



Walsall Council

Personnel Committee

Monday, 12 September 2022 at 6.00 pm

At the Council House, Walsall

Public access to meeting via:

<https://aisapps.sonicfoundry.com/AuditelScheduler/CreateSchedules/Past/41>

Membership:

Councillor M. Bird (Chair)
Councillor A. Andrew (Vice-Chair)
Councillor S. Elson
Councillor A. Garcha
Councillor N. Gultasib
Councillor K. Hussain
Councillor A. Nawaz
Councillor C. Towe
Councillor J. Whitehouse

Quorum:

Three Members

A g e n d a

Part 1 – Public Session

1. Apologies.
2. Declarations of Interest.
3. Local Government (Access to Information) Act 1985 (as amended):

To agree that, where applicable, the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
4. To approve the Minutes of the meeting held on 19th April, 2022, 13th June, 2022 and 22nd July, 2022 – Copy Enclosed (page 6 to 12)
5. Alcohol and Drugs Testing Policy – Copy Enclosed (page 13 to 36).

Part 2 – Private Session

6. Recruitment to the post of Director Adult Social Care and Director of Commissioning (2 posts) - Copy Enclosed (page 37 to 55)

(Exempt information under Paragraphs 1, 2 and 4 of Part I of Schedule 12A of the Local Government Act, 1972) (As amended)

7. Interim Executive Director (Resources and Transformation) - Copy Enclosed (page 56 to 57)

(Exempt information under Paragraphs 1, 2 and 4 of Part I of Schedule 12A of the Local Government Act, 1972) (As amended)

8. Recruitment to the post of Director of Executive Director (Resources and Transformation) - Copy Enclosed (page 58 to 70)

(Exempt information under Paragraphs 1, 2 and 4 of Part I of Schedule 12A of the Local Government Act, 1972) (As amended)

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

Schedule 12A to the Local Government Act, 1972 (as amended)

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - (a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information being disclosed during a meeting of a Scrutiny and Performance Panel when considering flood risk management functions which:
 - (a) Constitutes a trades secret;
 - (b) Its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the risk management authority);
 - (c) It was obtained by a risk management authority from any other person and its disclosure to the public by the risk management authority would constitute a breach of confidence actionable by that other person.

PERSONNEL COMMITTEE

Tuesday, 19 April 2022 at 18:00

In Conference Room 2, Council House, Walsall

Committee Members present: Councillor M. Bird (Chair)
Councillor A. Andrews (Vice-Chair)
Councillor S. Elson
Councillor N. Gultasib
Councillor A. Harris
Councillor K. Hussein
Councillor A. Nawaz

In attendance: Michele Leith, Director (HR OD and Administration)
Nicola Ruckhuss, HR Manager (Strategy and Planning)
Craig Goodall, Senior Democratic Services Officer
Edward Cook, Assistant Democratic Services Officer

31/22 Apologies

An apology for absence was received on behalf of Councillor S. Samra.

32/22 Substitutions

There were no substitutions.

33/22 Declarations of Interest and Party Whip

There were no declarations of interest or party whip for the duration of the meeting.

34/22 Local Government (Access to Information) Act 1985 (As Amended)

Resolved:

That the public be excluded from the meeting during consideration of the item set out in the private agenda for the reasons set out therein.

35/22 Minutes of the meetings held on 8 February 2022 and 15 February 2022

Resolved:

That the minutes of the meetings held on 8 February and 15 February 2022, a copy of each having been sent to each Member of the Committee, be approved as a correct record.

36/22 Confidential Reporting (Whistleblowing) Policy

The Confidential Reporting (Whistleblowing) Policy was introduced by the HR Manager (Strategy and Planning). Three main changes were highlighted: it identifies a process for complaints against senior officers; introduces an auditable process regarding the rationale behind external investigator appointments; and it establishes an auditable log of all whistleblowing complaints. The latter helps safeguard against vexatious complaints. If complaints are directed against the Monitoring Officer, a second Directing Executive officer will be added to the investigating panel.

Resolved:

That the Confidential reporting (Whistleblowing) Policy be approved.

37/22 Flexi Time and Time off in Lieu (TOIL) Policy

The new Flexi Time and Time off in Lieu (TOIL) Policy was introduced the HR Manager (Strategy and Planning).

Last reviewed in 2017, these changes bring policy into line with the changed ways of working and fits into the Organisational Development Strategy. The new policy will help attract and retain good employees and meet the flexibility demands of customers and employees. The offer of Flexi Time has not changed but the parameters have, to better meet demands and needs.

Members supported the advantages outlined in the new policy including the positive effects of flexible working arrangements, though concern was raised about any emerging expectations for people to remotely work whilst on holiday or off sick, and the effects of less 'in-office' working on local businesses.

Resolved:

That the Flexi Time and Time off in Lieu (TOIL) Policy be approved.

38/22 Private Session

Exclusion of the Public

Resolved:

That, during consideration of the remaining item on the agenda, the Committee consider that the item for consideration is exempt information for the reasons set out therein and Section 100A of the Local Government Act 1972 and accordingly resolved to consider the item in private.

39/22 **Minutes for meetings on 8 February 2022 and 15 February 2022**

Resolved:

That the minutes for the meetings on 8 February 2022 and 15 February 2022, a copy of each having been sent to each Member of the Committee, be approved as a correct record.

(Exempt information under Paragraphs 1, 2 and 4 of Part I of Schedule 12A of the Local Government Act 1972) (As amended).

There being no further business, the meeting terminated at 6:28pm

Chair.....

Date.....

PERSONNEL COMMITTEE

Monday, 13 June, 2022 at 18:00

In Conference Room 2, Council House, Walsall

Committee Members present: Councillor M. Bird (Chair)
Councillor A. Andrew (Vice-Chair)
Councillor S. Elson
Councillor A. Garcha
Councillor N. Gultasib
Councillor K. Hussain
Councillor A. Nawaz
Councillor C. Towe
Councillor J. Whitehouse

In attendance: Neil Picken, Principal Democratic Services Officer

40/22 Apologies

None.

41/22 Substitutions

There were no substitutions.

42/22 Declarations of Interest and Party Whip

There were no declarations of interest or party whip for the duration of the meeting.

43/22 Local Government (Access to Information) Act 1985 (As Amended)

Resolved:

That the public be excluded from the meeting during consideration of the item set out in the private agenda for the reasons set out therein.

44/22 Establishment of Personnel Sub Committee

The report of the Principal Democratic Services Officer was submitted:

[See annexed]

Resolved

1. That two Sub-Committees be established, as set out below, together with the delegations as set out in **Appendix 1 (annexed)**.

- Employment Appeals Sub-Committee 'A'
- Employment Appeals Sub-Committee 'B'

2. That the Membership of each Sub-Committee be approved as follows:-

Employment Appeals 'A'

Chair: Councillor Harris

Conservative x 4 seats: Councillors Cooper, Clarke and Sears

Labour x 3 seats: Councillors Burley, Gultasib and Nawaz

Employment Appeals 'B'

Chair: Councillor Elson

Conservative x 4 seats: Councillors Harris, Clarke, Waters

Labour x 3 seats: Councillors Burley, Gultasib and Nawaz

3. That Employment Appeals Sub-Committee 'A' meets on a Tuesday and Sub Committee 'B' meets on Thursday both at 10.30 a.m. on dates set out in the Council's timetable of meetings, and that meetings be cancelled when they are not required.

Meeting closed at 6:04 p.m.

Signed.....

Dated.....

PERSONNEL COMMITTEE

Monday, 22 July, 2022 at 18:00

In Conference Room 2, Council House, Walsall

Committee Members present: Councillor M. Bird (Chair)
Councillor S. Elson
Councillor A. Garcha
Councillor J. Whitehouse

In attendance: Michelle Leith, Director of HR,OD and Administration
Neil Picken, Principal Democratic Services Officer
Reena Farmah, Democratic Services Officer

45/22 Apologies

None.

46/22 Substitutions

There were no substitutions.

47/22 Declarations of Interest and Party Whip

There were no declarations of interest or party whip for the duration of the meeting.

48/22 Local Government (Access to Information) Act 1985 (As Amended)

Resolved:

That the public be excluded from the meeting during consideration of the item set out in the private agenda for the reasons set out therein.

49/22 Teachers' Pension Indexation and 2021 Pay Freeze

The report of the Director of Human Resources, Organisational Development & Business Administration & Business Support was submitted:

[See annexed]

Resolved

That a one-off £1 uplift to all school leaders and teachers (both schools and unattached) at all levels in August 2022 salaries in order to activate indexation of benefits, be approved.

Meeting closed at 6:15 p.m.

Signed.....

Dated.....

Personnel Committee (PC) – 12 September 2022

Alcohol & Drugs Testing Policy

1. Purpose of the report

- 1.1 To gain Personnel Committee approval for the revised Alcohol & Drugs Testing Policy (Appendix 1) endorsed by CMT at their meeting of 14 July 2022.

2. Recommendations

- 2.1 Personnel Committee is recommended to approve the Alcohol & Drugs Testing Policy (summary detailed below) endorsed by CMT (14 July 2022).

3. Background Information

Aim

- 3.1 The purpose of this policy is to promote a safe and healthy workplace which is aimed at supporting employees to report fit for work to perform their duties and discourages the use/misuse of alcohol and/or drugs. The council will take all reasonable steps to eliminate the risks of incidents or accidents from the effects of alcohol or drugs misuse.
- 3.2 The Council has a duty of care for the health and safety of its employees and members of the public. This policy aims to promote awareness of the effects of Alcohol and/or Drugs and offer support and assistance to employees where appropriate.
- 3.3 Additionally, the policy sets out clear guidance to all employees outlining the principles and circumstances in which the council will conduct alcohol and drugs testing and the procedure for testing.

Know

- 3.4 In July 2021, CMT agreed to the continuation of the Alcohol & Drugs Testing process for Council employees/workers and for a procurement exercise to be undertaken to award a new contract when the existing provider's contract expired in May 2022. This procurement exercise has now been undertaken and a new provider is in place and fully operational.
- 3.5 In line with the appointment of the new provider and the 3 yearly review cycle of employment policies, we have reviewed and updated the existing Alcohol & Drugs Testing Policy, which was initially launched in October 2019, and has been successfully implemented and utilised across the Council since its introduction.

- 3.6 Following consultation with employees and managers across the Council, as well as Trade Union colleagues, the Alcohol & Drugs Testing Policy has been revised, the main changes proposed in this policy review are outlined below:
- Greater emphasis on the responsibilities of employees regarding the expectation that, when selected for testing, they will attend a testing site from their current work location, including from home when working remotely (section 4.2 of the policy).
 - Reference to the fact that if a substance is found on-site which appears to be drug-related, the council reserves the right to request testing of the substance to establish the substance-type (section 3.2 of the policy).
 - Safety critical criteria - alongside the policy review, the safety critical criteria has also been reviewed and an amendment made to point 6 of the attached document (Appendix 2). This refers to the change in status of those roles previously deemed safety critical, where the manager would defer decision making on operational/technical matters to the employee due to the nature of the specialist area.
 - In light of the above amendment, the list of all safety critical/non-safety critical roles was reviewed by managers and updated accordingly.
- 3.7 The new provider has also reviewed the policy and have confirmed there are no further additions they would make to the policy.
- 3.8 In addition and to accompany the policy, the Alcohol and Drugs Testing Guidance has been refreshed and renamed the 'Alcohol and Drugs Workplace and Testing Guidance' and now incorporates additional information regarding support for employees misusing alcohol and drugs and this will also replace the outdated Substance Misuse Policy and guidance.

Our Council Plan priorities

- 3.9 The policy is directly aligned to the council's strategic priority of internal focus ensuring all council services are customer focussed, effective, efficient and equitable and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.

Response

- 3.10 Subject to approval, HR will finalise all associated guidance/forms and prepare a communications and implementation plan for publication of the revised policy.

Review

- 3.11 Employment policies will usually be reviewed on a three yearly cycle, unless legislation or internal organisational need prompt a review earlier or later.

4. Financial Implications

- 4.1 There are no anticipated financial implications arising from this report.

5. Legal Considerations

- 5.1 There are no specific legal issues anticipated from this report.

6. Risk Management

- 6.1 An equality impact assessment is attached (Appendix 3).

7. People

- 7.1 Employment policies include a scope section (where applicable) and each policy clearly sets out who the policy applies to and who it does not (appendix 1 section 2).

8. Consultation

- 8.1 The Alcohol & Drugs Testing Policy was formally consulted upon with senior managers and trade unions colleagues across the council between 18 February and 09 March 2022 and all comments were considered or incorporated and all consultees responded to.
- 8.2 An outstanding query from trade union colleagues was tabled, requesting that all staff be subject to random testing and not just those deemed to occupy safety critical posts. The reason for this was explained to the unions, relating to the purpose of the policy, ensuring that key roles responsible for health and safety in some capacity be subject to the testing process and informing the unions that all posts could be subject to cause and suspicion testing where employees are unfit to perform their role. There remains a valid and justifiable rationale for the selection of safety critical roles based on ensuring employees and members of the public's health and safety is maintained and a response on this basis has been formally provided to the trade union colleagues.

Author

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Human Resources
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Sponsoring Director

AUTO SIG

**Name of – Executive Director
(Date)**

Alcohol and Drugs Testing Policy

Document title	Alcohol and Drugs Testing Policy		
Owner	Human Resources	Status	Final
Version	2.0	Approved on	TBC
Effective from	TBC	Review date	TBC
Last updated	07/06/2022	Last updated by	HR Strategy and Planning
Purpose	To provide a framework setting out clear guidance to all employees outlining the principles and circumstances in which the council will conduct alcohol and drugs testing and the procedure for testing.		

This policy links to:

- Our Council Plan
- Walsall Proud
- Code of Conduct for Employees / Workers
- Disciplinary Policy
- Alcohol and Drugs Workplace and Testing Guidance
- Workforce Strategy
- Behaviour & Standards Framework
- Information Governance Policy Framework
- Health and Safety Management Standards

This list is not exhaustive.

For advice and guidance on this policy, or if you would like this information in another language or format, please contact:

The HR Operational Services Team on

Telephone 01922 655656

Text phone 01922 654000

Email HRDOperationalServices@walsall.gov.uk

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- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
 - 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential. This policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
 - 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
 - 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are customer focused, effective, efficient and equitable and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
 - 1.5 The purpose of this policy is to promote a safe and healthy workplace which is aimed at supporting employees to report fit for work to perform their duties and discourages the use/misuse of alcohol and/or drugs. The council will take all reasonable steps to eliminate the risks of incidents or accidents from the effects of alcohol or drugs misuse.
-
- 2.1 This policy applies to all Council employees including;
 - 2.1.1 Chief Officers;
 - 2.1.2 Employees on fixed term or temporary contracts;
 - 2.1.3 Casual workers;
 - 2.1.4 Agency workers;
 - 2.1.5 Contractors working on council property or undertaking work on behalf of the council.
 - 2.2 With the exception of;
 - 2.2.1 School-based employees/workers where the governing body has delegated authority and for whom separate arrangements apply.

- 3.1 Walsall Council recognises alcohol and drug related problems are an area of health and social concern. Therefore, the council is committed to supporting employees who acknowledge they have a problem and who actively seek help and support. This policy aims to promote general awareness of the risks associated with the consumption of alcohol and the misuse of drugs, and to encourage council employees who have problems with alcohol and/or drugs to inform management at the earliest possible stage.
- 3.2 The council reserves the right under this policy to exercise alcohol and drugs testing of its employees and others identified within scope of this policy (2.1). If a substance is found on-site which appears to be drug-related, the council also reserves the right to request testing of the substance to establish the substance-type.
- 3.3 Employees are expected to report fit for work and those who knowingly report for work under the influence of alcohol and/or drugs, and by doing so place themselves and others at risk, will be deemed to have breached this policy and the code of conduct and their actions may be considered as gross misconduct.
- 3.4 The council expressly prohibits the use of any illegal drugs (including psychoactive substances, formerly known as "legal highs") or any prescription drugs that have not been prescribed for the user. The council reserves the right to search council property and council vehicles for illegal drugs, for possession of prescription drugs (not prescribed) or psychoactive substances. If any incidents of this nature take place or where possession of any of these substances are found, it will be regarded as a serious matter and you will be deemed to have breached this policy and the council's code of conduct for employees. The matter will be investigated under the council's disciplinary policy and may constitute gross misconduct leading to disciplinary action. In addition, the matter may be reported to the police and/or any other relevant professional body.
- 3.5 Where a role is deemed to be safety critical (Appendix A) the council will have discretion to screen for alcohol and drugs use through random testing.
- 3.6 Testing can also be conducted due to cause and suspicion. Such cases must be justifiable and conducted with the consent of the employee. The manager must discuss their concerns with the employee and keep a record of the conversation.
- 3.7 Employees will be required to comply with the testing process. Failure or refusal to comply with the testing process will lead to an investigation commencing under the disciplinary policy.
- 3.8 Employees who have been selected for testing will be advised of the testing process by the provider. Where laboratory test outcomes are positive, the matter will be addressed under the disciplinary policy and may constitute gross misconduct leading to disciplinary action.

- 3.9 An employee has the right to challenge the confirmed laboratory test, within 48 hours of the employee receiving the test result, 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. Where an independent laboratory is sought, any cost will be incurred by the employee. The testing must take place within 14 calendar days of the employee's challenge of the test outcome using the second sample, supplied by the council's provider under strict laboratory conditions.
- 3.10 Where test results of an independent laboratory differ from the original test provided by the council, further exploratory investigation will take place and where appropriate the cost incurred by the employee may be reimbursed where the payment is evidenced.
- 3.11 This policy and accompanying procedure is underpinned by, and should be read in conjunction with, the alcohol and drugs workplace and testing guidance which offers further advice and support to employees and managers in the implementation of this policy.
- 4.1 Managers are accountable for the following;
- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's aim and priorities and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
 - Identifying roles within their area which would be deemed as safety critical and therefore subject to random testing;
 - Be aware of the effects of alcohol/drugs and monitor changes in behaviour, work performance, attendance etc, that may indicate that an employee is under the influence of alcohol or drugs;
 - Encouraging employees to disclose and discuss any problems or potential problems they may have in regards to alcohol or drugs dependency;
 - Encouraging employees to disclose and discuss any medication they are taking including prescribed medication or over the counter medication that may affect their ability to conduct their duties effectively;
 - Taking appropriate action should they suspect that an employee is under the influence of alcohol or drugs that may have a potential risk to themselves or others;
 - Arranging alcohol and drugs testing as appropriate;
 - Offering ongoing support and access to support services to employees who disclose they may have a problem with alcohol or drugs;
 - Ensuring any sensitive personal information remains confidential in line with the council's information governance guidelines;
 - Participating in the testing process as required;
 - Managing the investigatory process in the event of an employee not complying with this policy or in the event of a test having a positive outcome.

4.2 Employees are accountable for the following;

- All employees should support the delivery of the council's aim and priorities, clearly demonstrating the council's behaviours and values;
- Actively engage in employment practices and processes in which they are involved and ensure they understand this policy, seeking further advice and guidance from managers where necessary;
- Ensuring they do not report to work under the influence of alcohol and/or drugs which are likely to render them unfit to carry out duties safely;
- Ensuring they do not consume or possess alcohol and/or drugs on council property, council vehicles or during working hours;
- Informing their Medical Practitioner or Pharmacist of the type of work they do, so that appropriate guidance on medication can be obtained;
- Ensuring they notify their manager of any medication taken including prescribed medication or over the counter medication that may affect their ability to conduct their duties effectively;
- Notifying their manager as soon as possible and actively seek support where they recognise they have a problem or potential problem with alcohol and/or drug dependency;
- Notifying a manager if they recognise or suspect a colleague is under the influence of alcohol and/or drugs and encourage colleagues to seek help and support in relation to this;
- Participating in the testing process as required, including attending the designated testing location to undertake the test. This includes employees travelling from an alternative work location where required (i.e. another council workplace or where working from home) in order to attend the test;
- Complying with the requirements of this policy and procedure.

5.1 Testing under random selection

- 5.1.1 When random testing is initiated, the service provider will randomly select the sample group to ensure the selection process is fair, unbiased and consistent. Random testing will only be carried out on posts deemed to be safety critical.
- 5.1.2 Employees that have been selected to undergo random testing should be advised the testing does not indicate any suspicion or wrongdoing. Employees selected for random testing who request details of the selection process should have verbal confirmation of how the random selection has been established.
- 5.1.3 An employee who has been selected will be notified by a manager and will be required to attend a testing session. Managers will be required to facilitate the employee's attendance at the testing session as necessary.

5.2 Testing for cause and suspicion

- 5.2.1 Where a manager has reasonable suspicion that an employee is under the influence of alcohol and/or drugs or for precautionary reasons following an accident or incident, the manager can initiate testing under cause or suspicion.
- 5.2.2 The manager must discuss their concerns with the employee in the first instance ensuring that a record of the conversation is noted and retained. Following this initial discussion the manager has discretion to initiate an alcohol or/and drugs test. The employee must be made aware of the rationale for any testing process initiated due to cause/suspicion.

5.3 Testing process

- 5.3.1 Employees must give their informed consent in writing, using the provider's alcohol and drugs test proforma before testing can take place, for both random tests and tests due to cause/suspicion.
- 5.3.2 Testing will be carried out by independent trained technicians from a laboratory accredited by the appropriate body and will follow a strict chain of custody protocol to maintain control and accountability of samples from receipt through to completion of testing, reporting results, storage and final disposal.
- 5.3.3 An employee who refuses to give consent or to comply with the alcohol and drugs testing process will be required to attend an informal meeting to explain their refusal as soon as reasonably practicable. Refusal without good reason will leave the council no alternative but to consider this as 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.
- 5.3.4 Samples will be taken from the employee by a trained technician; this will be split into two containers, with one of the samples used for analysis. The second sample will be stored in laboratory conditions for independent analysis upon request by the employee.
- 5.3.5 If an employee has a complaint about the way in which they were selected or in which the test has been conducted, it should be raised informally with their line manager in the first instance to address any concerns.

5.4 Testing outcome

- 5.4.1 An employee tested for alcohol or drugs has the right to be informed of their indicative screening results before the results are passed to management. Indicative screening results should never be classed as positive until the laboratory has carried out the necessary LC-MS-MS (Liquid Chromatography with tandem mass spectrometry) confirmation.

- 5.4.2 Where an employee's indicative result is negative, no further investigation will be undertaken and the sample will be destroyed by the Technician. The employee will be deemed as fit to undertake their normal duties.
- 5.4.3 Where an employee's indicative result is non-negative, further testing of the sample will be undertaken by the accredited laboratory. Whilst the results of the laboratory tests are being established:
- A. employees occupying a safety critical role may be deemed as unfit to undertake their normal duties and as a result the manager may;
 - find alternative duties where possible, until test results from the laboratory have been established;
 - suspend the employee until test results from the laboratory have been established (advice should be sought from HR in such circumstances).
 - B. employees who do not occupy a safety critical role, and depending on the nature of their role and their ability to perform the role may;
 - be able to return to their normal duties;
 - require reasonable adjustments to be considered by their manager;
 - in serious cases it may be appropriate to suspend the employee until test results from the laboratory have been established (advice should be sought from HR in such circumstances).
- 5.4.4 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 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;
 - appropriate support and assistance should be offered in all cases and the employee made aware their progress will be monitored and they may be subject to further testing.
- 6.1 If an employee has come forward to declare an alcohol or drugs problem, the manager should offer support and assistance where possible including access to appropriate support channels as part of an overall program of care, including making reasonable adjustments where appropriate, refer to the alcohol & drugs testing guidance for further information.

- 7.1 The council will retain a record of the frequency of random testing and the testing provider will request a copy of employee consent.
- 7.2 Medical reports will be retained by the independent laboratory and a summary of the results will be provided to the council.
- 7.3 Records relating to this policy will be treated as confidential and will be kept in accordance with the information governance framework and records management policy.

Safety critical posts are defined as:

- 1) Directly related to the safe use, operation or security of property, equipment or vehicles, chemicals, work at heights or in confined spaces or:
- 2) In a position which has delegated responsibility and makes decisions for the safety and wellbeing of others; or
- 3) In a customer facing post which will be deemed to be safety critical due to the responsibility an employee has for a customer's health and well-being.
- 4) Direct supervision of children*.
- 5) Direct supervision of vulnerable adults.
- 6) A manager who has the responsibility for supervising (or is accountable for) employees who perform safety critical roles shall also be considered as occupying a safety critical post. This is with the exception of roles where the manager would defer decision-making on operational/technical matters to the employee because the manager does not have the specialist knowledge/skills/qualifications (e.g. a manager who line manages an employee responsible for corporate health and safety but who does not possess specialist knowledge of this area, and so would defer key H&S decisions to the specialist employee).

* 'Children' defined as being up to the age of 18, however for SEND and care leavers it is up to age 25.

Equality Impact Assessment (EqIA) for Policies, Procedures and Services

Proposal name	Alcohol and Drugs Testing Policy		
Directorate	Resources and Transformation		
Service	HR Strategy and Planning Team		
Responsible Officer	Gary Smith		
EqIA Author	Gary Smith		
Proposal planning start	1 st March 2022	Proposal start date (due or actual)	Planned for 1 st July 2022

1	What is the purpose of the proposal?	Yes / No	New / revision
	Policy	Yes	Revision
	Procedure	No	N/A
	Internal service	No	N/A
	External Service	No	N/A
	Other - give details		
2	What are the intended outcomes, reasons for change? (The business case)		
	<p>The Council has a duty of care for the health and safety of its employees and members of the public. In the first instance the policy aims to promote awareness of the effects of Alcohol and/or Drugs and offer support and assistance to employees where appropriate.</p> <p>With regards to this policy, drugs are defined as any illegal drugs (including psychoactive substances, formerly known as "legal highs") or any prescription drugs that have not been prescribed for the employee. Alcohol consumption will be inline with the legal alcohol tolerance for drink driving.</p> <p>The policy will also allow the Council discretion to undertake testing for alcohol and/or drugs under specific criteria:</p> <p>a) Random Testing - Where a role is deemed to be safety critical, the council will have discretion to screen for alcohol and drugs use through random testing.</p> <p>Safety critical posts are defined as;</p>		
	<p>1) Directly related to the safe use, operation or security of property, equipment or vehicles, chemicals, work at heights or in confined spaces or:</p>		

- 2) In a position which has delegated responsibility and makes decisions for the safety and wellbeing of others; or
- 3) In a customer facing post which will be deemed to be safety critical due to the responsibility an employee has for a customer's health and well-being.
- 4) Direct supervision of children.
- 5) Direct supervision of vulnerable adults.
- 6) A manager who has the responsibility for supervising (or is accountable for) employees who perform safety critical roles shall also be considered as occupying a safety critical post. This is with the exception of roles where the manager would defer decision-making on operational/technical matters to the employee because the manager does not have the specialist knowledge/skills/qualifications (e.g. a manager who line manages an employee responsible for corporate health and safety but who does not possess specialist knowledge of this area, and so would defer key H&S decisions to the specialist employee).

b) Testing due to cause or suspicion - Testing can also be conducted due to cause and suspicion if a manager has reasonable suspicion that an employee(s) may be unfit for work due to the influence of alcohol and/or drugs. In such circumstances, the policy encourages managers to discuss their concerns with the employee before any testing can be carried out. The policy also states that the employee must be made aware of the rationale for any testing process initiated due to cause/suspicion.

The policy also applies to casual staff, agency staff and contractors.

3 Who is the proposal potential likely to affect?

People in Walsall	Yes / No	Detail
All	No	
Specific group/s	No	
Council employees	Yes	All corporate employees including Chief Officers
Other	Yes	Casual staff, agency staff and contractors.

4 Please provide service data relating to this proposal on your customer's protected characteristics.

4.1 As of 31 March 2022, the total number of Walsall Council employees (excluding Schools) were 3,009. In total there were 133 employees (4.44%) employees who declared they

had a disability, as defined by the Equality Act 2010, some of these may require communication in a different format. The Council's workforce is made up of 66.94% females and 21.68% of employees from a minority ethnic group.			
Type		Date	
Audience			
Protected characteristics			
Feedback			
N/A			
Type		Date	
Audience			
Protected characteristics			
Feedback			
N/A			
4.2	Concise summary of evidence, engagement and consultation (including from area partnerships, where relevant)		
Consultation took place with HR team, senior managers and Trade Union colleagues between 18 February and 09 March 2022.			
Consultation took place regarding			
<ul style="list-style-type: none">• Greater emphasis in the policy on the responsibilities of employees regarding the expectation that, when selected for testing, they will attend a testing site from their current work location, including from home when working remotely (section 4.2).• Reference in the policy to the fact that if a substance is found on-site which appears to be drug-related, the council reserves the right to request testing of the substance to establish the substance-type (section 3.2)• Safety critical criteria - alongside the policy review, the safety critical criteria has also been reviewed and an amendment made to point 6 of the criteria document. This refers to the change in status of those roles previously deemed safety critical, where the manager would defer decision making on operational/technical matters to the employee.• A list of all safety critical/non-safety critical roles was provided to senior managers to review the status of the roles they directly line manage and			

provide any comments/feedback. No further comments were received from managers regarding these.

The feedback received related to:

- Whether the term 'children' should be defined within the Safety Critical criteria.
Response: Engaged with Children's Services to establish agreed definition which has been replicated within the safety critical criteria document.
- Random selection should apply to all council roles, rather than safety critical roles. All employees should be subject to the same process and that this is the fairest way to apply this.
Response: Within the policy, testing under cause and suspicion applies to all roles, regardless of whether they are safety critical or non-safety critical. Random selection applies to safety critical roles on a business needs basis.
- If the employee has cause and suspicion that their manager is under the influence, where does the policy allow for the employee to take this forward?
Response: In such circumstances the employee would need to raise the issue with the manager's manager or other appropriate manager. This is covered in section 4.2 of the policy (8th bullet point).

How may the proposal affect each protected characteristic or group?
The effect may be positive, negative or neutral.

Characteristic	Effect	Reason	Action needed Y or N
Age	Neutral	The procedure assists the Council to ensure a safe environment for employees and the public. The procedure sets out clear guidance when undertaking alcohol and drugs testing with no impact on any particular group.	No
Disability	Potential	Potential impact on employees who require reasonable adjustments for communication and for those who do not understand the policy e.g. employees with learning disabilities. A range of support agencies are provided on the	Yes

		intranet page and a link to this page is included within the test invite email sent to all donors. This includes signposting to the council's Employee Assistance Programme (EAP) to support all employees, including those with mental health disabilities. This information is also provided to those employees who receive a positive/non-negative test.	
Gender reassignment	Neutral	The procedure assists the Council to ensure a safe environment for employees and the public. The procedure sets out clear guidance when undertaking alcohol and drugs testing with no impact on any particular group.	No
Marriage and civil partnership	Neutral	The procedure assists the Council to ensure a safe environment for employees and the public. The procedure sets out clear guidance when undertaking alcohol and drugs testing	No
Pregnancy and maternity	Potential	Potential impact for people who are on maternity or paternity leave and are not updated about the policy with no impact on any particular group.	Yes
Race	Potential	Potential impact on those employees whose first language is not English as they may not understand the policy. The Council are aware of their obligations under part 7 of the Immigration Act 2016 which creates a duty to ensure that all public authority staff in customer facing roles speak fluent English (or Welsh in	Yes

5			Wales) to an appropriate standard to perform their role effectively. The policy includes reference to employees being able to request the information being made available in another language if required. Access to an interpreter is available on request.	
	Religion or belief	Neutral	The procedure assists the Council to ensure a safe environment for employees and the public. The procedure sets out clear guidance when undertaking alcohol and drugs testing with no impact on any particular group.	No
	Sex	Neutral	The procedure assists the Council to ensure a safe environment for employees and the public. The procedure sets out clear guidance when undertaking alcohol and drugs testing with no impact on any particular group.	No
	Sexual orientation	Neutral	The procedure assists the Council to ensure a safe environment for employees and the public. The procedure sets out clear guidance when undertaking alcohol and drugs testing with no impact on any particular group.	No
	Other (give detail)			
	Further information			

6	Does your proposal link with other proposals to have a cumulative effect on particular equality groups? If yes, give details below.		(Delete one) Yes/ No
7	Which justifiable action does the evidence, engagement and consultation suggest you take? (Bold which one applies)		
	A	No major change required	
	B	Adjustments needed to remove barriers or to better promote equality	
	C	Continue despite possible adverse impact	
	D	Stop and rethink your proposal	

Action and monitoring plan				
Action	Action	Responsibility	Outcome	Outcome
Day of launch	To ensure employees understand the requirements of the policy and support them to achieve the desired outcome.	Employee's line manager should make themselves available to explain the policy to ensure understanding and offer support to allow individuals to achieve the requirements	As and when required	
Day of launch	To ensure employees who are on maternity leave to be made aware of the new Policy	Employee's Line Manager	As and when required	
Day Of launch	The policy will be explained/made available in other languages on request for employees whose first language is not English.	Appropriate liaison as required with the councils Interpretation, Translation, Transcription and Easy Read service (ITTE)	As and when requested	
Day of launch	Alternative formats (audio and Easy Read) for disabled employees of the new policy will be made available on request.	Appropriate liaison as required with the councils Pearl Linguistics Service	As and when requested	

Update to EqlA

Date

Detail