



## **Neatishead, Salhouse & Fleggburgh Federation**

### **Alcohol and Substance Misuse Policy & Procedure (P319b)**

*Our schools aim to be happy and safe places where everyone shares a love of learning. Our Christian core values of respect, responsibility, courage, trust, perseverance and compassion underpin all we do.*

**'Soar on Wings'**

<b>Formally adopted by the Governing Board/ Trust of:-</b>	<b>Neatishead &amp; Salhouse Federation Primary Schools</b>
<b>On:-</b>	<b>30/01/19</b>
<b>Chair of Governors/Trustees:-</b>	<b>R Barker</b>
<b>Date for review:-</b>	<b>January 2021</b>

**Our school is the secure base from which we ‘soar on wings’ to realise our ambitions.**

**Through valuing one another and the world in which we live, we flourish.**

**Through providing rich opportunities, we can imagine fulfilling futures.**

**Through a shared love of learning, we transform lives.**

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### **3. Introduction**

- 1.1 The inappropriate use of alcohol or drugs can damage the health and well-being of employees and have far reaching effects. At work, alcohol or drug misuse can result in reduced levels of attendance, impaired work performance and increased risks to health and safety. The effects of alcohol or drug use may also be detrimental to the school/academy's reputation and its ability to deliver high quality education.
- 1.2 It is recognised that drug and alcohol issues are very sensitive and individuals may face difficulty in coping with this aspect of their lives. This policy aims to offer appropriate support and guidance where possible, resorting to sanctions only where necessary.
- 1.3 This policy covers the use and misuse of intoxicating substances including alcohol, solvents, legal and illegal drugs, prescriptions and over-the-counter medicines and other substances that could adversely affect the safety of pupils, the individual and colleagues, work performance and/or health and safety.

### **4. Scope**

- 2.1 This policy forms part of the school/academy's overall commitment to safety, wellbeing and duty of care at work. This policy applies to all employees of the school/academy whilst at work. The policy also applies to employees whilst off-duty if there is a detrimental effect to the school/academy's reputation or an effect on their ability to attend work.

### **5. Policy principles**

- To maintain a safe, healthy and productive workplace.
- To offer help and support to any employee with a substance misuse problem, as far as reasonably practicable.
- The school/academy recognise that a drug or alcohol problem may be an illness to be treated in the same way as any other illness.
- To encourage staff not to cover up for someone with an alcohol or substance problem.
- The school/academy does not condone substance abuse.
- The school/academy will not tolerate:-
  - the misuse of substances, including alcohol, on the school/academy premises.
  - intoxication at work through the misuse of substances taken elsewhere.
  - supply, production or storage of illegal drugs on the premises. If this happens the police should be contacted immediately as well as Educator Solutions HR Services.

## 6. Relevant legislation

- **Health and Safety at Work Act 1974 - section 2** - places a duty on the employer in a school to take reasonable steps to ensure that staff and pupils are not exposed to risks to their health and safety.
- **Management of Health and Safety at Work Regulations 1999** - places a duty on an employer to assess the risks to staff and others affected by school activities, introduce measures to manage those risks, inform their employees about the risks and measures and ensure that adequate training is given to employees. This means an employer can be prosecuted if they knowingly allow an employee to continue working while under the influence of alcohol or drugs and their behaviour places the employee themselves or others at risk.
- **Misuse of Drugs Act 1971** - makes it an offence for someone to knowingly permit the production, supply or use of controlled drugs on their premises except in specified circumstances (for example drugs prescribed by a doctor).
- **Road Traffic Act 1988** - states that any person who, when driving or attempting to drive a motor vehicle on a road or other public place, is unfit to drive through drink or drugs shall be guilty of an offence.
- **Data Protection Act 1998** - Schools and academies must ensure they comply with data protection principles if undertaking for cause testing. Test results are regarded as sensitive personal data and can only be collected if it is 'necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by law on the data controller in connection with employment'. Additionally, written employee consent must be sought for a test to be undertaken.

## 7. Employees Responsibilities

It is expected that employees will:-

- 7.1 Adhere to the Alcohol and Substance Misuse policy and procedure and maintain a responsible attitude towards the consumption of alcohol and other substances to which this policy relates.
- 7.2 Be aware of this policy including the support available should an issue arise and the consequences regarding the use of drugs and alcohol.
- 7.3 Report for work, and remain throughout the working day, and any period of availability for duty, in a fit and safe condition to undertake their duties and not be under the influence of substances.
- 7.4 Talk to their Headteacher/Principal or Educator Solutions HR Services and seek assistance – from their GP, their trade union representative, a friend at work, or Norfolk Support Line - if they think they may have a problem.
- 7.5 Inform their Headteacher/Principal if they are convicted of a criminal activity, including one that is drug or alcohol related.

- 7.6 Inform their Headteacher/Principal if they have any doubt about their fitness to carry out any aspect of their work, due to the use of any type of substances.
- 7.7 Be aware that whilst employees are not obliged to disclose any medical condition they are being treated for, they must notify their Headteacher/Principal immediately should they be prescribed medication or plan to take over-the-counter medicine that may cause side effects that are likely to impair their ability to undertake their duties safely and effectively. This information will be treated in confidence. The employee should specifically tell the doctor or pharmacist the nature of their job and enquire whether the medicines are likely to affect it.
- 7.8 Inform their Headteacher/Principal immediately if they experience side effects as a result of taking any medicines that impair their ability to perform their duties safely and satisfactorily. Where these side effects are due to prescribed medicine(s) medical suspension will be considered in line with the *Managing Absence policy P313*.
- 7.9 Be aware that it is recognised that an employee's off duty conduct is their own concern. However, where such conduct affects the employee's ability to comply with this policy, or where off duty conduct may bring the school/academy into disrepute, it becomes the concern of the school/academy. Therefore employees must be aware that substances taken off duty may stay in the body for a significant period after the event, and so must ensure they are no longer under the influence of substances when commencing work.
- 7.10 Be aware that employees are not permitted to possess, store, trade or sell illegal substances on school/academy premises.
- 7.11 Be aware that although the school/academy will in most cases be supportive, there will be particular situations that may have disciplinary and criminal implications. Examples include possessing or supplying controlled drugs or driving a vehicle for work while over the legal alcohol limit or under the influence of alcohol or drugs (prescribed or otherwise). In these circumstances, disciplinary action will be taken.
- 7.12 Be aware that employees are expected to co-operate with any support and assistance provided by the school/academy to address an alcohol or substance misuse issue.
- 7.13 Make themselves aware of the school/academy's policy on driving whilst at/for work, including transporting pupils/staff/volunteers as part of work related activities, in particular those parts relating to driving whilst under the influence and the consequences of substance related convictions on driving work vehicles.

- 7.14 Not, even with the best of motives, 'cover up' for, or collude with, a colleague with an alcohol or drug related problem but instead should encourage the individual to seek help.
- 7.15 Where the individual concerned does not wish to seek help, and their colleague genuinely suspects the individual may be misusing substances or alcohol, they should seek advice from their Headteacher/Principal regarding their concerns.

## **8. Employer support for employees who have a substance abuse problem**

- 8.1 Employees who think they have a problem are encouraged to seek help.
- 8.2 The school/academy will be as helpful as is practicably possible for anyone who has a problem.
- 8.3 Schools/academies can choose to subscribe to Norfolk Support Line. Norfolk Support Line (0800 169 7676) is a free and confidential service for employees that offers help and support including referral to relevant organisations and groups. If the school/academy subscribes, employees should be encouraged to make use of this service.
- 8.4 Schools/academies may also consider referring the employee to occupational health for an assessment and guidance.
- 8.5 Trade unions can offer support and advice where the employee is a member.
- 8.6 If an employee's conduct, performance or attendance continues to be unacceptable, despite receiving support or refusing support, it may lead to dismissal.

## **9. Headteacher/Principal responsibilities**

- 9.1 Be aware of the signs and symptoms of alcohol and substance misuse and how this can affect an employee. See the [drug and alcohol section](#) of the HSE website for further information (the 'Resources' area contains two useful employer guides).
- 9.2 Ensure the health, safety and wellbeing of employees and those they come into contact with during their work.
- 9.3 Ensure employees are aware of the support that is available to them and provide support and assistance where appropriate.
- 9.4 Ensure employees are aware of this policy.
- 9.5 Work quickly to establish the cause where changes in attendance, performance and/or behaviour levels are noticed. NB. An employee cannot be made to take a 'for cause' drug test but if they refuse when the

school/academy has good grounds for testing, it could lead to disciplinary action.

- 9.6 Take account of the management action section below.
- 9.7 Treat any report of prescribed medication, which may have side effects that impair the employee's ability to undertake their duties, as confidential, but consult expert advice concerning the safety of any medication if felt necessary.
- 9.8 Apply this policy consistently and fairly.

## **10. Procedure/Management action**

- 10.1 Where a school/academy has reasonable grounds that an employee is not complying with this policy they must:-
- 10.2 Seek advice from Educator Solutions HR Services team at the earliest opportunity. Each case will need to be judged on an individual basis, depending on the circumstances, including the balance between support and discipline.
- 10.3 Consider whether the employee is "under undue influence" of alcohol and/or substance use, and therefore if they need to instruct the employee to leave the workplace until they are in a fit state to properly discuss the situation. Care should be taken to ensure that the individual does not drive and they may need to be accompanied by an appropriate member of staff.
- 10.4 Investigate the matter fully in order to establish whether there are sufficient grounds on which to base further action. This must involve:
- Discussing the matter with the employee in private, with another appropriate member of staff present as a witness. Full notes of the meeting should be taken. The employee has a right to be accompanied/represented by a Trade Union official or other person and must be notified as such beforehand, at the earliest opportunity (see informal disciplinary procedures).
  - Interviewing any witnesses regarding the employee's conduct/behaviour.
  - Where appropriate consider undertaking substance testing. Advice can be sought from the school/academy's Occupational Health provider regarding how and when to access testing services (also see para 11 below).
  - In some cases it will be necessary to refer the matter to Occupational Health for advice. If so this should be done as soon as possible through the normal channels.
- 10.5 Carefully monitor the situation and keep accurate, confidential records of work performance, attendance times etc. and all signs and symptoms of misuse. Obviously there may be occasions when monitoring over a period of time is not appropriate and more immediate action is necessary, such as not

allowing the employee to continue working, in particular where there is a risk to the employee's own health or pupils/staff welfare and/or health and safety concerns or risks.

- 10.6 Act as discreetly and confidentially as the law and practicality allow.
- 10.7 Follow the disciplinary procedures relating to capability and conduct where further action is considered necessary.
- 10.8 If a medical referral is made, it is possible that a decision about disciplinary proceedings may be deferred until the medical report has been received and considered, but this will not always be the case.
- 10.9 If the employee remains at work, arrange regular meetings to monitor progress and discuss any further problems if they arise.
- 10.10 Apart from considering the details of the situation, factors that need to be taken into account when considering the above mentioned procedures include:-
  - The impact on pupils, colleagues, work performance, use of employer resources.
  - Whether the individual confides to a colleague that they have a problem and needs help, which the school/academy view as positive steps. Seeking help at an early stage may avoid the need for the school/academy to take disciplinary or related action.
- 10.11 The individual may well need support and counselling depending on the circumstances. See section 8 for suggested support resources.
- 10.12 The school/academy may provide the individual with other appropriate support, which may, for example include time off for specialist or other treatment and/or specialist counseling.
- 10.13 Absence for treatment/rehabilitation will normally be in accordance with the school/academy improving attendance policy, but there may be occasions when this is not clear – for further advice, please refer to Educator Solutions HR Services.
- 10.14 There may be cases where despite evidence to the contrary the employee denies the existence of an issue and/or refuses medical referral. Sensitive efforts should be made to persuade the employee that they would seem to have a genuine issue, which unless treated, is likely to get worse. If the employee still refuses to accept the existence of an issue, this in itself will not lead to disciplinary action, but obviously this may have repercussions for how the problem is dealt with in terms of the disciplinary or unsatisfactory work performance procedure; again a medical report may be obtained. It is a condition of service that an employee shall, if required by the school/academy at any time, submit to an examination by a medical practitioner nominated by the school/academy.

- 10.15 There may also be reasonable grounds for a search of the individual's property on school/academy premises (which may include their vehicle) relating to storage and/or supply of substances. Searches must respect privacy, be undertaken by an individual of the same sex and be witnessed.
- 10.16 In the event of relapse after treatment, each case will be considered on its merits, taking into account medical opinion. The opportunity for further treatment may be given but this cannot be guaranteed.
- 10.17 Ultimately, on the grounds of misconduct, or if the employee's health is so impaired that they are unable to achieve a satisfactory standard of work performance, there may be no alternative to dismissal.

## **11. Substance Testing**

- 11.1 Random drug and alcohol testing is not part of this policy.
- 11.3 An employee may be required to undergo for cause testing where an incident or accident at work occurs **and** there is evidence of abnormal or unacceptable behaviour, and alcohol or substances are suspected to be involved. Where testing is undertaken the employee's consent must be sought.
- 11.3 Anyone who undertakes a self-test that indicates they are intoxicated may stand down from their duties without pay. Sick pay will not be applicable in these cases, although holiday pay, where available, may be taken.
- 11.4 Testing may form one part of a capability or conduct investigation in line with the disciplinary procedure, where on reasonable grounds it may be suspected that substance abuse is involved, and confirmation of this is needed to identify the appropriate action. In addition ongoing testing may be recommended by Occupational Health as part of a rehabilitation programme.
- 11.5 In cases of increased safety risk the employee may be removed from their current duties until the testing results are available, and the investigation has concluded. The disciplinary and conduct procedures will be followed with regard to suspension rules if an employee cannot be moved to other duties for the duration of the testing procedure.
- 11.6 The school/academy's occupational health provider should be contacted to arrange 'For cause' substance testing. If the school/academy's occupational health provider is PAMS, they are able to request for cause testing on site or at the Norwich clinic through Educator Solutions: Support & Advice. PAMS are able to test on site within 2 hours of the request. Any collection of samples for drug and alcohol testing shall be undertaken under chain-of-custody conditions, but be conducted in a manner such that:
- The dignity and health and safety of any employee being tested is protected.
  - Samples are collected at an appropriate time.

- The employee being tested is given prior opportunity to disclose any medication they have taken.
- Samples will be analysed by an UKAS approved laboratory where samples will be handled and stored in the case of challenge results.
- Medical confidentiality is maintained.

#### 11.7 Limitations of testing

In respect of the limitations:-

- When using the term 'under the influence', this normally refers to a substance being detectable. A positive test does not necessarily prove impairment at the time.
- Periods of detection by means of sample (blood, saliva, urine or hair) analysis vary depending on the sensitivity of the tests, the substance, the amount taken and whether the person is a regular or occasional user.
- A positive test result cannot give a precise time at which the substance was taken. At the most it can provide a time frame within which the substance may have been used.
- The tests for substances are not 100% accurate and can give false positive results.

#### 11.8 Testing would not be appropriate if:-

- It is not known what substances are suspected of being taken and therefore need testing for.
- The employee left the workplace since they can legitimately claim they took the substance while not in the workplace.
- There is a performance/disciplinary issue and there is sufficient evidence of poor performance or misconduct, thus making the need for a test irrelevant.
- There is not a clear reason for requesting the test.
- The employee has not been advised of the consequences of a positive or negative result, including the limitations of the tests, particularly if the employee has requested a test to refute an accusation.

#### 11.9 Positive results of substance testing

- If a positive test result is received this must be considered in conjunction with the rest of the evidence gathered before making a decision on disciplinary action.
- Give consideration to whether the employee has an addiction problem and if so can any support be given, before making a disciplinary decision.
- For alcohol testing a positive value is defined as greater than 107 mg/100 ml of urine or 35 µg/ 100 ml of breath.
- For other substances a detectable level of the substance will be deemed a positive value.

- Refusal to undertake a test shall be considered to be equivalent to a positive test result.
- Individuals will have the right to appeal against a positive substance or alcohol test result, and have the right to have the sample retested by an independent laboratory at their expense.

## 12. Glossary

- **Substances** in the context of this policy include alcohol, illegal drugs, other substances taken for their effect on the mind or body, over-the-counter and prescribed medicines.
- **Intoxication** is taken to include:-
  - a level of alcohol consumption that affects an employee's work,
  - the use of illegal substance,
  - and the misuse of prescribed substances intentionally or otherwise.
- **For Cause Testing** may be undertaken on employees in any role where an incident or accident at work occurs and there is evidence of abnormal or unacceptable behaviour.
- **Reasonable grounds** may include one or more of the following:-
  - Witness evidence that the individual has recently undertaken substance abuse.
  - The individual's observed behaviour suggests impaired physical and/or mental performance. For instance a reduction of balance or co-ordination; a reduction in the ability to communicate clearly or respond to conversation; a reduction in the capability to carry out routine tasks due to impaired judgement.
  - The individual smells very strongly of alcohol.

**Appendix 1 – Table of changes from March 2017**

<b>Date of change</b>	<b>Paragraphs affected</b>	<b>Summary of update</b>
01/03/2017	All	New formatting due to launch of new HR website, HR InfoSpace – no change to content