



Substance and Alcohol Misuse Policy and Procedure

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Author: Wendy McNaught

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Agreed:

	EIS
	Management
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History of Changes

Version	Description of Change	Authorised by	Date
1.0	Original Policy	HR Department	June 2013
2.0	Consumption of Alcohol off Premises information, Identifying Issues information, Disclosure of sensitive and confidential information and Governance information added, other sections revised.	Wendy McNaught	January 2019

West Lothian College is an inclusive organisation and all policies, procedures, strategies, plans, provisions, criteria, functions, practices and activities, including decisions and the delivery of services are assessed to consider the impact on staff and students covered by the Equalities Act 2010 by the completion of an Equalities Impact Assessment (EIA). Protected characteristics are defined as age, disability, gender reassignment, marriage or civil partnership (in employment only), pregnancy and maternity, race, religion or belief, sex, sexual orientation. All college policies and procedures can be provided in an accessible format.

1 Policy Statement

This Policy and Procedure has been designed to reflect the College's commitment to ensuring a safe environment for staff and students, and to provide staff with access to education on drugs and alcohol in relation to health and work performance/ conduct.

It has also been designed to reflect West Lothian College's commitment to providing staff with access to information on a sensible approach to drinking, and to supporting those misusing alcohol and requiring help.

Although the illegal use of drugs will not be condoned, an employee with a drug misuse problem will be encouraged to seek help, advice and treatment. Where there is suspicion that the law has been broken by an employee, Management will normally involve the Police.

This Policy and Procedure applies to all staff working within College premises, including temporary staff. It also includes Work Based Assessors who are often home-based. Where external contract staff are involved, the College will make their employer aware of the Policy and Procedure. (There is a separate Policy for students).

The aims of the Policy and Procedure are as follows:

- To state clearly the College's position on drug and alcohol consumption.
- To seek to ensure safe and capable working practice in relation to drugs and alcohol.
- To ensure that the law in relation to drugs is observed by employees of the College during their working hours.
- To seek to ensure an education programme is available on the use of drugs and alcohol which covers every level of the organisation.
- To encourage employees who are experiencing drug or alcohol related problems to seek appropriate assistance at the earliest possible opportunity.
- To promote and ensure the provision of appropriate assistance to employees who have been identified as having a known/suspected drug or alcohol related problem.
- To ensure that staff are not unfairly disciplined but that where a misdemeanour is thought to have been caused through a drugs or alcohol related problem the matter is fully investigated, and where appropriate the necessary steps taken by the College to refer the person for assessment and treatment through laid-down procedures.

Confidentiality will be respected for all employees throughout any programme of help.

Infringement of this Policy and Procedure will be dealt with under the College's disciplinary procedures.

2 Introduction

West Lothian College aim to provide a safe and healthy working environment for all its employees. To achieve this, employees are expected to behave in a professional manner at all times and present to work ready, willing and capable of carrying out their duties in a way that does not adversely affect business performance. The misuse of substances such as alcohol and drugs may jeopardise this aim.

This Policy and Procedure complies with the requirements of the Health and Safety at Work Act (1974) to ensure the health, safety and welfare of all West Lothian College employees. In addition to ensuring that West Lothian College meets its obligations to comply with the Misuse of Drugs Act (1971) requiring the College to notify the Police if an employee or visitor to the College is found in possession of drugs or to be supplying or producing illegal substances.

Drugs are taken for a number of reasons and can affect the body and mind in a variety of ways. These drugs may be prescribed medicines or recreational drugs including Classes A, B or C. The effects of some drugs may be prolonged and extend beyond recreational time into working time. In this way, drug misuse may influence work performance even if it takes place outside the workplace. Like alcohol, the misuse of drugs is associated with a variety of costs, with implications for employer and employee alike.

Workplace safety, job performance, levels of absenteeism, efficiency and productivity can all be affected by the misuse of drugs, whether illegal or prescribed.

A significant number of people who misuse drugs are in employment and the workplace may therefore provide opportunities for identification and support.

This Policy and Procedure clearly states the College's position about the unacceptability of drug misuse, and provides guidelines on how to prevent drug-related problems from occurring and how to manage them effectively if they do.

An alcohol related problem is defined as any drinking, either intermittent or continual which interferes with a person's health and social functioning and/or work capability or conduct.

The principles of this Policy and Procedure will also be applied to those suffering from problems related to other substance misuse. This Policy and Procedure also aims to minimise drug misuse in the workplace and encourage employees with drug problems to come forward for help or treatment.

3 Definition of the Term Drug

For the purpose of this Policy and Procedure the term "drug" refers to any psychoactive drug, whether illegal, available over-the-counter from pharmacies and other retail outlets, or legal substances such as solvents. In the case of prescribed or over-the-counter drugs, their possession and proper use is acknowledged as legitimate.

Refer to **Appendix 1** for drugs controlled under the Misuse of Drugs Act 1971.

4 Definition of Drug Misuse

For the purpose of this Policy and Procedure, the term "drug misuse" refers to the use of illegal drugs and the misuse, whether deliberate or unintentional, of prescribed medicines or substances such as solvents. Drug misuse is defined as any situation whereby an employee's use of such substances, whether through intoxication, regular use or dependence, affects their health and/or work performance/conduct.

Substance misuse is formally defined as the continued misuse of any mind-altering substance that severely affects a person's physical and mental health, social situation and responsibilities.

Alcohol abuse is defined as the excessive use and dependence on alcohol leading to effects that are detrimental to an individual's physical and mental health and/or the welfare of others. This can lead to adverse social consequences such as failure to meet work obligations, inter-personal conflicts or legal problems.

Alcohol misuse is defined as consumption of alcohol during working hours (unless expressly sanctioned eg at a corporate, business related or sponsored function) or attending for work under the influence or suspected of being under the influence of alcohol.

Drug abuse is defined as the excessive use and dependence on a drug or other chemical or solvent leading to effects that are detrimental to an individual's physical and mental health, and or the welfare of others. This can lead to adverse social consequences, such as a failure to meet work obligations, inter-personal conflicts or legal problems.

Intoxicating substance is a substance that changes the way the user feels mentally or physically. It includes (but is not limited to) alcohol, illegal drugs, legal drugs, legal highs, prescription medicines (for example tranquillisers, anti-depressants, over the counter medicines), solvents, glues and lighter fuel.

5 Misuse of Drugs on College Premises or by Employees during Working Hours

The misuse of drugs on College premises or by College employees during working hours is not permitted. This relates to all staff and other personnel on College premises. The College considers it unacceptable for staff, temporary staff or contractors to be unfit for work through the influence of drugs. The College recognises the controlled use and possession of medicines for personal use as an exception.

It is a requirement of the College that no employee shall:

- report for work intoxicated or in an unfit state due to the misuse of drugs.
- be in possession of drugs illegally while at work.
- misuse drugs while at work

Employees themselves, their managers, their colleagues and the medical profession, can all play their part in encouraging individuals whose use of drugs does or may impair their work performance to seek help.

6 Consumption of Alcohol on Premises

The consumption of alcohol on College premises is not allowed, unless by prior agreement with the College Principal e.g. for official functions etc. This relates to all members of staff and any other personnel on College premises. (A separate Policy exists for students).

7 Consumption of Alcohol off Premises

Employees attending conferences/external events/student trips during working hours are considered to be at work and are therefore not permitted to consume alcohol. For events outwith normal working hours e.g. evenings, employees must be aware that they may only consume alcohol if they have no responsibility for the welfare of students at that time.

8 Alcohol Consumption Before and During Working Hours

As the College considers it unacceptable for staff to appear unfit for work through the misuse of alcohol, employees are required to arrive for work free from the effects of alcohol.

The College requires staff to refrain from the consumption of alcohol during working hours.

9 Identifying the Issue

It may become apparent during the following situations that substance misuse may be a contributing factor to performance or behaviour:

- Observation of poor work performance
- Observation of inconsistent behaviour from the norm
- During general discussions with managers
- Formal procedures, eg. disciplinary
- During a review of the employee's absence, performance, conduct
- Employee informs the line manager/HR/another person within West Lothian College that they have a problem

Where this is identified the Manager and HR representative will meet with the employee and the employee will normally be given the opportunity in the first instance to seek independent help for the problem.

10 Serious Misconduct caused by Alcohol or Drugs

Intoxicated employees

In circumstances where an employee is strongly suspected or known to be intoxicated by alcohol during working hours, the aligned HRBP will be consulted. This may result in the employee being suspended by a Senior Manager and HRBP and escorted from the College immediately. Such an occurrence may be regarded as potential Gross Misconduct, will be subject to investigation and potential disciplinary action under the College's Disciplinary Policy.

Consumption of Alcohol or Drugs on premises

Employees are expressly forbidden from bringing or consuming alcohol or drugs on College premises. Any breach of this rule will be dealt with in accordance with the College's Disciplinary Policy.

There may, however, be certain occasions when alcohol may be consumed at College events, for example Official Functions but this will be agreed in advance by the Principal. At such times employees will be required to behave responsibly and drivers are advised, when necessary, to find alternative means of transport home.

Drug Abuse on College premises

Employees who are strongly suspected or known to have taken drugs which have not been prescribed on medical grounds will be considered to be committing an act of Gross Misconduct if mitigating reasons do not apply. In such an event this will be dealt with in line with the College's Disciplinary Policy. The aligned HRBP will be consulted and this may result in the employee being suspended by a Senior Manager and HRBP and escorted from the College immediately. Such an occurrence may be regarded as potential Gross Misconduct, will be subject to investigation and potential disciplinary action under the College's Disciplinary Policy.

The same applies for any employee who is believed to be buying or selling drugs or in possession of unlawful (not prescribed) drugs. Management reserve the right to alert the Police if deemed appropriate.

11 Disclosure of sensitive and confidential information

A circumstance may arise when a member of staff discloses sensitive information to Management or HR in connection with another member of staff and they expressly say they wish it to remain confidential.

In that scenario they will be informed that as an employer we have a Duty of Care and therefore may require to take action following their disclosure. For example, if a member of staff discloses that a colleague takes illicit drugs or deals them, the employer has a duty to take appropriate action following that disclosure.

In addition, any disclosure of information which suggests that a child is being placed at risk will be addressed in keeping with the College's Safeguarding Policy.

12 Commitment to Education and Training

The College will ensure that employees have the necessary information to understand the risks involved in misusing drugs or alcohol, as well as an understanding of how the misuse of drugs or alcohol impacts on the workplace.

The College will provide employees with access to the Policy and Procedure and ensure that all new employees are made aware of the Policy and Procedure as part of their induction programme.

13 Governance

Roles and Responsibilities

Employee responsibility

- To familiarise themselves with and adhere to the Policy and Procedure
- Co-operate with any support and assistance provided to address substances misuse problems
- To report any substance misuse issues to their line manager
- To disclose to their line manager any side effects experienced as a result of taking prescription or over the counter medicines that impair their ability to perform their duties to the line manager

Line Manager Responsibilities

- To familiarise themselves with the Policy and Procedure
- Monitor the performance, behaviour, sickness levels, attendance patterns to establish whether substance abuse is an underlying cause
- Provide support and assistance where appropriate and for a reasonable period for employees identified as misusing substances
- To instigate formal proceedings where appropriate
- To consult with the HR department where issues have been identified or where there is concern for staff welfare
- To ensure adherence to the Policy and Procedure

HR responsibilities

- To support, advice and given guidance to line managers when dealing with misuse of substance issues
- To co-ordinate with line manager, employee and Occupational Health provider
- To ensure adherence to the Policy and Procedure.

14 Voluntary Referral

Employees who suspect or know that they have a drug-related problem are encouraged to seek help and treatment voluntarily, either through the procedures outlined in this Policy or through resources of their own choosing. Approved external agencies are detailed in Appendix 1.

If the programme of help requires absence from work, the employee's manager will be notified (with the employee's consent), and leave will be provided under the sick pay scheme appropriate to their conditions of service.

The confidential nature of records will be strictly observed by all those involved in this process.

The process for a voluntary referral is as follows:

- 1 Employee contacts the HR Department or an approved external agency (see Appendix 1)
- 2 If the first contact is the HR Department, through discussion, they will refer the employee to the College's Occupational Health provider who will assess the nature and extent of the employee's alcohol or drug-related problem. The HR Department will then, if required, refer the employee to a counsellor who will recommend a programme of help. If an external agency is the first contact they should contact the HR Department to discuss the situation and progress any recommended programme of help. The College' Occupational Health provider may also require to carry out an assessment in this case. If the programme of help requires absence from work the leave will be provided to the employee under the sick pay scheme appropriate to their conditions of service. The employee's manager will also be notified of this arrangement.

15 Non-Voluntary Referral

If a drugs or alcohol related problem is identified or suspected either through general observation or during the course of a disciplinary interview, the matter will be fully investigated and where appropriate the employee referred for assessment to an appropriate agency.

Drugs and Alcohol Misuse Procedure

1 Management of Employees who are Suspected or Identified as Requiring Help with a Drug-Related Problem

- a) Where an employee acknowledges a problem stemming from the use of drugs (either prescribed or non-prescribed drugs), the opportunity will normally be given to attend an agreed Medical Advisor for assessment and referral for a programme of treatment where appropriate. Where an employee accepts such a referral, ongoing disciplinary action may be deferred until a medical report is received from the Medical Advisor. In appropriate cases arrangements may be made for the employee to remain at home with pay, pending receipt of the medical report.
- b) It is recognised that employees may relapse during a treatment programme and provided the ongoing trend in the employee's performance is favourable, such relapses will be considered sympathetically. Formal disciplinary action during the treatment period should be reserved for those situations which would normally constitute gross misconduct. Subject to the safety of other staff, students or public not being threatened, impairments of performance/conduct of a less serious nature should be tolerated for the duration of a reasonable treatment period. An employee's failure to attend or continue with an agreed treatment programme will be one of the factors taken into account in a manager's decision as to whether to take formal disciplinary action in respect of less serious offences.
- c) If an employee requires to be absent from work to undergo a programme of treatment, the absence will be regarded as normal sick leave and sick pay will be paid in accordance with the employee's terms and conditions of service, provided that the employee's manager has received confirmation that the employee is participating in a recognised programme of treatment. Where the employee is able to continue working during the treatment period, approved time off with pay will be granted to attend appointments.
- d) Where an employee denies the existence of a drug misuse problem and therefore declines to accept assistance or treatment, the line manager should address the issue of work performance or conduct in the normal way without special consideration being given to the possible existence of a drug-related problem.

e) The confidentiality of management referrals will be strictly observed by all those involved unless, where the employee remains at or returns to work and for reasons of safety, colleagues need to be informed. This will be done after full consultation with the individual concerned. The HR Department will keep management informed of the employee's participation in a treatment programme and advise on any relevant health issues relating to the employee's work.

The concern of this Policy and Procedure is limited to those instances of drug-related problems which affect the health and/or work performance/conduct of employees.

Management of Employees who are Suspected or Identified as Requiring Help with an Alcohol Problem

Employees who are identified as possibly having an alcohol-related problem will be offered an opportunity to seek help or advice from an agreed Medical Advisor or an approved external agency. A list of agencies is provided in Appendix 1.

Should the external agency propose that the employee requires help/advice, they will provide the appropriate programme on the understanding that Staff who are required to be absent from duty will be subject to the sick pay scheme appropriate to their conditions of service. This may include staff requiring to be absent for weekly treatment sessions.

Should an employee be deemed fit for duty during the help/advice programme they should be permitted to continue in employment unless such an arrangement would adversely affect the College.

Employees who decline to accept referral for diagnosis or help or who discontinue treatment before its satisfactory completion will, if appropriate, be subject to the College's Disciplinary Procedure. It is however recognised that, due to the nature of the condition, lapses may occur and the College will look at these situations sympathetically.

Following a return to employment after completion of or during the agreed help/advice programme, should work performance again suffer as a result of alcohol abuse, an additional opportunity to comply with a help/advice programme will be offered.

On resumption of duties, or on return to work following a period of treatment, the employee will be able to return to the same job unless this would undermine recovery, yield an unsatisfactory level of job performance, or jeopardise the welfare of staff or students. When the same job cannot be resumed, every consideration will be given to finding suitable alternative employment.

The confidential nature of any records of employees with alcohol-related problems will be strictly observed. The confidentiality of all staff being helped under this Policy and Procedure will be protected unless the safety of other staff or students would be compromised by so doing.

2 Monitoring and Review

This Policy and Procedure will be periodically reviewed and monitored on an ongoing basis to assess its implementation and effectiveness.

Appendix 1

Drug Abuse and the Law

Acts of Parliament which are relevant to the problem of drugs in the workplace are:

- **Misuse of Drugs Act 1971**
- **Misuse of Drugs regulations 2001**

Of particular relevance to employers is the offence committed by the occupier of premises if they knowingly permit the production or supply of any controlled drugs, the smoking of cannabis, or certain other activities to take place on the premises.

The Acts list three categories of drugs which are subject to control according to their relative harmfulness when abused.

Class A Includes cocaine, heroin, methamphetamine, LSD, ecstasy, psilocybin mushrooms.

Class B Includes amphetamine, barbiturates, codeine, cannabis, methylphenidate.

Class C Includes most benzodiazepines (sleeping pills, tranquillisers, e.g. valium) and the less harmful amphetamines. The penalties for offences involving controlled drugs depend on the classification of the drug. Penalties for misuse of Class A drugs are more severe than for Class B drugs, which are in turn more severe than for Class C drugs. The Act also distinguishes, in terms of the penalties that may be imposed, between the crimes of possession and drug trafficking, with the latter receiving more severe punishment.

- **The Health and Safety at Work Act 1974**

The employer's duty to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all their employees, should take into account the recognition of the abuse of drugs as a possibility.

Section 7 of the Act requires employees to take reasonable care of the health and safety of themselves and others who may be affected by their acts or omissions at work.

General

It is possible that in certain circumstances charges may be brought against an employer or an employee under these Acts. It would be up to the Courts to decide on the merits of each case. An employer, who knowingly allows a drug misuser to continue working without doing anything either to help the misuser or to protect the rest of the workforce, may be liable to charges.

List of Support Agencies

Alcoholics Anonymous

Tel: 0845 769 7555 www.alcoholics-anonymous.org.uk

Drug and Alcohol Service

43 Adelaide Street
Craigshill
Livingston
EH54 5HQ
Tel: 01506 430225

Edinburgh and Lothian Council on Alcohol

6 Clifton Terrace
Edinburgh
EH12 5DR
Tel: 0131 337 8188

EIS Helpline

Tel: 08705 234 729

EIS Legal Services

Tel: 0141 332 2887

National Drugs Helpline

Tel: 0800 776600

UNISON Direct

Tel: 0845 355 0845

Equality Impact Assessment

Before carrying out an EIA, you should familiarise yourself with the College's EIA Policy Statement and Guidance, along with further information and resources which are available on Serengeti

EIA covers **strategies, policies, procedures, plans, provisions, criteria, functions, practices and activities, including decisions and the delivery of services**, but will be referred to hereinafter as 'policy/practice'.

Policy/Practice (name or brief description):	Substance & Alcohol Misuse Policy
Reason for Equality Impact Assessment (choose from the following options):	
<ul style="list-style-type: none"> • Proposed new policy/practice • Proposed change to an existing policy/practice • Undertaking a review of an existing policy/practice • Other (please give detail): 	Proposed change to an existing Policy.
Person responsible for the policy area or practice:	
Name:	Derek O'Sullivan
Job title:	Senior HR Business Partner
An Equality Impact Assessment must be carried out if the policy/practice:	
<ul style="list-style-type: none"> • affects operational or strategic functions of the College • is relevant to the promotion of equality (in terms of the Public Sector Equality Duty 'needs' as set out in the Policy and Guidance) 	

Substance and Alcohol Policy/June2013/June2019

Why the EIA is being carried out	The policy directly affects the operational & strategic functions of the College
Equality Groups Relevant to the Policy/Practice, identify which of the undernoted equality groups are impacted upon:	
<ul style="list-style-type: none"> • Age • Disability • race (including ethnicity and nationality) • religion or belief • sex • sexual orientation • gender reassignment • pregnancy and maternity • marriage or civil partnership 	The Policy applies across all staff.

Record your assessment against the following statements:

Statement	Equality assessment
Detail the evidence of the needs of the identified equality groups and any gaps in information	The purpose of the Policy is to provide a clear approach to how the College manages issues arising from the misuse of substances and alcohol.
Will application of this policy/practice lead to discrimination (direct or indirect), harassment, victimisation, less favourable treatment for particular equality groups?	No – the Policy applies across all staff and no impact on any equality group with protected characteristics has been identified.
If yes, how will the policy/practice be changed to contribute to	N/A.

advancing equality of opportunity	
State how this policy/practice will foster good relations:	The Plan will ensure that the College will ensure that issues arising from the misuse of substances and alcohol is managed in a clear and supportive manner so that employees are well supported and the College maintains service delivery.
Will the policy/practice create any barriers for any other groups?	No
If yes, how will the policy/practice be changed to contribute to advancing equality of opportunity	N/A
Which equality groups or communities have been consulted in the development and review of this policy/practice?	The Senior Team and Trade Unions were consulted during the creation of this Policy.

Equality Impact Assessment Outcome

Select one of the four options below to indicate how the development/review of the policy/practice will be progressed and state the rationale for the decision. (Delete the options that do not apply):

- Option 1:** No change required – the assessment is that the policy/practice is/will be robust.
- Option 2:** Adjust the policy or practice – this involves taking steps to remove any barriers, to better advance equality and/or to foster good relations.
- Option 3:** Continue the policy or practice despite the potential for adverse impact, and which can be mitigated
- Option 4:** Stop the policy or practice as there are adverse effects cannot be prevented/mitigated against.

Option 1

Monitoring	
When will the policy/practice next be reviewed?	The Policy is reviewed every three years.
Publication of EIA	
Can this EIA be published in full, now? Please state Yes or No If No – please specify when it may be published or indicate restrictions that apply:	Yes
Sign-off	
EIA undertaken by Name: Date: Accepted by person responsible for the policy/practice named above: Name: Date:	Derek O’Sullivan 26 June 2019