

# **Guidance Notes Alcohol and Drugs Testing Policy**

## Version Control

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<b>Purpose</b>	This document provide additional information and advice for Managers		

For support or assistance with this document, or if you would like this information in another language or format please contact:

The HR Operational Services Team on

Telephone 01922 655671

Text phone 01922 654000

Email [HRDOperationalServices@walsall.gov.uk](mailto:HRDOperationalServices@walsall.gov.uk)

## 1 INTRODUCTION

This guidance is designed to support managers using the Alcohol and Drugs Testing Procedure, and should be read in conjunction with the procedure. This guidance does not form part of the procedure.

If you require further clarification or advice please contact Human Resources Operational team at any stage of the procedure.

### Why have an Alcohol and Drugs Testing Procedure?

The purpose of the procedure is to promote a safe and healthy workplace, which aims to support employees to report to work fit to perform their duties, eliminate risk of accidents or incidences as a result of alcohol and/or drugs use, and maintain a safe environment for employees and members of the public. The procedure assists the council to eliminate the risks of accidents and incidences from the effects of alcohol or drugs misuse.

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#### What are the effects of alcohol?

Drinking alcohol occasionally in moderation does not usually cause serious effects or concerns, however where alcohol is misused or large amounts are consumed this can have harmful effects.

It can:

- ❖ Reduce reaction time
- ❖ Reduce coordination
- ❖ Poor judgement
- ❖ Increase confidence and risk taking
- ❖ Linked to depression
- ❖ In certain circumstances promotes violent behaviour
- ❖ Mood swings
- ❖ Damaging effects on the body, weight gain, high blood pressure, liver damage to mention a few

**This list is not exhaustive**

The Council will aim to promote the awareness of the risks associated with the consumption of alcohol and drugs, to encourage employees who have problems with alcohol or drugs to discuss and address the issue with their manager at the earliest stage.

The Council expressly prohibits the use of illegal drugs.

It is a criminal offence to be in possession of, use or distribute an illicit substance and to produce, supply or possess with intent to supply psychoactive substances. If any such incidents take place on Council premises, in Council vehicles or at a company function, whilst on duty (including in people's homes) they will be regarded as serious.

If there is suspicion that an individual is supplying or distributing alcohol or drugs on Council property or whilst on duty the Council will investigate appropriately and may undertake a search of Council property.

For further information on drug types and their effects, visit [Frank](#) for a list of common drugs and how long they are likely to remain in an individual's system (please note it is difficult to determine how long a particular drug will stay in a system simply because everyone is different):

The legal alcohol limit in England for drivers is;

**35 micrograms** of alcohol for every 100 millilitres of breath.

**107 milligrams** of alcohol for every 100 millilitres of urine.

**80 milligrams** of alcohol for every 100 millilitres of blood in your body

For further information regarding alcohol units and their effects, please visit [NHS alcohol support](#)

### Undertaking a property search

The Council reserves the right to search Council property where there is good reason.

Council property is deemed as:

- Council Buildings
- Council vehicles

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#### Examples of what may be deemed as a legitimate reason to search Council property?

- Where a manager has been notified that there is alcohol and/or drugs on council property
- An employee's behaviour and appearance changes during the day for no apparent reason
- Where a manager suspects an employee has been consuming alcohol or taking drugs during working hours following a discussion with the individual
- Where there is a report/suspicion that an employee is supplying alcohol or drugs to others

This list is not exhaustive

## Manager responsibilities

Managers are responsible for ensuring compliance with the procedure, and that the procedure is fairly and consistently applied.

Managers will be responsible for contacting individuals that have been selected for random testing and inform them of the following:

Manager check list when contacting the employee

- The manager will inform the employee that they have been randomly selected for testing in line with the alcohol and drugs testing procedure.
- They will confirm with the employee the location of the testing and how to book a slot
- The manager will discuss with the employee any work commitments the individual may have and arrange for cover if required.
- They will confirm with the employee that a photo ID will be required and check this is available. Where this is not available, the manager will be required to attend the testing session with the employee to verify their identity.
- If the individual refuses to attend, the manager should ascertain the reason for refusal and request a meeting with the employee with immediate effect or as soon as practicable.

## Employee's responsibility

Employees are responsible for:

- Complying with the procedure
- Escalating any concerns
- Informing their line manager of any medication that could potentially affect their performance at work.
- Discussing any concerns regarding their own consumption of Alcohol or use of drugs and seek support.

## Testing criteria and practices

### Random testing

Random testing can only be undertaken for posts that are classed as **safety critical**

A list of safety critical posts are detailed in appendix 1 of the procedure

Safety critical posts must meet one of the following criteria:

A safety critical role refers to:

- Positions where the post holder is required to perform duties which are directly related to the safe use, operation or security of property, equipment or vehicles
- Safe use and handling of chemicals
- Direct supervision of children

- Direct care of vulnerable adults
- Working at heights or in confined spaces that, if not performed properly, could result in a serious safety risk or environmental hazard to employees, property or the public.
- A position which has delegated responsibility to make decisions for the safety and wellbeing of others
- Some customer facing posts will be deemed as safety critical due to the responsibility an employee has for a customer's health and wellbeing
- An employee who has responsibility of supervising employees, who performs safety critical roles, shall also be considered as occupying a safety critical position

The selection for the random testing must be objectively justified.

### Random testing process

- The employee's manager will be contacted by HR to notify them that a member of their team has been selected for testing
- The manager will contact the employee to arrange for them to attend the testing session, including arrangements for cover where applicable.
- The employee will be given a time slot to attend the testing centre, however, where the manager needs to facilitate cover the employee may be asked to contact HR 01922 650354 to book the next available slot. Contact with HR should be made within a reasonable time usually within 30 minutes of the notification.
- The employee will be required to take their COTAG as ID to the testing session. Where this is not available, they should notify their manager to arrange for their manager to accompany them to the test centre to verify their ID.
- Upon arrival, the employee will be asked to provide written consent to the testing process. Where an employee does not consent, they will be asked to report to their manager immediately. HR will also contact the manager to inform them the employee has refused testing.
- The employee will be required to undertake a breathalyser test to test for alcohol and provide a urine sample to test for drugs.
- Indicative test result will be provided by the testing technician; where this is negative the post holder will go back to their normal duties; where the result is non-negative, the sample will be sent over to the lab for further testing. The employee will be required to countersign the test sample to ensure the test is tamper proof before the sample is transported to the laboratory. The manager will be informed and the employee will be asked to report to their manager.
- The manager will explore alternative non-critical tasks for the employee to undertake whilst awaiting the test results from the Lab. Where this option is not available, the manager should contact HR to seek further advice.
- When the test result following the lab testing is confirmed as negative, the employee will be able to undertake their normal duties. If the test result following the lab testing is positive, the manager should notify HR and seek advice.

**Testing for cause and Suspicion****Q**

**Cause and suspicion** could be;

Where a manager notices an **unexplained change** in an employee's behaviour or appearance, and has reasonable belief this may be due to the effects of alcohol or drugs, for example:

- ❖ Sudden mood changes
- ❖ Change in communication
- ❖ Visible signs of drug and alcohol use
- ❖ Impaired job performance
- ❖ Unusual irritability or aggression
- ❖ Tendency to become confused
- ❖ Poor timekeeping
- ❖ Smelling of alcohol

**Ongoing changes** in behaviour where there are signs of alcohol or drugs use:

- ❖ Poor timekeeping
- ❖ Tendency to become confused
- ❖ Increased short term sickness absence
- ❖ Deterioration in relationships with colleagues, customers or management
- ❖ Dishonesty and theft

Following an **accident or incident** to establish if alcohol or drugs as being a factor or not:

- ❖ Traffic accidents
- ❖ Misuse of chemicals
- ❖ Falls and trips
- ❖ Failure to ensure Health and Safety Standards that cause injury to themselves or others

If there has been a **complaint** that an employee of the council is undertaking their duties whilst being under the influence of alcohol or drugs.

*Please note the above may be a sign of stress but could be used as an indication of the use of alcohol and/or drugs*

The manager will arrange a meeting with the employee to discuss their concerns; following this meeting, the manager has discretion to initiate the testing process. To initiate the testing process the manager should contact HR on 01922 654326 to make the necessary arrangements. Where this is out of hours the manager will be required to contact the out of

hours service on 0182 76599. Testing under cause and suspicion will be charged back to the service area.

Where a manager has initiated the testing process the manager will ensure the process is followed such as obtaining consent and verifying the employees ID. The manager will also be required to ensure suitable facilities are available for the technician.

### Refusal to consent

If an employee refuses to consent to being tested, they will be subject to a fact-finding investigation that may lead to a disciplinary investigation.

The fact-finding interview will be held with the manager and the employee as soon as possible after refusal. Ideally this should be at the time of refusal. Refusal without good reason, will leave the council no alternative but to consider this to be an indication of guilt and will be addressed as a failed test, resulting in the council's disciplinary policy being initiated, as the council will have little or no reassurance of the individual being fit for work and complying with health and safety requirements.

If an agency worker refuses to give consent, the Council can cease to use them and will advise the agency

### Complaints

If an employee wishes to raise concerns or a complaint regarding the testing, in the first instance this should be raised with the employee's line manager

Where the complaint involves the line manager, the employee should raise this with a more senior manager or HR.

### Testing outcome

An employee tested for alcohol or drugs has the right to be informed of their indicative results before the results are passed to management.

The provider undertaking the testing will verbally inform the employee of the indicative test outcome, which could be negative or non- negative

Where the indicative result is negative and the employee is deemed fit to continue with their normal duties, the provider destroys the sample taken and no further testing will take place with that sample.

Where the indicative result is non-negative, the provider will send the sample to the laboratory for a detailed examination. Indicative screening results should never be classed as positive until the laboratory has carried out the necessary LCMSMS confirmation. Management should not act upon indicative, non-negative results until the confirmation results are obtained from the laboratory.



Whilst the test results are being obtained, those who occupy a safety critical role may be deemed as **unfit** to return to their normal duties depending on the role and therefore the manager may:

- Depending on their ability to perform their role, the individual may be able to return to their duties, taking into account any reasonable adjustments required to ensure health and safety
- Be able to offer a temporary alternative role which is not classed as safety critical whilst the test results are being determined
- In serious cases it may be appropriate to suspend an employee until test results from the laboratory are established. Before an employee is suspended the manager should seek advice from HR.

Employees who occupy roles that are not deemed as safety critical may be deemed as **fit** to return to their normal duties depending on the role. However, the manager may wish to consider:

- Depending on their ability to perform their role, the individual may be able to return to their duties, taking into account any reasonable adjustments required to ensure health and safety
- Be able to offer a temporary alternative role which is not classed as safety critical whilst the test results are being determined
- In serious cases, it may be appropriate to suspend an employee until test results from the laboratory are established. Before an employee is suspended the manager should seek advice from HR

For contractors or agency workers with an indicative non-negative result, as an agency worker/contractor is not a council employee, the worker's arrangements should cease and the agency or organisation employing the contractor should be notified.

### Positive test, following laboratory testing

Where an employee has a confirmed positive test, following laboratory testing for alcohol and/or drugs, the employee will be required to attend an informal interview with their manager to establish the facts.

The employee will be given an opportunity to find a recognised trade union representative or a work colleague, however, if there is no one immediately available, due to the time sensitive nature the informal interview will take place to establish the facts.

The outcome of this meeting will depend on the circumstances but may include any of the following:

- disciplinary investigation/action/suspension as appropriate.
- a temporary move to an alternative post/duties if appropriate

- an offer of support and assistance to encourage the individual to seek help and where appropriate encourage the employee to explore appropriate support mechanisms and should be aware progress will be monitored, which may be subject to further testing.

An employee has the right to challenge the results of the laboratory results, however this must be within 48 hours of the employee receiving the test results, and request the second sample to be re-tested by the Council's appointed provider or to seek out an independent accredited laboratory for testing. The testing must take place within 14 working days of the employee's challenge of the test outcome using the second sample, which will be supplied by the Council's provider under strict laboratory conditions.

It is the expectation that any additional costs will be picked up by the employee where a second test has been requested. Where test results of an independent laboratory differ from the original test provided by the council, further exploratory investigation will take place to determine the circumstances and only where appropriate error has been proven will the cost be reimbursed.

### Employee Support

If an employee has come forward to declare an alcohol or drug problem, the manager should offer support and assistance where possible, including access to appropriate support channels as part of an overall programme of care, including making reasonable adjustments where appropriate.

The type of support a manager may wish to consider;

- Ensuring employees have access and are aware of the Council's Employee Assistance Programme, which can offer practical guidance and counselling where appropriate
- Referral to Occupational Health, to seek further support
- Making reasonable adjustments to work environment/load/patterns where applicable and feasible

Signpost to external voluntary services, please refer to the HR pages, employee support for further information for external services.