

DRUGS AND ALCOHOL TESTING POLICY

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DRUGS AND ALCOHOL TESTING POLICY

1.0 INTRODUCTION

- 1.1 This Policy applies to all employees of the Council with the exception of those employed in locally managed schools.
- 1.2 Barnsley MBC is committed to providing a safe and healthy working environment for its employees, customers and visitors. This includes ensuring that employees are fit to carry out their duties safely and effectively in a working environment which is free from alcohol and drugs misuse, and consequently operates a zero tolerance policy in respect to consumption of alcohol and drugs during the working day including when flexed out (refer to 2.6 regarding social functions).
- 1.3 Employees are expected to arrive at work fit and able to carry out the full range of their duties; perform these safely and without limitations due to the use or after effects of drugs or alcohol. Employees who test positive must be aware that in choosing to report for work under the influence or with substances in their system may result in disciplinary action. This includes employees who are at home 'on call', 'standby' duties or homeworking.
- 1.4 Misuse/abuse of alcohol, drugs and other substances can affect an employee's health, personal life, work performance and interpersonal relationships. There is also a risk of impairment of judgement and decision making with potentially serious implications for the safety of service users and wider public.
- 1.5 The policy sets out clearly the Council's position on alcohol, drugs and substance misuse. The Council recognises that it may have employees with alcohol and drug related problems. The Council will deal reasonably and sympathetically with employees who have problems in accordance with the Council's Substance Misuse Policy, however it is also the employee's responsibility to notify the Council if they have alcohol or drug related problems.
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2.0 GENERAL PRINCIPLES

- 2.1 Employees are expected to report for work fit and remain fit to perform their duties throughout the working day. In order to ensure adherence with the policy, all employees will be required to be randomly tested or specifically tested.

Random Testing – A number of employees are randomly selected at a specific time for drug and/or alcohol testing by the Senior Management Team. This could be from any group of employees at any level and a programme will be determined by the Senior Management Team to affect this.

Specific Testing (for cause) – Managers may initiate drugs and/or alcohol testing in relation to any employee whose behaviour, an accident or near miss provides grounds to suspect they are unfit to carry out their duties and poses a threat to the health and safety of themselves or others. Where this type of testing is required the manager must seek HR/ H & S advice before any specific testing is agreed. An example may be a manager has challenged an employee on more than one occasion about suspected drinking during lunchtime which impacts on the ability to undertake the role and the manager is of the view that the employee has ignored the request to change behaviours. Indicators that an employee may be unable to carry out their duties and poses a risk to health and safety include (but are not limited to):

- Smell of alcohol on the breath or the person
- Dilated pupils
- Smell of drugs on the breath or the person
- Constricted pupils
- Slurred and slow speech
- Aggression, irritability or overly defensive behaviour
- Fatigue or lack of concentration
- Inability to interact at a coherent level
- Slow reactions or lethargy
- Unexplained sweating

Other signs/behaviours may include:

- Unauthorised leave
- Excessive lateness
- Overlong or frequent breaks
- Tasks take an unreasonable amount of time/deteriorating performance
- Difficulty recalling instructions or details
- Spasmodic work patterns
- Changes in personality

The above list is not exhaustive

Not all of the above indicators/signs will appear in every instance and it is possible that some indicators/signs may not be connected with alcohol and/or drugs, however where these give cause for concern they should be addressed appropriately through other Council procedures eg performance in employment, managing attendance, etc. For further clarification and guidance please contact your HR Business Partner.

2.2

Safety Critical Roles – The testing for drugs and alcohol as defined in this Policy is aimed at preventing serious accidents/inappropriate or illegal decisions to be taken in safety critical roles. Safety Critical refers to a position which requires the postholder to perform duties which are directly related to the safe operation or security of a facility, piece of equipment or vehicle, handling of chemicals, supervision of children or vulnerable adults, or work at height or in confined spaces and which, if not performed properly could result in a serious safety risk or environmental hazard to employees, premises or the public. Other Safety Critical roles include those responsible for children and adult safeguarding, customer facing posts due to the responsibility an employee has for a customer on Council premises or when supporting customers in their own homes or interacting with customers and employees responsible for strategic decision making and expenditure. An employee who has responsibility for supervising employees who perform such duties shall also be considered as occupying a safety critical position.

In addition to the above any employee who drives or may be expected to drive whilst undertaking their Council duties will be deemed safety critical.

Service Directors/Heads of Service in consultation with Human Resources may designate certain posts or occupations as safety critical, which will need to be included on the job profile.

2.3 **Non Safety Critical Roles** - Any examples not defined above will normally be classed as a non safety critical role. However, whilst non safety critical, inappropriate behaviour resulting from alcohol or substance misuse would result in reputational damage to the Council and therefore there will be no distinction made between specific and random testing.

Alcohol Misuse – refers to any drinking, either intermittent or continuous which interferes with an employees health, work capabilities or conduct or which affects the performance and/or safety of others.

2.4 **Drug and Substance Misuse** – refers to:

- The use of any controlled drug as defined by the Misuse of Drugs Act 1971 or any other statutory instrument
- The accidental or intentional misuse of prescribed or 'over the counter' medication
- The misuse of substances eg solvents which can impair behaviour, judgement or job performance of the employee.

2.5 **Social Functions** – It is acknowledged that occasionally alcohol may be available at social functions organised by the Council or when Council employees attend at the invitation of others in their professional capacity. Also on occasions employees are invited/or volunteer to attend Council organised events which will normally fall outside of working hours and do not require them to act in an official capacity as representative of the Council eg civic events, fundraising events.

2.6 At such occasions employees are expected to show responsible behaviour and limit the level of alcohol consumption. Employees also have a responsibility to make themselves familiar and comply with the Councils Code of Conduct.

3.0 **WORKPLACE DRUG AND ALCOHOL TESTING PROCEDURE**

The Council will employ the facilities of a commercial accredited collection company and a fully accredited and experienced laboratory to undertake testing for drugs. All testing will be carried out to ensure the employees dignity and rights are maintained at all times. Only staff who have undertaken appropriate training will be allowed to carry out testing for alcohol. This will include service managers who have undertaken appropriate training on the use of a home office approved calibrated electronic breath screening device.

3.1 **Alcohol Testing**

The alcohol test will consist of an on-site breath analysis using a home office approved calibrated electronic meter.

3.1.1 A positive alcohol result is where the level of alcohol concentration on the sample is greater than the Council's alcohol testing limit. The Council's alcohol testing limit is the England and Wales drink-driving limit, which is the presence of alcohol of more than 0.35 micrograms of alcohol per 100ml of breath. This level will be revised in line with any future legislative changes.

3.1.2 If a breath test indicates a presence of alcohol but below the 0.35 micrograms the employee will be advised of the dangers and offered support. Employees testing above 0.22 micrograms (most EU and Scotland drink driving limit) but below 0.35 micrograms will be required to attend a mandatory alcohol awareness session with an Occupational Health Professional. All employees testing positive below 0.35 micrograms will be advised that they may be subject to further testing however they will be allowed to continue their working

day

- 3.1.3 If the test indicates a reading above the UK drink-driving limit the employee will be informed that they have failed the test and will be asked to remain in the presence of the testing officer, supervisor or an independent witness. They will be instructed not to eat or drink anything.
- 3.1.4 After 30 minutes has elapsed the employee will be retested to confirm the result of the original positive test. If they pass the second test they will be warned they may be subject to further testing and advised of the implications of drinking and the effect on health, mental well being and their ability to carry out their role. The employee will be allowed to continue their working day
- 3.1.5 If they fail the second the employee will then be suspended from work in accordance with the Council's Disciplinary Procedure and a management investigation instigated. Given the accuracy of the equipment used to undertake alcohol testing there will be no right to challenge following the second test (as detailed above). Refusal to submit to alcohol testing will be treated as if the employee had provided a first and second positive reading.

3.2 **Drug Testing**

- 3.2.1 Drug Testing is a multistage process in which a urine (and/or saliva) sample is collected under a strictly controlled process known as chain of custody. The procedures utilised must ensure that the sample travels in an intact and secure manner from the collection of the sample from the employee to the laboratory and through the analytical process up to and including the reporting of the laboratory results and the destruction of the sample.
- 3.2.2 The collector will prepare the collection site taking all precautions to minimise the risk of sample adulteration, contamination or swapping whilst allowing the employee privacy and ensuring that they are fully aware of the process being followed. The Council's chosen service provider will provide specially designated certified drug free kits for urine sample collection and analysis which meets the chain of custody requirements.
- 3.2.3 The collector will screen the sample onsite, in the presence of the employee utilising an instant drug screening system. This will provide an immediately preliminary result which allows all employees who test negative to return to work. If the on site screen proves positive the urine sample will be divided between two containers (or obtained and divided in the case of an initial saliva sample), labelled and sealed with tamper evident security seals. One sample, the A sample, is used for laboratory analysis, whilst the second B sample is retained at the laboratory under secure temperature controlled conditions for future reference in case the employee wishes to challenge to laboratory results.
- 3.2.4 Where an employee challenges a positive result the B sample may be sent under chain of custody conditions to an independent laboratory of the employee's choice. Alternatively, the B sample will be retained, in the case of a positive result, by the laboratory for one year after the test result is known.
- 3.2.5 All paperwork relating to the sample will be completed in the presence of the employee. The employee will be required to sign the chain of custody form to verify that they have seen the samples properly divided, labelled and sealed and that they give consent for the sample to be analysed and for the results to be communicated to the Council.
- 3.2.6 During the collection process the employee will be given the opportunity to declare any

drugs or medication which they have taken in the days leading up to the collection of the sample. If a positive test result is indicated it will ensure that the employee is not accused of drug abuse when they have only taken a legitimate medication in the correct dosage. In all cases where the initial screening indicates a positive result, the employee will not be allowed to return to work until the laboratory result is confirmed and further investigation has taken place into the use of legitimate medication (see section X). A positive laboratory test result that is not mitigated by the use of legitimate medication will result in the employee being subject to disciplinary action.

- 3.2.7 The collection process is designed to minimise the risks of an employee successfully adulterating or tampering with the sample. The analytical procedures used by the laboratory include a number of additional tests to detect adulteration and/or attempted sample tampering.

3.3 **Medical Review**

The preliminary medical review is used to explore the reasons for the positive result and may involve a discussion with the manager to determine whether there is a legitimate reason for a positive result. The manager will refer the employee to the Council's Occupational Health service for a review of any prescribed or over the counter medication that the employee is/has taken. Reports may be sought from the employee's general practitioner. If following a review it is established that the employee had a legitimate reason for a positive drugs test they will be allowed to return to work or may be redeployed to other duties (subject to occupational health confirmation regarding the fitness to attend work where the employee continues to take medication)

4.0 **REFUSAL TO UNDERTAKE TESTING AND/OR ATTEMPTING TO ALTER RESULTS**

- 4.1 A refusal by an employee to consent to drugs and alcohol testing will be treated as a positive result and the employee will be dealt with under the Disciplinary Procedure.

Where an employee tampers with, alters or attempts to tamper or alter the testing process by any means, they will be treated as if having tested positive and will be dealt with in accordance with the Disciplinary Procedure.

Refusal is defined as:

- Failure to remain at the test until the testing process is complete
- Failure to provide an adequate breath test, urine specimen or other specimen as required
- Failure to sign a confirmation of test result form, if required
- Failure to take a second test as directed/if required for technical/other reasons
- Any other failure to cooperate in the testing process
- Perform any actions which prevent the completion of the test
- None cooperation with the Tester
- Inability to provide sufficient quantities of breath or urine to be tested without valid medical explanation
- Tampering with, attempting to adulterate, adulteration, substitution of the specimen or interference with the collection process
- Not reporting to the appropriate site/office in required for testing
- Acting or attempting to act in any way that undermines the drug and alcohol testing procedure.

The above list is not exhaustive

5.0 CHALLENGING TEST RESULTS

- 5.1 If an employee wishes to undertake a formal challenge to a positive drug test they must put their request in writing to their Service Director within 14 days of receipt of notification of the confirmed positive result.

The employee must specify the name and address of the independent laboratory they wish to transfer their 'B' specimen of re-analysis. The specimen will be transferred to the independent laboratory under the Chain of Custody conditions. It will not be returned to the employee to make their own arrangements. Re-testing of a sample by an external organisation (laboratory) at the request of the employee is carried at the employees own expense. Only in hardship cases will the Council pay for the cost of re-testing.

- 5.2 There is no right to challenge an alcohol breath test result. The accuracy of the equipment is such that a follow up urine test is not required. This reflects the practice of police forces within the UK who utilise the same equipment for breathalyser tests as that of the Council in the prosecution of drivers over the legal limit.
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6.0 PRESCRIPTION AND OVER THE COUNTER MEDICATION

- 6.1 Employees taking prescribed or over the counter medication must seek advice from a medical practitioner or pharmacist regarding the possible side effect which may impact on their ability to carry out the role and whether duties should be modified. Some medication may have warnings eg may cause drowsiness, an impairment that affects the ability to drive or operate machinery, in such cases the employee must seek advice on the effects from their doctor and advise their managers accordingly where necessary.

- 6.2 The employee must inform their manager as soon as possible of any effect the medication may have on their ability to carry out the role. Managers may need to refer the employee to the Council's Occupation Health Service for advice. **Failure to advise the Council of medication which affects the employees ability to carry out their duties in a safe manner will be subject to disciplinary action.**
Advice from suppliers of the test equipment is that no over the counter prescription drugs can affect a breath test.
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7.0 SUPPORT FOR EMPLOYEES

- 7.1 Barnsley Council is committed to supporting employees with drugs and alcohol related problems and employees are encouraged to come forward to take up the available support, as outlined in the Substance Misuse Policy, prior to any positive test. Any employee who does not proactively deal with a substance misuse problem prior to a positive test will be subject to disciplinary action.

- 7.2 The Council will endeavour to provide drug and alcohol awareness advice to employees prior to the introduction of drug and alcohol testing however this is not a prerequisite to testing being undertaken.
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8.0 **EQUALITY AND DIVERSITY**

8.1 This policy has been impact assessed by Human Resources, if on reading this policy you feel there are any equality and diversity issues, please contact your Directorate Human Business Partner who will if necessary ensure the policy is reviewed.

9.0 **INCOME TAX AND NATIONAL INSURANCE CONTRIBUTIONS**

9.1 There are no Tax and National Insurance implications.

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