Alcohol and Substance Testing Procedure

This procedure is part of North Yorkshire Police policy to which all Chief Constable personnel and the functions provided by the Police, Fire and Crime Commissioner are required to adhere.

Procedure Statement

This procedure applies to all Police Officers including Special Constables, all Police Staff and volunteers working for North Yorkshire Police (NYP).

Notwithstanding this, the selection of officers and staff for testing will be risk-based. "Risk" encompasses the risk inherent in the consequences of impairment of judgment or performance, and the risk of incidence of misuse.

A list of posts for inclusion in the risk-based testing regime is given in Appendix A

Testing may be carried out in the following circumstances:

- testing with-cause (that is, where there is a reasonable suspicion of substance misuse)
- pre-employment screening and testing during the probationary period.
- as part of a routine random testing regime (all officers, Police Staff, Volunteers and Special Constables)

Overarching Policies:
Alcohol and Substance Misuse Policy

Procedures:
Additional Leave of Absence Procedure

Other Documents:
Home Office Circular 11/2012
ACPO Substance Misuse and Testing Guidance
Code of Conduct for Police Staff
Code of Ethics
Psychoactive Substances Act 2016

Process
The intention of this testing regime is preventive and is designed to:

- minimise the chances of substance misusers entering the police service in the first instance
- deter officers and staff from substance misuse through the application of a procedure which makes detection a real possibility
- encourage those with a substance misuse problem to identify themselves, so they may be supported in seeking treatment
- screen officers and staff so as to minimise any risk of operations being prejudiced by impaired judgment
- protect officers, police staff, special constables and volunteers in posts in which they may be vulnerable to malicious allegations of substance misuse. By the very nature of their duties, many police officers, and particularly those working undercover, will have close associations with criminals. Those whose duties bring them into contact with drugs dealers are particularly vulnerable to malicious allegations that they are themselves drug users. A liability for such officers and staff to be tested enables it to be demonstrated that they remain "clean".

NYP will have due regard to protect privacy during the testing procedures and ensure that testing is conducted in a sensitive manner. They will also ensure that test results are handled in a secure and confidential manner. Records of test results will be retained in accordance with data protection.

Part 1: Substances

Substance testing covers the illicit use of the following substances:

- Amphetamines (including ecstasy)
- Cannabis
- Cocaine
- Opiates (e.g. morphine and heroin)
- Benzodiazepine
- One additional drug or drug group (for "with cause" testing only, where the reason for the test is based on intelligence and the individual has been informed of the drug(s) or drug group(s) for which he or she is being tested)
- Alcohol (See part 2)

There may be legitimate reasons for a drug being present in a specimen. For example, the presence of morphine may indicate heroin abuse, or the use of legitimate medicine (e.g., painkiller or anti-diarrhea preparation). Officers and staff required to take a test should declare all medications they are taking. The content of such declarations is confidential to the Health and Wellbeing Unit of the force and to the medical officer reviewing the result of a test. Information about medication may, with the consent of the donor, be given to the external collecting officer who will treat the information with strict confidence. The donor may choose to withhold this information altogether or may choose to place a record of the medication in a sealed envelope which is only to be opened by Health and Wellbeing Unit staff in the event of a medical review.

Androgenic-Anabolic Steroids (AAS) / Prohormones / Selective Androgen Receptor Modulars (SARMS) / Unregulated Products

It has been determined that the possession or consumption of Androgenic-Anabolic Steroids (AAS) and Prohormones, Selective Androgen Receptor Modulators (SARMS) or unregulated products are not conducive with being employed by NYP and considered a breach of the:

- Standards of Professional Behaviour; and
- Code of Conduct for Police Staff, if proven will result in disciplinary proceedings.
- Police officers /staff should not be taking any non-prescribed or unregulated products or other substances that are marketed as not for human consumption' which may render them unfit to carry out their duties.

It is the responsibility if all NYP officers and staff to check that any supplements they are taking are free of agents which will lead to a positive drugs test.

The drug testing procedure will return the precise identity of the steroid or substance, if it is required that testing is appropriate

Psychoactive Substances

The Psychoactive Substances Act 2016, introduced on 26 May 2016, makes drugs formerly known as "legal highs" illegal.

Those selling psychoactive substances through the internet or commercially will often brand them as 'legal' or 'herbal highs' or attempt to conceal their true purpose by misdescribing them. However, analysis of test purchases demonstrates that they often contain a wide range of controlled drugs.

Possession or consumption of a psychoactive substance is not conductive with being employed by NYP and is considered a breach of the:

- Standards of Professional Behaviour; and
- Code of Conduct for Police Staff

Use of Cannabidiol (CBD) products

It is not illegal to buy or possess any CBD oil products.

However, a report recently shared with the Home Office has identified a concern that the use of cannabidiol (CBD) products could cause individuals to fail a drug test. The study identified that although CBD products may not list the psychoactive tetrahydrocannabinol (THC) as an ingredient, that a number of products still contained it nonetheless. As such the use of CBD products could result in the return of a positive test, and since results would be indistinguishable from the illicit use of Cannabis, this would result in a failed drugs test and potential disciplinary action.

The recommendation made to forces was that staff and officers who are subject to a workplace drugs test procedures should be advised to avoid the use of CBD products.

NYP have considered this recommendation and support it, however we acknowledge that circumstances may exist whereby the use of CBD products can still be considered, including where

qualified medical advice has been sought and followed, and all other avenues of pain relief have been exhausted.

Anyone continuing or considering using CBD products is urged to refresh themselves on the guidance below:

Guidance for use of CBD products

CBD products if used are highly unlikely to produce a positive test if the cannabis metabolites of THC have been removed and is either completely free from that product, or no more than 0.2% THC content. It is the THC that gives the "High" and that is what is tested for on drug testing. You need to ensure that you purchase the oil from a reputable source and checked the bottle contents to ensure no, or no more than 0.2% THC (Tetrahydrocannabinol) is in it.

If you use CBD with no THC in there would be nothing picked up to cause a positive test on any random test you may be asked to attend. Should you consider self-prescribing CBD then you may wish to discuss this with your GP or pharmacist as they can offer advice and may also prescribe it in certain circumstances. Subsequently, this would require an individual to declare it to the tester or on a medical questionnaire at the time of the test. Should the presence of THC be detected in a test then the Medical Review Officer will be in possession of this information.

We would encourage anyone considering using CBD products to:

1. Advise their line manager, and/or the Force Substance Misuse Liaison Officer, who should make a confidential record of it.
2. Advise if the product has been prescribed by a doctor. If not, how is it being sourced to ensure it is not in breach of a declarable association. I.e. to only use products which can be traced to source, such as from reputable UK based retailers.
3. To consider advising the North Yorkshire Police Health and Wellbeing Unit to ensure the product prescribed does not breach the 0.2% guidance and would not impair the function of the member of staff.
4. Photograph and maintain a record of the ingredients, supplement facts or nutritional information of the product in case this is required for subsequent scrutiny.

Any declarations made before any Substance Testing takes place will be considered should the member of staff be selected for such testing.

Members of NYP choosing to use CBD products do so at their own risk. Individuals are responsible for ensuring that any product they consume is from a reputable source and does not contain prohibited substances. A positive drug test result will not be discounted solely on the basis that the individual claims it arose from the use of a CBD product, and such claims will not remove personal accountability under this procedure.

Random & With-Cause Testing

Dependent on the availability of the service, random and with-cause testing will ordinarily be conducted through Point of Care (POC) oral fluid tests. In the event of the donor providing a legitimate reason preventing an oral sample being taken, then a urine sample may be substituted.

A serving officer or member of staff may not be recalled to duty for the purposes of testing. Random testing, with-cause testing and additional testing during probationary periods, will be administered by NYP's Prevention and Substance Misuse Officers) in conjunction with an external service provider who is UKAS and ISO accredited.

Undercover officers are subject to random and with-cause testing in line with this general procedure. In addition, they will be subject to additional voluntary urine or oral fluid tests in line with the Yorkshire and Humber Special Operations Unit SOP.
See Appendix B

Random Testing

Since July 2007, NYP has undertaken a programme of routine testing of police officers in specific roles. Over time this programme has been extended to random testing of all police officers (regardless of role), Special Constables and all Police Staff and volunteers.

Scale of random testing is determined at force level, having regard to perceived risk and cost. "Scale" encompasses size of sample and frequency of testing. "Risk" encompasses the risk inherent in the consequences of impairment of judgment or performance, and the risk of incidence of misuse.

Random testing is risk based; the testing regime may involve selecting a higher proportion of officers and staff for testing in an area or department where the risk is assessed as high or it may be conducted more broadly. The sample of individuals selected for testing in an area or department within the force will be chosen on a random basis. Whilst NYP are responsible for selecting a date and a location for testing, they do not select which individuals are to be tested. These are chosen by the ESP upon provision of an anonymised list of individuals on duty in the area selected on the day of the test.

With-Cause Testing

NYP are authorised to test officers and staff where there is cause to suspect an individual is misusing controlled substances or alcohol. The requirement to take a test should be imposed by an officer of an appropriate senior rank, or equivalent police staff senior manager. For "cause" to be established, the test of "reasonable suspicion" must be satisfied. It should be made clear to the individual that testing "with-cause" may either prove or disprove information or allegations made. A single and unsubstantiated allegation, particularly if made by a member of the public who may have malicious intent, would not normally amount to reasonable suspicion. The reasons for suspecting an individual has misused controlled drugs or alcohol will be recorded.

In certain circumstances where there is corroborative intelligence which gives reasonable cause to suspect that the individual has used a controlled drug over an extended period (i.e. on more than

one occasion), an officer of the rank of Assistant Chief Constable, or someone of similar authority levels within the Combined authority may authorise a maximum of three samples of oral fluid or urine to be required from an individual.

The three samples can be required over a maximum period of 90 days, with day one being the day on which the first sample is required and the period finishing at midnight on day 90. When calculating the 90-day period, no account should be taken of any periods of sick leave.
The individual will not be given any advance notice of the requirement to provide each sample and will be informed at the time when the first sample is required that two further samples may be required within the designated time period. On each occasion a sample is taken the individual will be informed of the drug(s) or drug group(s) against which his or her samples will be tested.

The officer will be entitled to have a "police friend" as defined in The Police (Conduct) Regulations 2012 present when the samples are being taken. Police staff will also have an entitlement to have someone attend with them including a trade union representative or work colleague who is not acting as a legal professional. A delay in a police friend or representative attending will not delay the testing procedure provided that the subject has been able to consult a friend or representative.

Pre-employment testing

Pre-employment testing is by way of a hair sample. In the event of the applicant suffering with a medically proven condition preventing a hair sample being given, then a urine sample may be substituted. In such cases, owing to the very short detection period available with urine samples, the applicant may then be subjected to additional testing during the first six months after their appointment to the Force. These will be collected by a member of NYP Health and Wellbeing Unit staff as part of the pre-employment medical procedure.

There are some differences which apply to the procedures used for testing potential recruits and serving officers and staff. If a potential recruit does not wish to submit to a test, he or she may withdraw from the recruitment process. In the case of transferee's results will be shared with the force from which the individual intends to leave.

If at any time of attending the pre-employment testing the applicant discloses the use of any illegal substances, then this should be recorded, and the applicant advised that this is not an automatic fail, but will be considered on a case-by-case basis. At this point, the applicant should be asked if they wish to continue with a sample or withdraw their application. If there is a case where a disclosure has been made and the individual, then tests negative the decision as to whether the individual is appointed as a police officer will be made by a chief officer in consultation with the Head of People Services and PSD/Vetting with a full rationale for the decision documented.

They should also be advised that this information will be shared with other Forces.

All aspects of the collection and on-site screening of samples from potential recruits, including the taking of information about medications, may be undertaken as a part of the People Services function.

Material to be tested

In the case of random or with-cause testing, oral fluid or urine will be tested.
In the case of recruits and transferees from another force, hair samples or urine will be tested.

Equality, Diversity and Reasonable Adjustments

North Yorkshire Police is committed to ensuring that this procedure is applied fairly and consistently. Where an individual has a disability, neurodivergent condition, medical condition or other protected characteristic, reasonable adjustments will be considered on a case-by-case basis.

Adjustments may include the provision of information in accessible formats, additional time, accessible testing facilities, adjustments to communication methods or alternative sample collection arrangements where appropriate.

Any adjustment must maintain the integrity of the testing process whilst ensuring compliance with the Equality Act 2010.

Testing Procedures

Random & With-Cause Testing Procedure

For random and with-cause testing, a POC oral fluid test will be conducted by a Collecting Officer from an External Service Provider (ESP), facilitated by members of NYP PSD. Tests will be conducted in a private room in the presence of the ESP's Collecting Officer only.

Prior to the commencement of the test, the Collecting Officer will run through the details of the test and obtain any relevant medical information from the prospective donor, including details of any medication they are currently taking. It is important that information about medications taken prior to the test is recorded at the time of specimen collection, and not at any later stage. These declarations may have the effect of disclosing personal information that the donor is entitled to expect will be treated in confidence. In the case of random or with-cause testing, the information will be recorded and retained on behalf of NYP by the ESP. It will only be disclosed where there is concern about the ability of the individual to safely and effectively carry out their role whilst continuing to use any medication.

If at this point a POC oral fluid test is not applicable, the test will move straight to the urine sample testing process highlighted below.

The POC oral fluid test will then be undertaken; this will provide a prompt indication as to whether the sample provided is negative or "non-negative". If a negative sample of oral fluid is provided following the point of care test, the donor will be notified as soon as the result is known that their test is clear and they may resume their duties.

If a non-negative result is returned, this does not necessarily mean the donor has failed the test and has tested positive for prohibited substances, it could indicate the presence of medication or other substances in the sample that means that a more detailed analysis is required. At this point, the donor will be notified that a sample of urine is required for laboratory testing.

In the case of urine samples, the Collecting Officer must be able to keep the donor in sight at all times during the collection process except when they are providing the sample. The Collecting Officer will accompany the donor to a private toilet facility and will remain outside until the sample has been collected. Two samples of urine will be taken - one will be used for testing, and the other will be retained for 12 months if the sample is positive (this period may be extended at the request of NYP). There must be a secure chain of custody through collection, analysis, and medical review. All samples taken will have a unique barcode identification and will be packaged using tamper evident seals. Samples providing negative results will be destroyed. (Normally within fourteen days of analysis) etc.

Dependent on the disclosures made by the donor, the observations of those involved in the testing process and the donors line management, a risk-based determination will be made by the Head of PSD (or authorised deputy) as to whether an individual testing "non-negative" should return to full duties, restricted duties or if they should be removed from duty completely.

Pre-Employment Testing Procedure

For pre-employment testing, a hair sample will be collected by a trained Health & Wellbeing staff. Prior to the commencement of the test, the collector will run through the details of the test and obtain any relevant medical information from the prospective donor, including details of any medication they are currently taking. It is important that information about medications taken prior to the test is recorded at the time of specimen collection, and not at any later stage. These declarations may have the effect of disclosing personal information that the donor is entitled to expect will be treated in confidence. This information will be recorded and retained on behalf by NYP within Health & Welfare. It will only be disclosed where there is concern about the ability of the individual to safely and effectively carry out their role whilst continuing to use any medication.

Hair samples will be taken in accordance with the external service provider's requirements and sent for laboratory analysis.

In cases where hair samples cannot be taken, a urine test will be undertaken as per the random / with-cause process, with the Health & Wellbeing staff member operating as the collecting officer in these cases.

Non-Attendance or Refusal

It is anticipated that there will be infrequent occasions where an individual is unable to attend testing due to the operational requirements of the role. This will be recorded and individuals who are repeatedly unavailable for testing will be subject to investigation and may be dealt with under the disciplinary procedures.

Where a serving officer or member of the Special Constabulary refuses or fails to provide a sample as required, this will be regarded as failing to comply with a lawful order. In the case of a member of Police Staff or Volunteer, such refusal will be regarded as a failure to follow a reasonable instruction. In the case of a refusal this is likely to result in the commencement of an investigation into an allegation of gross misconduct.

Laboratory testing

Laboratory testing for samples will ordinarily only take place for any urine or hair samples taken as a result of with-cause, random or pre-employment testing.

When any sample is taken under this procedure, the donors DNA profile will not be extracted from that sample under any circumstances, and no DNA will be kept.

Split Samples

If a non-negative sample of oral fluid is provided, then an additional sample will be obtained to complement it. Provision should always be made to allow the donor of a urine sample an opportunity to have an independent analysis of the specimen to challenge the outcome of any laboratory analysis.

A split sample (at the time of collection) provides an effective means of providing this opportunity. The cost of an independent analysis will be met by the individual and may be reimbursed by the Force in the event that the first analysis is found to be inaccurate. This opportunity will not be afforded in the case of pre-employment testing and the Chief Constable's /Combined Authority [or their delegate's] right to reject a candidate is absolute.

Self-declaration

Officers and staff with substance misuse problems should be encouraged to identify themselves and should be assisted in seeking treatment. However, self-declaration cannot be used to avoid the consequences of a positive test. Any such declaration must be made before an officer is notified of any requirement to take a test. A self-declaration made after an officer is notified of the requirement to take a test cannot be used to frustrate the disciplinary proceedings that might result from a positive test result.

Consultation and monitoring

The scale of testing adopted has been the subject of consultation with NYP staff associations. All random samples are monitored by ethnicity, faith, gender, disability and sexual orientation to ensure that no unintended bias arises from the sampling technique.

Handling confirmed positive results

A positive laboratory analysis will be subject to medical review. Medical review involves a medical practitioner reviewing the test result and the medical history of the individual to determine if there is a legitimate explanation for the presence of a drug in the sample.

Test results following laboratory analysis and medical review will be returned to NYP's Prevention and Substance Misuse Officers. Where the result is negative, the individual and his or her manager will be informed without delay.

A positive result from a test administered as part of the pre-employment process should be notified to People Services so that the candidate may be rejected.

A positive result from a person who had self-declared a substance misuse problem prior to being tested should be reviewed by the Health and Wellbeing Unit to assess whether the result was consistent with rehabilitation treatment being undertaken. If the result suggested that an agreed

programme of rehabilitation was not being followed, then reference to Professional Standards Department (PSD) should be considered.

All other positive results will be referred to the PSD who are responsible for notifying both the individual and the line manager of the result, and of any immediate action, including suspension from duty where appropriate.

Any claim by the individual concerned that there was a reason (other than a medical reason) for the positive result should be referred to PSD and disciplinary action may follow.

Liability

An individual who has misused controlled drugs suffers a double jeopardy. He or she is at risk of disciplinary proceedings that might lead to dismissal and may also be at risk of criminal prosecution. Because of this double jeopardy, and whether or not criminal proceedings are contemplated, cautioning and interviewing should be to the standards required under the Police and Criminal Evidence Act (PACE).

The penalty for refusal to take a test is no less than the penalty for failing a test. The liability to take a test for police officers is established in Police Regulations, and for police staff members under the Police Staff Council agreement, thus a failure to take a test when required to do so is a failure to obey a lawful order for officers or failure or refusal by a police staff member will equate to a breach of the Standards of Professional Behaviour. In the case of a refusal this is likely to result in the commencement of an investigation of an allegation of gross misconduct.
There is no substantive criminal offence of having an unlawful substance in the body, only a presumption that the offence of "possession" must have been committed beforehand. Such a presumption may be rebuttable by medical evidence that the positive test resulted from use of a lawful medication. The presumption of possession that would arise from a positive, medically confirmed test result should be treated as discreditable conduct. The sanction for both failure to obey a lawful order and discreditable conduct is the same. The potential sanction for 'failure to comply with orders or instructions' and 'discreditable conduct' is the same.

Part 2: Alcohol

Police Officers and Police Staff, Volunteers and Special Constables have a general responsibility to present themselves fit for duty. If their judgment is impaired by the consumption of alcohol, they are unlikely to be fit for duty. It is for a senior officer or police staff manager to determine whether an individual is unfit for general duties, due to consumption of alcohol. However, reporting for duty whilst having previously consumed alcohol (e.g. on the previous evening) does not equate with the criminal offence of using drugs. Managerial action needs to reflect this, and each case will be decided upon its own merits.

As with drugs, self-declaration of a drink problem is a matter that should be managed through the Health and Wellbeing Unit, rather than being regarded as a disciplinary matter.

There is a power to conduct tests with cause, if it appears that an officer or staff member is under the influence of alcohol. Officers and staff will also be liable to random testing.

Individuals selected for routine random drug testing will also be subjected to breath testing for alcohol, at the same time.

In line with Home Office Guidelines there is a presumption that a person is unfit to work if they have more than 13 micrograms% in breath this compares with a limit of 35 mg% in breath for driving. Where a person exceeds the limit they should be removed from their safety critical or public facing role for the remainder of that tour of duty.

Where testing is carried out, it should be conducted using breath testing equipment capable of making measurements at the 13 micrograms% level. Tests will be conducted using only Home Office Approved devices and care will be taken to afford the person subject of the test reasonable privacy when providing the specimen.

Police Officers, Police Staff, Volunteers and Special Constables should never be tested on apparatus held in a custody suite, unless the suite is cleared of all other users.

Each "breath test" should consist of two consecutive breath specimen tests from the officer, with the final result being declared as the lower of the two results. Where the result of the first specimen test is zero there will be no requirement for a second specimen to be tested.
If a supervising officer or line manager smells alcohol on the breath of an individual liable to alcohol testing a breath alcohol test can be administered by a suitably trained person after a wait of 15 minutes. ** (This is to deal with the eventuality that at the time the suspicion of excess drinking is aroused, a proportion of the alcohol consumed may still be in the individual's stomach. Alcohol must be absorbed into the body to register in a breath alcohol test.)
** Initial consideration should always be given to exercising powers under The Road Traffic Act where an individual has been driving or is in charge of a motor vehicle.

It is always open to an officer or police staff, Volunteer or Special Constable to declare that they suspect they might have inadvertently exceeded the limit. Any such declaration should be made before the officer or police staff member is notified of any requirement to take a test. Such declarations should not result in the officer or police staff member being penalised, provided there is no pattern of continuing excess. A declaration may be particularly appropriate in circumstances of an unexpected change of duty, e.g. being allocated to driving duties involving possible use of the police exemptions under the Road Traffic Regulation Act, or requirement to work in an alternative location due to a staff shortage.

Responsibilities and Expectations

Individual

Police Officers and Police Staff, Volunteers and Special Constables with a substance/alcohol misuse problem have a clear personal responsibility to acknowledge their condition and seek assistance. Any self-declaration must be made before that individual is required to take a test. A self-declaration made after an individual is notified of the requirement to take a test cannot be used to frustrate disciplinary or criminal proceedings that may result from a positive test result.

Where an individual is not on a call out rota but is subject to an unexpected call out during a rest period, they must disclose to their line manager if they feel their performance may be impaired by substance(s)/alcohol, in which case the person will not be requested to attend work.

Colleagues
Police Officers and Staff have a duty under this procedure to report and challenge behaviour by colleagues which in the context of the procedure would include reporting their suspicions to a supervisor that a colleague's performance is impaired by alcohol.

If an employee has a reason to suspect an individual may be suffering from a substance/alcohol misuse problem they should try to persuade that person to voluntarily seek specialist advice and the assistance of the Health and Wellbeing Unit. The colleague must also refer the matter to their Line Manager or People Services.

It is inappropriate and could have serious consequences for the individual and their colleague, should they fail to act when a colleague's work performance or behaviour may be suffering as a result of substance misuse. Where possible prevention is preferred however any failure to comply with the guidelines may render the colleague liable to disciplinary proceedings. A range of penalties according to circumstances, up to and including dismissal, may be appropriate.

Supervisors and Managers
If an individual's work performance and/or conduct at work gives cause for concern and this is believed to be related to possible substance/alcohol misuse, the manager should arrange a private and confidential meeting with the person concerned. The manager should explain the purpose of the meeting. The person will be offered the option to be accompanied by a UNISON / Federation representative, or a NYP work colleague who is not acting as a legal professional at the meeting should they wish. The manager must contact the Health and Wellbeing Unit and their People Services Manager for advice in this situation.

The meeting must be objective and factual and take cognisance of the follow factors:

- the discussion should be confined to work or behavioural issues unless there is clear evidence of a substance/alcohol misuse problem or if the individual raises the matter him/herself
- examples of poor work performance or conduct problems should be specified and where appropriate, evidenced
- a definite indication of improvements required and the timescale allowed should be given. This should be confirmed in writing after the meeting, using the supportive action plan format and advise the individual that this will be the case.
- advise the individual of the potential consequences should the work performance/ behaviour not improve
- if the individual admits to having a substance/alcohol misuse problem they will be informed of the self-referral process and advised to contact the Health and Wellbeing Unit.

If substance/alcohol misuse is suspected and the individual refuses to self-refer then a 'with cause' test may be initiated.

A written record will be made of this meeting.

In all cases of self-referral, positive test result or targeted 'with cause' testing a case conference between People Services Representative, PSD and a line manager will be convened to discuss appropriate action.

Any failures by Supervisors or Managers to comply with these guidelines may render that person liable to disciplinary proceedings.

Health and Wellbeing Unit Support

Where the Officer or staff member has self-referred to the Health and Wellbeing Unit they will be required to sign up to a treatment contract which lays out clearly the responsibilities of NYP and the Individual. A treatment contract will not be considered as valid until it is signed off by all relevant parties. Only at this point will a treatment programme be deemed to have commenced and the individual afforded the protection from a substance misuse test.

The Health and Wellbeing Unit will keep People Services informed of any fitness to work issues and adjustments required to restrict duties on health and safety grounds.

Officers and staff taking part in a treatment programme must expect to provide samples for testing during the process. Any failure to comply with the treatment programme will be referred by the Health and Wellbeing Unit to PSD. This will be considered for action under disciplinary proceedings in the same way as a refusal to provide an initial specimen.

Officers and staff will only be eligible for one course of treatment, either alcohol or substance misuse. If they have a dual substance and alcohol issue, they will declare this at the same time.

Should any individual require time away from work to undertake a treatment programme then guidance can be found under the 'Time Away From Work' section of the People Services People Portal and specifically the Additional Leave of Absence Procedure.

Confidentiality

The principles of confidentiality will be maintained within the spirit of the aims of the procedure. However, there is an expectation that the process will be open, honest and fair on all sides.

Details of medical conditions and specialist/ medical treatments will remain confidential but the need to conduct risk assessments and monitor treatment mean that the case conference panel will need to exchange managerial information to ensure consistency. The authority for this will be gained by way of the Treatment Contract signed by the individual at the start of any referral. Management information in relation to the testing procedure will be stored with restricted access within the Health and Wellbeing Unit.

There are some circumstances in which the interests of the proper administration of justice may over-ride an absolute confidentiality. In particular, the manual of guidance, including the Joint Operating Instructions (JOPI) agreed between NPCC and the Crown Prosecution Service (CPS), place

on the individual officer a personal responsibility to declare any matter that may affect their credibility as a witness in a court case.

In some circumstances substance misuse on the part of an officer or police staff member acting as a witness may have to be revealed to the CPS, as the damage to the credibility of the individual as a witness may be a factor to be considered in a decision whether to proceed with a prosecution.

The personal responsibility under JOPI will be drawn to the individual's attention as part of the Treatment Contract at the time of self-declaration. The need to make a declaration to CPS will not arise in every case, each should be considered on its own facts and merits. Any declaration to CPS should be properly managed, with the appropriate support to the Officer.

Other than in exceptional circumstances there is no requirement to seek CPS advice for constructive possession offences when an individual has provided a positive test.

These offences will not be proceeded with criminally.

Review
This procedure will be subject to formal review on a three-year cycle, unless changes in legislation, national policy, regulations or operational requirements require an earlier review and amendment.

Responsibilities
All testing will be conducted by arrangement with NYP's Prevention and Substance Misuse Officers. The Prevention and Substance Misuse Officers will provide a single point of contact with the current external testing agency. Records of all tests will be maintained by the Prevention and Substance Misuse Officers in line with current force policy.

Definition of Special Terms
North Yorkshire Police (NYP) - collectively, the Office for Policing, Fire, Crime and Commissioning (OPFCC) and the Chief Constable of North Yorkshire acting in their respective corporate capacities. References to NYP include employees of the OPFCC, police staff employed by the Chief Constable and police officers holding the Office of Constable.

OPFCC – Office of Police, Fire and Crime Commissioning. This office is overseen by the Deputy Mayor for Policing, Fire and Crime within the York and North Yorkshire Combined Authority.