

Police Service of Northern Ireland

Policy for Public Disclosure

HQ Ref: HR/PD010

PD 11/08

POLICY DIRECTIVE

SUBSTANCE MISUSE

1. POLICY IDENTIFICATION

POLICY TITLE: Substance Misuse

POLICY OWNERSHIP:

DEPARTMENT	Human Resources
BRANCH	People Development

POLICY APPROVED BY:

CCF REF/OTHER	14/08
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2. POLICY STATEMENT

(1) Policy

- (a) Any instance of substance misuse by Police Service of Northern Ireland (PSNI) personnel has the potential to impair judgement, which in turn has the potential to impact upon service delivery, public safety and the reputation of the Service.
- (b) The purpose of this Policy is to deter substance misuse by PSNI personnel through provision of education and support programmes and the introduction of a compulsory drug-testing regime.
- (c) PSNI reminds all staff of the following:
 - (i) It is unlawful to possess, distribute or manufacture any controlled substance at any time;
 - (ii) It is unlawful to be under the influence of an illegal drug;
 - (iii) Failure to comply with this Policy may result in disciplinary action that could lead to termination of employment and criminal proceedings.
- (d) This Policy applies in its entirety to **all** serving police officers and any police staff in roles designated as safety or security critical roles as per Appendix 'A'.

(2) Definitions

(a) Substance Misuse

The inappropriate use of any legal substance or the use of any substance defined as illegal by statute.

(b) Drug Testing

The collection and screening of blood, hair, saliva or urine samples through recognised protocols, by suitably qualified staff and the testing of samples by an appropriate external agency.

(c) Disciplinary or Criminal Proceedings

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

(d) Treatment and Support

Treatment and action plans prescribed by qualified medical practitioners.

(e) Risk Assessment

A formal analysis of risk carried out by management where a member of personnel has self-declared a substance dependency or where as a result of compulsory drug testing a non-negative result has been returned. 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.

(f) Chain of Custody

The system of controls and procedures that document the progress of a specimen from the point of collection through the laboratory to its disposal after the results have been accepted.

(g) **Non Negative Result**

The on-site test has not shown a negative result. This is a provisional indication only, and will be subject to laboratory analysis and medical review, either of which could result in the confirmed result being negative or positive.

(h) **Safety Critical Role**

Roles where any level of impairment 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.

(i) **Security Critical Role**

Roles where use of illicit or misuse of legal substances would expose the individual to a risk of coercion or would impact on the credibility of the individual and/or the reputation of the organisation.

(j) **Medical Review Officer (MRO)**

A qualified doctor who examines and interprets non-negative samples that have been returned following laboratory analysis.

(k) **Voluntary Self-Declaration**

Where police officers or police staff consider that they have a substance misuse issue or dependency and seek the assistance of the organisation in overcoming this.

(l) **Rehabilitation Contract**

A formal document outlining the assistance that has been offered/advised by Occupational Health and Welfare (OHW) and the agreed action for moving forward including timescales and responsibilities.

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

A police officer or member of police staff who refuses to provide a sample, does not comply fully with the testing procedures or who fails to provide a sample within one hour of being requested to do so will be deemed as having failed to provide a sample. Failure 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 Regulations (Northern Ireland) Order 1978, PSNI has as an employer responsibility to ensure a safe working environment and safe systems of working for both personnel and those who are not in our employment but whom 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 growing problem with substance 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.

- (d) Misuse of any substance is likely to involve at least deception and in the case of illegal substances, criminal acts in the procurement and use of those substances. This behaviour brings with it increased opportunities for compromise through either coercion or inducement, leaving officers, staff and the PSNI vulnerable and bringing into question the integrity of individuals. This does not sit comfortably with the position of trust and the expectation of integrity that the general public rightly demands of the Police Service.
- (e) In accordance with Association of Chief Police Officers (ACPO) recommendations legislation was introduced for Police Services in England and Wales authorising the introduction of drugs screening in prescribed circumstances. This Policy brings PSNI into line with other UK services.

(2) Aims

- (a) To provide a safe and healthy work environment for all police officers and police staff.
- (b) To assist in maintaining public confidence in PSNI.
- (c) To enable police officers and 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 substance misuse by PSNI personnel.
- (e) To provide appropriate support mechanisms for police officers and police staff who have self declared substance dependence and are prepared to undertake a rehabilitation regime.
- (f) To ensure that where PSNI officers and police staff are found to be engaged in unlawful acts that these are dealt with appropriately both within PSNI and in accordance with criminal legislation.

(3) Application

- (a) Those working within PSNI who are substance dependent have a clear personal responsibility to acknowledge their condition and seek assistance.
- (b) Where police officers or police staff make a voluntary self-declaration they will be supported in dealing with this matter and will not usually be subject to disciplinary action. Voluntary self-declarations must be made via line management and onwards to OHW. This will enable the appropriate local managers to carry out risk assessments in relation to the individual's duties. OHW will ensure appropriate referrals are made to external organisations 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, take up the assistance that has been offered or is found to have breached the rehabilitation contract this may be regarded as a disciplinary offence.
- (d) Whilst undergoing treatment or agreed assistance and subject to a rehabilitation contract individuals may not be eligible to be considered for promotion or transfer (except where the risk assessment identifies that the individual should be moved).
- (e) Police officers and police staff who self declare a dependency, use of an illegal substance or misuse of a legal substance at either the time of drug test or after notification that they are to be subject to a drug test will not be regarded as having made a voluntary self declaration and will be subject to the full disciplinary consequences should a positive result be confirmed.

NOT PROTECTIVELY MARKED

- (f) Non-negative results identified from an initial drug-screening test will be submitted to an independent recognised testing agent/laboratory for further analysis.
- (g) The substances that will be tested for are those listed in the Misuse of Drugs Act and include:
 - (i) Amphetamines (including ecstasy);
 - (ii) Benzodiazepines;
 - (iii) Cannabis;
 - (iv) Cocaine;
 - (v) Opiates.
- (h) The PSNI reserves the right to alter this list in the event that further substances are identified as illegal by introduction of new statute.
- (i) Drug testing will be undertaken on the following groups:
 - (i) All new appointments to the PSNI of both police officers and police staff on or after 1 September 2008 will be subject to drugs testing. Refusal to undergo a drug test will negate any offer of employment;
 - (ii) Internal appointments to some specialist roles on or after 1 September 2008 will be subject to drugs testing;
 - (iii) Student officers will be subject to testing during their initial training period;
 - (iv) Probationer Constables will be tested at least once during probation;
 - (v) All police officers will be subject to random testing. A maximum of 20% of police officers will be randomly tested on an annual basis. This may result in some individuals being tested more than once in a 12- month period;
 - (vi) Police staff in roles that are designated as safety and/or security critical (Appendix 'A') will also be subject to random testing;
 - (vii) 'With Cause' drug testing will be introduced. There are two categories of 'with cause'. These are 'with cause' intelligence led and 'with cause' observed impairment. In either instance for 'cause' to be established, the test of 'reasonable suspicion' must be satisfied. Appendix 'A' details those who will be subject to 'with cause' testing;
 - (viii) Drug testing may be introduced as part of investigative protocols for incidents involving police officers and police staff that would be subject to investigation by the PONI;
 - (ix) Those who have entered into a rehabilitation contract will be subject to regular drug testing.
- (j) Collection and screening of samples will be undertaken by suitably qualified and experienced staff using appropriate techniques to ensure that the chain of custody is carefully controlled. These personnel may be either direct employees of the PSNI or contracted to an external employer who undertakes this function for PSNI.

NOT PROTECTIVELY MARKED

- (k) An external UKAS accredited laboratory will undertake analysis of samples.
- (l) Refusal or failure to provide a sample in accordance with this policy will be treated in the same way as a confirmed positive result and will be referred to the Head of Professional Standards Department (PSD) (for police officers) or relevant Head of HR (for police staff) to initiate disciplinary action which may ultimately result in dismissal.
- (m) Referrals will also be made to the Head of PSD/Head of Human Resources (HR) for initiation of discipline where there is evidence to suggest that individuals have attempted to frustrate the testing process by tampering with samples or providing false information.

(4) Legal Basis

- (a) Under the Health and Safety at Work Order (NI) Order 1978 there 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.

There is also an employee's duty, which in this context includes police officers and 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 police staff member.

Consequently, should an employer knowingly let an employee, who is under the influence of drugs, to the extent that they are liable to expose themselves or others to risk, 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 drugs. Breach of this duty could lead to prosecution and dismissal.
- (c) Primary legislation exists under the Road Traffic (NI) Order 1995 and the Misuse of Drugs Act 1971. If offences are disclosed then they should be dealt with under the existing legislation in the normal way.
- (d) The Police (Testing for Substance Misuse) Regulations (Northern Ireland) 2008 is the enabling legislation for the introduction of drugs testing as part of the PSNI recruitment/appointment process and for existing staff.
- (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 (ECHR). However, any such interference is in accordance with the law, and is necessary in a democratic society in the pursuit of 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 cost of drug and alcohol testing procedures being undertaken on PSNI premises by an approved qualified external contractor. In addition there may be some cost implications in terms of extraction time for staff in safety/security critical roles that are identified as misusing substances. 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 substance 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 staff member 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 a police officer/police staff member is sick absent due to substance misuse related issues this absence should be managed using the Unsatisfactory Attendance Procedure.
- (b) Where a police officer/police staff member's performance is impacted upon due to substance misuse related issues this should be managed using the appropriate unsatisfactory performance procedures.
- (c) Reference can also be made to Policy Directive 10/08 - Alcohol 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) Heads of HR;
- (h) District Commanders;
- (i) Police College Northern Ireland;
- (j) Human Rights Legal Adviser;
- (k) Employment Rights Legal Adviser;
- (l) Equality and Diversity Officer;
- (m) NIPSA;
- (n) Unite.

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.
- (3) 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.
- (4) 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.