

**POLICY AND RESOURCES COMMITTEE – 18 APRIL 2013
REVISED HR POLICIES (1) DISCIPLINARY AND (2) DRUGS AND ALCOHOL**

1 Recommendations

The Committee is recommended to:

- 1.1 Consider the Equality Impact Assessments referred to in Section 3 of this report and in doing so, to pay due regard to the Council's Public Sector Equality duties;**
- 1.2 Consider the approval of the revised Disciplinary and Drugs and Alcohol Policies.**

2 Background / Discussion

- 2.1 The policies attached as Appendix 1 have been subject to consultation and now require approval to be implemented.
- 2.2 The Head of Finance and Monitoring Officer within Corporate Services have been consulted in the preparation of this report and formal consultation has taken place with trade unions. Some amendments and additions have been made in light of the contributions made. Appendix 2 outlines the comments received from trade unions and services where changes have or have not been incorporated into the policies.
- 2.3 Copies of the associated procedures and guidance have been circulated to Group Leaders and are available for members' information on the Ward Pages.
- 2.4 Disciplinary
 - 2.4.1 The Disciplinary Policy and Procedures have been reviewed in line with the ACAS Code of Practice on Discipline at Work and the Disciplinary Framework for Teachers Competence. The main change to this policy has been the removal of the initial warning stage (excluding teachers and associated professionals).
 - 2.4.2 New information has been added in relation to the Protection of Vulnerable Groups Act (Scotland) 2007.
- 2.5 Drugs and Alcohol
 - 2.5.1 The Alcohol & Drugs Misuse Policy and Procedure have been revised to include all employees of Aberdeenshire Council. The policy statement also makes new reference to contractors, agency staff and volunteers who are expected to adhere to the principles of the policy while contracting/ volunteering for Aberdeenshire Council.

- 2.5.2 New information on consumption of alcohol during work related social events has been included.
- 2.5.3 A Manager Information Guide and an Employee Information Guide have been devised to give detailed relevant information to employees.
- 2.5.4 A Treatment Support Agreement has been added for the employee and manager to discuss and agree in relation to employees undergoing a course of treatment supported by Aberdeenshire Council.

3 Equalities, Staffing and Financial Implications

- 3.1 Equality impact assessments have been carried out as part of the development of the proposals set out above. They are included as Appendix 3 and no impacts have been identified.
- 3.2 There are no staffing or financial implications.

Christine Gore
Director of Corporate Services

Report prepared by Sharon Faulkner, HR Manager Strategy
Date February 2013

HR & OD POLICIES

HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT

Disciplinary Policy



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1. POLICY STATEMENT

It is the view of Aberdeenshire Council that a well motivated and highly effective workforce is essential for the effective performance and conduct of the Authority's affairs, and for the safety and well being of employees and of others affected by the Council's activities. An appropriate disciplinary procedure is necessary to help ensure these aims can be achieved.

The aims of the Council's Disciplinary Policy are to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

The Council expects its employees to be aware of and conduct themselves within the law, any code of practice, competence, or ethics associated with their profession or trade; any rules specifically relating to the employee's professional responsibilities or activities and within generally accepted standards of social and moral behaviour.

The Council will assist employees so far as practicable in achieving acceptable standards of conduct by bringing to their attention rules of the workplace and by providing such training as is deemed necessary to assist them in undertaking their work effectively and safely. All problems involving minor misconduct and poor performance should be dealt with, at least in the early stages and where appropriate, through the use of informal advice, guidance and counselling between the employee and their line manager. Apart from serious or gross misconduct, no employee will be dismissed for the first breach of discipline.

The Council will initiate appropriate counselling, disciplinary or other serious action if an employee fails to meet the required standards of conduct or behaviour

generally referred to above. In order to ensure the fair and equitable treatment of employees subject to disciplinary action, the procedure will be used as required and will apply to all employees. **It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action if appropriate.**

The Service Director or their nominated representatives are responsible for the management and discipline of their Service. The Service Director must ensure that all employees are made aware of the standards of conduct, safety, and of any disciplinary rules applying to them, and is ultimately responsible for any disciplinary action taken against the employees of the Service. He/she should discuss with the Head of Service (Human Resources & Organisational Development) and the Head of Legal & Governance, or their nominated representatives, any proposal to take serious action, including dismissal.

In the case of possible dismissal the Head of Service (Human Resources & Organisational Development), in consultation with the Head of Legal & Governance, or their nominated representatives, shall advise Service Directors or their nominated representatives on the operation of the procedure in order to achieve, as far as is reasonably practicable, a fair and consistent approach to action taken under the procedure.

Service Directors and the Head of Service (Human Resources & Organisational Development) will be responsible for arranging appropriate training and briefing on the use of the procedure and the maintenance and updating of records, within services and centrally, sufficient to facilitate the smooth operation of the procedure.

2. SCOPE OF POLICY

The procedure will apply to all employees of the Council covered by the following National Schemes of Conditions of Service

- SJC for Local Government Employees
- Scottish Negotiating Committee for Teachers (SNCT)
- SJNC for Local Authorities' Service – Craft Operatives
- SJNC for Local Authorities' Service – Chief Officials

The **Disciplinary Policy and Procedure** conforms to the revised Disciplinary Framework for Scottish Teachers and Associated Professionals (SNCT 12/33) and Scottish Social Services Council (SSSC) codes of conduct. It should be noted that the provisions of the Disciplinary Framework for Teachers and Associated Professionals (SNCT 12/33) also applies to educational psychologists and music instructors.

In agreeing to the introduction of this procedure, Aberdeenshire Council and the trade unions have taken account of the provisions of the relevant national schemes of conditions of service, and this will be reviewed as required.

Notwithstanding the fact that trade union representatives are subject to this disciplinary procedure, no formal disciplinary action should be taken against a trade union representative until the circumstances of the case have been discussed with a full-time officer of the union concerned.

3. RELATED LEGISLATION

This Policy links to other associated policies, agreements, legislation and procedures

including:

- Acceptable Use Policy and associated Code of Practice and Code of Practice for Monitoring and Investigation of Employees
- Disciplinary Framework for Scottish Teachers (SNCT12/33)
- Framework on Teacher Competence (FTC)
- The Protection of Children (Scotland) Act 2003
- Scottish Social Services Council Codes of Conduct
- Health and Safety at Work Act 1974
- Employee Relations Act 1999
- ACAS Code of Practice on Discipline at Work
- Anti Fraud & Corruption Policy
- Financial Regulations

Revision Date	Previous Revision Date	Summary of Changes
01-03-2006	-	Creation of all Documents
28-11-2012	01-11 2012	Legislation Update PVG
18-04-2013	28-11-2012	Scheduled

Distribution

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Name	Title
Arcadia	MY Job/HR Policies & Procedures/Disciplinary
Arcadia Lite	HR & OD Policies > Disciplinary

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EQUALITY IMPACT ASSESSMENT

Stage 1: Title and aims of the activity (“activity” is an umbrella term covering policies, procedures, guidance and decisions).			
Service.	Corporate		
Section.	HR&OD		
Title of the activity etc.	HR Policy - Disciplinary		
Aims of the activity.	Review of the current Aberdeenshire Council Disciplinary Policy and Procedures in line with ACAS Code of Practice on Discipline at Work and the Disciplinary Framework for Teachers Competence.		
Signature(s)		Date	

Stage 2: List the evidence that has been used in this assessment.	
Internal data (customer satisfaction surveys; equality monitoring data; customer complaints).	Feedback from Aberdeenshire Council's Mediation and Employee Relations Team and Council Services.
Internal consultation with staff and other services affected	Initial and Formal Consultation with HR Policy Group comprising Service and Trade Union Representatives.
External consultation (partner organisations, community groups, and councils).	
External data (census, available statistics).	ACAS Code of Practice on Discipline at Work and the Disciplinary Framework for Teachers Competence. Scottish National conditions for Teachers.
Other (general information as appropriate).	Review of other local authority procedures.

Stage 3: Evidence Gaps.

Are there any gaps in the information you currently hold?

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Stage 4: Measures to fill the evidence gaps.

What measures will be taken to fill the information gaps before the activity is implemented? These should be included in the action plan at the back of this form.

Measures:	Timescale:

Stage 5. Are there potential impacts on protected groups? Please complete for each protected group. by inserting "yes" in the applicable box/boxes below.

	Positive	Negative	Neutral	Unknown
Age – Younger			Yes	
Age – Older			Yes	
Disability			Yes	
Race – (includes Gypsy Travellers)			Yes	
Religion or Belief			Yes	
Gender – male/female			Yes	
Pregnancy and maternity			Yes	
Sexual orientation – (includes Lesbian/Gay/Bisexual)			Yes	
Gender reassignment – (includes Transgender)			Yes	
Marriage and Civil Partnership			Yes	

Stage 6: What are the positive and negative impacts?

Impacts.	Positive (describe the impact for each of the protected characteristics affected)	Negative (describe the impact for each of the protected characteristics affected)
Please detail the potential positive and/or negative impacts on those with protected characteristics you have highlighted above. Detail the impacts and describe those affected.		

Stage 7: Have any of the affected groups been consulted?

If yes, please give details of how this was done and what the results were. If no, how have you ensured that you can make an informed decision about mitigating steps?	
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Stage 8: What mitigating steps will be taken to remove or reduce negative impacts?

	Mitigating Steps	Timescale
These should be included in any action plan at the back of this form.		

Stage 9: What steps can be taken to promote good relations between various groups?

These should be included in the action plan.	
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Stage 10: How does the policy/activity create opportunities for advancing equality of opportunity?

	Promotes good practice in line with agreed employment legislation and nationally agreed terms and conditions of service.
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Stage 11: What equality monitoring arrangements will be put in place?

These should be included in any action plan (for example customer satisfaction questionnaires).	Monitoring will take place of all investigations, hearings and appeals by HR&OD.
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Stage 12: What is the outcome of the Assessment?

Please complete the appropriate box or boxes	1	No negative impacts have been identified –please explain
		Documentation in line with legislation and agreed national conditions of service.
	2	Negative Impacts have been identified, these can be mitigated - please explain
		*Please fill in Stage 13 if this option is chosen
	3	The activity will have negative impacts which cannot be mitigated fully – please explain
		* Please fill in Stage 13 if this option is chosen

*** Stage 13: Set out the justification that the activity can and should go ahead despite the negative impact.**

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Stage 14: Sign off and authorisation.

Sign off and authorisation.	1) Service and Team	Corporate, HR&OD, Policy
	2) Title of Policy / Activity	HR (if appropriate)

	<p>3) I/We have completed the equality impact assessment for this policy/activity.</p>	<p>Name: Karen Mears Position: HR Team Leader Date:</p>	<p>Name: Position: Date:</p>
	<p>4) Consultation with Service Manager</p>	<p>Name: Date:</p>	<p>Sharon Faulkner</p>
	<p>5) Authorisation by Director or Head of Service</p>	<p>Name: Laura Simpson Position: Head of HR&OD Date:</p>	
	<p>6) If the EIA relates to a matter that has to go before a Committee, send this form, and any supporting assessment documents, to the Committee Officer of the relevant Committee, e.g. Housing and Social Work Committee.</p>	<p>Date:</p>	
	<p>7) Send a copy of the finalised form to EIA@aberdeenshire.gov.uk</p>	<p>Date:</p>	
<p>Has the completed form been published on the website (<i>Equalities team to complete</i>)</p>		<p>Date:</p>	

Action Plan

Action	Start	Complete	Lead Officer	Expected Outcome	Resource Implications
Monitoring Disciplinary Investigations, Hearings and Appeals	Ongoing	Ongoing	Nicola Smith, Team Leader, HR&OD	Monitoring the outcome of disciplinary hearings to ensure there are no inequalities in relation to the protected characteristics.	Staffing

Formal Consultation Comments Received – Revision of Disciplinary Policy

Comment	Source	Action
<p>Additional Wording:</p> <p>HEALTH & WELFARE OF EMPLOYEES</p> <p>All employees, including line managers, have the responsibility to ensure, so far as is reasonably practicable, the health, safety and welfare of themselves and others. This includes any disease and any impairment as a result of a person's physical or mental condition. Employees who have difficulty at any stage of the procedure because of a disability should discuss the situation with their line manager or a member of the HR&OD team as soon as possible.</p>	<p>Legal Services</p>	<p>Agreed placed in Procedure Local Government Employees</p>
<p>Removal of example I gross misconduct section of Disciplinary Procedure – Teachers and Associated Professionals.</p> <p>“Refusal to obey the reasonable instructions of a line manager.” Or the removal of the whole section on examples of gross misconduct.</p>	<p>EIS, Pat Flanagan</p>	<p>Following legal advice from Senior Solicitor, Robin Taylor and research into other approved disciplinary policies for teachers across local authorities, and ACAS Code of Conduct, we do not accept that this statement or reasons for gross misconduct should be removed</p>

HR & OD POLICIES

HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT

Alcohol & Drug Misuse Policy



Employee Relations



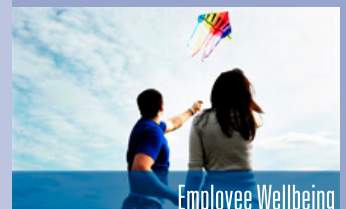
Recruitment



Learning & Development



Health & Safety



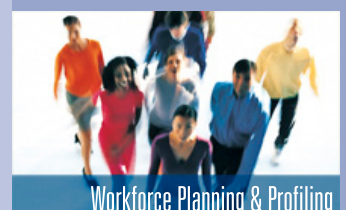
Employee Wellbeing



HR Business Partner



Service Reviews



Workforce Planning & Profiling

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1. POLICY STATEMENT

Aberdeenshire Council recognises misuse of and/or dependency on alcohol, drugs or other substances as a health-related and social problem which may require specialist treatment. Alcohol and Drug problems are prevalent in society and are associated with a wide variety of costs for both employers and employees. These costs include sickness absence, reduced work performance and accidents. The consumption of alcohol and drugs has implications for health and safety at work since these substances impair co-ordination, judgement and decision making. As a caring authority and with a view to reducing absenteeism and poor work performance caused through substance misuse, the Council will endeavour to support employees so affected by enabling them to have access to advice, counselling and treatment where appropriate.

This Policy aims to promote a fair and consistent response to any employee who is experiencing problems related to either alcohol and/or drugs.

2. SCOPE OF POLICY

This policy is concerned with the effects of alcohol and substance misuse in the workplace and applies to all Aberdeenshire Council employees. Contractors, Agency staff and Voluntary workers will be expected to adhere to the principles of this policy while contracting/volunteering for Aberdeenshire Council. Employees whose role involves either entertaining for business purposes on behalf of the Council or representing the Council at events during or out with normal working hours are considered to be employees at these times and consequently the same standards of this Policy apply

3. PRINCIPLES

General

It is accepted that substance misuse and dependency is a health-related problem and that, coupled with their responsibility for the health, welfare and safety of their employees, the Council must ensure that the possible consequences of inappropriate use of alcohol, drugs and other substances on the individual, other employees and the public are avoided as far as possible. It is unacceptable to attend work while under the influence of alcohol and/or substance misuse, and such behaviour will be addressed through the Disciplinary Procedure and will normally constitute gross misconduct.

Definition

Substance misuse can be defined as the problematic use of alcohol, drugs or other substances. The Council recognises that substance misuse may be the cause of a variety of problems at work including increased absenteeism and incidence of accidents, low performance standards, and problems with workplace relationships. There is therefore a need to identify employees with such problems and provide them with any necessary help as appropriate.

Related Legislation

Health and Safety at Work Act 1974

Misuse of Drugs Act 1971

Misuse of Drugs Act (Modification) 2008

Medicines Act 1968

Drug Act 2005

Road Traffic Act 1988

Policy

Revision Date	Previous Revision Date	Summary of Changes
31-01-2001	-	Creation of all Documents
18-04-2013	31-01-2001	Revision of all documents

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EQUALITY IMPACT ASSESSMENT

Stage 1: Title and aims of the activity (“activity” is an umbrella term covering policies, procedures, guidance and decisions).	
Service	Corporate Service
Section	HR&OD
Title of the activity etc.	Alcohol & Drugs Misuse Policy
Aims of the activity	Revision of current Alcohol & Drugs Misuse Policy (previous revision carried out in 2001. The Policy has been revised to include all employees of the Council (previously Teachers & Associated Professional did not come under the provisions of this Policy)
Author(s) & Title(s)	Denice Rentoul, HR Officer , ,

Stage 2: List the evidence that has been used in this assessment.	
Internal data (customer satisfaction surveys; equality monitoring data; customer complaints).	A desire from Services that the Policy be revised and updated
Internal consultation with staff and other services affected.	Consultation with all HR&OD Teams: Mediation & Employee Relations, Business Partner, Recruitment, Workforce Strategy and Organisational Design & Review. Consultation with Well Being Team within Health & Safety Consultation with HR Policy Group which includes representatives from all Services including Head of Service level Consultation with all Unions (Local Government and Teaching Unions)
External consultation (partner organisations, community groups, and councils).	Consultation with Healthy Working Lives who are an organisation with the remit of helping employers create a safer, healthier and more motivated workforce. They work with a variety of companies (including Aberdeenshire Council) offering free advice and practical information to help improve health & safety and the wellbeing of everyone at work.
External data (census, available statistics).	N/A

Other (general information as appropriate).	Aberdeenshire Council recognises that the misuse and/or dependency on alcohol and/or drugs as a health related issue which may require specialist treatment. As an Authority who cares about the health and wellbeing of its staff Aberdeenshire Council aims to reduce absenteeism and poor work performance caused by substance misuse and will endeavour to use this Policy to support employees affected by enabling them to have access to advice, counselling and treatment where appropriate
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Stage 3: Evidence Gaps.	
Are there any gaps in the information you currently hold?	This Policy covers all employees, contractors and volunteers.

Stage 4: Measures to fill the evidence gaps.		
What measures will be taken to fill the information gaps before the activity is implemented? These should be included in the action plan at the back of this form.	Measures:	Timescale:
	N/A	

Stage 5: Are there potential impacts on protected groups? Please complete for each protected group by inserting "yes" in the applicable box/boxes below.				
	Positive	Negative	Neutral	Unknown
Age – Younger				Yes
Age – Older				Yes
Disability				Yes
Race – (includes Gypsy Travellers)				Yes
Religion or Belief				Yes
Gender – male/female				Yes
Pregnancy and maternity				Yes
Sexual orientation – (includes Lesbian/ Gay/Bisexual)				Yes
Gender reassignment – (includes Transgender)				Yes
Marriage and Civil Partnership				Yes

Stage 6: What are the positive and negative impacts?

Impacts.	Positive (describe the impact for each of the protected characteristics affected)	Negative (describe the impact for each of the protected characteristics affected)
Please detail the potential positive and/or negative impacts on those with protected characteristics you have highlighted above. Detail the impacts and describe those affected.	N/A	N/A

Stage 7: Have any of the affected groups been consulted?

If yes, please give details of how this was done and what the results were. If no, how have you ensured that you can make an informed decision about mitigating steps?	Representatives from all Services and Unions who in turn represent all employees were consulted during the revision of this Policy
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Stage 8: What mitigating steps will be taken to remove or reduce negative impacts?

These should be included in any action plan at the back of this form.	Mitigating Steps	Timescale
	N/A	

Stage 9: What steps can be taken to promote good relations between various groups?

These should be included in the action plan.	This is a supportive Policy and will be promoted and be accessible to all employees of the Authority
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Stage 10: How does the policy/activity create opportunities for advancing equality of opportunity?

All employees of the Authority will have access to the support this Policy offers

Stage 11: What equality monitoring arrangements will be put in place?

These should be included in any action plan (for example customer satisfaction questionnaires).	The HR Policy team have a specific enquiries address open to all employees to feedback directly to the Team their views on this Policy. The Policy will be further reviewed in 2015 where the views of employees across all Services will be sought via the normal consultation process. The views of the Unions who represent our employees will also be sought as part of the consultation process
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Stage 12: What is the outcome of the Assessment?

Please complete the appropriate box/boxes	1	No negative impacts have been identified –please explain.
	This Policy is a supportive Policy developed by the Authority which is available for any member of staff who maybe affected by alcohol and/or substance misuse	
	2	Negative Impacts have been identified, these can be mitigated - please explain. * Please fill in Stage 13 if this option is chosen.
	N/A	
	3	The activity will have negative impacts which cannot be mitigated fully – please explain. * Please fill in Stage 13 if this option is chosen
	N/A	

* Stage 13: Set out the justification that the activity can and should go ahead despite the negative impact.

N/A

Stage 14: Sign off and authorisation.				
Sign off and authorisation.	1) Service and Team	Corporate Service (Policy Team HR&OD)		
	2) Title of Policy/Activity	Alcohol & Drugs Misuse (if appropriate)		
	3) Authors: I/We have completed the equality impact assessment for this policy/activity.	Name: Denice Rentoul Position: HR Officer Date: 15/03/2013 Signature:	Name: Position: Date: Signature:	
		Name: Position: Date: Signature:	Name: Position: Date: Signature:	
	4) Consultation with Service Manager	Name: Date:		
	5) Authorisation by Director or Head of Service	Name: Position: Date:	Name: Position: Date:	
	6) If the EIA relates to a matter that has to go before a Committee, Committee report author sends the Committee Report and this form, and any supporting assessment documents, to the Officers responsible for monitoring and the Committee Officer of the relevant Committee. e.g. Social Work and Housing Committee.			Date:
7) EIA author sends a copy of the finalised form to: eia@abdnshire			Date:	
(Equalities team to complete) Has the completed form been published on the website? YES/NO			Date:	

Action Plan						
Action	Start	Complete	Lead Officer	Expected Outcome	Resource Implications	