

Report to:	Joint Staff Advisory Committee
Date:	3 March 2021
Title:	Drugs and Alcohol Policy
Report of:	Helen Knight, Head of HR
Ward(s):	All
Purpose of report:	To align the policies of Lewes District and Eastbourne Borough Councils regarding drugs and alcohol.
Officer recommendation(s):	1) That the proposed newly aligned policy be noted; and 2) That the Head of HR be recommended to approve and implement the newly aligned policy including the proposed monitoring programme.
Reasons for recommendations:	To ensure that the Councils have an aligned policy regarding drugs and alcohol.
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1 Introduction

- 1.1 Lewes District and Eastbourne Borough Councils have jointly committed to bringing policies and procedures together as part of the Joint Transformation Programme (JTP) which is an important step towards aligning our people and business practices.
- 1.2 Both councils have existing policies around drugs and alcohol, both of which detail the reasonable steps we take as employers to fulfil our legal obligations in ensuring that employees are not under the influence of drink or drugs given the risk this would pose to their health and safety or to the health and safety of others. The purpose of both existing policies is to provide a safe, healthy and effective working environment which it is recognised will not only help our staff, but also increase our ability to offer high and safe standards of service. Whilst the policies had differing wording, they were largely similar. The most significant proposed change in the aligned policy is the introduction of an alcohol and drugs monitoring programme to ensure the safety of staff and the public and protect organisational reputation.

- 1.3 As stated above, each authority currently has an existing policy. The aim of both policies is for all employees to be aware of the risks associated with drug and alcohol misuse and to ensure that staff and customers are not put at risk by inappropriate use. They also aim to ensure that staff performance at work is not affected by the use of drugs and alcohol and to provide support and guidance to those staff experiencing problems. The current policies have slightly differing wording around what is expected of staff with regard to alcohol and drug use in working time and in personal time. Both policies discourage but do not prohibit the use of alcohol prior to work or during break periods. Both policies are clear that where there is an impact on performance, this will be addressed through the disciplinary policy and that the use of drugs and alcohol, if driving is a necessary part of the role, is prohibited. Neither of them, however, have provision for drug/alcohol screening which is proposed in this new aligned policy.
- 1.4 The 1974 Health and Safety at Work Act places a duty on employers to ensure the health and safety and welfare of their employees.
- 1.5 The proposal is to implement this new aligned policy across both councils. The policy will make staff aware of the implications of drug and alcohol misuse and offer support for those employees who are experiencing problems.

2 Information

- 2.1 HR commenced information consultation with Unison about this in 2017, and formal consultation with Unison and staff took place in 2019.
- 2.2 During the consultation period there were two consultation packs issued and two sets of frequently asked questions. HR also published the draft policy on the Council's Hub on 1 November 2019 as it was hoped this would answer a number of questions the staff had in advance of the policy being submitted to Joint Staff Committee. No further questions or comments have been received from staff since that date.
- 2.3 When the information consultation commenced in 2017, Unison had requested that the random testing be applied to the entire workforce, not just to Waste Services, so that there was no implication that there was more of a problem in Waste Services than in other service areas.
- 2.4 They also stated at that time "UNISON has no objections to alcohol testing in the workplaces where there may be cause to believe that a member of staff under the influence may be a risk to others or even themselves. However UNISON strenuously objects to the introduction of random drug testing, without cause, among all members of staff. We might be persuaded in specific instances if there was cause to believe that a member of staff might be under the influence of drugs while attending work."
- 2.5 We have continued our discussions with Unison about this and they have recently agreed to support the policy with the random testing removed which we have agreed.

- 2.6 Following completion of discussions with Unison, our proposal is to apply this policy to our entire workforce and apply it, including the screening programme, equally regardless of grade or status.
- 2.7 This testing would be carried out by a specialist external provider appointed by the Council on a quarterly basis or more frequently where appropriate. Information regarding this and the policy would be communicated to employees and managers in advance of it being implemented. The person collecting the sample would not be a manager or council employee but a representative of whichever specialist external provider are appointed.
- 2.8 Staff and Unison also raised concerns about staff who may have a dependency and we have taken advice from the Council's Specialist for Health and Safety on this to ensure that our policy makes provision for this and offers appropriate support.
- 2.9 In June 2018 Eastbourne Borough Council transferred 90 staff from Kier to our Local Authority Control Company South East Environmental Services Limited (SEESL) and these staff were already covered by a policy from Kier which includes testing on the basis we have suggested. This policy has been in place for many years and has operated efficiently on a very similar basis to the one we are proposing. In 2020 we undertook a consultation with the staff who had been directly appointed to SEESL so that they would be covered by this policy and no concerns were raised during the consultation and their contracts have subsequently been amended to reflect this.
- 2.10 Given this policy has not yet been implemented, we have not appointed a specialist provider to facilitate the monitoring programme but, following agreement, we would propose to undertake discussions with Alere (whom SEESL use and have been very helpful during this consultation period) amongst others in accordance with procurement guidelines as appropriate.
- 2.11 The council would ensure that the handling of individuals' alcohol and drug screening results complies with UK data protection legislation. Data relating to drug and alcohol screening results constitute 'special category data' under the UK General Data Protection Regulation, meaning they are subject to additional control measures (provided by the Data Protection Act 2018) to minimise the risk of unlawful disclosure.
- 2.12 It is our intention to make specific provision to reserve the right to screen for alcohol and drugs in all employees' contracts of employment.
- 2.13 This revised policy will be implemented by publication on the council intranet known as 'The Hub' following approval with communication to all staff and training and guidance issued to managers.
- 2.14 We would also be looking to the appointed specialist provider to support with training for staff and managers on this.

3 Resource Implications

- 3.1 This policy will be facilitated and monitored within existing resources in the HR team who will support the Councils' managers.

4 Conclusion

- 4.1 The members of Joint Staff Advisory Committee are asked to note this report.

5 Financial appraisal

- 5.1 The cost of the external specialist provider will be approximately £6,000 per annum and will be met from the Occupational Health budget.

6 Legal implications

- 6.1 The data protection implications of implementing the aligned drug and alcohol policy are set out in paragraph 2.11.

7 Appendices

- 7.1 Appendix 1 - Eastbourne Borough Council and Lewes District Council aligned Drugs and Alcohol Policy
- 7.2 Appendix 2 - Equality and Fairness Analysis on aligned Drugs and Alcohol Policy

8 Background papers

- 8.1 There are none.