

SUBSTANCE ABUSE POLICY

Date policy adopted: 01/04/2011

Date of last review: 01/06/2021

1. Purpose and Scope

The Commissioner (ESC) is committed to providing and has a legal responsibility to ensure, so far as is reasonably practicable, a safe and healthy working environment for all employees. Part of this commitment will include minimising the risks caused by substance consumption (including use of illegal drugs, misuse of legal drugs or other substances such as solvents or alcohol) or dependency on these substances, both for the individual involved and for anyone else working for ESC or in carrying out work indirectly. Individual employees are also responsible for taking reasonable care of themselves and others who could be affected by what they do at work. This policy has been developed with these commitments and legal responsibilities in mind.

ESC recognises dependency on substances as an illness that can seriously affect the health and work performance of any individual in terms of safety, efficiency, productivity and attendance. ESC also recognises the effects that it can have on work colleagues. The terms of the Equality Act 2010 will be fully taken into account when operating this policy.

This policy applies to all employees regardless of working pattern or nature of employment contract. It also applies to anyone working within the premises of and / or for the Commissioner (for example sub-contractors, consultants, secondees from another organisation or agency staff). The word employee(s) in the context of this policy should be taken to mean all such individuals, unless specifically referred to as being directly employed by ESC. For those not directly employed by ESC, the term line manager should be taken to mean the person who is the main point of contact for the work they are carrying out for ESC.

2. Implementation, monitoring and review of the policy

Overall responsibility for policy implementation, monitoring and review lies with ESC. Everyone covered by the scope of the policy is obliged to adhere to, and facilitate implementation of the policy. Appropriate action will be taken to inform all new and existing employees and others covered by the scope of the existence of the policy and their role in adhering to it. The policy will be reviewed at such times as legislation or a change to the ESC policy position requires it. The policy will be made available to the general public.

3. Senior Management Team Commitment

The senior management team are committed to promoting healthy lifestyles for employees by providing information on the current health guidance in relation to safe and sensible drinking and the risks associated with using drugs.

The senior management team will take substance abuse into account as part of its' consideration of overall mental health wellbeing of employees.

Where it is discovered that there is a concern about an employee (who is directly employed by ESC), a member of the senior management team will:

- Discuss the issue with the employee as confidentially as possible;
- Provide help and support at as early a stage as possible in the form of a referral to an Occupational Health Service provider in order to draw up and agree an assistance programme. This referral may be compulsory if the employee is reluctant to take part;
- Provide ongoing support to the employee by implementing the assistance programme and continuing discussions with the employee about their health and wellbeing;
- Seeking medical advice if there is any relapse to find out how much more treatment/rehabilitation they will need to make a full recovery. Considering each case on its own merits and on the basis of how likely it is that an employee will make a full recovery.

4. Expectations

It is expected that all employees:

- will not present themselves for work under the influence of alcohol or drugs. Under the influence means that there is a sufficient amount of substance in the individual's system to demonstrate that their performance is impaired or that they are likely to pose a risk to others;
- will not consume alcohol in the office during normal working hours unless they have the prior agreement of a member of the senior management team. The senior management team may agree to this if, for example, a small celebratory drinks party was being held to commemorate someone's retirement;
- when performing a representational role or if they can be identified as an ESC employee, either internally or at external functions, will take a mature and responsible attitude towards the consumption of alcohol;
- will not possess or sell illegal drugs whilst on duty and / or on ESC premises;
- will not sell prescription drugs whilst on duty and / or on ESC premises;
- will discuss any possible effects of prescription drugs which may affect their work performance with their GP. If there are any such side effects, they will inform their line manager so that ESC can take these into account and adjust the employee's duties if necessary;
- Where they have concerns about another employee, will either:
 - If the employee has confided in them about the problem, encourage them to self-refer to their line manager; or
 - raise the matter confidentially and as quickly as possible with a member of the senior management team, when they have concerns about the employee but the employee has not confided, or they have confided but are refusing to self-refer to their line manager.

It is expected that employees who work directly for ESC:

- When aware of a substance abuse problem in their own life, will self-refer this to their line manager so that help and support can be provided and any risk to them and their colleagues can be considered and mitigated;
- When they have been offered help and support in the form of a referral to an Occupational Health service provider and have an assistance programme in place,

commit to any actions identified in the assistance programme as being required of them. Where this includes any absences from work to attend counselling sessions or rehabilitation programmes, these will be treated as sickness absence.

5. Breaches of the Policy

Anyone who does not comply with this policy, and is directly employed by ESC, may be subject to disciplinary action as set out in the disciplinary procedures. This could take the form of:

- A performance/capability issue, i.e. where the problem impacts on the person's ability to do their job.
- One-off cases where the rules of this policy are breached, such as someone reporting for work clearly under the influence of alcohol or drugs or suffering from the effects of alcohol. This will be considered as a conduct issue.
- In cases where there are no mitigating circumstances, the member of the senior management team has genuine cause to believe that the employee has a problem and the employee refuses to accept any help and / or commit to actions identified in the assistance programme, this may be considered a conduct (and potentially gross misconduct) issue.
- Very serious incidents such as violence at work whilst under the influence of alcohol or drugs or possessing illegal drugs or selling illegal or prescription drugs at work. In a situation such as this the employee will be charged with gross misconduct and, if the charge against them is well founded, they may be dismissed without notice. In the case of possessing or selling illegal drugs, this is also a criminal offence under the Misuse of Drugs Act 1971 and anyone caught in this position will be reported to the police. If ESC has reasonable grounds to suspect that an employee is in possession of illegal drugs, ESC reserves the right to search the employee or their work area, including their desk, pedestal, cupboards, locker, bags, and car if it is on ESC premises.

In some instances of misconduct, where the employee admits to having an alcohol or drug problem, disciplinary proceedings may be held in abeyance subject to the successful outcome of treatment.

In instances of serious misconduct where the employee subsequently admits to having an alcohol or drug problem, the support route and the disciplinary route may be implemented in tandem.

Any other person covered by this policy, and found not to comply, will be reported to the relevant office/employer. This may also result in ESC terminating any contract which has been affected by the breach of this policy.

Equality Impact Assessment

Does this policy comply with the general Public Sector Equality Duty (s149 Equality Act 2010)?

This policy applies to all employees, contractors and potentially all who interact with the work of ESC. Its impact was considered when drafting and specific mention is made of any substance dependency by an employee being considered in line with the Equality Act. We consulted with all employees prior to publication to identify and address any issues.

Data Protection Impact Assessment

Have we considered any effect the policy may have on the collecting, processing and storing of personal data?

The records generated by this policy will contain personal data and may contain sensitive and special category personal data. Suitable retention and destruction policies are in place to manage this material.

Information Security Impact Assessment

Have we considered the impact any policy may have on our cyber-resilience?

This policy should have no impact on our cyber-resilience.

Records Management Impact

Have we considered the impact any policy may have on our ability to manage our records?

This policy should have no impact on our ability to manage our records.

Version	Description	Date	Author
1.0	First draft	01/06/21	Public Appointments Officer
1.1	Update to phone number	16/05/2023	Corporate Services Officer