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| Document name: | Intoxicating Substance Misuse Policy  |
| Document type: | Human Resources Policy |
| Document Version: | Version 1.2 |
| Staff group to whom it applies: | All staff within the Trust |
| Distribution: | The whole of the Trust |
| How to access: | Intranet and internet / ward folder |
| Issue date: | March 2022 |
| Next review: | March 2025 |
| Approved by: | Executive Management Team |
| Developed by: | HR Business Partner |
| Director lead: | Chief People Officer |
| Contact for advice: | Human Resources /Occupational Health |

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1. INTRODUCTION

This document outlines the Trust’s policy regarding the misuse of intoxicating substances by staff including alcohol, illegal & prescription drugs, legal highs, over-the-counter medicines, solvents and other substances, that could adversely affect work performance and/or compromise the health and safety of themselves, colleagues or service users.

 The Trust is committed to providing a safe and productive working environment which promotes the health, safety and well-being of employees and service users. Staff are encouraged to discuss concerns they have regarding their own or others misuse of intoxicating substances. This should be with their line manager or the Occupational Health & Wellbeing department. A range of support services are available in such circumstance to employees including access to Occupational Health & Well-being services, advice on managing stress and staff retreats.

 There is an expectation that all employees will take personal responsibility to maintain their own health and well-being. This includes seeking early advice regarding health or wellbeing issues (for substance misuse) and access to appropriate treatments, seeking advice promptly regarding fitness to work issues and self-refer to occupational health and counselling if required.

This Policy should be read along with the associated Guidance Document and the Sickness Absence Policy.

2. DEFINITION

Intoxicating Substance - For the purposes of this guidance an “intoxicating substance” will include alcohol, illegal & prescription drugs, legal highs, over-the-counter medicines, solvents and other substances that could adversely affect work performance and/or compromise the health and safety of staff or service users.

**For Cause Testing -** Testing or screening by a trained professional, normally breath or urine, where there is “probable cause” and “reasonable suspicion”. Typically, the “cause” required must be objective and factual, such as when an employee’s behavior or physical appearance suggests being under the influence of an intoxicating substance.

**Periodic Testing** - Testing that occurs when employees are given advance notice of the date and time that testing will take place. This may also include breath, urine or blood tests.

1. THE LEGAL POSITION

With regard to the misuse of intoxicating substances, the following pieces of legislation apply:

* The Health and Safety at Work Act (1974)
* The Road Traffic Act (1988). It is illegal to drive when you are unfit to do so because 1) you are intoxicated with alcohol or 2) you are on legal or illegal drugs. It is also illegal to drive if you have certain levels of illegal drugs in your blood (even if they haven’t affected your driving)

Legal drugs are prescription or over-the-counter medicines. If you’re taking them and not sure if you should drive, you must speak to your doctor, pharmacist or healthcare professional.

* The Management of Health and Safety at Work Regulations (1992).
* The Misuse of Drugs Act (1971). Allowing Trust premises to be used for the production, supply or possession of drugs is an offence and carries severe penalties.
1. AIMS OF THIS POLICY
* To ensure that employees, students and volunteers are aware of the risks associated with intoxicating substance misuse and the consequences of those actions.
* To give managers a clear framework within which to deal with intoxicating substance abuse issues constructively and to ensure employees are aware of their responsibilities in relation to their employment, health and safety and the law.
* To give employees every opportunity to seek help or advice from Occupational Health and participate in a recovery programme.
* To prohibit the possession, transfer, sale or use of unauthorised drugs, alcohol or illegal substances on its premises or associated places of work.
* To comply with the Trust’s Legal responsibilities.
* To protect the interests and reputation of the Trust.
* To define the use of a Rehabilitation / Return to work agreement, including the reasonable and appropriate use of screening and testing.
* To ensure appropriate Registering Bodies are notified when appropriate to do so.
1. GENERAL PRINCIPLES

 The Trust is committed to ensuring the health and safety of its employees, service users and visitors to the Trust and recognises the risks which may be caused by the misuse of any intoxicating substances.

The Trust recognises that alcohol and other intoxicating substance dependency is a health issue and the Trust will ensure that employees experiencing these difficulties have access to appropriate support and advice.

The Trust will encourage individuals experiencing intoxicating substance dependency issues to come forward for help in the knowledge that they will receive support and fair treatment to facilitate their rehabilitation wherever possible.

Attending work under the influence of an intoxicating substance is potentially a matter of Gross Misconduct and will be dealt with in accordance with the Trust’s Disciplinary Policy.

In applying this Policy, we must ensure that our expectations of the behaviour and conduct of Men and Women are the same.

1. POLICY

6.1 Intoxicating substances of any kind must not be consumed or administered by staff on Trust premises or other associates places of work.

6.2 Staff must arrive at work in a fit state and be able to carry out the full remit of their role.

6.3 Staff must not report for work under the influence of intoxicating substances and must not therefore consume or administer such substances prior to starting work.

6.4 Staff who are suspected of attending work under the influence of an intoxicating substance may be asked to participate in “for cause” testing, which will be carried out by a third party company on the same day, as long as the timing of that test is such that it can be achieved in the individual’s normal working hours, unless the individual agrees to remain at the end of the shift for the test to be undertaken. Refusal to participate will be documented as such in any subsequent fact find or investigation.

6.5 Arriving at work with the smell of alcohol on the breath is totally unacceptable and is contrary to professional standards and Trust expectations regarding behaviours / values.

6.6 Staff who are on call have a responsibility to ensure they can provide the appropriate level of service and are fit to drive.

6.7 Under the terms of the Misuse of Drugs Act 1971 certain drugs are illegal and staff using, or in possession of, illegal drugs on Trust premises, will be reported to the Police. This will also be made known to the Accountable Officer for Controlled Drugs (the Chief Pharmacist).

6.8 Staff who acknowledge they may have a dependency problem with either legal or illegal intoxicating substances will be managed under this Policy and associated Guidance and offered an appropriate level of support throughout a reasonable period of rehabilitation.

6.9 Regardless of circumstances, any indication of a breach of the Trusts Disciplinary Policy or a Professional Code of Conduct; or that there is, or has been, a risk to the Health and Safety of Staff or service users, will be dealt with as an incident of Misconduct

1. RESPONSIBILITIES

7.1 The Trust

* To ensure the health, safety and welfare of service users and employees.
* To promote awareness of the risks associated with the misuse of intoxicating substances and thus encourage responsible behaviour.
* To create a culture that encourages staff who may be misusing intoxicating substances to come forward and seek help.
* To provide appropriate support for staff affected by intoxicating substance misuse.

7.2 The Manager

* To prevent, wherever possible, staff working under the influence of intoxicating substances, by removing them from the work environment immediately they are made aware of such circumstances.
* To consider whether a transfer to alternative duties, perhaps working from home or suspension, is appropriate after discussion with senior line management and / or HR.
* To be alert to the possibility of staff having alcohol or other intoxicating substance misuse related problems, including monitoring staff's work performance, behaviour and attendance patterns.
* To ensure staff are dealt with fairly and consistently under this policy and the associated guidance and that issues arising are treated in strict confidence.
* To implement appropriate screening and “for cause” testing where an employee is suspected of being under the influence of alcohol or other intoxicating substances ( see appendix 1 & 2)
* To refer employees to Occupational Health in a timely manner
* To ensure that the employee is aware of specific concerns and reasons for referral to Occupational Health
* Where appropriate, to implement a suitable Return to Work Agreement with the employee for a reasonable period and to support the employee through this process. (appendix 1 & 2)

* To consider any safeguarding issues and action appropriately

7.3 The Employee

* To discuss and seek advice with an appropriate person (Line Manager, Occupational Health, Trade Union Representative or HR Representative), if they suspect that they have a drug, substance misuse or alcohol problem which may affect their performance or behaviour at work.
* To fully engage with any agreed supportive programme from Occupational Health or specialist substance misuse service
* To fully engage with the Trust’s Return to Work agreement.
* To agree in advance with their manager any reasonable paid time-off required to attend Occupational Health appointments or specialist services.

* To inform their manager immediately if they have reason to be concerned that another member of staff is attending work under the influence of an intoxicating substance or has an alcohol or other intoxicating substance misuse problem .
* To remain in a condition where they can perform their duties safely and competently, free from the effects of intoxicating substances.
* To encourage colleagues to seek help if they have a problem with intoxicating substance misuse.

7.4 Staff-Side Organisations

* To assist in formulating, implementing and operating this policy and guidance.
* To help inform the workforce of the policy and guidance, and to encourage employees who may have intoxicating substance misuse related problems to voluntarily seek help.
* To advise members of their rights and responsibilities under the policy and guidance and to be available to attend interviews to assist members as appropriate.
* To support a member with alcohol/substance misuse related issues at work and during their period of rehabilitation.

7.5 Occupational Health Service

* Following referral and assessment, to provide confidential advice and guidance, on how best to support and manage an individual who has an issue, which is related to intoxicating substance misuse.
* Educate and raise awareness of the risks associated with the use of alcohol and drugs and the cause and effect of intoxicating substance misuse.

* Advise on responsible drinking behaviour.
* To review employees as clinically indicated or at the request of a referring manager
* To advise managers regarding periodic testing if appropriate

7.6 Human Resources

* To provide Consultant support and advice for those responsible for operating this policy and the associated guidance.

1. PROCEDURES
	1. Potential misuse of intoxicating substance

Staff member reports concerns of colleague misuse seen to affect job role

Staff member reports concerns of own misuse

Managers concerns of misuse affecting job role

* 1.

Self referral to

Occupational Health

BREACH

NO

NO BREACH

Occupational Health

Advice to Manager & Staff Member

Follow

Disciplinary

Procedure

YES

Consider

 alternative duties / suspension

Filed with Sickness Records

Successfully completed Return to Work Agreement

Rehabilitation / Return to Work Agreement

Refer to

Occupational Health

Screening/Testing

Fact Find concludes breach of disciplinary policy or professional code of conduct

Staff member does not acknowledge misuse

Staff member acknowledges misuse

Manager discusses concerns with staff member

8.2 Attending work under the influence of intoxicating substance

Concern raised about attending work under influence of alcohol or other intoxicating substance

Self referral to

Occupational Health

Consider that the individual may not be fit to drive a motor vehicle

Manager discusses concerns immediately with staff member

Note:

If tested +ve for illegal substances, the tester may report to the Police

Successfully completed Return to Work Agreement

Rehabilitation/Issue RTW

Agreement

YES

If appropriate, arrange immediate “for cause” testing in working hours

Individual refuses to participate in test, consider alternative duties or suspension

If necessary, remove from working environment, consider alternative duties or suspension if necessary

Consider referral to Professional Body

NO

Test shows some substance is present consider alternative duties or suspension

Alcohol Test is positive ie.>drink/ drive limit, suspend with immediate effect

Follow

Disciplinary

Procedure

Fact Find concludes breach of disciplinary rules or professional code of conduct

Disciplinary

Fact Find

Refer to Occupational Health

1. Drug and alcohol testing agreements (Appendix 1 & 2)

These agreements provide assurance for the manager that the individual is safe to be at work and reinforces the standards for that individual, as part of their recovery programme.

Where an individual has agreed to the *Return to Work Agreement*  they are agreeing to participate in periodic alcohol / drug testing by an independent company, for a specified time.

The agreement should be in place for a minimum of 6 months

Staff are not obliged to participate in screening, testing or Return to Work agreements; however under such circumstances, management must take appropriate action based on the evidence they have available.

 Appendix 1

Return to Work Agreement *(Alcohol Related)*

Personal & in Confidence

Date

Name

 Address

Dear (Employee’s name)

RETURN TO WORK AGREEMENT

Following our discussion on (date), I am writing to confirm that I have been advised by Occupational Health that you are now ready to commence a phased return to normal duties\* (\*if appropriate). It is proposed that you should return to work:

* On date
* As job title
* And in line with the following agreement which will remain in force until (enter date).
* Not to drink alcohol at a level that is likely to interfere with your health or performance at work. Please note our Occupational Health Physician/ advisor has advised *(insert any medical advice)*.
* To provide regular proof of all medical appointments and compliance with any treatment regimes and/or care programmes.
* To undergo “for cause” alcohol testing at the request of Human Resources and arranged using an independent testing agency. Such testing will be unannounced and will take place in\* (\*enter a discreet location) during a normal working day.
* To undergo periodic testing at the request of Human Resources and arranged using an independent testing agency. Periodic testing will take place\* (\*at agreed intervals) and will be arranged during the normal working day, for an agreed duration.
* Not to behave in a manner which would lead to a suspicion that you have re-commenced the misuse of alcohol.
* To meet with Occupational Health as agreed for them to review your progress and report back to management regarding your work capability.

Before the end of this agreement, I will meet to review your progress and may decide to extend the period of this return to work agreement. If so, I will notify you in writing and provide you with the reasons for my decision.

Please note failure to comply with this agreement will lead to disciplinary action.

Two copies of this agreement are enclosed and I would be grateful if you could sign one copy and return it to me as soon as possible to signify your acceptance.

Signed by: Employee………………………… Manager………………………..

Date:.……………………… Date:………………….

Appendix 2

Return to Work Agreement *(Other Intoxicating Substance Related)*

Personal & in Confidence

Date

Name

 Address

Dear (Employee’s name)

RETURN TO WORK AGREEMENT

Following our discussion on date, I am writing to confirm that I have been advised by Occupational Health that you are now ready to commence a phased return to normal duties. It is proposed that you should return to work:

* On date
* As job title
* And in line with the following agreement which will remain in force until (enter date).
* Not to take substances, legal or otherwise that are likely to interfere with your health or performance at work. (Please note our Occupational Health Physician/ Advisor has advised \_\_\_\_\_\_\_\_ for the duration of this agreement).
* To provide regular proof of all medical appointments and compliance with any treatment regimes and/or care programmes.
* To undergo “for cause” drug testing at the request of Human Resources and arranged using an independent testing agency. Such testing will be unannounced and will take place in\* (\*enter a discreet location) during a normal working day.
* To undergo periodic drug testing at the request of Human Resources and arranged using an independent testing agency. Periodic testing will take place\* (\*at agreed intervals) and will be arranged during the normal working day, for an agreed duration.
* Not to behave in a manner which would lead to a suspicion that you have re-commenced the misuse of intoxicating substances.
* To meet with Occupational Health as agreed for them to review your progress and report back to management regarding your work capability.

Before the end of this agreement, I will meet to review your progress and may decide to extend the period of this return to work agreement. If so, I will notify you in writing and provide you with the reasons for my decision.

Please note failure to comply with this agreement will lead to disciplinary action.

Two copies of this agreement are enclosed and I would be grateful if you could sign one copy and return it to me as soon as possible to signify your acceptance.

Signed by: Employee………………………… Manager………………………..

Date:.………………………. ……. Date:……………………………

APPENDIX 3

Equality Impact Assessment template

to be completed for all policies, procedures and strategies

Date of EIA: 26.01.2022 Review Date: Feb 2025

Completed By: John Lemm

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|  | QUESTIONS | ANSWERS AND ACTIONS |
| 1 | What is being assessed?Prompt: what is the function of this document (new or revised) | Intoxicating Substance Misuse Policy and Guidance on Alcohol and Substance Misuse  |
| 2 | Description of the documentPrompt: What is the aim of this document | This document outlines the Trust’s policy regarding the misuse of intoxicating substances by staff including alcohol, illegal & prescription drugs, legal highs, over-the-counter medicines, solvents and other substances, that could adversely affect work performance and/or compromise the health and safety of themselves, colleagues or service users.  |
| 3 | Lead contact person for the Equality Impact Assessment | John Lemm, Interim HR Business Partner |
| 4 | Who else is involved in undertaking this Equality Impact Assessment | Staff-sideHR Operations Staff |
| 5 | Sources of information used to identify barriers etcPrompts: service delivery equality data – refer to equality dashboards ([BI Reporting - Home (sharepoint.com)](https://swyt.sharepoint.com/sites/BIReporting) satisfaction surveys, complaints, local demographics, national or local research & statistics, anecdotal. Contact InvolvingPeople@swyt.nhs.uk for insightWhat does your research tell you about the impact your proposal will have on the following equality groups? | Substance Misuse cases registered in the Trust 2009 – 2021Review of PHE/NICE information about alcohol misuse. |
| 5a | Disability Groups:Prompt: Learning Disabilities orDifficulties, Physical, Visual, Hearing disabilities and people with long term conditions such Diabetes, Cancer, Stroke, Heart Disease etc. Accessible information standard | This was not monitored in the reference data however the policy applies equally to all staff on a case by case basis and no negative impact is anticipated.  |
|  | QUESTIONS | ANSWERS AND ACTIONS |
| 5b | Gender:Prompt: Female & Male issues should be considered | Records indicate that 85% of cases were female, 15% male. This broadly reflects the workforce profile. According to PHE & NICE, 6% Men and 2% Women in the population misuse alcohol.Section 5 additional point to ensure equality of expectations |
| 5c | Age:Prompt: Older people & Young People issues should be considered | This data shows a higher prevalence in the age group 50-60 however there is no expectation that the implementation of this policy/guidance will have a negative impact. Inc Workforce30-40 7.7% 22.7% 40-50 30.8% 24.9%50-60 61.5% 27.7%  |
| 5d | Sexual Orientation:Prompt: Heterosexual, Bisexual, Gay, Lesbian groups are included in this Category | This was not monitored in this reference data however the policy applies equally to all staff on a case by case basis and no negative impact is anticipated.  |
| 5e | Religion & Belief:Prompt: Main faith groups and people with no belief or philosophical belief issues should be considered | This was not monitored in this reference data however the policy applies equally to all staff on a case by case basis and no negative impact is anticipated.   |
| 5f | Marriage and Civil PartnershipPrompt: Single, Married, Co-habiting, Widowed, Civil Partnership status are included in this category | This was not monitored in this reference data however the policy applies equally to all staff on a case by case basis and no negative impact is anticipated.  |
| 5g | Pregnancy and MaternityPrompt: Currently pregnant or have been pregnant in the last 12 months should be considered | This was not monitored in this reference data however the policy applies equally to all staff on a case by case basis and no negative impact is anticipated.  |
| 5h | Gender Re-assignmentPrompt: Transgender issues should be considered | This was not monitored in this reference data however the policy applies equally to all staff on a case by case basis and no negative impact is anticipated.  |
| 5I | CarersPrompt: Caring responsibilities paid or unpaid, hours this is done should be considered | This was not monitored in this reference data however the policy applies equally to all staff on a case by case basis and no negative impact is anticipated.  |
| 5j | RacePrompt: Indigenous population and BME Groups such as Black African and Caribbean, Mixed Heritage, South Asian, Chinese, Irish, new Migrant, Asylum & Refugee, Gypsy & Travelling communities.) | This was not monitored in this reference data however the policy applies equally to all staff on a case by case basis and no negative impact is anticipated.   |

Action Plan

EIAs are now reviewed using a grading approach which is in line with our Equality Delivery System (EDS). This rates the quality of the EIA. This means that the team can review the EIA and make recommendations only. The rating and suggested standards are set out below:

* + Under-developed – red – No data. No strands of equality
	+ Developing – amber – Some census data plus workforce. Two strands of equality addressed
	+ Achieving – green – Some census data plus workforce. Five strands of equality addressed
	+ Excelling – purple –All the data and all the strands addressed

Potential themes for actions: Geographical location, built environment, timing, costs of the service, make up of your workforce, stereotypes and assumptions, equality monitoring, community relations/cohesion, same sex wards and care, specific issues/barriers.

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| Who will benefit from this action? (tick all that apply) | Action 1: This is what we are going to do | Lead/s  | By when | Update -outcome | RAG |
| Age |   |  Added line to Policy, section 5, to ensure expectations of behaviour are considered for both sexes. |  JL |  25.01.2022 |  Completed |   |
| Disability |   |
| Gender reassignment  |   |
| Marriage and civil partnership |   |
| Race |   |
| Religion or belief |   |
| Sex |   |
| Sexual Orientation |   |
| Pregnancy maternity  |   |
| Carers |   |

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| Who will benefit from this action? (tick all that apply) | Action 2: This is what we are going to do | Lead/s  | By when | Update -outcome | RAG |
| Age |   |  To continue to monitor any cases managed in line with this policy against all protected characteristics where data exists. Policy review will be brought forward should any adverse issues be identified. |  HR |  02/2025 |   |   |
| Disability |   |
| Gender reassignment  |   |
| Marriage and civil partnership |   |
| Race |   |
| Religion or belief |   |
| Sex |   |
| Sexual Orientation |   |
| Pregnancy maternity  |   |
| Carers |   |

Involvement & Insight: New or Previous (please include any evidence of activity undertaken in the box below)

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| Policy and guidance developed in partnership with staff side who represent the interests of employees via the employment policy group and trust partnership forum etc. Staff side to be involved in the review and development of further procedure updates. |

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| 1. Methods of Monitoring progress on Actions
* Review of cases
* Equality Workforce Monitoring Annual Report
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| 1. Publishing the Equality Impact Assessment

Intranet/Internet as an appendix to policy document |

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| 1. Signing off Equality Impact Assessment:

Lindsay Jensen 26/01/22 |

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*Once approved, you must forward a copy of this*

*Assessment/Action Plan by email to:*

InvolvingPeople@swyt.nhs.uk

Please note that the EIA is a public document and will be published on the web.

Failing to complete an EIA could expose the Trust to future legal challenge.

 Appendix 4

Version Control Sheet

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| Version | Date | Author | Status | Comment / changes |
| 1.0 | June2010  | James Corson HR Business Manager | Previous | This is not the first version, but first revision, post Policy Development Policy and Foundation Trust status. Addition of EIA, Employee Agreement and minor changes to layout, inclusion of advice from professional leads |
| 1.1 | Jan 2013 | James Corson HR Business Manager | Current | Updated with minor changes. This policy and guidance replaces all previous policies of the former organisations including Barnsley, Wakefield and Calderdale PCTs. |
| 1.2 | Jan 2022 | John LemmHR Manager | Current | Updated with minor changes after consultation with HR, OH & Staff-side.EIA updated |
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