

NOT PROTECTIVELY MARKED



Derbyshire Constabulary

DRUGS AND ALCOHOL MISUSE POLICY

POLICY REFERENCES AAN/MNA

This policy is suitable for Public Disclosure

Owner of Doc: Head of Department, Professional Standards

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1. Introduction

- 2.1 The Derbyshire Constabulary is committed to the provision of a safe, healthy and productive working environment. The Force does not approve or condone the excessive or inappropriate use of alcohol or the misuse of drugs whether prescribed or illegal. Any individual involved with illegal drugs exposes him/herself to corruption with potential criminal and disciplinary consequences. The public rightly expects that the Derbyshire Constabulary is a drug free organisation. It is in the interests of everyone that this is achieved and seen to be achieved.
- 2.2 The policy will apply to all staff including Police Officers, Police Staff and members of the Special Constabulary. This policy will also apply to contracted workers, student placements, trainee schemes and persons engaged on work experience.
- 2.3 The supply of illegal drugs by any member of staff will be viewed as a serious criminal offence. To reflect the gravity of such an offence, where misconduct/disciplinary proceedings ensue and are then subsequently proven any member of staff involved should expect to be dismissed.
- 2.4 Persons found in unlawful possession of illegal drugs may be dismissed and similarly, Police Officers convicted of a drink-driving offence may also face dismissal. In relation to Police Staff, they too may face dismissal for a drink-driving offence if driving is a relevant factor within their role.
- 2.5 However, individuals who 'volunteer' that they have an alcohol or drug misuse problem prior to organisational intervention, will receive the support of the Force to assist rehabilitation. Due regard will be taken of medication required by any member of staff in relation to an existing **condition or** disability. Organisational intervention will be deemed to commence from the time the individual volunteers the problem or alternatively a request for a sample is made.
- 2.6 This policy aims to safeguard the health, safety and welfare of all staff and any member of the public who could be affected by individuals within the organisation misusing alcohol or drugs. It encourages those individuals misusing drugs or alcohol to face their problem and to seek help from managers and colleagues. This will have the effect of maintaining an efficient and effective level of service to the public whilst reducing the risks of corruption and other criminal behaviour, and preserving the reputation of the Constabulary
- 2.7 Legislative considerations in forming this policy include: -
- Misuse of Drugs Act 1971
 - Health and Safety at Work Act 1974
 - Road Traffic Act 1988
 - Disability Discrimination Act 1995
 - Police Act 1996
 - Police (Health and Safety) Act 1997

- Data Protection Act 1998
- Human Rights Act 1998
- Management of Health and Safety at Work Regulations 1999
- Police (Conduct) Regulations 1999
- Police (Efficiency) Regulations 1999
- Police(Amendment)Regulations 2005

2. Policy Statement

- 3.1 This policy provides a structure for Derbyshire Constabulary and its staff respond to instances of drug and alcohol misuse. It outlines the principles and procedures under which individuals will be required to submit to a test. Additionally, the policy outlines the available support for individuals with an alcohol or drug misuse problem who acknowledge their dependence, and who are prepared to undertake a programme of rehabilitation.

3. Guidance and Procedures

Definitions

4.1 Alcohol and/or Drug Misuse.

- The excessive use of any drug or alcohol which could lead to physical, social and/or mental harm.
- The use of any drug or alcohol which through its effects on the behaviour of an individual could affect the well being of others.
- A level of consumption of alcohol or drugs, which could lead to impaired performance.
- Dependency upon any substance which may put the user at risk of criminal conduct.

4.2 Alcohol and Drug Screening.

The obtaining of samples using recognised protocols, by suitably qualified staff and the testing of those samples by an appropriate external agency. Due consideration will be given to an individual's cultural or religious beliefs. The process of screening is supported by an audited system that ensures the integrity of any sample provided.

5. RESPONSIBILITIES

5.1 Individual

Individuals have responsibilities towards themselves and their colleagues under Section 7 of the Health and Safety at Work Act 1974. This Act makes it the duty of every member of staff to take reasonable care of the health and safety of themselves and any other person who may be affected by their acts or omissions at work.

Individuals suffering from alcohol or drug misuse are expected to volunteer this to the organisation. In such circumstances a distinction will be drawn between the 'voluntary' referral and positive results obtained from screening samples. Specifically where an individual volunteers an alcohol or drug misuse problem, there will be no presumption that discipline or misconduct proceedings will ensue. However, an individual who seeks to 'volunteer' a drug or alcohol misuse problem during organisational intervention, (as described later in this policy) will not be able to avail themselves of the aforementioned distinction.

If a member of staff is suffering from alcohol or drug misuse, the organisation will expect them to: -

- Accept responsibility for their condition.
- Respond to advice and co-operate in any treatment programme, and;
- Ensure that their work performance meets the required level of competence for the role they perform.

A failure to acknowledge an alcohol or drug misuse problem may amount to a failure to accept responsibility and in such circumstances misconduct or discipline procedures may be instigated.

The Derbyshire Constabulary seeks to maintain the highest professional standards. As such, staff are actively encouraged to report any concerns they have about the integrity of their colleagues. The procedure for reporting any such concerns will be in accordance with the Professional Standards Policy.

Police officers have additional responsibilities to report improper behaviour under their Code of Conduct.

- 5.2 In circumstances where a drug/alcohol misuse problem is identified, it may be considered appropriate to convene a case conference to determine the most appropriate course of action. The case conference will formulate a comprehensive risk assessment based on, amongst other things, the individual's health and welfare and future deployment. The risk assessment will also consider the ethical vulnerability of the individual and the role he/she can perform to minimise the risk to the Force, colleagues and members of the public.

The Head of Department, Professional Standards will consider the need for such a case conference to ensure consistency. The Head of Department, Professional Standards will chair all case conferences appertaining to Police Officers whilst the Head of Department, Personnel will chair those with regard to Police Staff.

The case conference should also determine whether or not there is a need to re-convene to discuss case progress, direction and any other requirements.

The meeting may typically comprise the following: -

- Chair
- The individual's Divisional Commander / Head of Department
- The individual's Human Resources Manager
- The Occupational Health Physician/Nurse

5.3 Responsibilities of Colleagues

If a member of staff believes a colleague has a drink or drug problem he/she should discuss it with their supervisor or manager. Covering up for a person who has a drink or drug problem will not help matters and could make an individual liable to misconduct or discipline proceedings.

5.4 Supervisors and Managers

This policy does not remove the obligations on the organisation and its employees to report and/or investigate suspected criminal conduct or misconduct/disciplinary issues contained within any legislative provisions.

The provisions of The Health and Safety at work Act require supervisors and managers to take action when there is concern about misuse of alcohol or drugs. In these circumstances, supervisors and managers should endeavour to confirm or otherwise the nature of the problem. Where such genuine concerns remain, they should be brought to the attention of their respective Divisional Commander / Head of Department.

Irrespective of how an individual comes to notice in respect of an alcohol or drug misuse problem they must be advised of the help available to them. Additionally, they should be referred to the Health Management Unit and an urgent appointment made for consultation seeking management advice with regard to fitness for duties. This is with a view to ensuring that an appropriate assessment may take place into the individual's suitability to continue in their current post therefore minimising the risk to the individual, other staff and members of the public.

When a person does not acknowledge the existence of an alcohol or drug misuse problem, and/or displays unsatisfactory conduct or work performance, unsatisfactory performance, misconduct proceedings or capability/disciplinary proceedings should be considered. Advice can be

sought from a Human Resources Manager who will liaise closely with the Health Management Unit.

5.5 Health Management Unit

The Health Management Unit will have responsibility for advising and monitoring the rehabilitation of those who have an alcohol or drug misuse problem. The Unit will liaise appropriately with all persons associated with the case.

When staff within the Health Management Unit become aware of a person's alcohol or drug misuse, by whatever means, they will provide support and counselling. Where necessary, encouragement will be given for the person to seek voluntary treatment from an outside agency, including their own Doctor.

Health Management Unit staff will consider cases referred and will give: -

- advice on the risks of alcohol or drug misuse and determine if medical investigation is appropriate.
- guidance about suitable referral agencies and may arrange treatment with them.
- advice on the individuals' suitability to perform their current or alternative role.

The Health Management Unit will also encourage the early identification of problems by raising awareness of drug and alcohol related problems and provide guidance to managers and staff.

All consultations with the Health Management Unit will be treated in strictest confidence. If information is required to be disclosed outside the Health Management Unit, consent must be obtained. If the Police Officer/Staff withholds consent, or if consent cannot be obtained for whatever reason, disclosures may be made only where:

- They can be justified in the public interest (usually where disclosure is essential to protect the Police Officer/Staff or someone else from the risk of significant harm).
- They are required by law or by order of a court.
- It is for the purpose of updating management as to the progress and levels of participation in treatment/rehabilitation.

6. DRUG AND ALCOHOL SCREENING PROCEDURES

- 6.1 Drug and alcohol screening is designed to help create and maintain a healthy workforce and to support the ethos of individual responsibility and accountability.

- 6.2 The procedures are principally focused on screening for drugs and alcohol due to the health and safety and vulnerability issues associated with their misuse.
- 6.3 Screening will be carried out by fully trained and experienced staff using approved techniques and involving carefully controlled procedures.
- 6.4 Individuals required to submit to a screening sample will be informed of the result at the earliest opportunity.

7. SCREENING CRITERIA

7.1 Pre-employment Screening

All successful applicants offered a post within the Derbyshire Constabulary will be asked to provide a screening sample at the pre-employment stage. Refusal to provide a sample will mean that the Derbyshire Constabulary will not further consider the applicant for employment.

Where the result of the sample indicates misuse of a controlled drug then the application will be rejected at this stage.

Where the sample indicates misuse of a prescribed drug then the advice of the Health Management Unit will be sought prior to a decision being made whether to further consider the application.

7.2 Appointment to High Risk Posts

There are a number of posts within the Derbyshire Constabulary, which by their nature necessitate alcohol and drug screening. The increased risks associated with such posts, demand that individuals occupying or applying for them will provide a screening sample for an alcohol or drug-screening test.

7.3 A list of the posts falling into this category is attached at Appendix A.

7.4 All internal and/or external appointees for High Risk Posts will provide a screening sample for an alcohol and drug-screening test. The request will not be made until the candidate is offered the post. Refusal to submit to the test will result in the offer of the post being withdrawn. The criteria for identifying specific posts will be:-

- Posts in which physical risks to individuals, colleagues or members of the public would be raised significantly if the post holder were involved in alcohol or drug misuse.
- Posts in which alcohol or drug misuse by the post holder would significantly raise the vulnerability of the individual to improper behaviour and the organisation to significant compromise. The compromise of assets and intelligence by post holders could jeopardise the safety of colleagues or members of the public.

- 7.5 The Force Security Manager and the Head of Department, Professional Standards will from time to time review the list of specific posts.
- 7.6 Individuals occupying such posts may be required to provide a screening sample for an alcohol or drug-screening test at any time whilst they occupy that post
- 7.7 Refusal or failure to submit to the test may result in the individual's removal from that post and re-deployment. In cases where an individual refuses or fails to provide a screening sample, advice from the Health Management Unit may prove useful in determining the legitimacy or otherwise of the refusal. In any case, the Head of Department, Professional Standards Department should be informed.
- 7.8 Details of any tests, the results of which indicate the presence of drugs or alcohol, will be considered by the Health Management Unit who will consult with the Head of Department, Professional Standards for advice on the suitability or otherwise for the individual to continue in that post. In those circumstances described above, it may be considered appropriate to convene a case conference as described earlier to determine the most suitable course of action.
- 7.9 Where an individual provides a sample that subsequently indicates misuse of a controlled drug then consideration will be given to disciplinary or criminal proceedings.
- 7.10 'With cause' screening

There will be occasions where an individual receives intelligence or information that a colleague has a drugs misuse problem. In these circumstances the individual will report the matter in accordance with the Professional Standards Policy. The intelligence or information will be forwarded to the Professional Standards Unit, where, in consultation with the Head of Department, Professional Standards, all investigative options will be considered within the principles of legality, necessity and proportionality. With regard to cases involving police staff it is suggested that the Head of Department, Professional Standards Unit should consult with the Head of Department, Personnel to assist in deciding the best way forward.

Each individual case will be reviewed and where the intelligence or information justifies the individual being requested to provide a screening sample, this will be carried out under the authority of the Head of Department Professional Standards and in accordance with recognised protocols agreed by an external service provider. Care will be taken to ensure that prior to any tests being administered, the information is not malicious or vexatious. Any information received by the department will be subject to close scrutiny and investigation prior to any action being taken. Appropriate action will be taken against any person found to have given malicious or vexatious information.

The restrictions outlined at paragraph 5.5 do not apply to cases involving 'with cause' testing.

Details of any tests, the results of which indicate the presence of drugs, will be considered by the Health Management Unit who will consult the Head of Department, Professional Standards. In circumstances described above, it may be considered appropriate to convene a case conference as described earlier to determine the most appropriate course of action.

- 7.11 Where an individual provides a sample that subsequently indicates misuse of a controlled drug then consideration will be given to disciplinary or criminal proceedings.

Failure/Refusal to Provide a Screening Sample.

Where in accordance with this policy, an individual is required to provide a screening sample, he or she, will be expected to do so, unless a legitimate reason for not doing so exists. In cases where an individual refuses or fails to provide a screening sample, advice from the Health Management Unit may prove useful in determining the legitimacy or otherwise of the refusal. In any case, the Head of Department, Professional Standards Department should be informed for suitable action to be considered.

8. Human Rights Compliance

- 8.1 This policy has been subjected to the Derbyshire Constabulary Human Rights Compliance Audit Template
- 8.2 Consideration has been given to the compatibility of this policy and related procedures with the Human Rights Act and European Convention on Human Rights; with particular reference to the legal basis of its precepts; the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making processes and outcomes of action.

9. Diversity Compliance

- 9.1 This policy has been subjected to the Derbyshire Constabulary Equality Impact assessment and Diversity Compliance Audit Template.
- 9.2 The policy has been drafted in accordance with all relevant employment legislation and with the general duty under the Race Equality Scheme to eliminate unlawful racial discrimination, to promote equality and to promote good relations between people of different racial backgrounds. Monitoring work will be undertaken on a regular basis to ensure this and the policy and procedure reviewed regularly in the light of monitoring results.

10. Monitoring and Review

Retention of Material and Records

- 10.1 Any material or records collected in the course of Drug and Alcohol screening procedures will be retained in accordance with the protocols agreed by the Derbyshire Constabulary and the service provider. Any such

material or records deemed worthy of retention by the service provider will be outside of this policy.

- 10.2 However, records retained by the Derbyshire Constabulary will be for the following purposes only:
- (a) Monitoring purposes to ensure equity and consistency.
 - (b) The efficient administration of the policy.
- 10.3 Records will be retained by the Health Management Unit and the Resourcing section of the Personnel Department.

11. Appeals Process

- 11.1 Where an individual challenges the result of any test, he/she is at liberty to utilise the sample provided to facilitate independent testing at his/her own expense.
- 11.2 Where an individual wishes to appeal against any decision pursuant to police misconduct or police staff discipline, he/she should appeal via the respective procedure contained within regulations and Force policy.
- 11.3 Where an individual wishes to appeal against a decision from the case conference, an appeal may be made to the Assistant Chief Constable (Support) within 28 days.

12. Certificate of Compliance

- 12.1 This document was audited in October 2006 by Corporate Development within the guidelines of the Human Rights Act 1998. The audit was carried out on the assumption that the guiding legislation is itself compliant with the Human Rights Act 1998.
- 12.2 Where there are areas of potential interference with individuals' rights under the Act due regard has been given to the issues of legality legitimate aim proportionality and fairness.
- 12.3 Subject to any new legislation or changes in case law which require immediate amendment this document next requires reviewing in October 2007 by the Head of Department, Personnel.

High Risk Posts

Category	Post	Unit	Skill	Total with Skill ##	Final Total (excluding duplications)	
Firearms						
* Armed Response Vehicle	X				45	
* Tactical Firearms Group			X	39	7	
* Firearms Instructor	X				5	
* Tactical Advisors			X		6	
* Silver Commanders			X	16	16	
* Silver Commanders (Ops Room Insp & Sgts)		X			15	
Total Firearms					94	
Driving						
* # All Police Motorcyclists & Drivers			X	1375	1265	
* Roads Policing Unit	X				104	
* ANPR	X				5	
* Driver Training	X				1	
<i># Highly likely to include duplicates in other areas</i>					Total Driving	1375
CID						
* Dedicated Source Units	X				14	
Covert Operations Unit (EMSOU)	X				5	
* Level 2 Drug & Crime Unit	X				37	
Total CID					56	
Vulnerable / Sensitive						
Executive		X			5	
Gold Commanders (ACPO)			X	4		
Directing Senior Officers (ACPO)				4		
Total Vulnerable / Sensitive					5	
Grand Total					1530	

- some skills overlap with Posts, so to avoid double counting these have been deleted from the final total column

All Police Motorcyclists and Drivers are counted as all those who have been on a driving course - these are highly likely to overlap with many other areas and duplications with other categories have not been removed