

Police Service of Northern Ireland

Policy for Public Disclosure

HQ Ref: HR/PD011

PD 10/08

POLICY DIRECTIVE

ALCOHOL MISUSE

1. POLICY IDENTIFICATION

POLICY TITLE:	Alcohol Misuse
DEPARTMENT BRANCH	Human Resources People Development
POLICY APPROVED BY:	
CCF REF/OTHER DATE OF APPROVAL	13/08 February 2008
IMPLEMENTATION DATE:	28 August 2008
DATE OF ISSUE:	28 August 2008
REVIEW DATE:	29 August 2009

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2. POLICY STATEMENT

(1) Policy

- (a) Alcohol misuse by Police Service of Northern Ireland (PSNI) personnel has the potential to impair judgement, and in turn negatively impact upon Service delivery, public safety and the reputation of the service.
- (b) Any member of staff who reports to work incapacitated as a result of alcohol will be subject to the appropriate disciplinary and/or criminal proceedings as per PSNI Policy Directive 11/07 – ‘Integrity and Professional Standards’ and the NICS staff handbook which applies to all serving police officers and police staff.
- (c) The purpose of this Policy is to deter alcohol misuse by PSNI personnel which may affect their ability to properly carry out their duties and to ensure that staff in safety critical roles are not at risk of impairment from alcohol through the introduction of an alcohol tolerance threshold and ‘with cause’ testing regime for personnel in posts that are deemed to be safety critical.
- (d) Alcohol misuse will be regarded primarily as a medical condition that may require expert help and guidance and treatment. Where staff self declare an alcohol dependency the Occupational Health and Welfare Unit (OHW) will provide support through identifying the assistance that is available internally and through external appropriate agencies. In addition those who declare a dependency will be subject to a risk assessment to ascertain the suitability of current role.
- (e) Recourse to disciplinary proceedings will only be considered when:
 - (i) OHW assistance is rejected;
 - (ii) The problem remains unresolved;
 - (iii) The individual's behaviour is unacceptable and/or lack of efficiency warrants such proceedings.
- (f) Personnel who are in posts that are deemed safety critical will be subject to an alcohol tolerance threshold of above 13 micrograms in breath and will be subject to ‘with cause’ breath testing. It should be recognised that this threshold is the level at which the PSNI considers those in safety critical roles need to be at or below to carry out their duties without any risk of impairment.
- (g) ‘With cause’ breath testing for alcohol may only be carried out on personnel who are in a safety critical role.
- (h) Staff within safety critical roles who are found to be in breach of the alcohol threshold level will not automatically be deemed as misusing alcohol.

(2) Definitions

(a) Alcohol Misuse

The inappropriate use of any form of alcohol.

(b) Safety Critical Roles

Roles where those in excess of the PSNI alcohol tolerance threshold would be regarded as a risk to the health and safety of themselves, colleagues and or the public. Appendix ‘A’ details the roles that PSNI has deemed as Safety Critical.

(c) **Alcohol Testing**

The collection and screening of breath samples through recognised protocols, by suitably qualified staff.

(d) **Disciplinary or Criminal Proceedings**

The use of internal disciplinary procedures and/or criminal law as appropriate.

(e) **Treatment and Support**

Treatment and action plans prescribed by qualified medical practitioners.

(f) **Risk Assessment**

A formal analysis of risk carried out by management where a member of personnel has self-declared an alcohol dependency or where as a result of compulsory alcohol testing an alcohol dependency has been identified. All risk assessments will be documented. Those subject to risk assessments will be made aware of their content unless this would frustrate a criminal investigation.

(g) **PSNI Alcohol Tolerance Threshold**

The PSNI alcohol tolerance threshold is applicable only to those in posts deemed to be safety critical and is breached when a reading greater than 13 micrograms in breath is recorded. An alcohol level in excess of this is considered to be above the PSNI tolerance threshold.

(h) **Failure to Provide a Sample**

A police officer or member of police staff in a safety critical role who does not provide a sample within one hour of the contractor arriving on site will be deemed to have failed to provide a sample. Failing to provide a sample will be dealt with in the same way as a positive test.

3. INTRODUCTION

(1) **Drivers for Change**

- (a) Under the Health and Safety at Work (Northern Ireland) Order 1978, PSNI has as an employer responsibility to ensure a safe working environment and safe systems of working for both employees and those who are not in our employment but who we come into contact with.
- (b) As a Police Service our personnel are involved in many high-risk activities and have high levels of contact and interaction with the public. We have a moral as well as statutory duty to ensure that police officers and police staff are fit to carry out their duties safely and effectively.
- (c) There is a legacy of alcohol misuse within our society, as PSNI police and police staff are recruited from this group we must recognise that this is a culture that has the potential to impact upon PSNI as an organisation.

(2) **Aims**

- (a) To provide a safe and healthy work environment for all police officers and members of police staff.
- (b) To assist in maintaining public confidence in PSNI.

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- (c) To enable police officers and members of police staff to perform their duties in a manner which does not bring risk to themselves, colleagues or members of the public.
- (d) To deter alcohol misuse by PSNI personnel which may affect their ability to carry out their duties safely and effectively
- (e) To ensure that appropriate, effective and legitimate processes are in place to test officers and staff subject to the alcohol tolerance threshold.
- (f) To provide appropriate support mechanisms for police officers and members of police staff who have declared alcohol dependence and are prepared to undertake accept assistance in dealing with the issue.
- (g) To ensure that where PSNI employees who arrive at/report to work 'unfit' as a result of alcohol are dealt with appropriately both within PSNI and in accordance with criminal legislation as per guidance contained in PSNI Policy Directive 11/07 - 'Integrity and Professional Standards' or the NICS staff handbook.

(3) Application

- (a) Those working within PSNI who are alcohol dependent have a clear personal responsibility to acknowledge their condition and seek assistance. PSNI aims to support staff who are prepared to accept and deal with issues arising from alcohol misuse or dependency. However, any police officer or member of police staff who reports for duty and is incapacitated as a result of alcohol will be subject to the appropriate disciplinary procedure. Police officers and police staff are therefore encouraged to voluntarily self declare any alcohol misuse issues to their line manager. See Appendix 'D' for procedure for self-declarations.

The PSNI has with effect from 1 September 2008 introduced a new tolerance threshold of above 13 micrograms alcohol in breath for police officers and members of police staff in safety critical roles. The adoption of this alcohol tolerance threshold reflects the level that has been adopted by other Police Services in England and Wales and is defined by ACPO in line with experimental observations as the threshold to be adapted in relation to safety critical posts where any risk of impairment is unacceptable.

"With Cause" alcohol testing will be introduced. For 'cause' to be established, the test of 'reasonable belief' must be satisfied. The methodology for 'with cause' alcohol testing will be breath.

- (b) Where a police officer or member of police staff makes a self-declaration to OHW, the appropriate managers will be made aware of the need to carry out risk assessments in relation to the officer's duties. OHW will ensure appropriate referrals are made to assist the individual in managing their condition and the individual will be required to agree to a rehabilitation contract.
- (c) Where an individual fails to co-operate or is found to have breached the agreed rehabilitation programme this may be regarded as a disciplinary offence.
- (d) Whilst facilitated on an agreed rehabilitation programme individuals may not be eligible for promotion or transfer (except where the risk assessment identifies that the individual should be transferred).
- (e) Police officers and members of police staff may not self declare a dependency either at the time of an alcohol test or after notification that they are to be subject to an alcohol test in order to avoid the consequences of the test.

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- (f) Alcohol testing may be introduced as part of investigative protocols for incidents involving police officers/police staff in safety critical roles where it is considered by the Senior Investigating Officer (SIO) that the incident warrants such action. It may be introduced as part of investigative protocols for incidents involving police officers and police staff that would be subject to investigation by the Police Ombudsman for Northern Ireland (PONI).
- (g) Those who have entered into an agreed rehabilitation programme with OHW may be subject to regular alcohol testing.
- (h) Refusal or failure to provide a sample in accordance with this Policy will be dealt with in the same way as a positive test. Section 7 details the steps to be taken after any positive tests.
- (i) Referrals will also be made to the Head of Professional Standards Department (PSD)/Relevant Head of Human Resources (HR) where there is evidence to suggest that individuals have attempted to frustrate the testing process.
- (j) Police officers or police staff who have a reasonable belief that a colleague who is subject to the alcohol threshold level is in excess of it, should inform line management. Any individual who reports a colleague will not be subject to victimisation of any kind. Malicious reporting, however, will be dealt with under code of ethics/disciplinary procedures.
- (k) Derogations – In some cases when a police officer puts themselves on duty or there are other exigencies of duty the alcohol threshold may be waived by a senior officer. Additionally a senior officer can authorise an officer on special operations to work outside the scope of this Policy where the officer or the operation may be put in jeopardy otherwise. In all instances the senior officer must discuss the detail with the Head of HR.

(4) Legal Basis

- (a) Under the Health and Safety at Work (Northern Ireland) Order 1978 it is an employer's duty to ensure a safe place of work and safe systems of work. The Police (Health and Safety) (Northern Ireland) Order 1997 extends this legislation to PSNI.
- (b) There is also an employee's duty, which in this context includes police officers and police staff to:
 - (i) Take reasonable care of their own health and safety and that of others affected by their acts or omissions while at work;
 - (ii) To co-operate fully with their employer with regard to any requirement imposed under relevant statutory provisions;
 - (iii) To inform the employer of defects and/or serious and imminent danger;
 - (iv) To use all equipment, substances and systems in accordance with the training and instructions provided to them.

This "duty of care" extends to both the individual police officer or member of police staff.

Consequently, should an employer knowingly let an employee, who is under the influence of alcohol to the extent that they are liable to expose themselves or others to risk, as a result of being under the influence of alcohol, commence work or continue to work, the employer would be in breach of his legal duties and liable to prosecution.

- (b) As indicated above employees are also required to take reasonable care of themselves and of others who could be affected by their actions or omissions. Specifically they must act responsibly by not exposing themselves or others to safety risks due to impairment caused by alcohol. Breach of this duty could lead to prosecution and dismissal.

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- (c) The Police (Testing for Substance Misuse) Regulations (Northern Ireland) 2008 is the enabling legislation for the introduction of alcohol testing as part of PSNI procedures.
- (d) The PSNI (Amendment) Regulations 1 September 2008 is the enabling legislation for the implementation of alcohol testing as part of PSNI procedures.
- (e) The implementation of this Policy may involve an interference with a person's rights as protected by Article 8(1) of the European Convention on Human Rights. However, any such interference is in accordance with the law, and is necessary in a democratic society in pursuit of the legitimate aims of public safety, the prevention of disorder and crime and the protection of the rights and freedoms of others, as set out in Article 8(2) of the Convention.

4. IMPLICATIONS OF THE POLICY

(1) Financial Implications/Best value/Continuous Improvement/Efficiency

- (a) The aim of this Policy is to help ensure the integrity of the organisation and its resources. The organisation has identified a maximum budget of £250,000 annually to cover the combined cost of drug and alcohol testing procedures being undertaken on PSNI premises by an external contractor. In addition there may be some cost implications in terms of extraction time for staff in safety critical roles that are identified as on breach of the alcohol tolerance level. This will need to be managed locally.
- (b) The award of a contract for collection, sampling and analysis of samples will be subject to a tender process and will be reviewed at an interval not more than 3 years from the date the contract is awarded.

(2) Human Resources/Training

- (a) The introduction of this Policy will require an organisational education programme to raise awareness of the issue of alcohol misuse and to encourage staff to self declare and obtain appropriate treatment. OHW will both oversee and implement the organisational education programme of awareness raising.
- (b) There will be a requirement to have a police officer or member of police staff perform the role of Substance Misuse Contract Manager. The remit of this role will be to act as liaison with the contractor, receive all positive results, monitor the effectiveness of the contractor, ensure payments are made on time and ensure that PSNI are utilising the contractor correctly. It is envisaged that this will be one full time role.
- (c) Each district or department will need to identify a Nominated Liaison Officer to act as a point of contact for the Substance Misuse Contract Manager.

(3) Internal Policy Links

- (a) Where in the absence of an extant employee treatment and support plan officer/staff member is availing of sick leave or is otherwise absent due to alcohol misuse related issues this absence should be managed using the Unsatisfactory Attendance Procedure.
- (b) Where a police officer/member of police staff's performance is impacted upon due to alcohol misuse related issues this should be managed using the appropriate unsatisfactory performance procedures. Where a pattern of poor performance is identified and is triggered or exacerbated by alcohol misuse it will warrant immediate and robust managerial intervention.
- (c) Reference can also be made to Policy Directive 11/08 - Substance Misuse.

(4) Bureaucracy

Application of this policy will result in some extra administration across the organisation. This is necessary to ensure compliance with legislative requirements.

(5) Consultation

The following have been consulted in preparation of this Policy:

- (a) Chief Officers Group;
- (b) Occupational Health and Welfare (OHW);
- (c) Health and Safety Branch;
- (d) Professional Standards Department (PSD);
- (e) Police Federation for Northern Ireland (PFNI);
- (f) Superintendents' Association;
- (g) District Commanders;
- (h) Heads of HR;
- (i) Police College Northern Ireland;
- (j) Human Rights Legal Adviser;
- (k) Employment Rights Legal Adviser;
- (l) Equality and Diversity Officer;
- (m) NIPSA;
- (n) Amicus.

5. HUMAN RIGHTS/EQUALITY/INTEGRITY/FREEDOM OF INFORMATION

- (1) This Policy is deemed to be in accordance with the Human Rights Act 1998.
- (2) This Policy has been screened for Section 75 considerations and meets integrity standards. Section 75 screening has identified that this Policy has the potential to impact upon specific areas covered by equality legislation. To counteract this the methodology for testing will be altered where the proposed standard methods of testing would conflict with an individuals religious beliefs.
- (3) This Policy is suitable for Public Disclosure in accordance with the Freedom of Information Act 2000.

6. REVIEW

Criminal Justice Department will be responsible for reviewing this Policy on an annual basis.