

**AGENDA of the
Portfolio Committee: Management Services
03 June 2022
(Also the agenda for the Mayoral Committee Meeting: 27 June 2022)**

**3.
REVIEW: SUBSTANCE ABUSE : ALCOHOL AND DRUG POLICY AND PROCEDURE**

4/10/B

N Floors

23 May 2022

Manager: Labour Relations and Health & Safety

(028) 313 8123

1. Executive Summary

The purpose of this report is to inform the Council of the Review of the Substance Abuse: Alcohol and Drug Policy and Procedure.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Management Services
Department: Human Resources

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Provision and maintenance of municipal services
Creation and maintenance of a safe and healthy environment

4. Delegated Authority

None

5. Legal Requirements

Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);
Basic Conditions of Employment Act, 1997 (Act No 75 of 1997) ;
Labour Relations Act, 1995 (Act 66 of 1995) ;
Occupational Health and Safety Act No 85 of 1993 and Regulations
SALGBC- Disciplinary Procedure Collective Agreement.

6. Background/Discussion/Evaluation/Conclusion

Background

Policies are introduced in the workplace to inform employees of rules of employment relationships and employee practices and to maintain consistency within the workplace

As per the Overstrand Municipality's (OM) staffing policy and its implementation is aimed, fundamentally, at matching the human resources to the strategic and

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operational needs of the Municipality and to ensure the full utilisation and continued development of its employees.

As per changes to the work environment, changes to legislation and regulations, policies must be reviewed from time to time to meet the requirements as mentioned.

7. Financial Implications

Annual Budgetary provision as might be applicable in accordance with the Policy

8. Staff Implications

Internal Staff

9. Comments from other Departments, Divisions and Administrations

The policy was discussed at the Local Labour Forum of 12 April 2022.

10. Annexures

Annexure A: Substance Abuse: Alcohol and Drug Policy and Procedure

RECOMMENDATION TO THE COUNCIL:

that the Substance Abuse: Alcohol and Drug Policy and Procedure **be approved.**

RESPONSIBLE OFFICIAL :

N FLOORS

TARGET DATE FOR IMPLEMENTATION :

1 JULY 2022

**AGENDA of the
Portfolio Committee : Management Services
3 June 2022
(Also the agenda for the Mayoral Committee Meeting : 27 June 2022)**

**3.
REVIEW: SUBSTANCE ABUSE : ALCOHOL AND DRUG POLICY AND
PROCEDURE**

4/10/B

N Floors

23 May 2022

Manager: Labour Relations and Health & Safety

(028) 313 8123

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
3 JUNE 2022, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

that the Substance Abuse: Alcohol and Drug Policy and Procedure **be approved.**

RESPONSIBLE OFFICIAL :

N FLOORS

TARGET DATE FOR IMPLEMENTATION :

1 JULY 2022

1. INTRODUCTION

- 1.1 Overstrand Municipality is committed to maintaining the highest possible standards of occupational health and safety and considers alcohol and drug abuse as disruptive of and detrimental to a safe and productive working environment.
- 1.2 This policy applies to all employees of Overstrand Municipality and contract workers whilst on duty or on Overstrand Municipality's premises, save that the standard mode of discipline, treatment and assistance shall not apply to subcontractors.
- 1.3 Overstrand Municipality views substance abuse and dependency as treatable health problems and accepts that employees who experience such problems should be provided with assistance, subject to certain conditions outlined in this policy.
- 1.4 Overstrand Municipality does not support the intrusion into the private lives of employees; however it does expect all employees to report to work in a condition to safely and effectively perform their duties.
- 1.5 Overstrand Municipality will ensure that the contents of this policy and procedure will be communicated to all employees, unions and management.

2. DEFINITIONS

For the purpose of this policy unless the context otherwise indicates –

- 2.1 “**abuse**” means use to bad effect or for a bad purpose;
- 2.2 “**alcohol**” means a substance taken/drank to infuse drunkenness;
- 2.3 “**drugs**” means illegal substance and legal substance that are used in violation of a valid prescription from a medical professional or affect the employee’s ability to safely perform the duties of his or her post medicinal or natural substance causing addiction;
- 2.4 “**dependency**” means unable to do without (in this instance alcohol or drugs);
- 2.5 “**influence**” means affected by alcohol use / substance taken;
- 2.6 “**intoxication**” a state in which a person’s normal capacity to act or reason is inhibited by alcohol or drugs
- 2.7 “**premises**” means any building, vehicle utilised by the municipality;
- 2.8 “**rehabilitation**” means restoring to normal life by treatment and support after dependency;
- 2.9 “**workplace**” means any premises or place where a person performs work in the course of his or her employment.

3. PREVENTION

Prevention of alcohol / drug abuse at work is a management responsibility.

4. DISCIPLINE

Overstrand Municipality places a high premium on its statutory and common - law obligations to ensure the safety of its employees and members of the public. It therefore takes a serious view of employees **using chemical or alcoholic substances on the premises or whilst on duty** (except during social functions and promotions as described under paragraph 9) or being **under the influence on the premises or whilst on duty**.

- 4.1 In determining whether an employee may be under the influence, clinical observations (as listed in the Verification of Intoxication Form) shall be considered along with on-site alcohol and/or drug screening tests (these test may include apparatus/equipment used by law enforcement agencies) which will be offered to suspected intoxicated employees.
- 4.2 Overstrand Municipality shall consider all relevant facts in determining an appropriate sanction, including whether the employee's conduct caused a safety risk to himself, co- workers or members of the public and or harm to Overstrand Municipality's good name and standing. The following transgressions and sanctions will serve as guidelines:-
- 4.2.1. Being under the influence or using alcoholic or chemical substances whilst on the premises or on duty –
- First offence** – Final written warning effective for **[6]** 12 months plus offer of assessment/counselling and/or, welfare support.
Second offence- (within the operative **[6]** 12 months period following a previously issued final written warning): Dismissal
- 4.2.2 Being in possession of alcohol or illicit drugs (excluding controlled medicines for which the employee has a legal prescription) whilst on duty or on Overstrand Municipality's premises.
- First offence** - Written warning effective for *6 months* plus the offer of assessment /counselling and/or welfare support.
- 4.2.3 **Second offence** within operative 12 months period – Final written warning effective for 12 months plus the offer of assessment counselling and/or welfare support Subsequent offence – Dismissal.
- 4.2.4 Notwithstanding these guidelines, Overstrand Municipality reserves the right to vary the sanction depending on the circumstances of each case.
- 4.3 The following constitute particularly serious acts of misconduct which may be grounds for dismissal for a first offence, depending on the facts of each case:

- 4.3.1 Consuming intoxicating substances whilst on duty and providing other employees with such substances whilst on duty.
- 4.3.2 Driving a Council vehicle or operating safety sensitive equipment whilst under the influence of intoxicating substances.
- 4.4 An employee/s who is suspected of being under the influence of an intoxicating substance as described under paragraph 4.1 will be subject to a disciplinary enquiry to investigate the matter and to ascertain whether the employee had indeed been under the influence.
- 4.5 In the event of employees receiving counselling for substance abuse or dependency, the Overstrand Municipality also reserves the right to; in the case of employees whose substance abuse may reasonably cause a safety risk to themselves, co-workers or members of the public:
 - 4.5.1 suspend the employee from such work or put him on alternative duties until such time as a counsellor report and/or appropriate tests confirm that the employee no longer abuses intoxicating substances and/or;
 - 4.5.2 require the employee to submit to routine testing before commencing his/her duties for a period which may be deemed reasonable by the Chairperson of the enquiry.

5. STAND-BY /CALL- OUT EMPLOYEES

- 5.1 Employees who have been instructed to perform stand-by duties will be considered to be on duty and will be subject to the same provisos than those which pertain to employees during normal working hours.
- 5.2 In the event of employees called out to work outside of normal working hours where no prior arrangement had been made for the employee to report at a specified time, the employee shall inform the duty foreman or manager whether he used any alcohol since his last shift. Should the employee fail the Verification of Intoxication Test, the employee shall be sent home without any sanction.
- 5.3 Should the employee fail to inform the duty foreman or manager and test positive after having commenced his duties, normal disciplinary action shall be taken.

6. MANAGEMENT OF SUSPECTED INTOXICATION

- 6.1 **[If a duty foreman or a manager is of the opinion that an employee is or appears to be under the influence, the employee's Manager and or a fellow employee or shop steward shall be called to act as a witness. If the employee's Manager and or a fellow employee or shop steward is not available, any other Manager or fellow employee or shop steward may be called.]**
- 6.1 Employees will be tested for drugs and / or alcohol in the following circumstances:

- (a) Employees of the Municipality entering the premises may be subject to an alcohol and / or drugs screening test.
- (b) Employees being suspected of the possibility of being under the influence of illegal alcohol and drugs in the workplace.
- (c) Any individual involved in an accident involving mobile equipment / vehicles (crane, forklift, digger loader, etc.);
- (d) Employees working with heavy duty vehicles / machinery / tools.

- 6.2 The responsible Manager shall, in the presence of the witness and shop steward, document signs of suspected intoxication. A **Verification of Intoxication** form (See attachment) may be used for this purpose.
- 6.3 Should the employee refuse to submit to the Verification of Intoxication test he should be informed that he will be giving up an opportunity to contest the allegation of being under the influence. The employee's refusal will then be recorded on the verification form.
- 6.4 Should the test result be positive, or where testing is refused and/or where clinical /behavioural signs suggest intoxication, the employee will, in the interests of workplace safety, be deemed to be under the influence and instructed to leave the work premises.

Regardless of any test result, should the supervisor be convinced that the person's presence constitutes a safety risk or may tarnish Overstrand Municipality's name and standing based on clinical or behavioural signs, the supervisor will instruct the employee to leave the workplace.

- 6.5 The Manager should take all reasonable steps to ensure that the employee has a safe means of returning home by contacting a relative or friend to accompany the employee. Whilst waiting for assistance the employee will be accompanied to a safe area where he/she is least likely to cause harm to himself/herself or others.

The employee leaving the premises without accepting assistance will do so at his own risk.

- 6.6 Employees who are refused entry or who are required to return home as provided for above will not be paid for that portion of the day which the person had missed on condition that, should the employee be found not guilty during a subsequent enquiry the employee shall be paid for the particular portion.
- 6.7 Employees and contract personnel may not enter the premises of the Municipality under the influence of alcohol or any intoxicating substance according to section 2(a) of the General Safety Regulations (2003) of the Occupational Health and Safety Act (Act 85 of 1993);
- 6.8 Refusal to be tested could be considered as aggravating circumstances in a disciplinary hearing;

6.9 Any offer of assistance does not exempt the employee from standard disciplinary measures;

7. REFERRAL MODES

- 7.1 Overstrand Municipality wishes to encourage employees who may experience alcohol or other drug related problems, to confidentially discuss such problems with their Managers, the HR Office or shop steward with the view of acquiring professional assistance.
- 7.2 Such a request shall be treated with confidentiality, shall not be documented on the employee's personal file and shall not unreasonably affect the employee's job security, fringe benefits or career opportunities.
- 7.3 The acceptance of the offer of assistance, whether voluntary or mandatory, does not exempt the employee from standard disciplinary measures whilst under treatment.
- 7.4 Suggested/Disciplinary Referrals
- 7.4.1 Supervisors and Managers have a responsibility to identify unacceptable level of performance, attendance or interpersonal relationships, to take timeous corrective steps (or disciplinary action if appropriate) and to;
- 7.4.2 Encourage employees to consult with their Managers, the HR Office or shop steward with the view of obtaining confidential assistance.

Employees

- a) who commit an alcohol or drug related offence as described under para 4.2.1 and/or,
- b) whose job performance, attendance or interpersonal relationships at work are detrimentally affected as a result of substance abuse, may be given the option of accepting referral for assessment, or counselling or welfare support depending on the circumstances of the case. This option may be offered in conjunction with standard sanctions in terms of the disciplinary procedure.
- 7.4.3 The voluntary request for and acceptance of substance abuse counselling and/or welfare support will not jeopardise the employee's job security, fringe benefits or promotional opportunities. However, in the event of the employee:
- 7.4.3.1 refusing the offer of treatment/counselling following a substance abuse related offence,
- 7.4.3.2 absconding from the treatment centre, being non-compliant with the treatment/ counselling regime such lack of co-operation will be viewed as an aggravating factor in assessing an appropriate or further disciplinary sanction in the event of any future transgressions of a similar or related nature.

8. ASSESSMENT, COUNSELLING AND TREATMENT

- 8.1 Employees who indicate that they wish to consult with a Social Worker shall be referred to an approved service provider with the view of assessment and/or counselling. Such assessment and counselling shall as far as reasonably possible occur during normal working hours without any deductions from the employee's salary. Assessment and/or counselling will be to a maximum of 6 interviews.
- 8.2 Overstrand Municipality reserves the right to request reports from the Social Worker regarding the employee's prognosis and cooperation with the mode of treatment. The employee shall however be assured that such reports shall not contain any personal detail divulged during counselling but will serve to give an indication of his commitment and co-operation towards attaining sobriety.
- 8.3 In the event of the employee requiring short-term in-patient treatment, normal sick leave benefits shall apply in respect of first time admissions at an institution approved of by the Social Worker. In instances where the employee has exhausted his sick leave, annual leave will have to be utilised, whereafter unpaid leave will have to be taken.
- 8.4 **[The Council will contribute 50% of the cost for first time treatments.]**
The Municipality will undertake to fund 60% of rehabilitation for alcohol or drug abuse for first time treatment at an accredited rehabilitation centre, where employees are not a member of a medical aid, provided that treatment to be voluntarily and not prescribed by the outcome of a disciplinary hearing as approved by Council. Any subsequent rehabilitation thereafter will be for the employee's own account.
- Should an employee refuse assessment or fail to co-operate with treatment / counselling, a report shall be submitted to the respective Head of Department. The Municipality reserves the right to implement the disciplinary code in this instance and to collect the employer's financial inputs in this regard.
- 8.5 Should the employee decline the offer of assistance following substance abuse related misconduct, substandard performance as described in paragraph 7.4.2, or fail to co-operate with the assistance offered, this will be documented and the employee will be informed that any further incidents of substance abuse related misconduct occurring within a twelve month period from the date of such a documented offer may be dealt with as a matter of discipline without repeating the offer of assistance.
- 8.6 If a professional counsellors report indicates that the employee had been un-cooperative and/or that excessive alcohol or drug intake persists, Overstrand Municipality will assess whether the employee is still capable of performing his/her designated duties satisfactorily.
- a) If the employee is no longer capable of performing his/her job satisfactorily as a result of alcohol or drug dependence, his/her employment may be terminated on the grounds of incapacity.

- b) if the employee is capable of performing his /her job satisfactorily despite non-compliance and/or continued alcohol or drug intake, he/she shall be subject to standard disciplinary measures for any further substance abuse related offences.

8.7 Dealing with relapses:

Where an employee, having received treatment, suffers a relapse, Overstrand Municipality will consider the case on its individual merits. Medical advice will be sought in an attempt to ascertain how much more treatment / rehabilitation time is likely to be required for a full recovery. At Overstrand Municipality's discretion, more treatment or rehabilitation time may be given in order to help the employee to recover fully.

8.8 Recovery unlikely:

If, after the employee has received treatment and recovery seems unlikely Overstrand Municipality may be unable to wait for the employee any longer. In such cases, dismissal may result but in most cases a clear warning will be given to the employee beforehand and a full medical investigation will have to be undertaken. If the employee declines to allow Overstrand Municipality access to his / her medical records a decision about future employment would be made with the information that is available to Overstrand Municipality.

8.9 The principles of treatment are:

8.9.1 Referral – voluntary or mandatory;

8.9.2 Assessment on premises and with outside bodies of the Municipality's choice;

8.9.3 Counselling on and off Municipal premises;

8.9.4 Education;

8.9.5 Rehabilitation back into normal work duties;

8.9.6 Ongoing monitoring which should last for a period mutually agreed upon by the Municipality and the employee concerned.

9 SOCIAL FUNCTIONS AND PROMOTIONS

- 9.1 In the event of Municipal functions and promotions where liquor may be served, all Municipal employees are expected to at all times behave in a becoming and respectful manner.
- 9.2 No alcohol will be served by Overstrand Municipality during training courses or seminars except in the event of evening functions.
- 9.3 No Municipal employee as described in paragraph 1.2 may consume alcohol during normal working hours. (including lunchtime).
- 9.4 At social functions which have been arranged by Overstrand Municipality, reasonable precautions shall be taken to prevent immoderation through measures such as a coupon system of dispensing liquor, serving food /light snacks with drinks and the provision of soft drinks or low-alcohol beverages.

- 9.5 Employees attending such functions shall however be responsible to ensure that they do not contravene the provisos of the Road Traffic Ordinance as a result of excessive consumption.
- 9.6 Employees whose behaviour during such events becomes offensive, cause an embarrassment to Overstrand Municipality, fellow employees or guests, or whose conduct jeopardises the safety of such parties or members of the public as a result of excessive alcohol intake, shall be charged with allegedly having been under the influence of alcohol
- 10. DISPUTES**
In the event of any dispute arising as to the interpretation of this policy or its application, such disputes shall be resolved through the existing dispute procedure.
- 11. EFFECTIVE DATE**
- 10.1 This Policy shall commence on the date on which it was adopted by Council and shall remain in full force and effect until it is reviewed, revoked or amended by Council.

VERIFICATION OF INTOXICATION FORM

1. To be completed by the employee's supervisor upon the suspicion of an employee being under the influence.
2. This procedure should be carried out in private in the presence of Management (supervisor/manager) and an employee witness (co – worker / shop steward).

NAME OF EMPLOYEE: _____

DEPARTMENT: _____

DATE: _____ TIME: _____

FORM COMPLETED BY: _____

NAME OF MANAGEMENT WITNESS: _____

NAME OF EMPLOYEE WITNESS: _____

Tick which is appropriate and add descriptive comments

- 1 **SMELL OF ALCOHOL**
 Strong _____
 Slight _____
 No smell _____

- 2 **SPEECH**
 Slurred _____
 Slow and deliberate _____
 Incoherent _____
 Normal _____

- 3 **EYES**
 Bloodshot _____
 Slightly red _____
 Dazed _____
 Staring _____
 Normal _____

- 4 **WALKING/BALANCE**
 Uncontrolled _____
 Slightly unsteady _____
 Loss of balance when walking _____
 Body sway when standing still _____
 Normal _____

- 5 **BEHAVIOUR**
 Overly boisterous and talkative _____
 Agitated, aggressive _____
 Laughs, giggles for no apparent reason _____

6 **HAND MOVEMENTS**
 Shaky (tremor) _____
 Clumsy, uncoordinated _____
 Normal _____

7 **ANY OTHER SIGNS OF INTOXICATION?**

8 In your opinion, is the person under the influence of alcohol or another intoxicating substance?

9 Do you think the person will be able to do his/her normal duties without constituting a safety risk to himself and others?

10 Do you think that the person can commence or resume his/her normal duties without detrimentally affecting Overstrand Municipality's Council's good name and standing

NB Should the Supervisor be of the opinion that the employee is under the influence the employee should be asked to submit to an appropriate alcohol/drug test. It should be explained to the employee that the purpose of the test is to afford him/her the opportunity of contesting the allegation of being under the influence.

Tick the employee's response to the offer of a test:

Agreed Did not agree

Result of onsite alcohol/drug test _____

Reason for refusal to submit to test

11 The employee accepted assistance to be escorted home.
 Yes No

SIGNATORIES

Supervisor _____ Management witness _____

Shop Steward/Employee Witness _____

Employee _____