

**NON EXEMPT**

## **HAVANT BOROUGH COUNCIL/EAST HAMPSHIRE DISTRICT COUNCIL**

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Joint Human Resources Committee

11 June 2013

### **ALCOHOL AND SUBSTANCE ABUSE PROCEDURE**

**Report of: Caroline Tickner, Service Manager (HR)**

**FOR DECISION Information Item**

**Portfolio: Marketing & Development: Councillor Cheshire & Councillor Phillips**

**Key Decision: N/A**

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#### **1.0 Purpose of Report**

- 1.1 This report provides Joint HR Committee with an overview of the attached Alcohol and Substance Abuse Procedure which has been produced to enable East Hampshire District Council (EHDC) and Havant Borough Council (HBC) to manage incidents of alcohol/substance abuse in the workplace.
- 1.2 This procedure also provides detail on the type of support available to staff who are [suspected of] suffering from an alcohol or substance abuse issue.

#### **2.0 Recommendation**

RECOMMENDED

- 2.1 That the members of Joint HR Committee are asked to:
- a) note the content of the report and attached procedure for use across both Councils.

#### **3.0 Introduction**

- 3.1 A recent employee relations case which went to member appeal raised a significant concern that there was no set policy in place to advise the Councils' and its employees on how incidents of alcohol and/or substance abuse will be managed in the work place. Joint HR Committee therefore recommended the urgent development of a document to provide this advice and guidance.

3.2 This report recommends the implementation of such a procedure to ensure that all employees are fully aware of the consequences of alcohol and substance abuse in the work place. In addition, it also recommends the introduction of alcohol and drug testing where there is a strong possibility of harm, known as 'with cause' or following a serious accident where alcohol and/or drugs could be a potential factor.

#### **4.0 Subject of the report**

4.1 It is estimated that the misuse of alcohol at work costs the economy £1.8 billion a year<sup>1</sup> with between 11 to 17 million working days lost each year due to excessive drinking. A survey by the Portman Group highlighted that 63% of employees ring in sick after getting drunk the night before. Add to this the reported increase in use in the UK of illegal drugs and alcohol<sup>2</sup> and it highlights why it is more important than ever before for employers to have the right policies and procedures in place.

4.2 Whilst there is no direct legal obligation to implement an alcohol and substance abuse procedure or implement testing processes, under the Health and Safety at Work Act (1974) we do have a duty to ensure so far as is reasonably practicable, the health, safety and welfare of staff. In addition, the Road Traffic Act (1988) details that it is an offence for any person to drive a motor vehicle on a road or other public place whilst unfit due to alcohol or taking drugs. The Corporate Manslaughter Act (2007) also means that the Councils' could be prosecuted where company vehicles are involved in road traffic fatalities where the driver is under the influence of drugs or alcohol.

4.3 The procedure contained in this document sets out how the Councils' will manage incidents of alcohol and substance abuse in the workplace. This procedure makes it clear that alcohol and substance abuse will not be tolerated in the work place and that both issues can put an employee's employment at risk. This offsets the risks associated at 4.2 of legal action arising.

4.4 Whilst instances of abuse could lead to the dismissal of an employee from the Council, employees who have voluntarily declared an alcohol or substance related problem will be dealt with sympathetically. The drafted procedure specifically makes reference to providing support for employees who have a declared dependency.

4.5 It is also proposed to introduce alcohol and drug testing as part of this procedure. The extent to which an employer has the right to test an employee is limited, however, where an employer has reasonable cause to test, this course of action can be justified.

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<sup>1</sup> Source: Alcohol Concern

<sup>2</sup> One in three men and one in five women drink over the recommended limit, while nearly one-third of workers under 30 have taken drugs in the past 12 months, government statistics show.

- 4.6 Within the procedure reference is made to ‘with cause’ testing and ‘post accident’ testing. Both these types of testing methods can be justified if used in the appropriate way. In many cases the risk of not testing far outweighs the risk of an employee claiming constructive dismissal due to a breach of the implied duty of mutual trust and confidence or a breach of human rights.
- 4.7 Protections have been detailed in the procedure to mitigate the risk of an employee claiming constructive dismissal or a breach of their human rights. The procedure clearly details the circumstances when a) testing is appropriate; b) the implications of a positive result; c) the way testing will be carried out and d) the right to search.

## **5.0 Implications**

### Financial

- 5.1 There will be financial implications related to the ‘testing’ part of the procedure. Whilst it is hoped that this would only need to be used on rare occasions, the cost of calling out a testing company would be circa £150.00 per occasion.

### Legal

- 5.2 The development of this procedure assists the Councils’ in the proper and consistent management of drug and alcohol abuse. By having a clear procedure in place this provides evidence that the Councils are addressing this type of issue in the workplace. It also supports the Councils’ in defending any legal action that may arise which alleges that it has failed in its statutory duties.

An Integrated Impact Assessment (IIA) has been completed and no adverse impacts have been identified.

### Strategy

- 5.3 Reducing alcohol and illegal substance use supports the Councils’ Health and Wellbeing Strategy.

### Customer access

- 5.4 None to report.

### Risks

- 5.5 None to report.

### Communications/Public Relations

- 5.6 The procedure will need to be communicated to staff following consultation with UNISON. An initial view towards testing has been explored with UNISON. No significant concerns have been raised with regards to this.

#### East Hampshire/Havant

- 5.7 Having a shared Alcohol and Substance Abuse Procedure in place will help to ensure that staff in both Councils' are treated fairly and consistently when it comes to alcohol and substance abuse issues.

#### **6.0 Links to other projects**

- 6.1 The development and implementation of this procedure supports the delivery of the People Plan and in particular the rolling programme of policy development for the Councils'.

#### **7.0 Conclusions**

- 7.1 An Alcohol and Substance Abuse Procedure will protect the Councils' from legal challenge and will also enable the right type of support to be available to employees who are suffering from alcohol or substance related issues. It will, most importantly, provide management with the tools needed to manage employees who turn up for work under the influence of alcohol or other types of substances.

#### **8.0 Recommendations**

- 8.1 For Joint HR Committee to note the content of the report and the attached procedure.

#### Background papers used in the production of the report (national/regional/internal reports and research):

*Basingstoke & Deane Alcohol and Substance Abuse Policy*  
*Manchester University Drug and Alcohol Policy*  
*Biffa Waste Service Drug and Substances Misuse Policy*  
*BBC Alcohol and Drugs Policy*

Agreed and signed off by:

Executive Head for Governance and Logistics 22.5.13

Legal Services: 22.5.13

Executive Head for Marketing and Development: 22.5.13

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