

Author	ELAS
Date	May 2018
Person Responsible	
Approval/Review Body	Senior Leadership Team / ELAS
Frequency of Review*	12 months

\*Policies will be reviewed more frequently if legal changes or good practice require

## Purpose

Under Care Standards, Independent Schools and Children's' Home legislation and standards, all employees must be fit to work at Oracle Care, including physical and mental fitness for the purposes of work to be performed by the employee.

Oracle has a duty of care under the Health and Safety at Work Act 1974, The Transport and Works Act 1992 and the Misuse of Drugs Act 1971.

This policy forms part of Oracle Care's overall commitment to safety, good employee relations and the promotion of health at work. As a responsible employer, Oracle recognises the need for a constructive and preventative strategy designed to encourage early identification of alcohol and drug related problems among employees

The inappropriate use of alcohol or drugs can damage the health and wellbeing of employees and have far reaching effects on their personal and working lives.

At work, alcohol and drug misuse result in reduced levels of attendance, sub-standard work performance and increased health and safety risks not only for the individual concerned but also for others including work colleagues, the young people in our care and in our schools, and members of the public. Furthermore, the effects of the alcohol or drug misuse are likely to be detrimental to Oracle's reputation and image and its ability to deliver high-quality care, education and therapy to those young people.

This policy aims to:

- Raise staff awareness and potential harm to health associated with use of intoxicating substances.
- Set out the rules regarding the use of intoxicating substances so that employees are aware of the likely consequences for their employment of misusing them.
- Create a climate that encourages employees who may be misusing drugs or alcohol to come forward and seek help.

- Provide a framework to enable instances of substance misuse by employees to be handled in an appropriate, fair and consistent manner.
- Achieve a balance between supporting employees who come forward with a problem and the overriding need to preserve:
  - The health, safety and welfare of the young people in our care and in our schools and of employees and others with whom they come into contact
  - The Company's reputation
  - The delivery of high quality care, education and therapy to our young people.

### Scope

This policy covers the use and misuse of intoxicating substances, which includes alcohol, solvents, legal and illegal drugs, prescription and over-the-counter medicines and other substances that could adversely affect work performance and / or health and safety.

This procedure applies to:

- all employees, and
- all agency and casual workers, contractors, volunteers and other working on the Company's behalf. Failure to comply is likely to result in working arrangements being terminated.

This policy is not intended to apply to 'one-off' incidents or offences where there is no evidence of an ongoing problem, which are more appropriately dealt with under the Disciplinary procedure, when applicable.

### Principles

Oracle Care is responsible for maintaining fair, consistent and objective procedures for matters relating to the inappropriate use of alcohol or drugs.

Within the limits of what is practicable and within the law, strict confidentiality will be maintained when dealing with alcohol and drug related problems among employees.

The Company will adopt a constructive and supportive approach when dealing with employees who may be experiencing drug or alcohol dependency / addiction. This means that employees seeking assistance for a substance misuse problem will not have their employment terminated simply because of their dependence / addiction. However, if performance, attendance or behaviour is unacceptable despite any support and assistance that can be offered, or where it is refused, ultimately dismissal may be unavoidable.

Notwithstanding the above, there will be circumstances where breaches of the policy, whether dependency -related or not, will be treated as a disciplinary matter and may result in the summary dismissal of the employee. Examples of issues that will be subject to disciplinary action, including the possibility of dismissal are:

- Deliberate disregard for personal safety and that of others associated with the use of intoxicating substances.
- Serious unacceptable behaviour in the workplace associated with the use of intoxicating substances.
- Being found incapable of performing normal duties satisfactorily and safely as a result of consuming alcohol or taking drugs.
- Possession, consumption, dealing / trafficking, selling. Storage of illegal drugs either on work premises or engaging in such activities outside of work.
- For employees who are required to drive a company vehicle and / or drive on company business, being disqualified from driving as a result of alcohol or drug-related offences.
- Making malicious or vexatious allegations that a colleague is misusing intoxicating substances.
- The use, possession, concealment, transportation, and promotion or sale of the following items or substances by any employee of the Company, is strictly prohibited on all company premises:
  - Illegal drugs
  - Alcoholic beverages
  - Drug paraphernalia
  - Unauthorised prescription drugs

This list is illustrative only and should not be regarded as exclusive or exhaustive. Any disciplinary action will be in all cases proportionate to the circumstances of the breach of policy.

Where evidence warrants, the Company will inform the police of illegal drug use or any activity or behaviour over which there are concerns as to its legality. For example, it would be necessary to report criminal behaviour associated with alcohol abuse such as a drink-driving accident in a work vehicle.

### Procedure

Managers are required to:

- Be aware of the signs of alcohol and substance misuse and the effects on performance, attendance and health of employees, and take reasonable and appropriate steps.
- Ensure the health, safety and welfare of employees and others with whom they come into contact.
- Ensure that staff are aware of the policy and the rules and consequences regarding the use of alcohol, drugs and other intoxicating substances.

- Treat such matters confidentially as far as is legitimately and legally possible. Monitor the performance, behaviour and attendance of employees as part of the normal supervisory relationship.
- Intervene at an early stage where changes in performance, behaviour, sickness levels, and attendance patterns are identified to establish whether alcohol or drug misuse is an underlying cause. Ensure that staff are aware of the support that is available to them via the Company's Employee Assistance Programme.
- Provide support and assistance, where appropriate and for a reasonable period.
- Seek advice from the Head of Department where the manager has concerns or is aware that an employee is adversely impacted due to drugs and / or alcohol.
- In some instances it may be necessary to instigate disciplinary measures.

### Employee responsibilities:

- To familiarise themselves with this policy and comply with its provisions.
- To present a professional, courteous, caring and efficient image to those with whom they come into contact at work. They have a personal responsibility to adopt a responsible attitude towards drinking and taking prescribed and over-the-counter drugs.
- Employees are not permitted to possess, store or sell controlled drugs on any of the Company's premises or bring the Company into disrepute by engaging in such activities outside of work.
- Employees are strongly encouraged to seek help if they have concerns regarding their alcohol or drug consumption. It is recommended that they approach their GP, and also their line manager so that the Company can assist in the provision of appropriate support to help speedy rehabilitation, for example, referral to the occupational health service, medical professionals, professional; drug / alcohol treatment agencies.
- Employees are expected to co-operate with any support and assistance provided by the Company to address an alcohol or drug misuse problem.
- Employees should 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.
- Where the individual concerned does not wish to come forward to seek help, and their colleague(s) genuinely suspect that the individual may be misusing drugs or alcohol, they have a responsibility to raise their concerns with the employee's line manager.

### At work

- Employees must report for work, and remain throughout the working time, in a fit and safe condition to undertake their duties and not be under the influence of alcohol or drugs.

- Where the employee is required to drive for work purposes, they have a responsibility for ensuring they are not under the influence.
- Employees must notify their manager immediately should they be prescribed medication or plan to take over-the-counter medicines that may cause side effects that impair their ability to undertake their duties safely and effectively. This is particularly important if they occupy a post where it is not only their own personal safety but those of others that could be jeopardised.
- A Line Manager must complete a Risk Assessment with the employee should the medication be perceived to be causing side effects
- Similarly, employees who experience side effects as a result of taking prescribed or over-the-counter medicines that impair their ability to perform their duties safely and satisfactorily must notify their line manager immediately
- Employees are not obliged to disclose the actual medical condition being treated nor the medication - simply the impact / side effects.

### Outside working hours

- Employees must not consume intoxicating substances before coming on duty or when they are required to attend work at short notice, for example, when they are on call.
- Intoxicating substances such as alcohol may remain in the system for some time and even small amounts can impair performance and jeopardise safety. Employees are personally responsible for allowing sufficient time for the intoxicating substance to leave their system before reporting for work.

### Treatment

The Company treats drug and alcohol dependency as a health problem that requires special treatment and help, and recognises that early identification is more likely to lead to successful treatment.

Employees are strongly encouraged to discuss any problems they have at an early stage with their line manager.

For employees undergoing treatment, this absence will be covered under the Company's Attendance Policy.

### Testing

We reserve the right to require you to submit to a sample test at any time. Sample tests will include (but are not limited to) blood, urine, breath or saliva tests. A failure to adhere to this requirement will be considered a wilful refusal to follow a managerial instruction and adverse inferences may be drawn on your state of intoxication.

Testing will occur in one of the following situations:

1. Pre-Employment or Pre-Placement Testing
2. Random Testing
3. Reasonable Suspicion Testing
4. Post Accident Testing
5. Follow-Up Testing

Pre-Employment Testing may be required before your employment starts or during your probationary period. Pre-Placement Testing may be required before or during any temporary or permanent placement required for your employment, our clients or a third party. A failure to subject to testing or a failed test may result in the withdrawal of an offer of employment or placement or disciplinary action which in the circumstances may amount to gross misconduct.

Random testing will take place at our convenience and you may or may not be selected for testing. If you are selected, you will be expected to comply with this and we consider your co-operation a reasonable managerial instruction. Random testing will consist of a sample being taken in line with the chain of custody conditions and be sent to an accredited laboratory for analysis, the results of the tests for drugs may not immediately be known on the day.

We reserve the right to request that you comply with reasonable suspicion testing. This is where a senior or trained manager believes that you may be intoxicated as per the definition above. We believe that such a request is a reasonable managerial instruction. We may request that you submit to reasonable suspicion testing when we feel you are intoxicated and are present at our sites, the sites of our clients or engaged in activities in any other location for the purposes of your employment with us. You may also be requested to submit to reasonable suspicion testing at the request of our clients or third parties e.g. the Health and Safety Executive.

We reserve the right to request that you comply with post accident testing where an accident occurs that falls within the definition of The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) and where the Company has a duty to notify the HSE.

Follow-up testing will be used in instances where the employee approaches in confidence and explains that they have a drug or alcohol problem or where an employee has a positive test and in the circumstances is not dismissed. You may be requested to undertake regular or ad hoc, frequent or infrequent testing. You may also be requested to participate in counselling, whether provided by your employer or not. These requests are considered a reasonable management instruction. Further positive tests or a wilful refusal to engage with the testing or counselling will be handled in accordance with the Company disciplinary procedure that may result in dismissal for gross misconduct.

You have the right to have any 'B Sample' tested where such a sample is taken. If you wish to exercise this right, we will not be obliged to facilitate or fund any such testing and you will be expected to do this yourself. In the event of an overturned test, we will balance all the available evidence without specific reliance on either test.

**Effective Date**  
August 2016

**Review Date**  
May 2019 or earlier if legislation changes

### **Questions**

If you have any questions regarding this policy, please contact your line manager