PROCEDURE SUMMARY

The procedure sets out the framework for the Trust’s approach to the management of staff who have a drug, alcohol or substance misuse problem for managers, staff and accredited trade union representatives as well as the scope of the procedure to whom it applies.

It confirms the commitment to ensure that the procedure will be fair, equitable and reasonable in the circumstances.

This procedure should be read in conjunction with the Management of Sickness and Absence Policy and Procedure.

The Trust monitors the implementation of and compliance with this procedure in the following ways;

This policy will be subject to review as per the agreed review schedule of Trust HR policies and as agreed by the Trust’s Partnership Committee.
Compliance with this procedure will be against the Trust’s agreed minimum requirements /standards as detailed within its Auditable Standards and Monitoring Arrangements, as well as the use of internal reporting and recording within the Workforce Directorate.

<table>
<thead>
<tr>
<th>Services</th>
<th>Applicable</th>
<th>Comments</th>
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<tr>
<td>Trust wide</td>
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<td>Essex MH&amp;LD</td>
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The Director responsible for monitoring and reviewing this procedure is Executive Director of People and Culture.
ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

MANAGEMENT OF STAFF WITH AN ALCOHOL, DRUG OR SUBSTANCE MISUSE PROBLEM PROCEDURE

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Appendix 1: SIGNS WHICH MAY INDICATE ALCOHOL, DRUGS OR SUBSTANCE MISUSE

End
1. ASSURANCE STATEMENT

1.1 Essex Partnership University NHS Foundation Trust (the 'Trust') is committed to following best practice in its approach to its management of staff with an alcohol, drugs or substance misuse problem.

1.2 Excessive or inappropriate consumption of alcohol, drugs or other substances can contribute to poor work performance, absenteeism or accidents at work, which may lead to injuries to work colleagues and service users and may also damage the Trust’s reputation.

1.3 This procedure aims to ensure that any such problems are identified early and managed in a way that protects service users and, where possible, supports the employee.

1.4 This procedure aims to establish a framework for a common understanding of the process to manage alcohol, drugs or substance misuse in its workforce for management, staff and staff representatives. The Trust is committed to ensuring that any measures taken are fair, equitable and reasonable in the circumstances.

1.5 The management of staff with alcohol, drugs or a substance misuse problem will be built on and demonstrate the Trust’s corporate values and strategic objectives. These values are in being:

- Open
- Compassionate
- Empowering

In demonstrating these values, supporting the achievement of its strategic objectives priorities to:

- To continuously improve service user experience and outcomes through the delivery of high quality, safe, and innovative services.
- To be a high performing health and care organisation and in the top 25% of community and mental health Foundation Trusts.
- To be a valued system leader focused on integrated solutions that are shaped by the communities we serve.
2. INTRODUCTION

2.1 The Trust acknowledges alcohol/substance misuse as a health and social problem which should be managed with appropriate sympathy and tolerance. The aim of this procedure is to provide adequate welfare facilities to support employees and ensure the Trust has a fully fit workforce. In the event that the supportive approach offered by the Trust is refused, and should an employee report for work incapable of effective performance or if an act of misconduct is performed, use of the Trust’s Disciplinary (Conduct) and Capability Policy and Procedure or Managing Temporary worker Conduct & Complaints Policy and Procedure for Trust Bank Workers may be invoked.

2.2 While not intending to interfere with an individual’s human rights, the Trust recognises that it has a duty within the working environment to:

2.2.1 Promote physical and mental health and wellbeing

2.2.2 Protect its service users.

2.2.3 Prevent alcohol, drug and/or substance misuse.

2.2.4 Help employees who have an alcohol, drug and/or substance misuse problem.

2.2.5 Protect their colleagues.

2.3 Workers of the Trust should not present themselves at work if they are unfit through the consumption of alcohol, drugs and/or other substances.

2.4 The Trust is sympathetic to employees who suffer from an alcohol, drug or substance misuse problem. The aim of this procedure is to provide adequate welfare facilities to support employees and ensure that the Trust has a fully fit workforce. However, in cases where an employee does not disclose their alcohol, drug or substance abuse problem, then the Trust will be unable to put measures in place to support the employee and any capabilities issues may be dealt with under the Trust’s Disciplinary (Conduct) and Capability Policy and Procedure or Managing Temporary worker Conduct & Complaints Policy and Procedure for Trust Bank Workers policy as per paragraph 2.1 above.

Misuse refers to the use of illegal drugs and the misuse, whether deliberate or unintentional, of other drugs, including alcohol and substances such as solvents.

Substance misuse can harm the user both physically and mentally and, through the user’s actions, it can also harm other people and the environment.
The Trust is aware that the following factors of drug or alcohol misuse are apparent:

- Represents a hazard to the health and safety of patients, staff and visitors to the NHS
- Influences the quality of the service provided by the NHS
- Impairs employees' work performance
- Affects the welfare of employees by impairing their physical and psychological health, thereby contributing to social, economic and domestic problems.

Misuse covers three main areas:

- Inappropriate use, where use may aggravate an existing condition or situation, or is done in potentially dangerous or inappropriate circumstances
- Habitual use, where the individual becomes dependent to the detriment of other aspects of their lives
- Excessive use, which can lead to physical and mental illness, or anti-social behaviour.

The approach of the Trust to employee’s health is based on ‘fitness for work’, and there is already a range of occupational health and health and safety guidance in support of this aim.

2.5 In implementing this procedure the Trust aims to promote a greater awareness of the harmful consequences of excessive use of alcohol drinking, drugs and/or other substances and to promote a positive approach to assist recovery.

2.6 This procedure should be read in conjunction with the Trust Disciplinary (Conduct) and Capability Policy and Procedure (HR27A and HR27B) or Managing Temporary worker Conduct & Complaints Policy and Procedure (HR59) for Trust Bank Workers.

2.7 The Trust has a statutory duty under the Health & Safety at Work Act 1974 to ensure the health, safety and welfare of all our employees and any other persons on our premises.

2.8 Managers will be required to adhere to the procedure and staff are required to engage and co-operate with the application of it.

The Trust has a duty under the Health and Safety at Work Act 1974 to ensure, as far as is reasonably practicable, the health, safety and welfare of its employees. If the Trust knowingly allows an employee under the influence of excess alcohol to continue working and this places the employee or others at risk, the Trust could be prosecuted. Similarly, employees are also required to take reasonable care of themselves and others who could be affected by what they do.
It is illegal to operate any vehicle while under the influence of drink or drugs, which may be important for those NHS employees whose job involves driving or travelling to different sites.

Care is needed when taking disciplinary action against someone on grounds of drug or alcohol misuse. Some employment tribunals have viewed this as being a medical issue, rather than a conduct one. However, this will depend on the exact circumstances and the nature of the employee’s work – for example, whether potential harm to others is involved.

3. DUTIES

3.1 The Executive Director of People and Culture

The Executive Director of People and Culture is responsible for ensuring that the Procedure is communicated to all staff via Trust communication processes.

**Executive Directors/Service and Operational Directors**

Trust Directors/Service Operational Directors are responsible for ensuring that the procedure is distributed to all staff.

They are responsible for ensuring that a framework is in place to identify and manage alcohol, drugs and substance misuse in the workforce.

3.2 Managers

Managers are responsible for ensuring all staff are aware and have read and understood the procedure and that they themselves apply it as required.

Managers must ensure that no staff are discriminated or disadvantaged as a result of a ‘protected characteristic’ when applying this policy. Managers should liaise with HR to ensure the Trust is not open to claims of discrimination in the application of this procedure.

Managers will also ensure that staff are aware of their rights to be accompanied by an accredited trade union representative or workplace colleague at formal meetings to discuss their absence and have in place access to other appropriate support as necessary such as through the Trust’s Employee Assistance Programme.

3.3 Staff

Staff are expected to ensure that they have read and understood this procedure, and engage and play an active role when this procedure is applied.
Employees are advised to refer to their professional organisation’s manual for the professional implications of alcohol and substance misuse, where appropriate.

3.4 Human Resources (HR)

The HR Service will provide advice and support to managers and staff on all aspects of this process, with due regard to the employment legislation framework.

3.5 Accredited Trade Union Representatives

Accredited Trade Union representatives may accompany their members during the formal aspects of these processes.

Accredited Trade Union representatives will support their members at formal meetings where possible, and be flexible with dates to support the Trust in meeting the timescales outlined in this procedure.

4. SCOPE

4.1 The procedure applies to staff directly employed by the Trust including bank workers.

4.2 This procedure applies to staff experiencing problems with alcohol, drugs and/or substances, which could have the potential to cause problems at work or affect the standard of their work and require some form of help/guidance.

4.3 Cases of excessive indulgence on random occasions, resulting in behaviour contrary to the standards of conduct required by the Trust, should be dealt with in accordance with the Trust Disciplinary (Conduct) Policy and Procedure or Managing Temporary worker Conduct & Complaints Policy and Procedure for Trust Bank Workers.

5. DEFINITIONS

For the purposes of applying the provisions contained in this document a glossary of terms that are used within the procedure are as follows:

<table>
<thead>
<tr>
<th>Protected Characteristics</th>
<th>Characteristics as defined by the Equality Act 2010. These are ethnic origin, nationality, race, disability, gender, marital or partnership status, age, religion or belief, sexual orientation or transgender status.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Substance Misuse</td>
<td>Harmful use of substances (like drugs and alcohol)</td>
</tr>
<tr>
<td>Illegal Substances</td>
<td>Illegal substances are substances that are forbidden by law in the UK</td>
</tr>
</tbody>
</table>
6. **PRINCIPLES**

6.1 Employees are expected to behave responsibly at all times and to safeguard their own health and safety and that of those around them. It is the responsibility of employees to ensure that their performance at work is not affected by alcohol consumption and/or substance misuse.

6.2 The procedure is intended to help protect employees from the dangers of alcohol and substance misuse and encourage those with a problem to seek help, emphasising that employees are responsible for their own actions.

6.3 Staff may feel that it is in their colleagues’ interests to make allowances for them or to mitigate the problem. This attitude is more likely to delay rehabilitation and may put the safety of service users/clients at risk. Staff should be encouraged and feel able to raise any concerns in confidence. They should do this in accordance with the Trust’s Policy for Staff on Raising Concerns (Whistle Blowing) - Public concern about health care matters.

6.4 On discovery of a problem relating to alcohol/drug or substance misuse, responsibility for supporting and monitoring staff lies with the Line Manager, with provision for specialist support, including the Trust Employee Assistance Program, which is a confidential 24 hour service.

Employees may refer themselves to these services at any time.

6.5 If time off is required for treatment this will be dealt with in line with the Trust’s Management of Sickness and Absence Procedure.

6.6 Employees may ask to be accompanied to any meetings in relation to this procedure and its associated procedure by an accredited representative of a recognised Trade Union or a work colleague.

6.7 The Trust seeks to promote fair, reasonable and consistent employment practices and aims to support our employees in order to maintain standards of conduct and performance, in line with our policy on Equality, Inclusion & Human Rights.

This Procedure must not be applied in a discriminatory way. The HR Department will monitor and evaluate all events linked to the management of staff with an alcohol, drug or substance misuse problem in terms of equality, and where appropriate assess the outcomes in or to initiate changes to procedures which ensure that no worker is discriminated against.

6.8 If medical suspension from duty is considered necessary following a workforce risk assessment (see the Trust Policy on General Workplace Risk Assessment) in the best interest of the employee, other Trust workers or service users, this must be carried out in line with the Trust Disciplinary (Conduct) Procedure.
6.9 During all stages, confidentiality must be maintained by all parties involved and assurance of this given to the employee in writing.

6.10 The Human Resources (HR) department should be involved whenever this procedure is used.

6.11 Employees with an alcohol, drug or substance misuse problem are not exempt from disciplinary action, if they are involved in an act of potential misconduct.

6.12 The Trust will adhere to the appropriate legislation and other frameworks such as Agenda for Change, local agreements and ACAS code of practice. ACAS is the Advisory, Conciliation and Arbitration Service.

6.13 The Trust seeks to promote fair, reasonable and consistent employment practices referring to relevant policies such as the Equality, Diversity and Human Rights Policy.

7. PROCEDURE & ACTIONS

7.1 Overview

7.1.1 This procedure should be followed where it is suspected and notified to a manager that a staff member (including temporary workers) may have an alcohol, drug and/or substance misuse problem.

7.1.2 An individual may approach the Occupational Health Department (Optima Health), any outside agency, or the Trust’s Employee Assistance Programme for support and guidance.

7.1.3 Line managers should document any evidence in agreement with an employee that indicates that an individual may be suffering from an alcohol, drug and/or substance misuse problem. Signs which may indicate problems of this nature are detailed in Appendix 1.

Work colleagues who suspect a member of their team is suffering from an alcohol, drug and/or substance misuse problem should raise the issue in confidence with their line manager or an alternative manager or seek advice from the HR department.

7.1.4 Employees may ask to be accompanied to any meetings in relation to this policy and its associated procedure by an accredited representative of a recognised Trade Union representative or a work colleague.

7.1.5 An informal discussion in relation to these issues should never turn into a disciplinary meeting. Any informal discussions should be terminated immediately if it becomes obvious that formal disciplinary procedures may be needed (please refer to Section 3).
7.1.6 If an employee is incapable of work under this procedure, every attempt will be made to ensure their wellbeing in accordance with the Trust's Disciplinary (Conduct) and Capability Policy and Procedures until it is deemed suitable for them to participate in a discussion. In the case of a temporary worker, this would be in accordance with Managing Temporary Worker Conduct & Complaints Policy and Procedure.

7.1.7 Strict confidentiality must be maintained at all times, within the limits of what is practicable and within the law.

7.2 Informal Discussion

7.2.1 Where it is suspected and/or notified to a manager that one of their staff may be suffering from an alcohol, drug and/or substance misuse related problem, they should seek the advice of the Human Resources (HR) Department and then set up an informal meeting with the employee (who may be accompanied see 1.4).

7.2.2 The employee must be informed of the Trust's concern relating to the possibility of alcohol, drug or substance misuse, specifying the incidents and signs detected (see Appendix 1).

7.2.3 The employee must be given an opportunity to provide a verbal account of their pattern of behaviour that is perceived to be related to alcohol, drug and/or substance misuse.

7.2.4 Where there is a lack of reasonable explanation from the employee, the line manager will outline the support and assistance available to the individual to support them in dealing with the problem e.g. Occupational Health referral.

7.2.5 The line manager should ensure that an assessment of risk is undertaken using Appendix 2a and 2b of the general workplace risk assessment policy. This is to establish whether the employee is fit to continue working or whether their continuing to work causes a risk to themselves, their work colleagues or to the service users. The outcome of the risk assessment will be:

- No action
- Temporary relocation by mutual consent.
- Where there are cases of immediate risk to other Trust workers and/or service users and temporary redeployment is not an option or consented, suspension from duty will be considered.

7.2.6 Referral to the Occupational Health Department and Employee Assistance Programme will be offered in order to support the employee, identify the best course of action and to set the parameters within which the member of staff will work, if they are fit to do so.
7.2.7 The line manager should establish with the employee a time frame for improvement following Occupational Health advice and how their work conduct and performance will to be monitored and reviewed.

Guidelines should also be discussed where temporary relocation is an outcome. If an employee is temporarily relocated the relevant paperwork should be completed for the required period.

7.2.8 If, as part of the course of agreed action, a period of extended sick leave is recommended by a doctor or where the employee is referred to a specialist agency and needs time off work, there will be entitlement to sickness benefits provided in Agenda for Change: NHS Terms and Conditions of Service Handbook, provided that Trust procedures regarding sickness reporting are followed, in line with the Trust Management of Sickness Absence Procedure (HRPG26B).

7.2.9 Failure to improve conduct in this area or declining to accept support in dealing with the problem, may result in action be taken under the Trust’s Disciplinary (Conduct) and/or Capability Policy (HR27A & HR27B).

7.3 Disciplinary Outcomes

7.3.1 Line managers may enforce the Trust’s Disciplinary (Conduct) and/or Capability Policy and Procedure where:

- An employee with an identified problem which affects conduct/performance at work or which prevents the achievement of a satisfactory level of work performance refuses the opportunity to receive help.

- An employee denies the existence of any of these problems or discontinues an agreed course of action and then reverts to previous unsatisfactory levels of conduct or performance.

7.3.2 If an employee is suspected to be under the influence of alcohol, drugs or other substances, and this results in harm or the risk of harm to work colleagues or service users, the employee may be suspended pending an investigation in line with the Disciplinary (Conduct) Procedure or in the case of Bank Workers- Managing Temporary worker Conduct & Complaints Policy.

7.3.3 The possession or use of illegal substances (illegal substances are substances that are forbidden by law in the UK) is a criminal offence and the Trust has an obligation to treat such incidents seriously. The individual circumstances of each case will be fully investigated, including whether the offence took place on Trust premises. In such circumstances, police involvement may be sought by the Trust. Any police investigation will be conducted separately to an investigation undertaken by the Trust.
7.3.4 In isolated situations where an employee indulges excessively and the resulting behaviour contravenes the standard of conduct expected by the Trust, this will be dealt with in accordance with the Trust’s Disciplinary (Conduct) Policy and Procedure Managing Temporary worker Conduct & Complaints Policy. A thorough investigation will be completed as part of this procedure, with medical involvement, if appropriate, to prevent misinterpretation of the signs of other medical conditions.

7.3.5 The loss of a driving licence due to a conviction for driving while over the legal alcohol limit can have repercussions on continued employment. Staff who have received such a conviction must report it to their line manager, who must in turn report it to HR. Where there is a requirement to drive as part of their contract of employment and where the employee is no longer able to effectively fulfil the requirements of their job role action may be taken in accordance with the Trust’s Disciplinary (Conduct) Policy / Procedure which may include the termination of employment.

Alternatively, if appropriate and available, an employee may be redeployed. This may include a demotion without protection of pay if the redeployment opportunity is at a lower grade.

7.4 Social Drinking

7.4.1 The nature of the Trust’s business necessitates careful consideration to the image of its representatives. This not only relates to its reputation but also its legal obligation to ensure the safety of its service users/clients. It is consequently not acceptable for alcohol or other mind-altering substances to be consumed during the course of one’s working day or night either on or off the premises or prior to coming to work or start of shift. Alcohol may not be consumed by staff if they are returning to work following a designated break.

7.4.2 Any employee who reports for work under the influence of alcohol or substances consumed whilst off duty which impairs their ability to work, will be sent home by their line manager. Appropriate action may be taken after full investigation of the incident in accordance with section 7.1.6.

7.4.3 Social meetings with service users or colleagues may be required as part of the work role. Non-alcoholic drinks must be chosen because of the potential impact on performance.

8. MONITORING OF IMPLEMENTATION AND GOVERNANCE

8.1 This procedure is subject to review as per the Trust HR review schedule and as agreed by the Trust’s Partnership Committee.

8.2 Compliance with this procedure will be against the Trust’s agreed minimum requirements /standards as detailed within its Auditable Standards and Monitoring Arrangements.
9. POLICY REFERENCES / ASSOCIATED DOCUMENTATION

- Employment Rights Act 1996
- Employment Act

10. REFERENCE TO OTHER TRUST POLICIES / PROCEDURES

This procedure should be read in conjunction with other policies in place that may be relevant. These include:

- Disciplinary (Conduct) Policy / Procedure
- Capability Policy / Procedure
- General Workplace Risk Assessment Policy
- Equality, Inclusion & Human Rights Policy
- Raising Concerns (Whistle Blowing)
- Management of Sickness Absence Policy and Procedure
- Employee Wellbeing and Stress Management Policy and Procedure
- Occupational Health Procedure
- Managing Temporary Worker Conduct and
- Complaints Policy / Procedure

END