

Personnel Committee – 24 July 2018

Alcohol and Drugs Testing Procedure

1. Purpose of the report

The purpose of this report is to:

- 1.1 Seek approval for the new Alcohol and Drug Testing Procedure (appendix 1).
- 1.2 Seek approval to tender for an approved provider to deliver the testing of Council employees, and other specified workers, for drugs and alcohol.

2. Recommendations

Personnel Committee is recommended to: -

- 2.1 Approve the newly developed Alcohol and Drug Testing procedure with the caveat that the appointed provider will advise on its content and recommend amendments to ensure best practice; and that these amendments can be approved by Executive Director of Resource and Transformation in consultation with portfolio holder and CMT.
- 2.2 Approve the tendering of a provider to deliver the alcohol and drug testing of employees, and other specified workers, in line with the Alcohol and Drugs Testing Procedure.
- 2.3 Confirm agreement for a central budget to fund the testing process, administration and contract management activities associated with the procedure.

3. Background

- 3.1 The development of an Alcohol and Drugs Testing Procedure is to enhance the safety of the Council's employees and members of the public; and to provide support to employees as appropriate. Its development does not indicate that there is a particular issue within the workforce.
- 3.2 The office of National statistics reports 1 in 12 adults have taken drugs within a 12 month period (2016/17) and 1 in 25 adults have taken drugs within the last month (2016/17). Cannabis was the most commonly used drug with 6.6% of adults reporting to have used it in the last 12 months.
- 3.3 Alcohol and or drugs contribute to 14% of all road traffic accidents (BMA, 2014)
- 3.4 There has been a number of internal incidents:
 - 3.4.1 Over the last 3 years there have been 7 incidents where the Council has received reports or had cause to believe alcohol or drugs are being taken by individuals that could have potentially impacted on either safety or performance at work.
 - 3.4.2 During the last 2 years there have been four separate incidents where drug paraphernalia have been found in staff areas, which proved impossible to

establish who it belongs to. Police and specialist drug search dogs were called in to investigate.

- 3.5 A number of service areas requested the implementation of an Alcohol and Drug Testing Procedure due to a number of incidents that managers felt they struggled to manage confidently.
- 3.6 On the 4 October 2017, CMT were presented with a report seeking approval for a draft procedure to go out for wider consultation. CMT requested to see the procedure before making a decision and also requested specific consultation questions be asked around the inclusion of agency and consultants in any testing and what support can be given to employees with alcohol or drug issues. Responses to these questions are at appendix 2
- 3.7 On the 9 November 2017, a further report and revised draft procedure was presented to CMT seeking approval for wider consultation which was given.
- 3.8 Managers and Trade Unions were involved in the initial scoping of the procedure and subsequent detailed consultation.
- 3.9 The procedure aims to promote awareness of the effects of alcohol and/or drugs and offer support to employees who report these types of issues to management, therefore fulfilling the Council's duty of care for the health and safety of its employees and members of the public.
- 3.10 The procedure allows the Council to undertake random testing for safety critical roles; a draft non-exhaustive list is detailed at Appendix A of the procedure. Safety critical roles are defined as:
 - 3.10.1 Posts that are directly related to the safe use, operation or security of property, equipment or vehicles, handling of chemicals, supervision of children, or work at height or in confined spaces and which, if not performed properly, could result in a serious safety risk or environmental hazard to employees, property or the general public
 - 3.10.2 Posts with delegated responsibility and making decisions for the safety and wellbeing of others
 - 3.10.3 Some customer facing posts with responsibility for a customer's health and well being
 - 3.10.4 Posts with responsibility of supervising employees who perform safety critical roles
- 3.11 The procedure also allows the Council to undertake testing due to cause and/or suspicion, where a manager has reasonable suspicion that an employee(s) may be unfit for work due to the influence of alcohol and/or drugs.
- 3.12 Positive test results will result in further investigation which may lead to a disciplinary process taking place.
- 3.13 Refusal to give consent or comply with the alcohol and drugs testing procedure without good reason will be treated as a positive result and may be subject to the Council's Disciplinary Procedure.

3.14 Research and Benchmarking

3.14.1 Locally, Birmingham City Council currently undertake random testing for alcohol or drugs. Wolverhampton, Sandwell and North Warwickshire Councils are in the process of introducing or considering introducing an alcohol or drugs testing procedure including random testing.

3.14.2 From our research nationally, 4 authorities undertake random testing for alcohol or drugs, with a further 10 authorities stating that they are considering implementing it. 2 other authorities undertake testing for cause or suspicion.

4. Financial

4.1 An independent sampling and testing provider will need to be procured in order to provide the testing service / solution referred to within the procedure. As an indication of likely / estimated costs for these services some market research has been undertaken and the outcomes are as follows:

Organisation 1

The estimated costs of sending a trained technician to site are:

Full day - £650

½ day - £350 – 6-8 people can be tested within this time scale

£1000 – would be an estimated cost for testing 20+ people.

The above costs include both collecting the samples and testing the samples.

Organisation 2

To provide a full service –involving a trained technician coming out to site to collect and process the samples.

For random testing (technician requiring 3 days notice)

£150 (on site sampling) + £25 (laboratory test where the initial screening provides a positive result) for the first person

£40 (on site sampling) + £25 (laboratory test where the initial screening provides a positive result) for each person after the first person

For immediate testing (no notice required)

£255 (on site sampling) + £25 (laboratory test where the initial screening provides a positive result) for the first person

£40 (on site sampling) + £25 (laboratory test where the initial screening provides a positive result) for each person after the first person

Organisation 3

For Random testing a call out fee applies, £215 with notice of 48hours + £60 per test, maximum of 15 tests per session.

For cause and suspicion a call out fee applies, £225 no notice and attendance within 2 hours + £60 per test maximum of 4 tests

4.2 Although the frequency and usage of testing has not yet been identified, an estimated guide (excluding casuals and agency workers) the following scenarios have been costed based on provider information above.

- 4.3 It is anticipated that up to 90% of the workforce will be included within the Safety Critical definition and therefore will be subject to random testing. Based on head count taken at 31st March 2018 (3233) potentially 2900 employees may be subject to random testing.
- 4.4 On the basis that the Council aim to test 5% of employees occupying safety critical posts annually this would equate to approximately 145 tests per annum.
- 4.5 Should this be increased to 15% of employees occupying a safety critical post this would equate to 435 tests per annum.

Organisation 1 –

Estimated costs of testing 5% (145) of employees per annum

10 full day sessions (testing up to 15 employees) would have an estimated cost of £6,500, (10 @ £650 per session)

Estimated cost of testing 15% (435) of employees

29 full day sessions (testing up to 15 employees) would have an estimated cost of £18,850, (29 @ £650 per session)

Organisation 2

Estimated costs of testing 5% (145) of employees per annum

10 full day sessions (testing up to 15 employees) would have an estimated cost of £6,900, (10 employee's @ £150, charge for first test of session = £1500) + (135 employees @ £40, each person thereafter = £5,400)
£1500 + £5,400 total £6,900

Plus additional cost of £25 per test for lab testing of any positive results from screened samples.

Estimated cost of testing 15% (435) of employees

29 full day sessions (testing up to 15 employees) would have an estimated cost of £20,590

(29 employee's @ £150, charge for first test of session = £4,350) + (406 employees @ £40, each person thereafter = £16,240)
£4,350 + £16,240 total £20,590

Plus additional cost of £25 per test for lab testing of any positive results from screened samples.

Organisation 3

Estimated costs of testing 5% (145) of employees per annum

10 full sessions (testing up to 15 employees) would have an estimated cost of £10,850
(10 @ £215 Call out charge = £2,150) + (145 employees @ £60=£8,700)
£2,150 + £8,700 total £10,850

Estimated cost of testing 15% (435) of employees

29 full sessions (testing up to 15 employees) would have an estimate cost of £32,335
(29 @ £215 call out charge = £6,235) + (435 employees @ £60 = £26,100)
£6,235 + £26,100 total £32,335

Please note: the cost examples above provide a guesstimate only; these usage figures may go up or down and will depend on individual service area requirements. During the development of the procedure consideration regarding frequency of testing and the number of employees will be fully explored with services where safety critical posts are in operation.

It should be noted that there is currently no budget allocation for the introduction of such a procedure and as such a decision will need to be made regarding how such investment will be funded.

5. Legal

There are no particular issues that arise with the continuation of the development of an alcohol and drugs testing procedure. Given statutory requirements placed upon employers in, for example, the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999 and good practice recommended by bodies such as ACAS, it would be somewhat remiss not to continue with the development of the procedure. The employment contract does not expressly have a provision for alcohol and/or drugs testing, however, it could be safely incorporated in Part 2 (8) under policies and procedures.

The procedure could serve to reduce the possibility of adverse comment if an incident arose as a result of someone causing harm whilst under the influence of alcohol or drugs. Having such a policy in place could serve to reduce the risk of such instances arising at all. It is worth having in mind that if an employee caused injury in the course of his or her employment as a result of being under the influence of drugs or alcohol, there would be a real possibility that the employer would be vicariously liable.

6. People

People in safety critical roles and those where a manager has suspicion or cause may be subject to the testing procedure outlined in this report. The number of people in scope of this procedure cannot be determined at this stage. The development of the procedure will be undertaken in consultation with various stakeholders including Health and Safety, Procurement and Equalities including an EQIA (appendix 3).

7. Consultation

Key stakeholder engagement took place with specific managers, Trade Unions, Public Health, Procurement, Equalities, Health & Safety, Human Resources, Finance, Legal and Information Governance between 28th February 2018- 10th April 2018 detailed in (appendix 4) .

Should approval be given to tender for a provider there will be consultation with them on the procedure and the process to follow on the selection for random testing.

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Alcohol and Drugs Testing Proforma

Employee name: _____ **Employee number:** _____

Job title: _____ **Date:** _____

As part of our compliance with Health and Safety at Work, the Safeguarding Vulnerable Groups Act 2006 and Childrens Act 2004 alongside the prevention and detection of crime where the suspicion of substance abuse has been raised the Council requests your consent to undertake Alcohol and Drugs testing.

The test will be completed using your name and employee number alongside one or more of the following genetic testing methods:

Saliva samples ☐

Breath test ☐

Urine sample ☐

The test will be undertaken via the selection method for testing that has been explained to me as:

Random selection ☐

Due to cause or suspicion ☐

I confirm that I hereby **consent/refuse** to provide a sample to test for traces of alcohol and/or drugs via an independent testing agency to meet the council's obligations.

Test type	Yes	No
a) alcohol		
b) drugs		

I understand that my information will be shared with the approved testing agency and the testing agency will notify my employer of the test outcome.

I understand that if the sample provides a positive result at screening the sample will be subject to a further laboratory test. Where a laboratory test result is positive, an investigation will be conducted and may result in the Councils Disciplinary Procedure being initiated.

I understand refusal to consent, or failure to comply with the testing process may result in the Councils Disciplinary Procedure being initiated.

Employee name: _____

Employee signature: _____ **Date:** _____

Manager name: _____

Manager signature: _____ **Date:** _____

The result of the test has been confirmed as:

	Positive	Negative
Alcohol	<input type="checkbox"/>	<input type="checkbox"/>
Drugs	<input type="checkbox"/>	<input type="checkbox"/>

A record of the outcome will be placed on the employee's personnel file and will be retained for up to XX years