

ITEM A-CORP (04-2021) CSSOC CM 25/03/2021	CORPORATE & SHARED SERVICES OVERSIGHT COMMITTEE REPORT ON HUMAN RESOURCES MANAGEMENT AND DEVELOPMENT DEPARTMENT: REQUEST COUNCIL APPROVAL FOR THE REVIEW OF THE POLICY ON TREATMENT OF EMPLOYEES WHO SUFFER FROM SUBSTANCE ABUSE/DEPENDENCY (ITEM BHR 022008MC 13/03/2008)
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RESOLVED

1. **That** the Corporate & Shared Services Oversight Committee Report on the Human Resources Management and Development Department: Request council approval for the review of the Policy on treatment of employees who suffer from substance abuse/dependency (item Bhr 022008 mc 13/03/2008) **BE NOTED.**
2. **That** the Human Resources Management and Development Department request for Council approval of the reviewed Substance Abuse Policy attached as annexure "a" **BE APPROVED.**

HUMAN RESOURCES MANAGEMENT AND DEVELOPMENT

HUMAN RESOURCES MANAGEMENT AND DEVELOPMENT									
Document title	Substance Abuse Policy								
Creation date	2020-02								
Effective date	Date of approval								
Electronic location									
Password Protected	Indicate with X		Yes		No	X			
Status	Indicate with X		Draft	X	Final				
Version	V1.1								
Author title, name and contact details									
Contributors									
Security classification Indicate with X	Unrestricted	X	Restricted		Confidential		Top Secret		
Revision	Version No	Revision Date		Revision Details			Revised by		
Revision frequency:	V1.1								
Approved by				Date:					

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1. PURPOSE

- 1.1 The purpose of this policy is to provide a framework to manage and prevent the use of intoxicating substances at work, employees coming to work intoxicated; testing for intoxicating substances; and treatment of employees who suffer from substance abuse and dependencies.

2. SCOPE OF APPLICATION

- 2.1 This policy shall apply to all employees of the City of Ekurhuleni.
- 2.2 The following policies must be read together with this policy on Substance Abuse:
- 2.2.1. Employee Assistance Programme Policy.
 - 2.2.2. Incapacity Policy.
 - 2.2.3. Labour Relations Policy
 - 2.2.4. Occupational Health and Safety Policy
- 2.3 The Policy addresses the following aspects:
- 2.3.1. Prohibition of the use of intoxicating substances in the workplace.
 - 2.3.2. Testing for intoxicating substances
 - 2.3.3. Treatment of employees who suffer from substance abuse or dependencies.

3. PREAMBLE

- 3.1 City of Ekurhuleni is committed to protecting the safety, health and well-being of all employees. To this end, COE will ensure that reasonable steps are taken to inhibit the use of intoxicating substances at work and prevent employees from working under the influence of those substances.

- 3.2. CoE is committed to ensure that employees who suffer from substance abuse or dependencies and are prepared to receive treatment voluntarily are afforded the opportunity to do so, through the Employee Assistance Programme.
- 3.3. The Employee Assistance Programme is not intended to replace or bypass any disciplinary procedures emanating from the use of intoxicating substances at work or their resultant effect. The programme will not alter or substitute procedures for correcting unacceptable behaviour, but will ensure that a balance is maintained between the well-being of employees and the requirements of the municipality.
- 3.4. The Division: Employee Well-being will be responsible for the maintenance of this Policy.

4. OBJECTIVES AND PRINCIPLES

4.1. OBJECTIVES

- 4.1.1. To maintain a safe and healthy working environment for all employees.
- 4.1.2. To minimise accidents and injuries to persons and damage to property.
- 4.1.3. To provide specific conditions regarding the treatment of an employee who is certified by a registered medical practitioner as an alcoholic, a drug addict or suffering from any other recognised addiction, and who is prepared to receive treatment voluntarily.

4.2. PRINCIPLES

- 4.2.1. As an employer, City of Ekurhuleni is committed to ensuring that the safety, health and well-being of its employees are protected.
- 4.2.2. Employees who suffer from substance abuse or dependencies and are prepared to receive treatment voluntarily are afforded the opportunity to do so.

5. DEFINITION OF TERMS

In this policy, unless the context indicates otherwise:

[Any expression or word used in this document which is defined in relevant legislation or the CoE Conditions of Service shall have the same meaning as in the particular legislation or Conditions of Service unless the context indicates otherwise, and as defined otherwise herein.]

“Employee” means any person, excluding an independent contractor, who works for the City of Ekurhuleni and who receives, or is entitled to receive any remuneration.

“Medical Practitioner” means a person entitled to practice as a registered medical practitioner in terms of section 17 of the Health Service Professions Act, 1974 (Act No. 56 of 1974).

“Occupational health Practitioner” means an occupational medicine practitioner or a person who holds a qualification in occupational health recognised as such by the South African Medical and Dental Council as referred to in the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No.56 of 1974) or the Health Profession Council of South Africa or the South African Nursing Council as referred to in the Nursing Act, 1978 (Act No.50 of 1978).

“Rehabilitation” means the process of recovery to an acceptable level of physical, psychological, occupational and social functioning;

“Special Sick leave” as defined in the applicable Conditions of Service.

“Substance dependency” means all kinds of addictions that can be hazardous to an individual’s health and/or well-being including but not limited to, the abuse/use of alcohol, drugs, the internet and gambling.

“Substance abuse” means the display of one (or more) of the following behavioural patterns over a period of 12 months:

- Repeated absence from work or poor work performance, neglect of children or household due to substance use;
- Repeated use of substance in situations which is physically hazardous, such as driving a vehicle or operating machinery while impaired by substance use;
- Repeated run ins with the law regarding substance-related disorderly conduct;
- Continued substance use, despite having repeated arguments and/or physical fights with co-workers/spouse about consequences of intoxication.

6. LEGAL FRAMEWORK

This policy and its application must be in accordance with the following legislative prescripts:

- 6.1. The Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996)
- 6.2. Basic Conditions of Employment Act, 1997, (Act No 75 of 1997)
- 6.3. Health Service Professions Act, 1974 (Act No 56 of 1974)
- 6.4. Labour Relations Act (Act No. 66 of 1995 as amended 2002)
- 6.5. Occupational Health and Safety Act, 1993, (Act No 85 of 1993)
- 6.6. Compensation for Occupational Injuries and Diseases Act, 1993 (Act No 130 of 1993)
- 6.7. Employment Equity Act, 1998, (Act No 55 of 1998)
- 6.8. National Road Traffic Act, 1996 (Act No 93 of 1996)
- 6.9. Drugs and Drug Trafficking Act, 1992 (Act No 140 of 1992)
- 6.10. Any Other Applicable Legislation
- 6.11. All Applicable Collective Agreements

7. CONTENTS

7.1. IDENTIFICATION OF PERSONS UNDER THE INFLUENCE OF INTOXICATING SUBSTANCES

7.1.1. Identification by observation

7.1.1.1. The following signs regarding the person's appearance and/or conduct may provide reasonable and sufficient grounds to believe that the person may be under the influence of intoxicating liquor or drugs:

- Slurred speech
- Unsteady gait
- Abusive language
- Unsteady on feet
- Smells of alcohol or drugs
- Aggressive behaviour
- Glazed and/or bloodshot eyes
- Shoddy general appearance
- State of alertness or falling asleep
- Vomiting
- Unable to carry out simple instructions, which he/she is normally able to do.

7.1.1.2. A third person will be requested as a witness to observe the conduct and appearance.

7.1.1.3. An employee who is on medication that may affect his/her functioning should discuss this with the supervisor so that appropriate and safe job modification or accommodation can be considered.

7.1.2. Testing

- 7.1.2.1. An employee shall be tested in accordance with the protocols for alcohol and drug testing.
- 7.1.2.2. An employee is entitled to have a third person of his or her choice present to observe the testing procedures. The chosen person shall be readily available at the workplace.
- 7.1.2.3. The person conducting the test shall compile and sign the test report certifying that the test was conducted in line with the relevant testing protocols.

7.2. CIRCUMSTANCES UNDER WHICH TESTING IS CONDUCTED

7.2.1. Pre-placement testing

- 7.2.1.1. In instances prescribed by specific legislative requirements, pre-placement substance abuse testing can be undertaken where substance abuse and/or dependency has been identified and suspected in the history of an employee or during a medical examination.

7.2.2. Reasonable suspicion

- 7.2.2.1. When an employee appears to be under the influence of alcohol or any other substance, the person who has observed this will report it to the employee's immediate supervisor/manager. If the supervisor confirms the suspicion, the employee must be tested in accordance with the testing procedures.

7.2.3. Return to work and post-disciplinary action testing

- 7.2.3.1. Any employee undergoing alcohol or drug abuse rehabilitation and/or who has been disciplined for being under the influence of alcohol or drugs may be required to undergo regular testing.

7.2.3.2. The nature and frequency of the testing will be determined by the recommendations received from the rehabilitation centres.

7.2.3.4. The employee's supervisor will be responsible for ensuring that the employee is tested in accordance with such requirements.

7.2.4. Employees on stand-by

7.2.4.1. An employee who is on stand-by shall ensure that they are not under the influence of alcohol or drugs at any time during the stand-by period.

7.2.4.2. An employee on stand-by shall be subjected to alcohol test if required.

7.2.5. Post incident

7.2.5.1.1.1. In some cases of accidents, near misses or incidents, the injured employee and/or the employees who were involved in the accident, near miss or incident may be required to undergo an alcohol test or other substance abuse test should there be reasonable grounds to believe that the employees were working under the influence of intoxicating substances.

7.2.6. Compulsory Testing.

7.2.7.1. Because of the high level of risk exposure, the following job categories will be required to undergo compulsory testing as and when required:

- Drivers
- Machine Operators
- EMPD Officers
- Electricians
- Firefighters

7.3. TESTING PROCEDURE FOR SUBSTANCES

- 7.3.1. Testing will be conducted by trained officials such as Occupational Health and Safety Practitioners, OHS representatives, and Security staff as well as by qualified professionals, which shall include the Occupational Health Nurse Practitioners employed by CoE or any professional appointed by CoE, depending on the nature of testing.
- 7.3.2. A qualified or trained person shall interpret the results of the test and provide an explanation thereof to the relevant line manager regarding the degree of intoxication, the physical, health and occupational effects thereof on the employee.
- 7.3.3. The line manager, upon receipt of the results, must determine the appropriate course of action, in consultation with the Employee Well-being Division.
- 7.3.4. The tested employee must be given feedback on each test conducted.

7.4. REFUSAL TO UNDERGO TESTING AND DESCIPINARY PROCEDURE

- 7.4.1. Refusal by an employee to undergo the appropriate test or to provide an adequate breath sample may result in adverse inference in respect of the employee's state of intoxication.
- 7.4.2. The supervisor may under these circumstances determine the appropriate course of action, in consultation with Human Resource Management (Labour Relations and Employee Well-being Divisions) together with the employee's representative).
- 7.4.3. Where line manager is a witness of intoxication and or any form of substance abuse, Line Manager must refer the matter to departmental HOD or HOD HR for investigation.
- 7.4.4. Employee who has been disciplined for being under the influence of alcohol or drugs may be required to undergo regular testing at the recommended frequency or intervals.
- 7.4.5. Employee may be required to undergo rehabilitation processes and the EAP Practitioner will monitor the employee's progress until a satisfactory level of work performance has been established.

7.4.6. Substance Abuse Policy and Disciplinary procedure of SALBGC Main Collective Agreement will be used

7.5. TREATMENT OF EMPLOYEES WHO SUFFER FROM SUBSTANCE ABUSE OR DEPENDENCIES

7.5.1. Conditions for referral of employees to rehabilitation facilities

- 7.5.1.1. Special paid sick leave shall be granted to an employee who is certified by a registered medical practitioner as an alcoholic, a drug addict or suffering from any other recognised addiction, and who is prepared to receive treatment voluntarily.
- 7.5.1.2. The employee shall subject himself/herself for treatment as a patient at an approved institution in accordance with the directions of the institution.
- 7.5.1.3. The employee must complete the full period of treatment as prescribed by the institution.
- 7.5.1.4. Should the employee not complete the prescribed period of treatment, the period that had actually been completed will be regarded as normal sick leave, unless the Divisional Head: Employee Well-Being in consultation with the employee, found that the reasons for not completing the treatment were warranted.
- 7.5.1.5. After the expiry of the prescribed period, the employee shall attend aftercare at the institution or with the registered medical practitioner in accordance with the directions of the institution or the registered medical practitioner for a further period as prescribed by the institution and to the satisfaction of the institution or registered medical practitioner, as the case may be.
- 7.5.1.6. After the periods stated above, the employee shall submit written evidence to the Divisional Head: Employee Well-Being from the Head of the institution or the registered medical

practitioner, as the case may be, that he/she has complied with all the treatment procedures as specified above.

7.5.1.7. The employee shall attend monthly in-house aftercare meetings arranged by the Employee Well-Being Division.

7.5.1.8. Special paid sick leave to attend rehabilitation may not be granted to an employee on more than two occasions.

7.5.1.9. The following should be taken into account when considering granting of special paid sick leave to an employee who has been granted such leave on a previous occasion:

- At least twelve months must have lapsed since the previous granting of special paid sick leave;
- The attendance of aftercare meetings arranged by the Employee Well-Being must be taken into account;
- Mitigating circumstance, e.g. the death of a spouse or close relative, etc., must be taken into account;
- A report from the employee's supervisor must be obtained to support the application;
- An undertaking must be signed by the employee to adhere to all the conditions as set out above.

7.5.1.10. The Substance Abuse Policy should also be used in line with the EAP policy in treatment and support of employees with substance abuse challenges.

7.5.2. Process prior to admission

7.5.2.1. Referrals for treatment can be done by the concerned employee, family member, and supervisor as an outcome of a disciplinary process or by a union representative.

7.5.2.2. If the employee voluntarily decides to undergo rehabilitation, the procedure for admission is followed as outlined in 7.5.3.

7.5.2.3. If the employee denies that he/she has a problem or refuses to go for rehabilitation, one or more of the following actions may be taken:

- The EAP Practitioner counsels the employee with regards to the need and benefits of rehabilitation.
 - The EAP Practitioner arranges a meeting with concerned parties and facilitates constructive confrontation.
 - The EAP Practitioner informs the employee of the consequences of his/her refusal.
- 7.5.2.4. If there is no cooperation from the employee, the EAP Practitioner refers the matter back to the source of referral for appropriate steps by line Management.

7.5.3. Process of admission to an institution

- 7.5.3.1. If the employee acknowledges that he/she has a substance dependency, or related problem, the EAP Counsellor counsels the employee to inform him/her of the treatment options available.
- 7.5.3.2. If the employee consents to an admission for treatment, the EAP Practitioner discusses remedial options available to the employee.
- 7.5.3.3. The EAP Practitioner establishes if the employee has medical aid. If the employee has medical cover the EAP Practitioner obtains authorisation from the medical aid, provided that the fund provides for such expenditure. If the employee does not have medical aid, then the Practitioner obtains authorisation from Divisional Head: Employee Well-being for CoE to pay for treatment.
- 7.5.3.4. The number of days for institutionalised rehabilitation is determined by the nature of dependency.
- 7.5.3.5. The EAP Practitioner discusses different rehabilitation institutions with the employee and reaches agreement on preferred option.
- 7.5.3.6. The EAP Practitioner arranges the employee's admission with

the selected institution and informs the employee, family and supervisor of the arrangements.

- 7.5.3.7. The EAP Practitioner compiles the undertaking to be signed by the employee to adhere to all the conditions as set out in the policy.
- 7.5.3.8. The employee submits an application for special paid sick leave to his /her supervisor.
- 7.5.3.9. The employee is then admitted to the rehabilitation institution.
- 7.5.3.10. The Manager of the employee is responsible to assist the employee with transport to the rehabilitation institution.

7.5.4. Process during and after rehabilitation

- 7.5.4.1. The EAP Practitioner monitors the employee's progress and family well-being and involves the supervisor in the process.
- 7.5.4.2. On completion of the period of treatment, the rehabilitation institution provides the EAP Practitioner with a letter confirming completion of formal treatment and a report covering evaluation of treatment, prognosis, and recommendations.
- 7.5.4.3. The EAP Practitioner and employee compile aftercare programme in collaboration with the employee's supervisor.
- 7.5.4.4. The EAP Practitioner monitors the employee's attendance of the prescribed aftercare sessions.
- 7.5.4.5. The EAP Practitioner obtains regular progress on the employee's progress at work from the supervisor.
- 7.5.4.6. The EAP Practitioner monitors the employee's progress until a satisfactory level of work performance has been established.
- 7.5.4.7. If no cooperation is obtained from the employee, the EAP Counsellor refers the matter for appropriate steps by line Management.

8. RECOURSE ON APPLICATION

8.1 Any dispute that may arise with regard to the application of this policy shall be handled in terms of the grievance procedure of SALGBC Main Collective Agreement.

9. POLICY AMENDMENTS

9.1. Should there be any legislative amendment in the field of EAP that require the amendment and or change of the Substance abuse policy, Head of Department: Human Resources (HoD: HR) will approve such changes/amendments.

9.2. The policy will be reviewed annually.

10. PRECEDING POLICIES RESCINDED

10.1 All previous policies in respect of “Treatment of Employees Who Suffer from Substance Abuse and Dependencies” are **RESCINDED**.

PROTOCOLS ON TESTING FOR INTOXICATING SUBSTANCES IN THE WORKPLACE

1. Definition

Testing for intoxicating substance is a procedure conducted to confirm suspicion of intoxication on an employee of CoE.

2. When should testing be conducted

Testing should be conducted on reasonable suspicion that an employee is under the influence of intoxicating substances

3. Identification

In order to identify that an employee is under the influence of alcohol or any other substance, the following approaches will be followed:

3.1 Observation

The following signs regarding the person's appearance and conduct may provide reasonable grounds to believe that the person is under the influence of alcohol and/or any other substance:

- Slurred Speech
- Unstable feet
- Abusive language
- Aggressive behaviour
- Glazed and/or bloodshot eyes
- Shoddy general appearance
- State of alertness or falling asleep
- Vomiting
- Unable to carry out simple instructions, which he/she is normally able to do
- Possession of alcohol or cannabis or any other intoxicating substance

There must be a third person to witness the observation(s).

3.2 Testing

The Occupational Health Nurse Practitioner or any other trained official will perform testing as a form of identifying intoxication and or substance use. Testing is done through the following testing options:

- Breathalyzer tests to test whether a person is intoxicated or not.
- SD 400 breathalyser test to test and confirm the level of intoxication and give the receipt with written results.
- Urine testing
- There should also be a third person as a witness.

4. Positive test results

- The Supervisor or Manager will be notified of the test results.
- Supervisor or Manager to take appropriate action, e.g., discipline, referral to EAP for assessment, counselling, support and/or referral for treatment

5. Role Clarification

Supervisor/Manager	<ul style="list-style-type: none">• Identification of possible intoxication or substance use in the workplace• Referral to EAP• Discipline
Occupational Health Nurse Practitioner	<ul style="list-style-type: none">• Conduct testing on employee• Provide results and feedback to referring supervisor and employee
Employee Assistance Practitioner	<ul style="list-style-type: none">• Assessment, Counselling and Rehabilitation

6. Testing Principles

6.1 Informed Consent

- All employees must sign an informed consent form before and after receipt of the test results (see attached consent form)
- Refusal to test
 - Refusal by an employee to undergo the appropriate test or to provide an adequate breath sample may result in adverse inference in respect of the employee's state of intoxication.
 - The supervisor may under these circumstances, determine the appropriate course of action, in consultation with Human Resource Management and Development Department (Labour Relations and Employee Well-being Divisions) together with the employee's representative).

6.2 Confidentiality

- Confidentiality must be ensured and maintained at all times.

ANNEXURE B

OBSERVATION AND CONSENT FORM FOR AN EMPLOYEE WHO SEEMS TO BE UNDER THE INFLUENCE OF INTOXICATING SUBSTANCES

Name of employee observed or tested: _____ Pay No. _____

Date: _____ Time: _____ Place: _____

Please mark appropriate answer with **X**

OBSERVATION	YES	NO
Breath smells of alcohol		
Breath smells of dagga		
Bloodshot eyes		
Unsteady on feet		
Aggressive and refuses cooperation		
Decreased coordination (Request worker to touch nose)		
Decreased motor control (Request worker to walk in straight line or to stand on one leg with eyes closed)		
Slurred speech		
Indication of vomiting		
Inappropriate emotional response		
Is worker in possession of alcohol or drugs?		

BRIEF DETAILS OF OBSERVATION:

NAME AND SIGNATURE OF PERSON WHO MADE OBSERVATIONS

Name: _____ Pay. No. _____

Signature: _____ Date: _____

NAME AND SIGNATURE OF EMPLOYEE

I hereby give my consent to be tested for substances and for the report to be submitted to my
Manager/COE.

Employee Name: _____ Pay No. _____

Signature: _____ Date: _____

NAME AND SIGNATURE OF WITNESS:

Witness Name: _____ Pay No. _____

Signature: _____ Date: _____