; special paid leave; time off for religious observance and other paid and unpaid leave.
- 1.3 This policy covers all staff working for the Councils (employees and workers).
- 1.4 This policy does not form part of any individual's contract of employment and it may be amended.

2.0 Areas of responsibility

2.1 All staff have the responsibility for complying with this policy. Individual areas of responsibility are:

- **Corporate Leadership Team** – publicising the policy
- **HR team** - reviewing this policy to ensure it is effective and advising managers on the interpretation and consistent application of the policy and on best practice
- **Managers** - responsible for managing leave to ensure individuals are taking their leave at regular intervals across the year and taking account of employee needs whilst bearing in mind the business needs, when considering annual leave applications and allowing employees to take approved annual leave undisturbed unless it is essential for operational reasons and possible for the individual to cancel or postpone it
- **Staff** – making annual leave requests in good time, not making any plans for leave until their leave request has been approved and being proactive in taking their leave entitlement in line with Working Time Regulations.

3.0 Annual Leave

- 3.1 The annual leave period for the Councils spans from 1 April to 31 March each year. Staff are entitled to an amount of annual leave, determined by spinal column point and service length

as shown on the table below. The amount of leave includes two statutory days which may be taken at any time throughout the year.

3.2 The amounts below will be applied pro rata to part-time workers.

Salary equivalent to	Hours Entitlement including statutory days	Hour entitlement including statutory days after five years' service
Up to SCP11	185 hours	214.6 hours
SCP 12-22	192.4 hours	229.4 hours
SCP 23-33	207.2 hours	229.4 hours
SCP 34 and above	229.4 hours	251.6 hours

3.3 Statutory bank holidays are in addition to the above leave entitlements and are applied pro rata to part-time staff. For details of how bank holiday entitlement is calculated for part-time staff, please see the 'bank holiday and part-time workers' fact sheet available on the intranet.

3.4 Any periods of leave an individual wishes to take must be agreed in advance between member of staff and line manager as soon as possible. Staff are encouraged to put in leave requests as early as possible to ensure their request can be accommodated and any holiday plans should not be made until the line manager has authorised the leave. Managers authorising leave should do so within 5 working days of receipt of the request and have discretion to approve or reject leave requests in line with service requirements.

3.5 For the avoidance of doubt, the first four weeks of the leave you take in any holiday year shall be deemed to be the leave derived from regulation 13 of the Working Time Regulations 1998 (*SI 1998/1833*) and the remainder shall be deemed to be derived from regulation 13A of those Regulations.

3.5 It is the line manager's responsibility for looking out for the welfare of their members of staff. This includes ensuring they are taking regular periods of leave across the year.

3.6 Usually where a number of employees all seek holiday leave on the same date(s), the manager will grant holiday leave on the basis of "first come, first served". However, a manager will be required to discuss periods of leave that are particularly sought after (i.e. Christmas) with the team to come to a mutually agreed arrangement. Where agreement cannot be reached by consensus, the manager's decision will be final.

3.7 Requests for annual leave should be made electronically via the online system.

Sickness during periods of holiday

- 3.8 If a member of staff is sick or injured during a holiday period and would have been incapable of work, he/she may choose to treat the period of incapacity as sick leave and reclaim the affected days of holiday.
- 3.9 Staff already on sick leave before a pre-arranged period of holiday may choose to cancel any days of holiday that coincide with the period of incapacity and treat them as sick leave.
- 3.10 Sick pay will only be paid for such days if the individual complies with the Council's Sickness Management Policy, including notifying the manager immediately of the incapacity and obtaining medical evidence, even if the individual is abroad.
- 3.11 Dishonest claims or other abuse of this policy will be treated as misconduct under the Council's Disciplinary Procedure.

New and departing members of staff

- 3.12 New members of staff who start working for the Councils mid-way through the year will have their leave entitlement calculated on a pro-rata basis for each completed calendar day of service in the current leave year.
- 3.13 Members of staff must take their leave before leaving the Councils - it is not common practice for annual leave to be paid upon departure. The only exception to this is where it is not possible for an individual to take their leave due to service needs; in this case departing members of staff will be paid for any contractual leave allocation untaken.
- 3.14 Staff who voluntarily move from another organisation covered by the Modification Order to the Councils, i.e. another local authority or service as a civilian in a police authority are entitled to keep their continuous service for the purposes of annual leave entitlement in accordance with the table detailed in 3.2.

4.0 Carrying leave forward

- 4.1 As a minimum, staff must ensure that they take all their statutory leave within the annual leave year in which it falls. This equates to is 207.2 hours/28 days (pro rata for part -time employees) including bank holidays.
- 4.2 It is the expectation, however, that all employees will take their full contractual leave entitlement (as outlined in the table detailed in 3.2) in each year. The only exceptions to this would be if the manager has not been able to allow an employee to take their leave due to business reasons or as set out in paragraphs 3.12-3.30 above.

- 4.3 Staff must have at least 26 weeks service before requesting to carry forward leave. Staff who are on a temporary contract of less than one year are not entitled to carry forward leave.
- 4.4 Anyone who requests to carry forward leave, usually no more than the equivalent of one working week (pro rata for part time staff), should agree in advance with their manager when this leave will be taken, which will usually be in the 8 first weeks of the new financial year.
- 4.5 To request to carry forward leave, an individual must speak to their line manager and submit their request online by the 1st March (or via their manager if they do not have online access). The request will be approved or turned down within a reasonable timeframe (usually no more than 14 calendar days) to allow for the employee to make alternative arrangements.
- 4.6 Approval of any request will depend on whether operational needs can be met during the period requested.
- 4.7 Carrying forward leave is a discretionary benefit.

Long-term sickness absence and holiday entitlement

- 4.8 Holiday entitlement continues to accrue during periods of sick leave.
- 4.9 If the member of staff is on a period of sick leave which spans two holiday years, or if he/she returns to work after sick leave so close to the end of the holiday year that they cannot reasonably take their remaining holiday, they may carry over unused holiday to the following leave year.
- 4.10 Any holiday that is carried over under this rule but is not taken within 18 months of the end of the holiday year in which it accrued will be lost.
- 4.11 Alternatively you can choose to take your paid holiday during your sick leave, in which case you will be paid at your normal rate.

Family leave and holiday entitlement

- 4.12 Holiday entitlement continues to accrue during periods of maternity, paternity, adoption, parental or shared parental leave (referred to collectively in this policy as family leave).
- 4.13 Staff who are planning a period of family leave that is likely to last beyond the end of the holiday year should discuss their holiday plans with their manager in good time before

starting the family leave. Any holiday entitlement for the year that cannot reasonably be taken before starting the family leave can be carried over to the next holiday year.

4.14 For the avoidance of doubt this covers the full holiday entitlement.

4.15 Any holiday carried over should be taken within three months of returning to work after the family leave.

5.0 Buying Leave

5.1 The Councils appreciate that some people may desire to buy leave in order to fulfil childcare arrangements or to have a greater work-life balance whilst not impacting their pension contributions. The Councils, therefore, allow staff the option of buying up to 5 days additional annual leave (or the equivalent hours of one contractual week for part-time and non-standard hour workers) in each leave year.

5.2 This is subject to approval from the Head of Service. The request will not be unreasonably refused but will only be granted if operational needs can be met and there are sufficient funds within the section salary budget to accommodate the request (e.g. to make cover arrangements). Applications will be handled on a first come, first served, basis.

5.3 Buying leave is effectively unpaid leave, which will be deducted from the individual's net salary (after deductions have been made for pension and national insurance contributions as well as tax) based on the individual's basic substantive hourly rate at the time the salary deduction is processed.

5.4 Additional leave bought in one year cannot be carried forward to another leave year.

5.5 The salary deduction will be made in the next available salary payment after the request is received by Human Resources or may be spread over a number of months. Further details of this can be provided by the Payroll team.

5.6 Employees wishing to buy leave are advised to check with the relevant authorities on whether entitlement to tax credits or state benefits such as statutory sick pay and statutory maternity pay etc. could be affected.

5.7 Buying leave is discretionary.

6.0 Career breaks

6.1 A career break is an unpaid extended period of time away from work. Employees must have at least 26 weeks service before requesting a career break.

6.2 A career break is usually a period of a minimum of six months, but no more than twelve months of leave. On an individual's return to the organisation, they are entitled to terms and

conditions no less favourable than if they had not been absent. Where it is not possible to return to the same post, the Councils are committed (as far as is reasonably practicable) to finding an alternative post.

- 6.3 Where a restructure is taking place in the team/service area in which the individual works during the period of time that an individual is taking a career break, they will be involved in the consultation process as explained in the Managing Change Policy.
- 6.4 Employees will need to apply for a career break using the procedure outlined in the toolkit.
- 6.5 The period they are absent will count as continuous service e.g. when calculating length of service for other purposes e.g. maternity leave.
- 6.6 Any accrued but untaken annual leave must be taken before a career break commences. If an individual has taken more leave than they are entitled to, the appropriate deduction will be made from salary before the career break commences.
- 6.7 If the employee pays into the pension scheme, it is the responsibility of the individual to look into any impact the career break will have on their pension and make any necessary arrangements.
- 6.8 The Councils will not pay any pension contributions during an individual's career break. On return (within 30 days) if the individual wishes to 'buy back' pension lost during the period of unpaid leave, they would pay one third of the cost and the Councils would pay two thirds of the cost. If the individual makes a request after the 30 day period, they will be solely liable for the full cost of buying back their pension contributions.
- 6.9 Agreeing to an individual's career break is discretionary.

7.0 Special paid leave

- 7.1 The primary purpose of special paid leave is to help employees to come to terms with the death of a loved one, a serious illness or injury involving a loved one, or take one day off at short notice to deal with emergency situations involving a dependant (i.e. a spouse, partner, child, parent, or someone who depends on the employee for care). The day off is to put in place arrangements needed to cover the care going forward.
- 7.2 An emergency may be:
- an illness that has unexpectedly worsened
 - an injury, assault or incident
 - if a dependant goes into labour unexpectedly
 - disruption of care arrangements (i.e. unforeseen school closure with no prior notification)

- 7.3 Special paid leave is not suitable for situations where advance notice is given (i.e. to take a dependant to hospital for an appointment or planned school inset days). This should be covered through other forms of leave as detailed in this or the flexible working policy.
- 7.4 Managers have the discretion to grant special paid leave depending on the circumstances of individual cases.
- 7.5 Individuals will not usually be granted more than ten days special paid leave and usually given no more than one day to deal with any emergency involving a dependant. The below are the typical factors that will be taken into consideration in determining the amount of special paid leave approved on a case-by-case basis:
- The relationship of the employee to the deceased/critically ill
 - Whether the employee is attending to the affairs of the deceased
 - Whether travel is needed to attend a funeral
- 7.6 All other cases of special paid leave (e.g. the serious illness of an immediate family member) are to be decided on a case-by-case basis.
- 7.7 Anything more than five days must be agreed by the appropriate Head of Service.
- 7.8 Anything more than four weeks must be agreed by the appropriate Director and a referral must be put into Occupational Health. The maximum amount of time that can be awarded is three months.
- 7.9 There may be other supportive measures taken, such as unpaid leave, flexible working and opportunities to work from home (where possible in line with occupational requirements) or a temporary reduction in hours.
- 7.10 The Councils note that employees have the right to a reasonable amount of time off to deal with an emergency involving a dependant and that this will be unpaid if the time off required is over and above what can be taken as special paid leave.
- 7.11 The individual must tell their manager if they need time off to care for a dependant or when they hear of the death, serious illness or injury involving a loved one. This is ideally before the individual leaves work or as soon as possible.
- 7.12 The Councils want to ensure individuals are supported adequately. As such, if an individual has taken special paid leave, this should be discussed as part of the regular 1:1s between the manager and individual.
- 7.13 The Councils recognise that many of its staff have caring responsibilities which may require support and flexibility. Individuals are encouraged to access the employee assistance programme detailed on the intranet or in the place of work and may wish to look at the flexible working policy for details about how they can request flexibility in their role to support their caring responsibilities.

7.14 Special paid leave is discretionary.

8.0 Time off for religious observance

8.1 The Councils wish to support requests, in line with service needs, for individuals to take time off during religious festivals, which are not covered by statutory public holidays.

8.2 Line Managers should use discretion in granting annual leave, unpaid leave or supporting individuals to use accrued hours when considering requests for such leave.

8.3 It is recommended that staff make their request for time off as soon as the dates are known in order to facilitate the effective planning of leave arrangements. Line Managers should keep in mind that some religious festivals are determined by the lunar calendar, and therefore dates change from year to year.

8.4 Managers will be expected to consider such requests in accordance with service needs, and accommodate requests where reasonable to do so.

8.5 Managers have the discretion to allow individuals to work from home on UK Christmas and Easter bank holidays (paid at standard rate) and for them to reschedule these days off to celebrate their religious festivals. This will only be allowed where it is possible for the individual to work from home, there are no responsibilities for dependants on these days, and where this altered working arrangement can be accommodated in line with the needs of the service.

8.6 If individuals require a prayer room for religious use during the day, they should speak to their manager who will show them the facilities available for their use.

9.0 Other paid and unpaid leave

9.1 There are occasions where employees of the Councils are entitled to paid leave. The below table outlines the occasions and time off that may be granted in each circumstance:

Scenario	Paid leave granted per year
Election duties	Paid leave as necessary
School governors	Such leave as thought reasonable in the particular circumstance by the Head of Service
Jury Service	An employee receiving a summons to serve on a jury must report the fact to his/her Head of Service, who shall grant leave of absence unless exemption is secured. An employee serving as a juror shall claim the allowance for loss of earnings to which he/she is entitled under the Jurors Allowances Regulations. The

	Council shall then deduct from the employee's full pay an amount equal to the allowance received.
Membership of the staff side of any established national or other joint negotiating body operating within local government	Such leave as may be necessary for meetings of any such body i.e. national joint council (NJC)
Service as a magistrate	Up to a maximum of 18 paid days in any one year from the date the service starts
Membership of another local authority	Up to a maximum of 18 paid days in any one year from the date the membership starts
Service in non-regular forces of special constabulary	Up to a maximum of 18 paid days in any one year from the date the service starts
Volunteering	Refer to the volunteering policy

9.2 Individuals may not be able to hold multiple of the above roles where the total leave would be unsustainable for the organisation (i.e. serving as a magistrate and a school governor) and should talk with their manager if they wish to take on any of these roles.

9.3 Unpaid leave (not covered by any other section of the leave policy) will be granted only exceptionally. This means that the relevant Head of Service thinks it is reasonable for an employee to be absent, but where paid leave would not be justified and annual or accrued leave cannot be taken.

Parental Bereavement covered by 7.5 of the policy

We recognise that, while dealing with any bereavement is difficult, the death of a child is among the most devastating events that an employee can ever face.

- Employees who suffer the loss of a child under the age of 18 on or after 6 April 2020 including parents who suffer a stillbirth after 24 weeks of pregnancy are entitled to five days paid leave. From the 6 April 2020 the Council's have approved 10 days for anyone losing a loved one including parents who suffer the loss of a child or suffer a stillbirth at any time during their pregnancy.
- You can take the leave as:
 - a single block of two weeks; or
 - two separate blocks of one week at different times.
 - you cannot take the leave as individual days
- You can take the leave at the time(s) you choose, in consultation with your line manager, within the 56 weeks after your bereavement. You might choose, for example, to take it at a particularly difficult time such as your child's birthday.
- If you have lost more than one child, you have a separate entitlement to parental bereavement leave for each child who has passed away.
- If you need to take parental bereavement leave within the first 56 days after your bereavement, you can take the leave straight away. You do not have to provide any notice. Please let your line manager know no later than when you are due to start work on the first day on which you wish to take leave or, if that is not feasible, as soon as you can.
- To take leave more than 56 days after your bereavement, please give your line manager at least one week's notice.
- You cannot cancel any week of parental bereavement leave that has already begun.
- When you return to work after some time off on parental bereavement leave, you generally have the right to return to the same job.
- However, a slightly different rule applies if you return from time off on bereavement leave that follows on immediately from some maternity, adoption, paternity leave or shared parental leave (taken in relation to the child who has passed away), and your total time on leave is more than 26 weeks.
- In these circumstances, you have the right to return to the same job, unless this is not reasonably practical - in which case you have the right to return to a suitable and appropriate job on the same terms and conditions. This rule also applies if your leave includes more than four weeks of ordinary parental leave (taken in relation to any child), regardless of the total length of the leave. (see Leave policy for details regarding unpaid parental leave)

Date policy agreed with Unison: 4 November 2020

Date agreed by Joint Staff Committee: tbc

Date policy formally adopted: tbc

Date for review: 3 years from formal adoption of the original new policy (1 April 2022)

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ADUR & WORTHING
COUNCILS

Joint Staff Committee
17 November 2020
Agenda Item

Ward(s) Affected:N/A

HR Policies - Alcohol & Drugs Policy

Report by the Director for Digital Sustainability & Resources

Executive Summary

1. Purpose

- 1.1 The report seeks approval of the Adur & Worthing Councils Alcohol and Drug Policy.
- 1.2 This policy (if approved) will replace the current Alcohol & Drugs Policy and Guidance dated June 2014.
- 1.3 The aim of the policy is to protect the health, wellbeing and safety of our employees and the public and to help employees who may have problems with drug and alcohol abuse.

2. Recommendations

- 2.1 The Joint Staff Committee is recommended to approve the new Alcohol & Drug Policy with an implementation date of 1st December 2020.
- 2.2 The Joint Staff Committee is asked to delegate authority to the Head of Human Resources (in consultation with the Chief Financial Officer and the Head of Legal Services, where relevant) in order to make minor and non-consequential amendments to the Policy at any time.

3. Context

- 3.1 The main changes to the policy are that the consumption of alcohol during work hours, including lunch and break times and whilst on Council business is now prohibited (point 3.0 in the policy).

- 3.2 The new section on Drug and Alcohol screening (section 7.0) where employees may be tested for two reasons:
- (i) for the most safety critical roles - randomly or for cause testing where there is reasonable cause to suspect that the member of staff is attending work under the influence of drugs or alcohol and after an incident or accident where there is reasonable cause to suspect that the member of staff has been under the influence of drugs or alcohol
 - ii) for safety critical roles – for cause screening after an incident or accident, where there is reasonable cause to suspect that the member of staff has been under the influence of drugs or alcohol

4. Issues for consideration

- 4.1 The current level of risk due to the Councils not having an open and transparent policy and process for the testing of employees for drugs and/or alcohol and therefore not being able to conduct any tests.
- 4.2 The introduction of testing for alcohol and drugs and the types of drug and alcohol screening to be put in place for the safety of the staff themselves, their colleagues and the Adur & Worthing Councils Communities

5. Engagement and Communication

- 5.1 Unison have been consulted with and they consulted with their members providing them with two weeks to provide any feedback.
- 5.2 Following that period of consultation Unison agreed the policy at JONG on 4th November 2020.
- 5.3 The list of Most Safety Critical roles and Safety Critical roles has been collated from all Heads of Service.

6. Financial Implications

- 6.1 If the policy is approved, the associated testing will cost approximately £8,500 per year, and has been included as part of the development of the 2020/21 budget.

7. Legal Implications

- 7.1 The Councils may impose policies that affect its staff. This policy introduces testing for alcohol and certain drugs for a specified group of staff. This is classed as 'special category data' under data protection legislation. The staff will need to consent to such testing for it to take place, however, not providing consent may lead to disciplinary action being taken. A data protection impact assessment will be undertaken prior to the implementation of this Policy.
- 7.2 This policy is not contractual and does not form part of the terms and conditions of employment.

Background Papers

- Proposed new Adur & Worthing Councils Alcohol & Drug Policy dated available at Appendix 1
- Adur & Worthing Councils Alcohol and Drugs Policy and Guidance dated June 2014 as Appendix 2
- Alcohol & Drug Policy Equality Impact Assessment (EIA) available at Appendix 3

Officer Contact Details:-

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Email: heidi.christmas@adur-worthing.gov.uk

Sustainability & Risk Assessment

1. Economic

2.1 Matter considered and no issues identified.

2. Social

2.1 Social Value

2.1.1 Positive impact due to the open and transparent approach to protect the health, wellbeing and safety of the Councils' employees and the Adur and Worthing communities.

2.2 Equality Issues

2.2.1 The Equality Impact Assessment for this policy is attached as Appendix 3

2.3 Community Safety Issues (Section 17)

2.3.1 Positive impact due to the open and transparent approach to protect the health, wellbeing and safety of the Councils' employees and the Adur and Worthing communities.

2.4 Human Rights Issues

2.4.1 This was considered in relation to the drug and alcohol screening and agreement made to only randomly screen safety critical roles identified by the Councils.

3. Environmental

3.1 Matter considered and no issues identified.

4. Governance

2.4.1 Positive impact due to the open and transparent approach to protect the health, wellbeing and safety of the Councils' employees and the Adur and Worthing communities.



ADUR & WORTHING
COUNCILS

Alcohol and Drug Policy

1.0 Overview

- 1.1 This policy applies to all employees of Adur and Worthing Councils. It also applies to third parties working on our premises, namely contractors, temporary and agency staff and volunteers, individuals participating in a secondment, internship or work experience placement within the Councils.
- 1.2 Adur and Worthing Councils are committed to providing a safe, healthy and productive workplace for our employees in line with our obligations under legislation, e.g. Health & Safety at Work Act 1974, Management of Health & Safety at Work Regulations 1999, Misuse of Drugs Act 1971.
- 1.3 Some of the Councils day to day operations take place in safety critical environments where any issues of drug or alcohol misuse can have a serious adverse effect on safety.
- 1.4 The aim of this policy is to protect the health, wellbeing and safety of our employees and the public and to help anyone who may have problems with drug or alcohol abuse. This policy explains the Councils' position on alcohol and drug misuse and provides a procedure whereby employees who have a problem of drug or alcohol abuse/misuse can seek and be offered help in confidence.
- 1.5 The policy is to be used to establish standards and a commitment to safety in this important area and therefore should be used to brief staff, including on recruitment into the organisation, as a reference document and the guideline to judge all relevant activity.
- 1.6 The Councils recognise that alcohol and drug dependency may be an illness and the sickness policy may be more appropriate. This will be considered in each instance.
- 1.7 The Council offers assistance to members of staff who may have developed a problem with either drugs or alcohol. To facilitate this, information on organisations available is provided at www.westsussexwellbeing.org.uk
- 1.8 The Council recognises that the use of prescribed medicine, as opposed to illegal drugs can have an impact on an employee's performance at work. It is not expected that this would be

grounds for disciplinary action; however, employees are advised to follow any medical advice given to them regarding taking prescribed medicines.

- 1.9 It should be noted that if drug misuse and/or alcohol consumption reduces performance to unacceptable levels – in terms of safety, sickness absence or other factors – this may prove to be grounds for dismissal if counselling or other treatments are unsuccessful.

2.0 Roles & Responsibilities

2.1 All employees have the responsibility for adhering to this policy.

2.2 Individual areas of responsibility are:

- **Corporate Leadership Team** – overall responsibility for publishing and promoting the adoption of this policy across the Councils and ensuring that it is applied consistently and appropriately
- **HR team** - reviewing this policy to ensure it is effective and advising managers on the interpretation and consistent application of the policy and on best practice
- **Managers** – responsible for ensuring that the policy is implemented and for the consistent application of the policy and ensuring compliance with this policy across their teams
- **Employees** – complying with the spirit and wording of this policy and to report to their line manager if they see anyone consuming alcohol or misusing drugs, or who appears to be under the influence of either.

3.0 Consumption of Alcohol

3.1 The consumption of alcohol is prohibited during work hours, including lunch and break times and whilst on Council business.

3.2 Alcohol consumption must be managed by all staff such that no member of staff presents for work under the influence of alcohol. Alcohol consumption in breach of the above restrictions is strictly prohibited, risks the safety and comfort of other staff and visitors, and will be regarded as a disciplinary matter.

4.0 Drug Misuse

4.1 “Drug misuse” refers to the use of illegal drugs and the misuse, of prescribed drugs, controlled drugs, over the counter medication, psychoactive (or mind altering substances (formerly known as legal highs) and the misuse of substances such as solvents.

4.2 Drug misuse by staff is strictly prohibited such that:-

- (i) no member of staff may present for work under the influence of misused drugs, nor may any member of staff misuse drugs during the working day (on the premises or off-site);
- (ii) drug misuse in breach of the above restrictions is strictly prohibited, risks the safety and comfort of other staff and visitors, and will be regarded as a disciplinary matter.

5.0 Responsibilities of the Employee

- 5.1 Everyone covered by this policy has a responsibility to present themselves for work unimpaired by drugs or alcohol (i.e. if they have drunk the night before) and to remain unimpaired by drugs or alcohol whilst at work. Being under the influence of alcohol, illegal drugs or other substances during working hours normally constitutes gross misconduct under the Councils' Disciplinary Policy
- 5.2 Those covered by the policy must never drive or operate machinery if they are under the influence of alcohol or drugs (including prescribed and over-the-counter medication) which may impair their ability to carry out their normal duties. If in any doubt, they must report to their line manager and/or Occupational Health for advice.
- 5.3 They should check with their doctor, pharmacist or Occupational Health about the side effects of any medication when commencing any prescribed or over the counter medication. They should never take any medication prescribed for anyone else or exceed recommended dosage on either prescribed or over the counter medication as this may result in serious side effects or damage to health.
- 5.4 They should seek advice from their GP or the Councils' Employee Assistance Programme (EAP) team for guidance on sensible limits of alcohol consumption.
- 5.5 If they suspect or believe that they may have a drug and/or alcohol misuse problem they are encouraged to refer themselves to the Councils' Occupational Health Team as soon as possible. Appointments can be made via their line manager.
- 5.6 In the event of a confirmed non-negative result for the presence of alcohol or drugs whilst working on Council premises, this will be fully investigated under the [Adur And Worthing Councils' Disciplinary Procedure](#), which carries a potential penalty of summary dismissal. Consideration will be given on a case by case basis to suspending an employee on normal pay whilst the case is being investigated as per point 12.1 in the Disciplinary Policy. Consideration will be given as to whether alternative work can be found and the level of risk to the Councils.
- 5.7 If you know or suspect that a colleague may have alcohol or drug abuse issues you should encourage them to seek help. If they will not do so, you should draw the matter to the attention of your line manager. You should not attempt to cover up for a colleague whose work or behaviour is suffering as a result of an alcohol or drug-related problem.

6.0 Voluntary Disclosure and Seeking Advice and Support

- 6.1 If you have an issue with alcohol and/or drugs, you will have found it hard to control your consumption. Employees are encouraged to voluntarily disclose to their line manager, or HR, that they may have an abuse/addiction problem. Any attempts to disclose "voluntarily" that they have an abuse/addiction problem after being selected for random testing or for cause

testing in anticipation of a positive result, may not be accepted by the Council under the voluntary disclosure section of this policy.

- 6.2 An employee should seek advice and support early on to ensure that they can be provided support at the earliest opportunity. A good place to start is with your GP. There are also a range of support options available, many of which can be found on the website <http://www.westsussexwellbeing.org.uk>
- 6.2 Support is also available via the Councils' Employee Assistance Programme (EAP). Details are available on the Councils' Intranet at [EAP](#)
- 6.3 Where an employee volunteers to disclose to the Council that they have a drug/alcohol dependency problem, and the employee will readily accept help and treatment, the Council will refer them to Occupational Health for advice about an appropriate treatment programme.
- 6.4 The Council will take advice from Occupational Health as to what is considered a reasonable time period to complete a treatment programme and, if an employee is absent from work because they are following a treatment programme, the expected date for their return to work. Please see point 6.2 for information regarding the support that is available.
- 6.5 An employee will receive Occupational Sick Pay during absence from work caused by a treatment programme. However, if an employee fails to comply with the recommendations of the agreed programme of treatment, it will be at the Council's discretion as to whether Occupational Sick should cease.
- 6.6 If an employee fails to comply with the recommendations of the agreed programme of treatment, fails to complete the rehabilitation programme successfully or suffers a relapse following the treatment programme, the Council will then consider terminating the employee's contract of employment.

7.0 Drug & Alcohol Screening

7.1 Drug and alcohol misuse may be tested for under the following conditions:

- i) for the **most safety critical roles** (List1) - randomly or for cause testing where there is reasonable cause to suspect that the member of staff is attending work under the influence of drugs or alcohol and after an incident or accident where there is reasonable cause to suspect that the member of staff has been under the influence of drugs or alcohol
- ii) for **safety critical roles** (List 2)– for cause screening after an incident or accident, where there is reasonable cause to suspect that the member of staff has been under the influence of drugs or alcohol

*'Most safety critical roles' involve activities where, because of the risks associated with the role, the employees need to have full, unimpaired control of their physical and/or mental capabilities to carry

out a particular task or make critical decisions which can impact on the health or welfare of themselves or others

- 7.2 The Councils reserve the right to conduct random alcohol and/or drug testing or random alcohol testing or random drug testing on some or all employees in all safety critical roles at any time of the working period and no notice will be given.
- 7.3 Prior to 'for cause' testing being carried the manager's checklist (Appendix 3) will be completed by the line manager with the employee.
- 7.4 Any employee who refuses to give consent to be screened will be subject to the Councils' Disciplinary Procedure whereby refusal may be treated as gross misconduct for which summary dismissal is one possible outcome. Employees will be given one further opportunity to agree to screening before the disciplinary procedure is invoked.
- 7.5 Drug and alcohol screening will always be carried out by trained and competent people. Screening will be carried out in privacy and employees undergoing screening will be treated with dignity and respect at all stages of the process.
- 7.6 Alcohol screening will be carried out by using an electronic breath testing device. "Unimpaired" for these purposes means with a negative blood/alcohol or drugs test result. The alcohol level for drivers in England and Wales is a level in excess of 35mg of alcohol in 100ml of breath, 80mg of alcohol per 100ml blood or 107mg per 100ml of urine, so these are the levels that the Councils will use as an indication of an employee's capability and awareness being affected and levels over these limits will be classed as a positive test result.
- 7.7 It is not currently scientifically possible to identify a level of drug concentration in the blood or urine to effectively indicate whether capability or awareness is affected by the use of drugs and the Councils therefore takes a zero tolerance view of a positive drugs test result. Drug screening will be carried out by urine testing which screens for cocaine, amphetamines and methamphetamines (including ecstasy), cannabis, opiates (including heroin) and benzodiazepines.
- 7.8 Records of screening results are considered to be 'special category data and will be subject to and processed in accordance with the Data Protection Act 2018 and GDPR.
- 7.9 We aim to ensure that the confidentiality of any member of staff experiencing alcohol or drug related problems is maintained appropriately. However, it needs to be recognised that, in supporting staff, some degree of information sharing is likely to be necessary.

8.0 Monitoring and Review

- 8.1 This policy will be monitored and reviewed on a regular basis by the Human Resources team with a thorough review taking place in three years if required.

9.0 Legislative framework

9.1 This policy has been written in reference to the following documents:

- Health & Safety at Work Act 1974
- Management of Health & Safety at Work Regulations 1999
- Misuse of Drugs Act 1971
- ACAS (Advisory, Conciliation and Arbitration Service) guidance
- Human Rights Act 1998
- Data Protection Act 2018
- Equalities Act 2010
- Road Traffic Act 1988

Appendices

Appendix 1	List of Most Safety Critical Roles
Appendix 2	List of Safety Critical Roles
Appendix 3	Manager's For Cause Testing Checklist

Date policy agreed with Unison:

Date agreed by Joint Staff Committee:

Date for review: 18 months from formal adoption of policy

Appendix 1

Directorate	Department	Job Title	Why Critical?	Approx. number of posts
<p>Most safety critical roles</p> <p>'Most safety critical roles' involve activities where, because of the risks associated with the role, the employees need to have full, unimpaired control of their physical and/or mental capabilities to carry out a particular task or make critical decisions which can impact on the health or welfare of themselves or others</p> <p>This list is not exhaustive and the list of jobs and job titles may change over time - the main focus is on the types of work that is carried out that is safety critical</p>				
Communities	Housing - maintenance and repairs	Multi-Trade Operative	Plumbers and Electricians for the Council using a variety of tools. Often lone working in Council properties	17
Environment	Parks and Foreshore	Foreshore Inspector	Operates power boats, administers first aid, makes safety critical decisions re pier closure, water safety activities etc.	3
Environment	Parks and Foreshore	Craft Gardener	Operates power tools - hedgecutters, trimmers, drives council vehicles	3
Environment	Parks and Foreshore	Snr Foreshore Inspector	Operates power boats, administers first aid, makes safety critical decisions re pier closure, water safety activities etc.	1
Environment	Parks and Foreshore	FO Seasonal Safety Boat Operator	Operates power boats, administers first aid, makes safety critical decisions re pier closure, water safety activities etc.	5
Environment	Parks and Foreshore	Head Gardener	Operates power tools - hedgecutters, trimmers, drives council vehicles	1
Environment	Parks and Foreshore	Grounds Maintenance Team	Operates power tools - hedgecutters, trimmers, drives council vehicles	19
Environment	Parks and Foreshore	Seasonal Grounds Maintenance	Operates power tools - hedgecutters, trimmers, drives council vehicles	6
Environment	Parks and Foreshore	Senior Green Keeper	Operates power tools - hedgecutters, trimmers, drives council vehicles	3
Environment	Parks and Foreshore	Cemetery Operatives	Operates power tools - hedgecutters, trimmers, drives council vehicles, works in confined spaces excavating and shoring graves.	4
Environment	Parks and Foreshore	Bereavement Services GM Team Leader	Operates power tools - hedgecutters, trimmers, drives council vehicles, works in confined spaces excavating and shoring graves.	1
Environment	Parks and Foreshore	Gardener	Operates power tools - hedgecutters, trimmers, drives council vehicles	1
Environment	Parks and Foreshore	Community Park Ranger	Operates power tools - hedgecutters, trimmers, drives council vehicles.	2

			Assesses safety of parks and open spaces infrastructure.	
Environment	Parks and Foreshore	Environment Maintenance Officer	Operates power tools - drills, grinders etc. Assesses safety of play equipment	2
Environment	Parks and Foreshore	Environment Maintenance TL	Operates power tools - drills, grinders etc. Assesses safety of play equipment	1
Environment	Parks and Foreshore	Coast Protection Grounds Maintenance Operative	Operates power tools - drills, grinders etc. Assesses safety of coastal defences. Operates heavy plant machinery.	1
Environment	Parks and Foreshore	Coast Protection Team Leader	Operates power tools - drills, grinders etc. Assesses safety of coastal defences. Operates heavy plant machinery.	1
Environment	Parks and Foreshore	Grounds Maintenance Supervisor	Operates power tools - hedgecutters, trimmers, drives council vehicles. Makes safety assessments.	1
Environment	Parks and Foreshore	Apprentice Gardener	Operates power tools - hedgecutters, trimmers.	1
Environment	Bereavement Services	Crematorium Technician	Represents Council dealing with bereaved people and operates complex crematorium equipment where the impact could be major both H&S and reputationally if operated incorrectly. Responsible for the integrity of the cremated remains.	10
Environment	Bereavement Services	Snr Crematorium Technician	Represents Council dealing with bereaved people and operates complex crematorium equipment where the impact could be major both H&S and reputationally if operated incorrectly. Responsible for the integrity of the cremated remains.	1
Environment	Transport Team	Mechanic	H&S of others, both Council and general public could be impacted if their work was defective due to be under the influence of drugs or alcohol. Could also influence Council's retention of Operators Licence for vehicle fleet.	1
Environment	Transport Team	HGV mechanic	H&S of others, both Council and general public could be impacted if their work was defective due to be under the influence of drugs or alcohol. Could also influence Council's retention of Operators Licence for vehicle fleet.	3
Environment	Transport Team	Semi Skilled Mechanic	H&S of others, both Council and general public could be impacted if their work was defective due to be under the influence of drugs or alcohol. Could also influence Council's retention of Operators Licence for vehicle fleet.	1

Environment	Waste and Cleansing	Relief Driver Operative	Potential major H&S and reputational risk if operating HGV or LGV vehicles under the influence of drugs & alcohol.	1
Environment	Waste and Cleansing	Relief Operative	Potential major H&S risk as operate automatic hydraulic bin lifts and also working on highway alongside traffic and pedestrians.	9
Environment	Waste and Cleansing	Relief Operative - Pool	Potential major H&S risk as operate automatic hydraulic bin lifts and also working on highway alongside traffic and pedestrians.	2
Environment	Waste and Cleansing	Cleansing Driver Operative	Potential major H&S and reputational risk if operating HGV or LGV vehicles under the influence of drugs & alcohol.	29
Environment	Waste and Cleansing	Kerbside Loader	Potential major H&S risk as operate automatic hydraulic bin lifts and also working on highway alongside traffic and pedestrians.	11
Environment	Waste and Cleansing	Grounds Maintenance Operative	Operates power tools - hedgecutters, strimmers, drives council vehicles.	22
Environment	Waste and Cleansing	Environmental Services Manual Operative	Operates power tools - hedgecutters, strimmers, drives council vehicles. Potential major H&S risk as operate automatic hydraulic bin lifts and also working on highway alongside traffic and pedestrians.	6
Environment	Waste and Cleansing	Refuse / recycling driver team leader	Potential major H&S and reputational risk if operating HGV or LGV vehicles under the influence of drugs & alcohol.	18
Environment	Waste and Cleansing	Refuse / recycling driver operative	Potential major H&S and reputational risk if operating HGV or LGV vehicles under the influence of drugs & alcohol.	32
Environment	Waste and Cleansing	Loader Phase Leader	Potential major H&S risk as operate automatic hydraulic bin lifts and also working on highway alongside traffic and pedestrians.	11
Environment	Waste and Cleansing	Manual Sweeper	Work alongside staff using HGV vehicles plus power tools.	2
Environment	Waste and Cleansing	Street Sweeper Chargehand Driver	Potential major H&S and reputational risk if operating HGV or LGV vehicles under the influence of drugs & alcohol.	2
Environment	Waste and Cleansing	Bulky Household Waste Collector	Potential major H&S risk as operate automatic hydraulic bin lifts and also working on highway alongside traffic and pedestrians.	2
Environment	Waste and Cleansing	Pedestrian Sweeper Driver	Potential major H&S and reputational risk if operating HGV or LGV vehicles under the influence of drugs & alcohol.	1

Environment	Waste and Cleansing	Street Sweeper manual sweeper	Work alongside staff using HGV vehicles plus power tools. Work alongside staff using HGV vehicles plus power tools. Also responsible for site safety. At times lone worker.	4
Environment	Waste and Cleansing	Yard Operative	Operates power tools. Makes safety assessments. Also responsible for site safety. At times lone worker.	1
			Total no of posts	242

Appendix 2

Safety Critical Roles				
This list is not exhaustive and the list of jobs and job titles may change over time - the main focus is on the types of work that is carried out that is safety critical				
Directorate	Department	Job Title	Why Critical?	Approx. number of posts
Communities	Housing - maintenance and repairs	Compliance Manager Contract	Will be attending site, required to lift items.	1
Communities	Housing - maintenance and repairs	Voids and Lettings officer	Critical to business if action and decisions taken aren't correct e.g re heating provision for new tennant	1
Communities	Adur Homes Team	Housing Officer	Officers carry out visits to tenants homes and often them of safety issue in the cause of their job, some of whom are very vulnerable	3
Communities	Adur Homes Team	Senior Housing Officer	Officers carry out visits to tenants homes in the cause of their job, some of whom are very vulnerable	1
Communities	Adur Homes Team	Sheltered Housing Officer	Responsible for the welfare of vulnerable people living on site	2
Communities	Adur Homes Team	Assistant Building Services Manager	Officer responsible for making decisions on safety of officers who handle equipment and machinery often in the home of vulnerable tenants	1
Environment	Business Support	Education & Compliance Officer	Issuing enforcement action on behalf of Council	2
Environment	Parks and Foreshore	Arboricultural Inspector	Carries out safety inspections of trees which could have major potential impact on the H&S of others.	1
Environment	Waste and Cleansing	Assistant Operations Manager	Carries out drivers assessments. WAMITAB and O licence holder on behalf of Council.	1
Environment	Waste and Cleansing	Waste Operations Supervisors	Drives HGV and LGV vehicles when needed.	2
Environment	Car Parks	Car Parks Advisor	Drives Council vehicles, carries out safety assessments which may result in car park closure, lift entrapments etc.	9
Environment	Car Parks	Car Parks Supervisor	Drives Council vehicles, carries out safety assessments which may result in car park closure, lift entrapments etc.	1
Environment	Car Parks	Car Parks Team Leader	Drives Council vehicles, carries out safety assessments which may result in car park closure, lift entrapments etc.	2
Environment	Waste and Cleansing	Mobile Toilet Cleaners (drivers)	Drives council vehicles, uses chemicals, site safety assessments.	7
Digital & Resources	Facilities and Tech Services	Maintenance Surveyor	Out on site on a daily basis advising and making decisions regarding	1

			maintenance as well as undertaking maintenance. E.g. Swimming pool maintenance if not correctly undertaken could have significant impact on the functioning of the service. Also could injure themselves or others if not able to carry out tasks correctly or make decisions effectively.	
Digital & Resources	Facilities and Tech Services	Maintenance Assistant	Out on site on a daily basis advising and making decisions regarding maintenance as well as undertaking maintenance. E.g. Swimming pool maintenance if not correctly undertaken could have significant impact on the functioning of the service. Also could injure themselves or others if not able to carry out tasks correctly or make decisions effectively.	1
Digital & Resources	Revs and Bens	Inspector/Collector	these roles are "outside" inspectors which involves ECU and majority of working time is spent driving or visiting properties to inspect or collect	2
			Total no of posts	38



ADUR & WORTHING
COUNCILS

Manager's Alcohol or Drug Testing Checklist

Employee's Name	
Job title	
Date and time	
Manager's name	
Manager's Job Title	
Reason for the test:	
Alcohol:	
Incident or accident occurred	Yes/No Provide details
Smells of alcohol (fresh or stale)	Yes/No
Unsteady on feet	Yes/No
Slurred speech	Yes/No
Blood shot eyes	Yes/No
Unusually aggressive	Yes/No
Erratic behaviour	Yes/No
Information provided by another person	Yes/No
Other justifiable reason	Yes/No. Provide details
Drugs:	Type of drug:
Incident or accident occurred	Yes/No Provide details
Dilated pupils	Yes/No
Smell of drugs	Yes/No
Change in attitude	Yes/No
Lack of coordination	Yes/No
Confused	Yes/No
Unusually talkative	Yes/No
Information provided by another person	Yes/No
Other justifiable reason	Yes/No Provide details
Member of staff informed of the reason for the test?	Yes/No Notes:

Member of staff understands the reason for the test?	Yes/No Notes:
Member of staff consents to the test?	Yes/No Notes: i.e. if they refuse what is their reason for refusing

Test results:

Alcohol Test	Negative/Non negative If non negative – final test result
Drug test	Negative/Non negative If non negative – final test result

Signed employee..... Date:

Signed manager Date:

ALCOHOL AND DRUGS POLICY AND GUIDANCE

**POLICY AND GUIDANCE ON
ALCOHOL AND OTHER DRUGS OF DEPENDENCY**

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Adur District and Worthing Borough Council

POLICY ON ALCOHOL AND DRUG MISUSE

Purpose of the policy – is to establish the way in which the Council manages the issue of alcohol and drug misuse and use in the workplace.

Definition:

“Drug misuse” refers to the use of illegal drugs and the misuse, whether deliberate or unintentional, of prescribed drugs and substances such as solvents.

“Alcohol misuse” refers to drinking at levels that lead to significant harm to physical and mental health and at levels that may be causing substantial harm to others.

Distribution of the policy – part of the general health and safety policy documentation held by all line managers, also available online through the intranet to all staff.

Use of the policy – the policy is to be used to establish standards and a commitment to safety in this important area and therefore should be used to brief staff, including on recruitment into the organisation, as a reference document and the guideline to judge all relevant activity. From time to time the policy will be reviewed to ensure that it remains valid and useful.

- a) The Council is committed to providing a safe and comfortable working environment and this requires a clear statement of corporate policy on alcohol and drug misuse.
- b) Every line manager is responsible for ensuring that this policy is implemented.
- c) The consumption of alcohol on Council premises is **ONLY** permitted:-
 - i) at festive and special occasions, such as Christmas and staff leaving parties
 - ii) outside an employee’s working hours.
- d) Alcohol consumption must be managed by all staff such that no member of staff presents for work under the influence of alcohol.

Alcohol consumption in breach of the above restrictions is strictly prohibited, risks the safety and comfort of other staff and visitors, and will be regarded as a disciplinary matter.

- e) Drug misuse by staff is strictly prohibited such that:-
 - (i) no member of staff may present for work under the influence of misused drugs, nor may any member of staff misuse drugs during the working day (on the premises or off-site);
 - (ii) drug misuse in breach of the above restrictions is strictly prohibited, risks the safety and comfort of other staff and visitors, and will be regarded as a disciplinary matter.

- f) All staff are required to bring this policy to the attention of visitors and contractors as appropriate, and to report to their line manager if they see anyone consuming alcohol or misusing drugs, or who appears to be under the influence of either.
- g) To supplement the restrictions of this policy, the Council offers assistance to members of staff who may have developed a problem with either drugs or alcohol. To facilitate this, information on organisations available to assist shall be periodically circulated, posted to notice boards, etc.
- h) In addition, although the Council may not tolerate criminal behaviour, it is possible for additional assistance to be offered to anyone identified as having an alcohol problem. For anyone so identified, from sickness absence records, self-reporting and other means, the following shall apply:-
 - (i) the work undertaken by the person shall be reviewed, seeking to identify causes of stress which may be reduced;
 - (ii) the Council may make available confidential counselling or other support to assist the person concerned to recover his/her control.
- i) It should be noted that if drug misuse and/or alcohol consumption reduces performance to unacceptable levels – in terms of safety, sickness absence or other factors – this may prove to be grounds for dismissal if counselling or other treatments are unsuccessful.
- j) The Council recognises that the use of prescribed medicine, as opposed to illegal drugs can have an impact on an employee's performance at work. It is not expected that this would be grounds for disciplinary action; however, employees are advised to follow any medical advice given to them regarding taking prescribed medicines.

DRUGS AND ALCOHOL GUIDANCE

INTRODUCTION

This guidance addresses the issues of legal drugs, alcohol, and illegal drugs such as cannabis and heroin. Although the legal position creates different contexts, and there are some additional risks to employers in connection with (illegal) drug misuse, the health and safety position for each is remarkably similar and the strategies for management have a great deal in common.

1. Introduction

1.1 Hazards to staff and to all persons including visitors

Drug misuse and alcohol consumption by staff members can render them incapable of safe working. The affected workers can fail to make correct judgements when using machinery, in an exactly equivalent way to the arguments applying to vehicle control when 'under the influence'. Some illegal drugs and alcohol are capable of altering perceptions so that reaction time is slowed and altering personality so that risks are taken more readily – a very dangerous combination. This may make affected workers' behaviour dangerous to themselves, to colleagues and to others.

1.2 Adur District & Worthing Borough Councils

The Council could be regarded as breaking the law if they knowingly allow drug-related activities to take place in their workplaces. Drug misuse and under-age alcohol consumption may result in breaches of criminal law, and alcohol consumption in any event may lead to claims of negligence.

2. Legal Considerations

There are several legal requirements that are potentially applicable to drugs and alcohol in the workplace, but the most significant are:

- *The Health and Safety at Work etc. Act 1974* requires all employers to provide safe places and systems of work, and this may be regarded as extended to cover the management of staff such that they are not incapacitated by drug or alcohol consumption to carry out their work without risk to others.
- *The Transport and Works Act 1992* makes it a criminal offence for certain workers to be unfit through drugs and/or drink while working on specified tasks (railways, tramways, etc.)
- *The Road Traffic Act 1988* renders it a criminal offence for a driver to be unfit through drink or drugs.
- *The Misuse of Drugs Act 1971* creates the criminal law category of drug misuse, applicable for the production, supply and possession of specified controlled drugs except in specified circumstances such as when they have been prescribed by a doctor.

3. Risk Assessments

3.1 General

This guidance represents checks managers need to make to perform an adequate risk assessment on the management of alcohol consumption and drug misuse both in the workplace and immediately prior to work periods. If there is anything unusual about the work, such as the regular use of transport by appointed drivers, additional arrangements may be required.

3.2 Managing the risks

3.2.1 Risk assessment programme

The following should be documented as the method to be employed effectively to carry out an enhanced risk assessment and control programme to minimise the risks arising from alcohol consumption or drug misuse.

3.2.2 Checklist for drug and alcohol risk assessment

The following items are to be checked routinely by all managers.

Staff

- a) Recruitment and induction ensures that all staff are aware of the drug and alcohol policy.
- b) Machinery usage and other risk assessments take into account alcohol consumption, if consumption is not generally prohibited during breaks in the working day.
- c) Information is made available to all staff on alcohol and drug misuse counselling services.

Visitors

- d) Arrangements to ensure that the drug and alcohol policy is brought to their attention as necessary.

Contractors

- e) Arrangements to ensure that their instructions/contractual obligations include the alcohol consumption rules for working on the premises.
- f) The Supervising Officer of any contract is actively checking compliance with contractor obligations including compliance with the drug and alcohol policy.

3.2.3 Council Assistance:

It is important that a caring service such as that provided by the Council should recognise those people at risk and be willing and able to offer appropriate assistance. Alcohol related problems are frequently recognised at an early stage in the workplace. The costs in accidents, illnesses, poor quality work and loss of productivity are considerable.

- 3.2.4** The Council recognises its role both as an employer of many staff and as an example to other employers in providing a well thought out policy for preventing alcohol related problems in the workplace and for handling those problems constructively and sympathetically.

3.2.5 Training

The illegal use of drugs and substances in the workplace including the consumption of alcohol by employees exposes them to an increase in the risk of accidents and injury. This obviously has a direct impact on the operation of The Council (investigations, resourcing, enforcement and further loss) and could therefore affect its continued viability. It requires particular and sensitive skills to prevent or mitigate this use and the training requirements focus on these areas.

Training managers for recognition of substance abuse in the workplace.

The National statistics regarding the involvement of drugs and alcohol in incidents and accidents continue to show an alarming increase. To avoid where possible this type of accident or incident in the work environment managers require an understanding of:-

1. The need to ensure an effective policy on the use of alcohol and drugs in the workplace and its enforcement.
2. How to recognise the use of substances by employees and their effect on safe operations.
3. Identification of factors in the work environment that may create an individual's dependency on illegal substances and reduction where possible of such exposure or opportunity of abuse.
4. The implementation of help and welfare programmes that will assist in mitigating the risk of abuse and improving awareness amongst line supervisors, managers and the workforce.
5. The requirement for a regular review of policy and its documentation.
6. The possible need to implement for certain processes and work contracts regular 'tests' on employees and the possible implication in the individual's contract of employment. The introduction of such testing would need to be justified, approved by Councils Leadership Team and consulted on with UNISON.
7. How to implement active monitoring programmes to ensure conformity to agreed standards and policy and the maintenance of information relevant to the Council's operation.

4.0 RESPONSIBILITY OF THE EMPLOYEE

4.1 Each employee is the main person responsible for her/his own health.

4.2 Any employee can see the Occupational Health Nurse for advice about his/her own drinking or related problems, and anyone can encourage a colleague to seek advice from the Human Resources Section – confident that an approach will be treated sympathetically and in complete confidence. The Employee Assistance Programme is available to all staff and their family household members, 24 hours a day, 7 days a week, and offers expert advice, invaluable information, specialist

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counselling and support services confidentially. Contact details are available from Human Resources or on the Intranet.

- 4.3 Nationwide research indicated that not infrequently colleagues cover for some of the effects of problem drinking. Late return to duty is ignored and inefficient work practices tolerated. As there is usually little chance that the individual will correct his or her own behaviour, such collusion is, whilst maybe well intentioned, counter productive, and a disservice to the member of staff having difficulties with alcohol, drugs or solvents.
- 4.4 The employee may accept the manager's request to seek medical help but may prefer to receive diagnosis, care and/or treatment from his/her own doctor. All matters relating to the continued care of such an employee at work and any changes in employment arrangements will be considered by the appropriate Head of Service with the advice of the Head of HR and the Director for Digital & Resources in conjunction, where appropriate, with the Occupational Health Specialist.
- 4.5 It is the responsibility of the employee to decide whether or not to receive specialised counselling and treatment. No employee will be required to comply unwillingly with a treatment programme.
- 4.6 The Head of HR and the Director for Digital & Resources and/or the manager involved will, however, need to be advised of the general progress of the individual. The employee will therefore be expected to share relevant information about his/her progress with the Head of HR and the Director for Digital & Resources in order that appropriate support can be given in the workplace and work performance assessed in context.
- 4.7 Employees are encouraged at any and every stage to be accompanied / represented by their union or work colleague.

5.0 RESPONSIBILITY OF THE MANAGER

- 5.1 Each manager must recognise that the health and safety of our staff/customers/clients is of first importance.
- 5.2 The Council is committed to a policy of early positive intervention by managers when staff with alcohol or drug related problems become known to them.
- 5.3 The manager will actively encourage an employee to recognise the problem and to seek more specialised help and/or treatment via the Human Resources Section. Work performance will also be carefully monitored.
- 5.4 The manager will encourage an employee who acknowledges that there is a problem to respond to offers of specialised help. This help will be made available on the basis that the employee will be granted sick leave to undergo treatment in the same way as any other illness is regarded under the terms of the Council's sick pay scheme.

- 5.5 When an alcohol, drug or solvent related problem is or may be the cause of inefficiency, unpunctuality or unacceptable behaviour the manager should:-
- a) monitor performance or conduct, e.g. timekeeping, keeping careful records over a reasonable period of time;
 - b) arrange a meeting with the employee to discuss the problem(s) relating to work and to explore possible reasons as sensitively as possible.

In some cases there may be good reason to feel that there is an underlying alcohol, drug or solvent related problem because of information from others. With other cases, this may only be a strong suspicion. The subject of dependency will have to be raised by the manager if the employee makes no reference to it.

- 5.6 If the manager feels embarrassed or unhappy in this type of situation, especially if the member of staff reacts unfavourably or is upset, no matter how sensitively the matter is being handled, then the manager should seek the help and advice of the Human Resources Section and, where appropriate, through them, Occupational Health Specialist.
- 5.7 Every effort will be made to ensure that the employee retains his/her present job with no detriment to promotion opportunities or other benefits so long as work performance returns to an acceptable level and there is no hazard whatsoever to colleagues and clients.
- 5.8 Where the employee is incapable of retaining his/her present job or where doing so might undermine recovery, the Council where appropriate, will make every effort to find suitable alternative employment.
- 5.9 In the event of a relapse after treatment, a further opportunity for help and treatment will be offered in those cases where the individual circumstances indicate that this would help the employee.
- 5.10 The manager has the right to be kept informed by an employee of the general progress of the individual and the likely date of return to work. The manager has no right to knowledge of the actual treatment record.
- 5.11 The manager will encourage the employee to be accompanied by his/her trade union/staff representative or work colleague at any stage if wished.
- 5.12 A copy of the Policy shall be available for staff to read and retain if required and may be obtained from Supervisors/Managers or the Human Resources Section.
- 5.13 When offers of help and support have been rejected and where the manager considers that the employee, colleagues or clients are at risk, then disciplinary action may have to be taken on the basis of actual conduct or performance.
- 5.14 Excessive alcohol consumption, solvent or drug abuse on isolated or random occasions leading to behaviour contrary to appropriate standards of safety and conduct will be dealt with under the Council's Disciplinary Procedure, with due consideration of all relevant factors, including any underlying known problems.
- 5.15 The following would also be dealt with under the Council's Disciplinary Procedure:

- where offers of help and support have been rejected, and/or
- where there is continued unacceptable behaviour and/or standards of work performance, and/or
- where the manager considers that the individual may be putting himself / herself or others at risk.

6.0 RESPONSIBILITY OF THE HUMAN RESOURCES SECTION

- 6.1 The Human Resources Section with the assistance of the Occupational Health Specialist will assess employees referred to them under the Policy in strict confidence. Human Resources will also offer advice and help, and will liaise with senior managers on the same basis as all other health problems which affect work standards or behaviour.
- 6.2 The Human Resources Section will accept self-referral from employees who are worried about their own drinking or other dependency and such cases may not require the involvement of management at all. Contact should be made directly with the Human Resources Section or Occupational Health Specialist.
- 6.3 The actual treatment record of the employee will remain strictly confidential to the Occupational Health Specialist with no access to its contents by management.
- 6.4 The Occupational Health Specialist staff are qualified to provide a counselling service, to assess employees referred to them (or who refer themselves) and/or to refer staff on to agencies or groups specialising in this type of problem.
- 6.5 In order to monitor the effectiveness of the policy in promoting the health and well-being of employees, the Occupational Health Specialist will maintain statistical records of employees with alcohol, drug or solvent related problems. Such statistics will not identify individual employees.

Corporate Safety June 2014

Version Number	Date	Alteration	Reviewer
Version 1.1	May 2007		JR
Version 1.1	March 2009		
Version 1.2	March 2011	Joint policy sent via the HR Working Group	LD
Version 1.3	June 2014	Review – change of management structure (CLT), roles and responsibilities.	LD



ADUR & WORTHING
COUNCILS

Equality Impact Assessment – Alcohol and Drug Policy

Name of project/policy/strategy (hereafter referred to as “initiative”):

Alcohol and Drug Policy

Provide a brief summary (bullet points) of the aims of the initiative and main activities:

To review, update and make additions to the current Adur & Worthing Councils Alcohol and Drugs Policy and Guidance.

This includes:

- more detail regarding support for employees regarding voluntary disclosure if they have a drug or alcohol dependency problem
- Clarity around not consuming alcohol during work hours, including lunch and break times and whilst on Council business
- New section on Drug and Alcohol screening

Project Officer : Heidi Christmas

Date : September 2020

Stage 1: ‘Screening’

This stage establishes whether a proposed initiative will have an impact on equality groups, (age, disability, gender, race, religion/belief, sexual orientation), or whether it is “equality neutral” (i.e. have no effect either positive or negative). So for example in the case of gender impact, consider whether men and women are affected differently.

Q.1. Who will benefit from this initiative? Is there likely to be a positive impact on specific equality groups (whether or not they are intended beneficiaries), and if so, how? Or is it clear at this stage that it will be equality “neutral”? i.e. will have no particular effect on any group.

The aim of the policy is to protect the health, wellbeing and safety of our employees and the public and to help employees who may have a problem with drug or alcohol abuse.

The policy will be applied consistently irrespective of any protected characteristic.

Q.2. Is there likely to be an adverse impact on one or more equality group as a result of this initiative? If so, who may be affected and why? Or is it clear at this stage that it will be equality “neutral”?

The majority of the policy applies to all staff except for the section on drug and alcohol screening. Within this section there are 2 lists of roles that will be tested; List 1 for the most safety critical roles and list 2 for safety critical roles.

As of 3rd Sept 2020

List 1 - currently 162 people in those roles;

8 female Age: 30-39 = 1, 40-49 = 1, 50-59 = 6

154 male Age: 18-19 = 1, 20-29 = 6, 30-39 = 29, 40-49 = 27, 50-59 = 64, 60-69 = 25, 70-79 = 2

List 2 - currently 27 people in those roles

10 female Age: all over 50

17 male Age: 40-49 = 4, 50-59 = 9, 60-69 = 4

This shows that the main group that will currently be affected by the screening element of the policy will be males aged 40 years old and older. There is no reason why these roles can't be done by males or females or by a variety of age groups, so this data may change over time.

The 'for cause' drug and alcohol screening will be only be carried out once a manager has completed the manager's checklist showing the reason why the test is being requested

The random drug and alcohol screening will only be carried out on those roles that have been identified as safety critical or where the staff has a role in safeguarding children or adults. That list has been agreed by Unison.

The screening process can identify any medication that might affect the test outcome to ensure that a positive test is not due to any medication being taken by the individual.

The potential for the individual to have an underlying disability will be considered on a case by case basis.

Q.3. Is the impact of the initiative - whether positive or negative - significant enough to warrant a more detailed assessment (Stage 2 - see guidance)? If not, will there be monitoring and review to assess the impact over a period of time? Briefly (bullet points) give reasons for your answer and any steps you are taking to address particular issues, including any consultation with staff or external groups/agencies.

It is not considered necessary to have a more detailed assessment. The policy will be reviewed in three years time and at this point, the equality impact assessment will also be reviewed.



ADUR & WORTHING
COUNCILS

Joint Staff Committee
17 November 2020
Agenda Item 8

Exit Cap Payments

Report by the Director for Digital Sustainability & Resources

Executive Summary

1. Purpose

- 1.1 The report seeks to brief the Joint Staff Committee on the following:
 - 1.1.1 the implementation of the £95,000 cap on exit payments that came into force on 4th November 2020.
 - 1.1.2 the consultation regarding the Reform of the Discretionary Payments Regulations and Local Government Pension Scheme Regulations
 - 1.1.3 the proposal to require higher earners to repay severance payments if they secure re-employment in the public sector within 12 months

2. Recommendation

- 2.1 The Joint Staff Committee is recommended to note the contents of the current changes and reform proposals detailed in this paper
- 2.2 The Joint Staff Committee is asked to delegate authority to the Head of Human Resources (in consultation with the Chief Financial Officer and the Head of Legal Services, where relevant) in order to make minor and non-consequential amendments to the Policy at any time. The policies that will need to be reviewed following the outcome of the consultation will potentially include the Councils' LGPS Discretions Policy and the Managing People Change Policy.

3. Context

- 3.1 The proposal for the £95,000 cap on exit payments was consulted on in 2019 and the relevant legislation was made on 14th October 2020 with

the implementation date 21 days after that which means that the new arrangements came into force on 4th November 2020.

- 3.2 This means that from the 4th November any Exit Package will be restricted to a maximum of £95,000. The Exit Package is defined as including any redundancy pay, any pension strain costs arising from an early retirement and any pay in lieu of notice of more than three months.
- 3.3 There are other changes contained within this legislation including:
- Cap of £80,000 on the maximum salary that a redundancy payment can be calculated on;
 - Changes to how the redundancy payments are calculated
- 3.4 However, under the terms of the LGPS, any employee being made redundant either as a result of restructuring or on the grounds of efficiency of the service who is over 55 years of age is entitled to access their pension on an unreduced basis from the pension fund. Any cost to the pension fund arising from early retirement is met by the employer and is commonly known as 'pension strain'. The cost of early retirements can be substantial and would lead to a potential breach of the new £95k cap. Consequently in parallel to the new Exit Payment regulations, there is a consultation on changes to the LGPS currently being undertaken with a view of implementing new regulations by the end of December.
- 3.5 The implications of the current legal position is that provided that the total exit package is less than £95,000 then an individual can be made legally redundant.
- 3.6 However, if due to pension strain costs, the overall package exceeds £95,000 the redundancy is not legally compliant unless the individual agrees to use their redundancy pay to fund part of the pension strain costs and bring the total down to below £95,000 if this is possible.
- 3.7 The LGA have been seeking clarification of the current position from HMT but no guidance has yet been provided.

4. Issues for consideration

- 4.1 To look at any circumstances where an employee is leaving under redundancy or efficiency of service reasons to look at what the financial

exit package total amounts to and consider whether it is possible for them to leave under those circumstances at the current time.

5. Engagement and Communication

- 5.1 A discussion was held with Unison at JONG on 4th November 2020; they are fully aware of the proposals and the consultation.

6. Financial Implications

- 6.1 The new regulations will benefit the Councils financially limiting the maximum cost of any exit payment to £95,000.

7. Legal Implications

- 7.1 As mentioned above, the reform of the statutory provisions governing exit payments to local government workers consists of three separate elements:

- 7.1.1 The implementation of a £95,000 cap on exit payments, including an employer's contribution to pension costs (effective from 4 November 2020).

£95,000 cap on exit payments

The government introduced powers to cap exit payments in the public sector at £95,000 in the Small Business, Enterprise and Employment Act 2015 (as amended by the Enterprise Act 2016). This cap has now been brought into effect by the Restrictions of Public Sector Exit Payment Regulations 2020 ("the Exit Cap Regulations") which will come into effect on 4 November 2020.

The cap applies to the total amount payable when someone exits and so applies to the total of severance payments, any pension strain cost and notice payments in excess of three months. As the £95,000 cap will come into force before corresponding amendments are made to the Local Government Pension Scheme, there is an uncertainty as to how this impacts on employees who are already in the process of exiting employment from local authorities.

The MHCLG's consultation on changes to the Local Government Pension Scheme rules required to accommodate the £95k cap will not be concluded before the cap comes into effect. This will mean that local authorities could be faced, in certain circumstances, with an obligation under the LGPS rules to make a pension strain payment which exceed £95,000 to an LGPS Fund to cover the cost of early retirement on

redundancy, but, at the same time, local authorities are prevented by the Exit Pay Cap Regulations from making that payment. It means that from 4 November 2020 up to the enactment of the MHCLG further reform proposals there is a position of legal uncertainty due to the apparent discrepancy between the obligations on LGPS scheme employers under the Exit Cap Regulations to limit strain cost payments, and the requirement for administering authorities to pay unreduced pensions to qualifying scheme members under existing LGPS regulations. There is currently no guidance on this matter from the government, although one is being awaited.

7.1.2 Reform of Discretionary Payments Regulations and Local Government Pension Scheme Regulations

Reform of the Discretionary Payments Regulations and Local Government Pension Scheme Regulations to place additional restrictions on severance payments and limit the amounts an employer can contribute to pension strain costs where an employee draws their pension early as a result of exiting.

On 7 September 2020 the Government opened a consultation on proposals for reforming exit payment terms for local government workers. In particular, it affects employees over age 55 who will be entitled to have their pension brought into payment if they are made redundant and those earning above £80,000 per annum. The consultation closes on 9 November 2020 and so it is not certain when any changes would take effect.

The proposed changes include:

- Capping severance payments at a maximum of 3 weeks' pay per year of service or 15 months' salary
- Imposing a maximum salary level on which calculations for severance pay can be based (currently £80,000)
- Preventing an employer making a discretionary redundancy payment in addition to a payment into the LGPS (pension strain cost) except in very limited circumstances
- Provisions to limit payments an employer can make into the LGPS (pension strain cost) where an employee receives a statutory

redundancy payment (by reducing the strain cost payment by the amount of the statutory redundancy payment)

- Making the necessary changes to the Local Government Pension Scheme to cater for these changes and the effects of the broader £95,000 cap.

7.1.3 Proposals to require high earners to repay severance payments if they secure re-employment in the public sector within 12 months. There is currently no indication of if and when this proposal will be implemented.

Background Papers

- Adur and Worthing Councils LGPS Discretions Policy
- Adur and Worthing Councils Managing People Change Policy

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Sustainability & Risk Assessment

1. Economic

2.1 Matter considered and no issues identified.

2. Social

2.1 Social Value

2.1.1 Matter considered and no issues identified.

2.2 Equality Issues

2.2.1 Matter considered and no issues currently identified.

2.3 Community Safety Issues (Section 17)

2.3 Matter considered and no issues identified.

2.4 Human Rights Issues

2.4 Matter considered and no issues identified.

3. Environmental

3.1 Matter considered and no issues identified.

4. Governance

4.1 There may be implications for some of the Councils' employee policies depending on the outcome of the reform.