



The original and the best
reviewed and revised in 2006

The Sample Drugs Policy

V6.1: January 2006

Kevin Flemen

Reviewed and revised with the financial
assistance of Shelter.

KFX
Learning of Substance

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Drugs legislation and practice is frequently changing and so we would urge organisations to check for updates on the KFx website and elsewhere.

We would also strongly encourage organisations to seek legal advice and consult with stakeholders before implementing such protocols.

No liability will be accepted from criminal or civil action or any other claims that may arise in the course of implementing the content of this briefing.

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Drugs on Premises Policy Framework

Introduction:

The 'Sample Drugs Policy' was first published in 1999. It was written by Kevin Flemen whilst working at the drugs charity Release. Following the "Wintercomfort Trial" in Cambridge, organisations were very concerned about producing an effective drugs policy.

The 'Sample Drugs Policy' was a response to these concerns and offered a model which on the one hand sought to increase access to services to homeless drug users, who are all too frequently excluded from services. Simultaneously, the policy ensured that agencies work within the law.

After a series of proposed legislative changes, we have entered a period of relative stability, and so this is an opportune time to review and revise the document. In the course of many workshops and conversations, ideas and concepts in this document have been revised and improved.

The document is also intended to shape and inform drug policies. In order to do this, it is structured as a policy document. Key policy statements are highlighted, and followed by sample procedures, commentary and discussion of the issues raised.

The document cannot, of course, offer a panacea to all service providers working with drug users. Each organisation needs to look at their own specific situation, and adapt a policy accordingly. Hopefully, this document will provide a useful framework to assist this process.

The 'Sample Drugs Policy' is intended to be read along side a number of other documents on the KFx website, including the comprehensive "Drugs Legislation" document, and additional essential resources; these are listed in the "Reading List" at the end of the document.

Please note that this is a draft, working document. It is produced for discussion, guidance and consultation, and will be updated and improved as we receive feedback.

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We welcome feedback and will use it to improve and enhance this document.

Acknowledgements:

This document and the work that has stemmed from it owe a huge debt to a number of workers and individuals who have supported this work and taken it forward. I would like to express my deepest appreciation to those people for their support, encouragement and input, and for implementing so much of this work practically.

Amendments to this edition:

This document has been reviewed and minor textual changes have been incorporated.

Review and revision was undertaken with the financial support of Shelter, whose assistance is gratefully acknowledged.

A handwritten signature in black ink, consisting of several overlapping horizontal strokes that form a stylized, somewhat abstract shape.

Kevin Flemen: January 2006.

Using this document

In order to make the document as useful as possible, there are several different types of information, which are laid out as follows:

POLICY AREA: the section of the policy under consideration

Examples: *Examples of the type of incident under consideration:*

Sample wordings:

These are examples of how organisations could choose to word sections of the policy. They are intended to inform staff, service users or others about the implications of the policy.

LAW:

Legal points are written in a bold type. They provide an interpretation of law, and are important in ensuring that policies are legal. Where the law creates a COMPULSORY legal step, it will be marked with the following symbol:



Procedures:

These are a suggested set of responses to each section of the policy. They include steps that can be taken in response to breaches or suspected breaches of the policy.

These steps are not definitive. They could be adapted by organisations to their own situations as appropriate.

Notes:

Additional information is provided about the issues and rationale for each area of the policy.

This section looks at the policy area in question and provides further information, discussion of alternatives, or highlights issues raised by the section.

Frequently, there will be a range of alternatives to a given policy area, and some of these will be explored here.

Often, the rationale for certain policy approaches will be presented here.

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PURPOSE

“The organisation recognises that a proportion of our service users will have some involvement in drugs. The organisation neither condones nor approves of the possession, use or supply of illicit drugs.

However, the organisation seeks to work with service users to promote their wellbeing and reduce harm. In order to do this it seeks to offer a service that is accessible to drug users, and will seek to avoid excluding drug-using clients where possible.

While wishing to provide an accessible and inclusive service to people who use drugs, the organisation also recognises that it has other duties and obligations including:

- An obligation to work within the law
- A duty to provide a safe arena for all workers and volunteers
- A duty to provide a safe arena for all service users, including non-users,
- A duty to work with and be sensitive to the local community.

The organisation recognises that the intention to work with drug users may create tensions between staff and service users, between service users themselves, between service providers and the wider community and service providers and the police.

This document is intended to minimise these tensions and ensure safe and legal provision for all parties concerned.”

It is useful to include an overarching statement that outlines the purpose and scope of the drug policy. In the present example, the purpose of the policy is to create an open and accessible service that is safe for drug users, non-users, staff and the wider community.

Other agencies may need to adopt a policy that creates a drug free environment, or makes other provisions as required.

STAFF AND THE DRUGS POLICY

"Staff are expected to work to the drugs policy. Where staff are unhappy with an aspect of the policy, or are unclear how to deal with a situation, they should always discuss it with a senior worker.

Failure to adhere to this policy will be treated as a serious disciplinary matter."

Procedures:

- All staff should, as part of their induction, have the drugs policy explained to them. They should be given a copy of the drugs policy.
- Locum staff and agency staff should have the policy available to them while on shift. Wherever possible, locum and agency staff should receive an induction that familiarises them with the drug policy
- As soon as practical after starting staff should attend a drug training course. Regular training courses should be held in house to refresh staff knowledge and ensure consistency in responding to situations. Such training should also develop the skills necessary to deliver the drugs policy such as increasing drugs awareness and dealing with difficult and challenging behaviour.
- All staff should receive regular supervision; implementation of the drug policy should be discussed in supervision and difficulties in delivering the drugs policy addressed. Where necessary, further training or skills development should be made available.
- In some circumstances it may be necessary to take disciplinary action.

Notes:

It is important that managers ensure that staff understand and implement the drug policy. It is not enough solely to draw up a policy. Steps, as outlined above, need to be taken to ensure compliance with the policy.

Many organisations are increasingly reliant on agency staff to cover staff shortages. It remains essential, nonetheless, that such workers work within the law and follow the drug policy.

It is important that workers feel that the policy allows them to work effectively. Often, policies are written in a way that does not reflect actual working practises.

Ideally, a process of staff training, consultation and policy development will result in a policy that is both legal and that staff are happy to work within.

SERVICE USERS AND THE DRUGS POLICY

"There is a drug policy to protect the rights and safety of all service users. If you do use drugs we will still work with you. If you are not sure what the rules mean to you, please discuss them with the staff."

Procedures:

- All service users will have the organisation's drug rules explained to them when they start using the service. It is important that this is done in a clear way and that the service user understands the rules. Some service users may have restricted reading ability, and so may not read the written policy. In residential settings service users will also be given a written copy of the rules as part of their induction pack.
- Service users may be asked to sign an agreement that confirms that they have had the drugs policy explained to them and that they are prepared to work within the terms of the policy.
- In addition to this, notices outlining key points from the policy will be displayed on posters around the building. Sample posters are attached to this document.
- Service users will be able to give feedback about the drugs policy via anonymous comment forms and through regular service-user meetings.

Notes:

Service users need to know what the rules are and that the rules will be implemented. It is important that service users not only understand what rules are there but also why those rules exist.

User consultation can represent a useful way of agreeing rules and sanctions that service users think are fair.

DRUGS COVERED BY THE POLICY

"The drug policy covers many drugs, including:

- Illegal drugs,
- medicines,
- tobacco
- alcohol
- other substances such as qat, volatile substances, betel, and 'herbal highs.'

If you have any involvement with any of these drugs, the drug policy affects you."

Law:

Drug law is complex, and is covered in The Misuse of Drug Acts (1971) and The Misuse of Drugs Regulations (1985), The Intoxicating Substances (Supply) Act (1985), and The Medicines Act (1968) governing the manufacture and supply of medicines. Other legislation, such as the Criminal Justice and Public Order Act, Roads Traffic Act (1988), The Drug Trafficking Offences Act (1986), The Crime and Disorder Act (1998), The Antisocial Behaviour Act 2003, The Drugs Act 2005 and Licensing laws all have an impact on drugs offences.

Procedures:

- The policy is primarily concerned with controlled drugs illicitly held. This includes, but is not limited to, heroin, ecstasy, cocaine, LSD, cannabis, and amphetamines. It also includes prescribed controlled drugs such as methadone or benzodiazepines when held without prescription.
- The policy also addresses prescribed Controlled Drugs, Prescription Only Medicines (POMs) and Over The Counter Medicines (OTCs) where applicable.
- The policy also looks at other drugs not covered under the Misuse of Drugs Act including, but not limited to, volatile substances (solvents), amyl and butyl nitrites (poppers) and Qat, tobacco and alcohol.

Notes:

In a broad scientific sense, a drug is a substance, natural or artificial, that by its chemical nature alters structure or function in a living organism. It therefore includes alcohol, nicotine, volatile substances such as glue and gas, medicines and controlled drugs such as cannabis and LSD.

Different drugs occupy different legal and social positions and it is important to be clear what we mean when we talk about drugs. This will frequently mean dividing the term "drug" into different groups. The drug policy and responses will, in turn, need to respond differently to these different groups.

PREMISES

"We will take action under the Drug Policy when we have concerns about drug related activity both on and near the premises. This includes the entire building, and the area around it.

Drug related activity in the neighbourhood around the building threatens the future of the organisation, and we will always take action when we become aware of such activity."

[additional clause for people living independently in the community]

"The property for which you have a tenancy is considered 'premises,' and as the landlord/landlord's agent, we will take action when we have concerns about drug-related activity in, or in the vicinity of these premises. Be aware that such activity may jeopardise your tenancy."



Law:

Section 8 of the Misuse of Drugs Act 1971 places obligations on managers of premises to prevent certain activities on those premises.

"Premises" refer to hostels and night-shelters, day-centres and other settings such as drop-ins. Any building within the project grounds would be defined as premises, as would any yards, gardens, front steps, adjoining alleys or out-buildings.

For landlords, the properties that they rent "premises" and those will need to be the subject of a drugs policy.

All areas within buildings, including individual resident rooms should be treated as part of the premises.

Other settings such as mobile outreach services operating from a bus may well also constitute "premises".

The powers to close premises included in the Antisocial Behaviour Act 2003 can be triggered by antisocial behaviour associated with a property even if the activity is not taking place in the property. Hence it is important that the policy has regard for activity taking place near as well as on the premises.

Procedures:

- While staff are on the premises, they will ensure that the building and the surrounding area is supervised effectively.
- Where there are insufficient staff to monitor the whole building, access to non-essential areas should be restricted.
- "Hot spots" where supply or other activities could take place clandestinely should be checked regularly.
- All complaints from the public regarding drug-related activity in the vicinity of the building should be logged. The complaint should be looked into. If this investigation supports the complaint, appropriate action should be taken.

Notes:

Where it is unclear where the boundary of a particular set of premises lies, organisations should consult the land registry entry for the building. This will indicate where the boundary for the lies.

There is a lack of clarity as to how this piece of legislation should be applied to certain settings, especially in supported housing projects where staff are not constantly present, and tenants have Assured Shorthold Tenancies. While the Tenant may be solely liable for what takes place in their flat, this is by no means certain. Liability may rest as well (or instead) with the organisation.

Erring on the side of caution, the policy should assume that the organisation could be held responsible for prohibited activities taking place in the tenants' flat.

The policy should address both what takes place on "premises" but also what takes place off premises, but in the vicinity of the premises, and incidents that take place away from premises. While organisations may not be legally liable under MDA s.8 for these incidents, organisations need a policy that allows them to respond to local incidents.

POSSESSION

Illegally-held drugs:

Examples: *Cannabis, non-prescribed methadone, ecstasy*

"We do not condone people bringing illicit drugs into the building. Where we know or suspect that this is happening we will discuss the matter with you and may take further action, especially if you are putting other staff or service users at risk or distress."

[**alt: optional additional clause:** or where we believe that the drugs may be used on the premises.]

Law:

The client is committing an offence by being in unlawful possession of a controlled drug. The organisation concerned, however, is not committing an offence even if they know or suspect that the service user is in possession of a controlled drug.

The organisation must not encourage or condone this behaviour, and should always challenge it when they become aware that it is taking place.

Procedures:

These stages only apply if the drugs are found at a time when the user is present. If substances are found when the owner is absent, workers should proceed using the 'Finding Drugs' section on page 16.

- The worker will assess the situation from a risk perspective and act based on this assessment.
- If a service user is known or believed to be in illegal possession of controlled drugs they will be reminded that this means that they are committing an offence under the Misuse of Drugs Act (1971), and workers will highlight the legal risks that this carries for the service user.
- Workers will ensure that information about drugs and relevant support agencies is available to the service user, in order that they have the opportunity to look at reducing their drug use or reducing the risk of drug-related harm as appropriate.
- Where the quantity of the drug or other factors suggest that the service user may be supplying drugs, the worker should proceed as described in "SUPPLY" below.
- Where factors indicate that the drug is being used on the premises, the worker should proceed as described in "USE" below.
- Also see below "Possession – Prescribed controlled drugs".

If an organisation does wish to enforce a "no possession of illegally held drugs," they will need to include the following steps, on finding that drugs are there:

- on finding that a person is in possession of illegally-held controlled drugs, this will be a breach of the "no illegally held drugs rule" and the following options explored:
 - service user willing to surrender drugs for disposal or

- service user prepared to destroy the drugs themselves or
- service user prepared to remove drugs from the premises
- if the service user will not agree to one of the above courses of action, further measures may be required, such as use of sanctions or police involvement
- some formal action will be taken to reflect that the client is in breach of the “no illegally held drugs rule” such as a written warning.
- Workers should never place themselves at risk when trying to achieve the removal of drugs from a service user. Nor it will typically be appropriate to attempt to remove substances from the service user without their consent.

Notes:

This is a difficult area and one that involves no small amount of controversy. But, as the law stands, there is no obligation to prevent a person being in possession of a controlled drug. Many drug policies do impose restrictions, such as saying “no drugs on the premises.”

It is not usually feasible to enforce such policies rigidly, as it will not normally be acceptable to search people, their property or rooms for drugs. More frequently, agencies will only take action when they become overtly aware that a person has drugs on them.

While such policy is clearly desirable in a drug-free environment such as a rehab, or school settings they may be less appropriate in an environment such as a day-centre or a hostel.

The clauses above allow for a different range of responses, including options of:

- a) only enforcing removal or sanctions when possession represents an unacceptable level of risk or*
- b) requiring drugs to be removed from the building.*

Approach (a) will be the preferred option for all agencies trying to work with ongoing drug users.

Prescribed Controlled drugs: Examples: *Methadone, Subutex, Diazepam*

“If you are bringing prescribed controlled drugs into the building please let workers know, for the safety of staff and other service users. Always keep drugs either on your own person, or store them somewhere securely. Please keep them in their original packaging and with labels intact, so we know that they are yours. Do not give them to other people to take or to look after.”

Law:

Where clients are in possession of controlled drugs that has been prescribed to them, no offences are being committed.

Procedures

- Clients should be encouraged to inform staff what drugs they have been prescribed.
- With the client’s consent, workers should seek to work with prescribers and pharmacies to ensure service users are not prescribed large quantities of drugs at one time.
- Prescribed drugs should be kept in their original packaging, with labels left intact. Such medication should not be openly displayed, left unattended or given to others for safe-keeping.

Procedures for both illegally-held drugs and prescribed controlled drugs:

- In some situations, the possession of both illicitly held and prescribed controlled drugs may represent a risk or hazard to other service users or staff. This includes situations where staff have concerns that drugs may be used for supply, or where drugs are being openly displayed. It also includes situations where drugs have been left unsupervised or unattended.

In such situations staff need to act to reduce the risk to other service users. They should take the following steps:

- Where there is concern that there is suspicion of supply, staff should refer to the "Supply of drugs on premises" guidelines.
- Where controlled drugs are being openly displayed the client should be warned that their behaviour is unacceptable, as it poses a risk to other service users.
- Should the behaviour continue, further steps must be taken. In the case of prescribed controlled drugs, the client could be instructed to simply put the drug away.
- Where the drug in question is an illegally held controlled drug, responses may include the client being asked to leave for a period of time, or being asked to dispose of the drug.

Where drugs have been found unattended or abandoned refer to the section on "Finding Drugs."

STORAGE OF DRUGS

Prescribed controlled drugs:

Examples: *A client wants staff to look after some methadone or diazepam*

"We cannot store your prescribed controlled drugs on your behalf. You should ensure that such drugs prescribed to you are safely and securely stored. If you are prescribed other medication, please discuss this with staff."

Law:

If workers were to take possession of methadone or another controlled drug in order to store it for a service user, it is likely that they would be committing an offence. The MDA makes it an offence to be in possession of a controlled drug unless you have legal authority to be in possession of it. Doctors, pharmacists and the police could legitimately be in possession of certain controlled drug, as of course can the person to whom it was prescribed.

Workers in a hostel or a day centre however do not enjoy this legal authority to possess controlled drugs except in the following circumstances:

that the worker takes possession of the drug :

"for the purpose of delivering it into the custody of a person lawfully entitled to take custody of it and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to deliver it into the custody of such a person."
[MDA 1971 s. 5(4)(b)]

Or

"a person engaged in conveying the drug to a person authorised by these regulations to have it in his possession." [Misuse of Drugs Regulations 1973 6(f)]

The former would apply where a worker either found a drug or took a drug from someone who was not entitled to have it and, as soon as reasonable afterwards took it to the police or a pharmacist. It would not apply where the drug was taken from someone who was legally entitled to be in possession of it.

The latter would apply where, for example, a worker went to the pharmacy to collect methadone for a client and then brought it to them as soon as practical afterwards. This situation is not applicable here.

While it appears to be contrary to good practice, it seems workers would be committing an offence if they store methadone or other controlled drugs on behalf of clients.

Procedures:

- Workers should encourage users to disclose that they are bringing prescribed methadone or other prescribed controlled drugs into the building.
- The organisation should work with prescribers and pharmacies to ensure people are prescribed daily rather than receiving large weekly quantities.
- Special provision should be agreed with pharmacies to prevent large quantities being dispensed over holiday periods.



- In residential premises, each resident should have a room with a good quality lockable door.
- In addition, especially where rooms are shared, each resident should be provided with a secure lockable cabinet in which they can safely store prescribed controlled drugs.
- Where such provision is not available (e.g. dormitory-style accommodation) organisations must seek to ensure the safety of all residents by reducing the risk of methadone or other drugs being stolen. Agencies should discuss the situation with local agencies and prescribers, the police and funders and attempt to agree local protocols.

Notes:

As the law stands, a worker who looks after methadone, or another prescribed controlled drug would be committing an offence. Thought should be given, therefore, to strategies that reduce the amount of methadone in the building at any given time, and allow service users to store their methadone securely.

There will be circumstances where vulnerable people will be prescribed methadone, and staff feel that the risk of leaving this in their possession is too great, and therefore warrants taking the drug into safe storage on behalf of the service user.

Staff should explore all possible options before taking such a step, and accurately record actions taken and the reasons for it. They should also be aware that such an action is illegal.

For further exploration and policy consideration of this vexed issue, please read the KFx Document, "On Storage," which can be downloaded from the KFx website.

Other Controlled drugs:

Example: *cannabis, ecstasy,*

Procedures:

- Workers will not take possession of any substances that they think may be a non-prescribed controlled drug unless it is to destroy it or pass it on to the police.
- Workers will not pass such substances back to the service user, unless there are exceptional circumstances such as fears for personal safety.

Notes:

There should be no reason for any workers to take possession of a controlled drug unless it is to hand it in for disposal or to destroy it themselves

If workers are not clear what the substance is they should err on the side of caution, and assume that it is a controlled drug.

Other Medicines:

Example: *prozac, aspirin, antibiotics*

Law:

Workers can look after other medicines such as Prescription Only Medicines and Over the Counter Medicines for service users.

Procedures

- Ideally, service users should be responsible for storing and taking their own medication.



- Workers should assist this process. To this end, workers will seek to record residents who are prescribed medicines the prescribing instructions and contact details for the prescriber.
- Where staff or service users feel unhappy about keeping possession of their own medication, staff can, where appropriate, store it on behalf of the service users.
- Such storage must not take place in premises where there is not 24 hour staff cover.
- Where medicines are being stored, agencies need to ensure that storage facilities are secure and that accurate records are kept of what is being looked after and for whom.
- Medicines should only be taken from and returned to the person to whom they were prescribed, and not returned to other people such as third parties.
- Where medication is stored, and the service user ceases to use the service, the medication should be returned to a pharmacy and a record kept of this action.
- Taking custody of drugs for a client is not the same as administering them. Whilst workers can remind and encourage service users to take their medication, workers are not in a position to insist that clients take the correct amount at the right time. Nor can workers usually withhold any medication from client.
- Workers have concerns about a service-users well-being or safety as regards their medication. These concerns should be addressed firstly to their service user. Their consent should be sought to discuss these concerns with the service-users GP and the pharmacist, if appropriate.

Notes:

The storage of medications is another vexed question. One school of thought argues that service users should be encouraged to take responsibility for their own medication, and to that end should be encouraged to look after their own medication. Another school of thought argues that in some settings, especially when working with users with high support needs, workers should be more actively involved in supporting clients with medication. Such a process can assist the service user and encourages an interaction between workers and clients. It can also reduce the risk of accidental or deliberate overdose.

It is perhaps best to adopt a policy of adjudging each case on its own merits; some service users may be best served by storing their own medication, others by being assisted in this process.

Please consult "On Storage" for further consideration.

FINDING DRUGS:

"Drugs that are left unattended are a risk to others – even if they are prescribed medicines. If staff find any substances unattended in communal or shared areas, they will remove them.

If the drug is an illegal drug it will be destroyed. If it is a prescribed controlled drug it will be handed in to a pharmacy; when we know who you are, we will discuss the matter with you.

If they are medicines, in their original packaging and with your name on it, we will try and return them to you. Otherwise they are likely to be destroyed."

Law:

Workers can take possession of a controlled drug for the purpose of destroying it or to deliver it to someone authorised to possess it (e.g. the police.) Workers would be committing an offence of possession and possibly intent to supply if they took possession of a controlled drug for any reason other than to destroy it or pass it on to someone lawfully entitled to have it.

Drugs found in communal areas:

Prescribed controlled drugs:

Examples: *methadone, found in shared lounge*

Procedures:

- These should be removed from the communal area.
- Where the drugs are clearly labelled, and the identity of the owner is known and is *bona fide* then the drugs may legally be returned to the owner. They should be reminded of their responsibilities *vis a vis* storage of medication.
- Where the identity of owner is unknown, or where medication is unlabelled, the drugs should be returned to a pharmacy for disposal and a written record kept of this action. The worker, prior to setting off should contact the pharmacist.
- Where the identity of the person is not known, all service users should be reminded of drug policy on this area.

Illicit controlled drugs

Examples: *cannabis, heroin*

Procedures:

- These should be removed from the communal area. They should either be destroyed or taken to the police for destruction. See procedures on DESTRUCTION and DISPOSAL.
- Service user(s) involved should be challenged as described above.

Notes:

Drugs found in communal areas, whether prescribed or otherwise, represent a health hazard to other service users and visitors. The organisation is obliged, under its duty of care to service users, staff and visitors, to address this risk, and so need to remove the drug from the communal area.

Drugs found in private areas (bedrooms etc):

Law:

Law on this is potentially unclear and, as elsewhere, organisations should err on the side of caution.

In residential settings for adults, where residents have exclusive use of their room under a licence or tenancy agreement, the contents of the resident's room may be treated as their possessions. If the resident keeps drugs in their room, they commit the offence of possession rather than the organisation.

Organisations are under **no legal obligation** to dispose of substances found in such circumstances.

In a setting such as a residential children's home, where workers can be considered to be acting *in loco parentis*, workers may potentially be considered to be in possession of controlled drugs if they know that they are in the building, and so should act to ensure their removal and destruction.

If drugs are found in a place where others would be at risk (e.g. a shared bedroom) then there would be an obligation to act under the Duty of Care that the organisation has to all service users.

Procedures:

- Where a service user has moved out, workers should act as if the drug were in a communal area, as described above.

If the service user is expected to return, the following processes could be used:

- Where quantities of drug or packaging suggest supply may be taking place, the police should be involved immediately.
- Users may experience severe ill effects and, in relation to some controlled drugs such as benzodiazepines or barbiturates, life threatening withdrawal through uncontrolled and unsupervised withdrawal. The removal and disposal of any substances without the client's knowledge and consent should not take place.
- The room should be secured, to ensure other service users are not put at risk. On their return, the service user should be reminded of policy on storing drugs, and the reasons for this policy.

Notes:

Drugs may be found in private areas such as bedrooms by cleaners, in the course of health and safety inspections, or for other reasons, or after a service user has moved out.

In some situations, such as on finding a small amount of cannabis, it may be clear to the worker that the person is in illegal possession of a controlled drug. In other situations, this may be less clear cut. A bag of pills could be Valium bought on the street, or could be prescribed drugs, no longer in their original packaging. To remove and dispose of them could constitute theft, and could put the service user at risk of harm.

Even when workers find a bag of something that they think may be heroin or similar, the ramifications of taking the drug and disposing of it can be very damaging. Such action will require the user to go out and get more money to buy more drugs, and may put them at increased risk. It may cause conflict between service users and lead to accusations of theft. And it will almost certainly damage the relationship between workers and service users, and make drug related education work more difficult. In some settings such as residential children's homes, organisations should err on the side of caution and assume that they, potentially, be considered to be in possession.

DESTRUCTION and DISPOSAL

Law:

A controlled drug may be considered destroyed for the purposes of regulation 26 of the Misuse of Drugs Regulations (1985) if it has been:

"dissipated or denatured to the extent that it is incapable of being retrieved, reconstituted and used and it is the responsibility of the person carrying out the destruction to ensure this criteria is met."

Procedures:

- Destroying is not wholly straightforward. Flushing small quantities of powders away does cause pollution but is a practical way of dealing with the situation. However, substances such as cannabis resin or herbal cannabis may not so easy to dispose of in this way, and it may be more practical to take them to the police for disposal.
- The person finding the drug must not pass it on to another worker, but should either destroy it or take it to the police themselves.
- Destruction should take place in the presence of a senior worker, who witnesses the process.
- A record should be kept of the incident.

Handing drugs in to the police:

- Where the quantity of drugs found suggests supply may be taking place, the Police should be involved immediately.
- Where a decision is made to take drugs to the police for destruction rather than destroying 'in-house' the police should be informed that a worker is coming to the police station prior to setting off.
- Police liaison should be agreed allowing the delivery of controlled drugs to the police on a "no questions asked" basis.

Notes:

Once decision has been made to take possession of a suspected controlled drug, it is important that the safety of workers is protected, both from prosecution and from accusations of wrongdoing.

A key area of concern is for workers finding drugs during a solo night-shift. Their options are to dispose of it themselves, without witnesses, or to wait until colleagues arrive in the morning. However, the law requires that destruction takes place as soon as reasonably practical, and the law does not require a witness to be present.

In such a situation, the best course of action would be for the worker to phone the local police station on finding the drug, and inform them that they will be coming in the following morning with the substance. It should be noted that the worker finding the drug should be the person who conveys the drug to the police, even if they are coming off a twenty-hour shift!

SUPPLY OF CONTROLLED DRUGS:

Examples: *Client giving someone some methadone, one client injecting another with heroin, two people sharing a spliff, a service user selling ecstasy.*

"We will not tolerate the supply of controlled drugs on the premises. We will always act where we know or suspect that supply is taking place. Anyone found supplying or suspected of supplying controlled drugs may be told to leave and be banned from some or all of the premises. Their details may also be passed on to the police."

Law:

The supply of controlled drugs taking place on the premises can have serious ramifications for both the clients concerned and for the organisation.

The client is committing an offence of supply, which could carry heavy penalties on conviction.

Where workers are aware that supply of controlled drugs is taking place they are obliged to take reasonable steps readily available to them to stop this supply taking place. If they fail to do so, they may be committing an offence under S.8 of the MDA.

Procedures:

- When workers know that supply is taking place, they should take steps to prevent it. An initial response may be to instruct the person to stop, reminding them of the drug policy and the legal risks that they are taking.
- Such a step, if successful, would discharge your responsibility under Section 8. However, workers should be vigilant to ensure that the measure taken has been effective and that there is no recurrence of the supply.
- If this measure were ineffective, further steps would need to be taken, such as requiring the person to stop and move off the premises. However, if this step is ineffective you will have to take further steps to fulfil your obligations under Section 8.
- Where other measures have not succeeded it may be necessary to involve the police; frequently, the police will have little power to act unless an injunction has been served against the person, or an offence is being committed. It may be necessary to inform the police that there is a person who has been banned for supplying drugs on the premises, and provide the person's name and description.
- Such a step could give the grounds that they need to stop, search and possibly remove the person from the area.

Notes:

Section 8 of the MDA makes it an offence to knowingly "permit or suffer" supply of controlled drug to take place on premises.

In the case of Crown Vs Wyner and Brock (the Wintercomfort Case), "permit" or "suffer" was interpreted as meaning the same thing. It was taken to mean:

"If the defendants were unwilling to use any reasonable means that were readily available



to them to prevent the prohibited activity, then they were permitting the act."

Furthermore, it was directed that if there was a failure to implement these means effectively, then the offence was also committed.

This central issue is highly problematic, and further clarification from court rulings would be useful. The terms "reasonable" and "readily available" are imprecise. A variety of measures were highlighted during the above trial, some of which had been adopted as project policy. They included, but were not limited to:

- *Supervision of all areas of the premises,*
- *Installation of CCTV or mirrors,*
- *The banning of people who were found supplying or suspected of supplying drugs,*
- *The display of notices,*
- *The enforcement of bans by staff,*
- *The move from open-access to closed-door policies,*
- *Changes to opening times and numbers on premises,*
- *Calling the police to remove banned people from premises,*
- *Passing the names of people known or suspected to be supplying drugs to the police,*
- *Closure of the project.*

This interpretation of what constitutes "reasonable means" highlights the gulf of what may be deemed "reasonable" from a legal point of view and what is reasonable from the point of view of those running a service.

One of the measures proposed as a reasonable and available was that the police should be informed of known or suspected details. Certainly, where other measures to prevent supply have not succeeded, the police could be involved. An unwillingness to take that step could constitute a failure to use a reasonable means available.

At present, the closure of a project, albeit on a temporary basis, could be deemed to be a "reasonable measure readily available" by a Jury. The failure to adopt such a measure if other measures had proved ineffective would, therefore, indicate an unwillingness to use such a "reasonable" step and, as such, be evidence of permitting the prohibited activity.

Agencies facing this situation should contact funders and other agencies to demonstrate that closure or similar measures were neither reasonable nor readily available to them.

Suspicion of Supply: third party information

Procedures:

- Acknowledge the information, and ensure that it is recorded in appropriate places.
- Advise the informant that the information will be looked into.
- Discuss matters raised with other workers, identify if they share concerns,
- Ensure that staff apply a high level of vigilance,
- Discussing the matter with the accused, in a non-confrontational manner, to establish facts,
- Where applicable, ask to undertake a room-search.
- If these steps support the accusation, then further action will need to be taken, as described above for dealing with supply on premises.
- If there is no corroborating information, workers should log the steps taken in looking in to the accusation, that there was no evidence to support it, and record any further action taken, such as warnings given.

Where the informant subsequently asks why nothing was done, they should not be given additional information, but advised that the matter was looked in to, and you will always look into such matters when brought to your attention.

Workers own suspicions:

- Where no information is received from third parties, but workers are suspicious of behaviour, a similar set of steps could be followed, including challenging, discussing with colleagues, increased vigilance and, where appropriate, checking rooms.

Workers will often not actually know that supply is taking place on the premises. It is more likely that they suspect supply is taking place, or have information from third parties that supply is taking place.

Policy should make it clear that workers will act on every episode where there is a suspicion that supply is taking place. There is a risk otherwise that workers could be accused of "turning a blind eye" to supply taking place.

USE ON PREMISES:

"The organisation will not tolerate the use of any drugs on or near the premises that puts staff, volunteers or other service users at risk of harm or prosecution or causes distress. Where staff know or suspect use is taking place they will always take action, which in some circumstances may include you being asked to leave, and may include the police being involved."

[optional additional clause relating to cannabis:

'Although cannabis has been reclassified it remains illegal to possess or supply this drug. As an organisation we have a legal obligation to prevent cannabis smoking in the building and the supply of cannabis.

Where we know or suspect that cannabis is being used in the building we will need to take action and this may jeopardise your continued stay here."]

Use of illegally held controlled drugs:

Cannabis and Opium only

Law:

Where workers know that cannabis (or opium) are being smoked on the premises they are obliged, under the MDA s.8d, to take steps to stop it happening. Failure to do so would be an offence under the Act.

- Even though cannabis has been reclassified to Class C, organisations still have a legal obligation to stop it being smoked on site.
- KFx have developed an additional protocol relating to negotiating agreed working practices with the police; these are available on the KFx website.
- The Home Office has determined that the above obligation relating to cannabis remains in force.
- Some action must always be taken, and the guiding principle here should be that the action should be both reasonable and readily available.
- Staff are not obliged to act in a way that would put their own safety at risk.
- The following steps could be initiated on discovering someone smoking cannabis in the building:
 - The person should be challenged immediately, unless there are real concerns about personal safety. In such a setting, the behaviour should be challenged at the earliest available opportunity.
 - The person should be instructed to cease the activity immediately. If they do so, then the organisation's obligations under Section 8 have been discharged. Workers should proceed by:
 - Ensuring staff are aware of the incident and are vigilant for reoccurrence,
 - That the person is warned that future transgressions will be dealt with more robustly, if this is the first incident.
 - The service user may still be in illegal possession of controlled drugs they will be reminded that this means that they are committing an offence under the Misuse of Drugs Act (1971), and workers will highlight the legal risks that this carries for the service user.



- Workers will ensure that information about drugs and relevant support agencies is available to the service user, in order that they have the opportunity to look at reducing their drug use or reducing the risk of drug-related harm as appropriate.
- If this is a recurring problem, more robust action is taken, possibly including verbal or written warnings, suspension of services for a period of time, termination of tenancy, commencement of eviction procedures or police involvement as appropriate.
- The nature of the action should be taken in consultation with other team members, senior managers and other agencies as appropriate.
- Breaches of drug policy, responses initiated, and reasons for those responses should be recorded. [See Recording Information.]

Other illegally held controlled drugs:

Examples: *Heroin, cocaine, ecstasy*

Law:

If a person is known to be using illegally held controlled drugs (other than cannabis or opium) on the premises, the person in question is committing an offence of possession of controlled drugs under the MDA.

The organisation is not, however, committing an offence under Section 8 of the MDA where it is known that drugs other than cannabis or opium are being used.

The organisation is still required to address their obligations under health and safety and their duty of care; they should also be conscious of their obligations to manage antisocial behaviour.

Proposals to extend S8(d) to cover all “controlled drugs unlawfully held” but this extension was repealed by the Drugs Act 2005.

Where the use is not presenting a risk to others, responses could include:

- Reminding the service user that they are committing an offence under the Misuse of Drugs Act (1971), and highlighting the legal risks that this carries for the service user,
- Highlighting the health and welfare implications of the drug use,
- Reminding the service user that incidents that create risk for staff or other service users will not be tolerated.

Workers should ensure that information about drugs and relevant support agencies is available to the service user, in order that they have the opportunity to look at reducing their drug use or reducing the risk of drug-related harm as appropriate.

The use of drugs in a way that creates risk for other service users cannot be tolerated.

Examples of this include:

- Using in the presence of other people – e.g. in communal areas, dormitories, shared rooms
- Discarding injecting equipment carelessly,
- Leaving spilt blood,

- Sharing equipment or paraphernalia.
- In such circumstances the risk-creating behaviour must stop. Options may include increased vigilance, issuing warnings, or suspension of services as appropriate.
- The nature of the action should be taken in consultation with other team members, senior managers and other agencies as appropriate.
- Breaches of drug policy, responses initiated, and reasons for those responses should be recorded. [See Recording Information.]

The above notwithstanding, the organisation recognises that possession of these drugs is illegal and does not approve, condone or support the use of these drugs.

Where they are being used, the organisation will always take some action, and initiate some response.

Organisations wishing to work within a "no drugs, no drug use model" will of course not wish to use the above model, and will end up taking enforcement action when encountering use..

Use of legally prescribed drugs Examples: *Methadone, Valium, Paroxetine, insulin*

Law:

No offences are being committed if a service user is using these or other legally prescribed drugs while on premises.

Use of non-prescription medicines

Examples: *Aspirin, paracetamol, night nurse.*

Procedures:

The use of prescribed medicines, when taken as per the prescriber's instructions, is to be supported and encouraged. However, such use must not create other risks or distress. To minimise such risk, the following procedures could be adopted:

- The use of legally prescribed drugs is not allowed in shared or communal areas. This is to reduce the exposure of non-users to potentially dangerous drugs such as methadone, the administration of injectable drugs, and reduces the risk of theft or sharing of other drugs.
- Such drugs should, where possible, only be administered in the service-users own room, or in another appropriate part of the building identified for this use. Service users should be aware that non-compliance with these rules will be treated as a breach of the drug policy and sanctions may need to be applied.
- Drugs should only be used in accordance with the prescriber's instructions. Where this does not happen, action will need to be taken. This may include:
- Working with the service user and the prescriber to rectify the situation.
- The use of non-prescribed medicines is not allowed in shared or communal areas. This is to prevent confusion in relation to drugs being used, and to encourage consistency in the treatment of drug users where possible.
- Such drugs should, where possible, only be administered in the service-users own room, or

in another appropriate part of the building identified for this use. Service users should be aware that non-compliance with these rules will be treated as a breach of the drugs policy and sanctions may need to be applied.

- Drugs should only be used in accordance with the manufacturer's instructions. Where this does not happen, action will need to be taken. This may include:
- Highlighting and explaining the risks to the service user,
- Working with the service user and other agencies to rectify the situation.

Notes:

The use of these non-prescription medicines, when taken appropriately and in accordance with the manufacturer's instructions, is an important aspect of healthcare. However, such use must not create other risks or distress. In addition, a number of non-prescribed medicines may be misused, creating risks for the service user and for others.

Use of other drugs.

Examples: *Qat, solvents, amyl and butyl nitrites, caffeine, betel*

Law:

These and other substances are not covered under the Misuse of Drugs Act, but some are covered under other Legislation. The possession or use of these drugs does not constitute an offence.

The supply of some of these drugs is an offence, but, as the drugs are not controlled under the MDA, they do not fall under S8 of the MDA.

Procedures:

- Despite the legal considerations above, the use of these drugs may present a risk to other service users, staff or the individual. The following responses could be adopted:
- The use of these drugs is not allowed in shared or communal areas, unless in socially accepted forms such as tea, coffee, chocolate etc. This is to prevent exposure of non-users to these drugs, to reduce distress to other service users and to encourage consistency in the treatment of drug users where possible.
- Where they are being used elsewhere, for example in the service users own room, the organisation will always take some action, and initiate some response.
- Where the use is not presenting a risk to others, responses could include:
 - Highlighting the health and welfare implications of the drug use,
 - Reminding the service user that incidents that create risk for staff or other service users will not be tolerated.
 - Workers should ensure that information about drugs and relevant support agencies is available to the service user, in order that they have the opportunity to look at reducing their drug use or reducing the risk of drug-related harm as appropriate.
- The use of drugs in a way that creates risk for other service users cannot be tolerated. Examples of this include:
 - Using in the presence of other people – e.g. in communal areas, dormitories, shared rooms,
 - Sharing these substances with others,
 - Using flammable drugs in an unsafe way, such as while smoking.

In such circumstances the risk-creating behaviour must stop. Options may include

increased vigilance, issuing warnings, or suspension of services as appropriate.

- The nature of the action should be taken in consultation with other team members, senior managers and other agencies as appropriate.
- Breaches of drug policy, responses initiated, and reasons for those responses should be recorded. [See Recording Information.]

Use of other alcohol and tobacco

"Alcohol and tobacco may only be used in designated smoking or drinking areas. They should be used with consideration for other service users."

Law:

No offences are being committed where alcohol or tobacco is being used on premises.

Procedures:

Smoking areas and drinking areas should be identified. These should be "non-essential areas," i.e. not areas that non-smokers and non-drinkers are obliged to use such as dining areas or reception areas.

Notes:

While not illegal, the use of these widely used drugs can and does have an impact on other services users. To minimise these risks and to provide a safe environment for all parties concerned, a suitable policy should be adopted. Increasingly, there is a growing obligation to provide smoke-free workplaces.

INTOXICATION ON PREMISES:

"People who wish to use any part of the service should be 'fit to participate' in that part of the service. If your behaviour means that you are not fit to participate you may not be able to use some or all of the organisations services.

Anyone whose behaviour is disruptive, whether due to drugs or not, will be challenged and asked to change their behaviour. If they refuse to do so they may be asked to leave communal areas or to leave the building."

Procedures:

- Where a person appears to be intoxicated or in an altered state, their fitness to participate should be assessed; this means looking at the level of intoxication and the intended activity.
- A service user displaying disruptive behaviour will initially be taken aside, and a worker will explain why their behaviour is creating disruption. They will be offered the choice of moderating their behaviour, leaving the building and its vicinity for a while, or retiring to their room in a residential setting.
- If the problem persists, the person will be required to leave the building, and will not be readmitted until they agree to moderate their behaviour.
- Should these strategies prove unsuccessful, and a client continues to display threatening or abusive behaviour and refuses to leave, the police will need to be called.
- Staff should receive training on dealing with difficult and dangerous behaviour.

All such incidents should be logged in the Incident Book.

Notes:

The organisation does not require people to be drug free to use the service. In fact the organisation recognises that people who are substance-dependent may need to have used their drug of choice prior to entering the premises.

However, the organisation has an obligation to provide a safe arena for all staff and service users, where people are not subject to threatening, abusive, offensive or violent behaviour. Where service users display such behaviour, whether due to substance use or not, action will need to be taken.

The emphasis here is on addressing behaviour rather than the drug use per se. The idea of being fit to participate means that it may be appropriate for a service user to come in for a shower or to collect belongings but may not be appropriate to take part in a group session for example.

ANTI-SOCIAL BEHAVIOUR:

"Service users have a responsibility for their behaviour and that of their guests. Antisocial behaviour is not acceptable, and will result in action being taken where you or your guests are responsible for antisocial behaviour.

This includes antisocial behaviour both on the premises and in the vicinity of the premises.

Antisocial behaviour may or may not be drug related. It includes things like leaving drugs paraphernalia in public places, causing disturbance or nuisance to neighbours, noisy, threatening or abusive behaviour, lots of late night visitors or other problems.

Where you or your guests are responsible for antisocial behaviour we will take action to stop it and this could include you being excluded or evicted from the service.

The police have the power to remove you from your property and seal the property if they and the court think that your property is associated with Class A drugs and nuisance or serious disorder."

Law:

New powers were created under the Antisocial Behaviour Act 2003. When the Police had grounds to think a premises was associated with the production, use or supply of class A drugs was and the property was associated with disorder or serious nuisance, then the police can issue, after consultation with the local authority, a Closure Notice.

This document would be served on the premises, and would inform those connected with the premises that an application is being made to close the premises, say when and where the closure hearing would take place, and restrict access to the building to the owner of the building or people who normally stay there.

Once a closure notice has been issued, the Police would seek a Closure Order from the Magistrates Court. The court will issue a Closure Order if they believe that the use or supply of Class A drugs has been taking place, that it has been connected to disorder or serious nuisance, and that without issuing a Closure Order, there is likely to be further nuisance or disorder.

For a more detailed consideration of this legislation, please see the relevant KFx briefing.

Procedures:

- The organisation should make it clear to service users and residents what could constitute antisocial behaviour and the possible consequences of such

behaviour.

- Support and guidance may be necessary to help people manage their own behaviour or that of friends or guests.
- Where persistent anti-social behaviour is a problem, and the property in question is associated with Class A drugs, the police may be able to seek a Closure Order. This would have an impact on other service users.

Organisations should develop protocols with the police and the local authority to establish how these new closure powers would be used locally.

Notes:

Measures to tackle antisocial behaviour are a key aspect of Government policy. The new powers included under Section 1 of The Antisocial Behaviour Act 2003 do highlight the importance of service providers ensuring that their clients do not have a negative impact on the wider community.

While it is not very likely that these powers would be used against a hostel, day centre or needle exchange, there is scope to do so, and so organisations will need to respond effectively to episodes of antisocial behaviour, especially when these are drug-related.

INJECTING EQUIPMENT AND SHARPS BINS:

"Sharps bins are available to all service users for the safe disposal of razor-blades, toothbrushes, injecting equipment, bandages etc. All service users should dispose of such items safely. The unsafe disposal of items such as needles will be treated as a serious breach of the drugs policy."

Law:

There is no legal impediment for making sharps bins available to service users. The distribution of needles and syringes is specifically exempt under MDA. Amendments to the legislation now make it lawful to distribute acids, filters, spoons, swabs and water to injectors. There are no restrictions on the possession of such equipment, or of sharps bins.

Organisations are obliged, under their duty of care and health and safety obligations, to ensure that premises are safe, and that reasonable precautions are taken to prevent foreseeable risk. In environments where the presence of used injecting equipment is a foreseeable risk, steps must be taken to reduce this risk, such as through the provision of sharps bins.

- Sharps disposal bins should be made available in the following locations:
- Large bins located in staff areas for the disposal of full personal bins.
- Individual bins in every bedroom,
- Larger bins, securely mounted in bathroom/toilet areas.
- No restriction will be placed on people bringing in or storing clean, unopened needles into the building. Injecting drug users who have access to clean needles will be less likely to share, which would put them and others at risk.
- All used needles must be placed in sharps disposal boxes. Any service user who fails to do so, by discarding used needles in or around the building or storing them elsewhere, should be challenged. Initially they should be reminded of the drugs policy, of the risk that they create for all parties concerned, and of the provision available for the safe disposal of needles. Future transgressions may need to result in suspension of services to the individual concerned.
- Details of local needle exchange provision should be prominently displayed and included in service user induction literature.
- A small quantity of clean needles will be stored on the premises to deal with exceptional situations where service users request them. However, this service will not be publicised; typically, service users would be referred to local pharmacies or needle exchanges for clean equipment. Distribution of injecting equipment should only be undertaken by staff who have received appropriate training.

Notes:

The above procedures are written for organisations working with a significant level of injecting drug users. It may not be applicable in all settings.

Finding needles:

- Staff should always take care in situations where discarded needles may be encountered, such as when moving mattresses or other soft furniture. Workers should assume that needles will be present even if premises were not thought to be used by known injectors.
- All staff and ancillary staff should deal with used injecting equipment carefully. The following process should be used:
- The worker should take a small sharps bin to where the needle has been found. Using appropriate equipment they should put the needle in the sharps bin. Latex gloves will often be the most appropriate resource for picking up single needles.
- Sharps bins should be checked prior to carrying to ensure that they have not been pierced. A pierced sharps bin should be placed in a larger bin prior to transportation.

If there is spilt blood in the area, this should be dealt with as described under "Body fluid - spills."

Needlestick Injuries

- In the event of a prick, scratch or puncture by a needle, the following procedure should be followed immediately:
- Remove the needle somewhere safe where it can be retrieved.
- Squeeze the injury to encourage bleeding for a few minutes, and place under cold running water.
- Wash and clean the site with iodine or soapy water.
- Dry and apply a plaster or other dressing.
- Those not vaccinated against Hep B should report to their GP or local A&E department for a vaccination within 48 hours.
- A senior worker should be informed and the incident recorded in the Accident Book.
- Support and counselling should be made available to the injured person.

Infection via a Needlestick injury is relatively unlikely as this is an inefficient route for transmission. This is particularly the case for HIV and HCV; however, this does not preclude the need to take care when handling sharps as there are no vaccinations for these viruses.

Organisations should establish a named contact at a local hospital or health centre so that assessment for prophylaxis treatment can be undertaken rapidly.

Transporting full sharps bins:

Law:

It is an offence to transport controlled waste if you are not a registered carrier.



Controlled waste is household, commercial or industrial waste. It can be from a house, school, university, hospital, residential or nursing home, shop, office, factory or any other trade or business. It does not have to be hazardous or toxic to be controlled waste. Failure to register could carry a £5000 fine. Failure to meet your duty of care when transporting waste can carry an unlimited fine.

- sharps bins can be dealt with using the following procedures:
- Sharps bins should primarily be removed and replaced by arrangement with the local council Environmental Services or the local Needle Exchange Scheme, as appropriate.
- The organisation will also be registered in the environment agency's register of waste transporters. This allows the organisation to transport sharps bins or other controlled waste legally.
- No staff member should transport sharps bins out of the building until they are familiar with the Duty of Care attached to this role. This is as follows:
- When you have waste:
- The law says you must stop it escaping from your control. You must store it safely and securely. You must prevent it causing pollution or harming anyone.
- Make it secure. Keep it in a suitable container.
- If you give waste to someone else, check they have authority to take it.
- Describe the waste in writing. You must fill in and sign a transfer note for it. You must keep a copy of the transfer note. To save on paperwork, you can write your description of the waste on the transfer note.

In order to reduce work in this area, it is desirable that handling of sharps bins be undertaken by needle exchanges. However, where no such arrangements exist, or would be impractical, agencies will need to register as a waster carrier.

Charities and voluntary organisations do not need to be registered as a waste carrier. You must instead be registered in your local environment agency's register of waste transporters. This is free of charge. Otherwise a charge of £114 for the initial three-year period, and £78 for a further three years applies.

The Duty of Care that applies to the carrying of waste is detailed in the leaflet "Waste and Your Duty of Care."

Waste: Duty of Care (Product Code 95EP159)

DETR Free Literature: PO Box 236: Wetherby: LS23 7NB

and

The Registration of Waste Carriers (HO -3/99 - 7k - C- AUVN)

The Environment Agency: Wah Kwong House: 10 Albert Embankment: London: SE1 7SP

A briefing document "Injecting Equipment and Sharps Bins – Legal and Practice Issues" is on the KFx website and explores these issues in greater detail.

BODY FLUID – SPILLS

A spillage kit containing cleaning cloths, bleach, rubber gloves and plastic bags should be kept available and restocked and staff instructed on the safe cleaning of spillages.

INOCULATIONS:

All staff should be advised during induction to consult their GP regarding Hep B vaccination.

SUSPECTED OVERDOSE:

- The organisation will provide first aid training, and ensure that each shift has one qualified first-aider on shift. This information will be displayed in the office.
- The organisation will ensure that fully stocked first-aid kits are available; these will also contain Resus-Shields for delivering mouth to mouth.

It is potentially dangerous and misleading to assume that the client has taken any drugs; there may be other reasons for their symptoms. In all incidents where a service user appears ill or unwell, the following process should be followed:

- The service user should be reassured that the priority is their well being, not taking disciplinary action. They should be encouraged to say if they have used any drugs, are taking medication, or if there is other relevant information.
- If necessary, an ambulance should be called at this point.
- If any drugs have been taken, they should be retained to pass onto the ambulance crew for identification.
- Care should be taken in case syringes have been discarded.
- Where possible, staff should try to get relevant information from other service users, and make a note of this information.
- The situation should be closely monitored.
- If a service user is found unconscious or becomes unconscious or stops breathing, first aid should be delivered by a trained first-aider.
- An ambulance should be called.
- The incident should be recorded in the Accident Book and in the client's notes.
- When the client returns, the incident should be discussed, to look at drug-related harm reduction or other services as appropriate.

RECORD KEEPING:

Law:

All records kept by an organisation could be used in a court case, and could be an essential element of either prosecution or defence submissions.

Documents relating to interventions made with a client enjoy a degree of protection under the Police and Criminal Evidence Act (1984). Section 12 of PACE concerns the protection of 'personal records' and defines them thus:

documentary and other records concerning an individual (whether living or dead) who can be identified from them, and relating -

(a) to his physical or mental health

(b) to spiritual counselling or assistance given or to be given to him

(c) to counselling or assistance given to him, for the purpose of his personal welfare, by any voluntary organisation or by any individual who -

(i) by means of his office or occupation has responsibilities for his personal welfare; or

(ii) by reason of his court order, has responsibilities for his supervision.

Magistrates cannot issue search warrants for such 'excluded' documentation; warrants can be issued by a circuit judge.

Procedures:

- An "Incident Book," will be maintained. This book will record all incidents including drug-related incidents.
- The Incident Book should be a bound book, not a loose-leaf file.
- On each drug-related incident, including episodes of suspicion and third-party information, the incident will be recorded in the Incident Book.
- Staff should endeavour to record information as soon as possible after the incident.
- Information in the incident book should be limited to the following:
 - The date and time of the incident.
 - The name or client-code of the service user(s) involved
 - A reference to the client's personal file
 - The initials of the worker dealing with the incident.
- Full details of the incident and action taken should be recorded only in the Client's personal record.
- Information should be recorded in an accurate and professional manner.

Records relating to people who are banned should similarly only record the identity of the person, the duration of their ban, and a date of readmittance. All other information should only be recorded in the client's personal file.

Notes:

All drug-related incidents, and responses to them, must be accurately recorded. The recording should, however, balance the need to record incidents and the need to protect the rights of service users.

The police can apply for a Warrant to gain access to written information including those involved in the supply of drugs. After a warrant has been issued, organisations would be obliged to hand over written documents or face criminal charges. Sensitive or incriminating information should only be recorded in an individual's personal files, not in more generic files such as logbooks, ban books or daybooks. While all written records can be seized, some, such as client notes, enjoy a greater degree of protection than others such as log-books.

POLICE INVOLVEMENT

Law:

Police can search premises in a variety of circumstances, including:

- When they have the consent of the occupier
- When a warrant has been obtained
- Following an arrest, the police are allowed to search premises the detained person occupies or has control over
- To capture an escaped prisoner
- To arrest someone for a public order offence or certain arrestable offences
- To protect life or to stop serious damage to property
- Other laws give police specific power to enter premises.

Obstructing the police or hampering a police enquiry can result in prosecution.

Procedures:

- The organisation will endeavour to maintain good, effective relationship with the police at all times.
- Staff will fully cooperate with the police whenever there is a legal obligation to do so.
- In addition, staff will involve the police in any incidents where police assistance is required. The senior worker on shift will assess such incidents as to whether they require "fast" or "slow" responses.
 - "Fast" response situations (e.g. serious violence) will mean dialling 999.
 - "Slow" response situations (e.g. seeking assistance in disposing of drugs) can involve phoning the local station and speaking to local officers who are familiar with the organisation.
- Senior police representation will be encouraged on management or advisory boards.

Concerns about police requests for information or other issues should be referred to senior management, who will discuss the matters with senior police officers.

Notes:

Organisations seek to maintain an effective working relationship with the police. It is recognised that working with people who use drugs illegally may create a tension between the organisation, police and service users.

In most circumstances organisations will not be obliged to volunteer information about drug users or suppliers. The police may ask organisations to provide this information, but organisations do not have to do so. They can continue to offer a confidential service up to this point.

The Wintercomfort Trial highlighted another scenario where organisations may find themselves obliged to disclose information to the police about known or suspected dealers. Under Section 8, organisations are obliged to prevent the supply of controlled drugs taking place on the premises. They can do this in a number of ways, ranging from instructing the person to stop the prohibited act, through to applying sanctions including banning the person from the premises. Provided that these measures succeed in preventing the supply taking place, then organisations have succeeded in discharging their responsibility under Section 8. They do not have to go on and provide details of the person in question to the police, though they may choose to do so.

However, if the measures that the organisation has taken do not succeed in preventing the supply taking place, then they are still liable under Section 8 and further steps need to be taken. These could include disclosing information about people supplying drugs to the police. This would enable the police to prevent the supply taking place and thus discharge the responsibility on managers under Section 8.

To recap then, while there is normally no obligation to disclose information to the police, there is an obligation to prevent the supply of drugs taking place under Section 8. This latter obligation may require organisations to voluntarily disclose information to the police about the supply of drugs, if other measures

adopted have not prevented the supply of drugs taking place on premises. Some organisations are adopting policies of voluntarily disclosing information about the supply of drugs to the police. While it is clear to see the pressure on organisations to adopt such practices, they are also likely to do a great deal of damage to relationships between organisations and their clients. Such an approach is clearly appropriate in cases of large-scale dealing for profit on or near premises. It is however a less appropriate response to more typical scenarios regarding users who also sell drugs. There is a need for balance here, between the needs of users and the demands of the police. The voluntary disclosure to the police of all people supplying or suspected of supplying drugs may tip the balance too far the wrong way.

CONFIDENTIALITY

We offer a service that aims to protect your right to privacy. In most circumstances we will not discuss anything about you outside this organisation without your consent.

However, where a service-user's actions or behaviour represents a serious risk to the safety or well being of other service users, staff, the community or the organisation, we may have to disclose information without getting consent."

Procedures:

- Staff should explain the organisation's confidentiality policy to all new service users, and ensure that they understand the policy.
- Staff cannot offer a wholly confidential service; in certain situations, staff may be obliged to discuss matters with external agencies, even if this is against the client's wishes.
- Confidentiality rests with the organisation, not with the individual staff member,
- Service users should be encouraged to give their informed consent to allow workers to share relevant information with other agencies, on a "need to know" basis where such information sharing would benefit the service user.
- Service users should be aware that information relating to them would be disclosed where there is a legal obligation to do so.

Service users should be aware that information may be disclosed if there is perceived to be a serious risk to the safety or well-being safety or well being of other service users, staff, the community or the organisation.

Notes:

Organisations frequently talk about offering a confidential service, when in fact they cannot and should not describe themselves as such.

In some situations, a policy of confidentiality actually acts to the detriment of service users. To this end, a move towards informed consent, allowing workers to share pertinent information with other agencies, can benefit service users, and should be encouraged.

At the other end of the spectrum, situations may emerge where organisations are obliged to share information about a service user; the desire to maintain a confidential service cannot and should not stand in the way of legal obligations to disclose information.

Given these limitations relating to confidentiality, it is essential that both staff and service users are clear with regards the organisation's policy towards offering a confidential service.

VISITORS

If you invite visitors into the building, you share responsibility for their behaviour. If they break organisation rules, action will be taken against them, and the person who invited them onto the premises.

If you have a visitor or a guest who is causing you a problem, please inform a member of staff.

If a visitor or guest is responsible for antisocial behaviour and you are unable or unwilling to prevent this, you should be aware that this will jeopardise your continued use of the provision/tenancy/license.

Law:

There is a grey area as to who would be legally responsible for drug-related offences committed by guests whilst on premises. Certainly, when offences took place in communal areas they would be the responsibility of the organisation.

However, if a guest undertook prohibited activities in a resident's own bedroom, the legal position is less clear.

It may be that the resident, and only the resident, would be liable under Section 8 of the MDA (1971). However, there is a risk that the organisation could be held to be responsible. In the absence of further clarification, organisations should err on the side of caution, and assume that the organisation may be held legally responsible for the actions of guests.

Procedures:

- Service users should be made aware that, if their guests break the organisation's rules, sanctions would be applied both to the guest and the service user.
- If visitors are persistently causing a nuisance within the project they should be excluded from the premises. If required, an injunction could be obtained to prevent reoccurrence of any problems.

HOME VISITS BY WORKERS

"Home visits are an important part of the support available to you. We want these visits to be a useful part of resettlement.

Please make sure that you are 'fit' to participate in home visits; this includes:

- Not being too intoxicated
- Not having visitors during a support visit unless agreed with the support worker
- Not using any substances during the visit unless this has been agreed between you and the support worker
- Having consideration for your visitor during the visit and behaving appropriately.

If you are using your property to produce or supply controlled drugs, please be aware that this is a serious criminal offence. The organisation would need to take further action which could include informing the police or ending your tenancy.

If you are unable or unwilling to work within these terms, then we may not be able to continue to offer support visits. Where support visits are a condition of your tenancy this may mean we seek to end your tenancy unless support visits can take place.

Some support workers will also be part of the 'body' which is 'concerned in the management' of a property. The law in this area is not clear, but an interpretation of when support workers doing home visits are 'concerned in the management' is included in the KFx Legislation briefing.



Where workers become aware that a property is being used for production or supply, there may well be an offence under Section 8 of the MDA. This will require the organisation to take action to prevent the production or supply continuing.

Where use is taking place on site – even during a visit – the worker would not be committing a criminal offence by remaining present (unless cannabis was involved). While many organisations would break off a visit if use takes place, this is a matter of policy not law.

- Solo home visits should not take place until a full risk assessment has taken place.
- Prior to solo visits, the 'rules' relating to home visits should have been discussed with the client.
- If on arrival, or at any point during a visit, the worker feels that it is unsafe or inappropriate to continue the visit, they should leave as soon as practical.
- If the worker is concerned about the safety or wellbeing of their client or other people in the property, the worker should contact emergency services when it is safe and

practical to do so.

- Workers should not put themselves at risk during a support visit and should always err on the side of caution.

Supply and Production

- Workers should not remain in a property if they are aware that production or supply of controlled drugs is taking place there.
- Workers should only challenge this behaviour if they feel that it is safe and appropriate to do so; it's usually going to be better to leave.
- Further action will need to be taken to prevent the production or supply which may include:
 - Warning letters, enforcement action, police involvement, eviction

Use

- When use is taking place on site, workers should use their judgement as to whether or not they want to leave. They should consider this in terms of their own safety and well-being, that of the client, and how useful the visit is likely to be.
- There is no expectation that workers will remain present when drugs are being used; however, there may be times when a worker feels that it is productive and useful to remain present at such times.
- No worker should remain present if they feel that the situation is not safe or they feel uncomfortable with remaining present.

Notes:

There has been some discussion about whether workers should remain present when substances are being used. In some settings (e.g. visits by needle exchange workers) this allows for the opportunity to supervise injecting and advise on technique. As such this can be a useful aspect of harm reduction.

In other settings, workers have complained that it seems disproportionate to break off a meeting solely because their client has lit a spliff.

Having said that, some workers will find being present during use distasteful or upsetting, and it may bring with it additional risks.

As such the policy position above leaves space for a worker to decide what they wish to do without obliging them to stay or go.

EQUAL OPPORTUNITIES

"All service users have a right to be treated with respect, fairness and dignity by both workers and other service users. This organisation will work with people who use drugs and those who do not.

The organisation will treat, as a breach of the Equal Opportunities Policy, abusive, threatening or offensive language or behaviour which discriminates against people who use drugs or alcohol."

Procedures:

- Staff and service users should avoid using language that reinforces negative images of people who use drugs. Terms such as "smack-head," "junkie," or "alkie" are derogatory, negative and stigmatising. The use of such language should be challenged.
- Literature and resources used within the building should not reinforce stereotypes relating to drug users.
- The use of concepts such as "addict" and "addiction" should be used with care, as they can become unhelpful labels. The terms 'clean' and 'dirty' to described using and lapsing are inappropriate and should be challenged.

Notes:

Many aspects of problematic drug use are linked to issues of low self-esteem, self-image, and social stigma attached to drug use. Creating a safe arena where people can explore their drug use without being labelled or derided is an important element of any support work with people seeking to address their drug use.

STAFF CODE OF CONDUCT

- Staff must not use any controlled non-prescribed drug, or alcohol, or non-medicinal drugs controlled under the Medicines Act during working hours. Such use will constitute a serious disciplinary issue, and may result in dismissal.
- Staff should not work when incapacitated due to the effects of such drugs, or after-effects of such drugs. They are instead required to take annual leave or use TOIL if available. The use of sick leave in such circumstances will be treated as a serious disciplinary issue.
- Staff who are prescribed controlled drugs (e.g. Methadone) should ensure that their medication is securely stored whilst at work, and should ensure that they do not drive or operate machinery while using such medication.
- Tobacco may be smoked in designated smoking areas.
- If a member of staff develops substance-related problems, the organisation will seek to assist them in resolving this, and time off for counselling, treatment or other assistance will be made available, in consultation with the Project Manager.
- The organisation will always seek to provide assistance to staff members in such situation but the offer of such assistance does not preclude termination of employment should it be deemed appropriate.

Drugs Policy

This organisation seeks to work with people who use drugs and those who do not. In order to do so, the organisation operates a Drug Policy.

The drug policy should have been explained to you when you started using the service.

You are always welcome to look at the policy, to discuss it with staff, and to see how it affects you.

It is important to highlight the following rules:

We do not condone the possession or use of illegally held controlled drugs on the premises. Where we know or suspect such possession or use is taking place, we will always take some action. This may result in you being asked to leave services, especially where we are concerned that such possession or use puts other service users at risk.

We will not tolerate the supply of controlled drugs on these premises. If we know or suspect that you are involved in supplying drugs, we must prevent this happening. This may involve you being barred from some or all of the premises and may mean we have to involve the Police.

We do not want you to be barred or excluded, so please make sure that you understand the drug policy, and follow the rules for your own safety and the safety of others.

FURTHER INFORMATION:

KFx

Mail: 53a Median Road,
Hackney
LONDON
E5 0PJ

E-Mail: kfx@ixion.demon.co.uk

Websites: www.ixion.demon.co.uk
www.drugsandhousing.co.uk

Homeless Link

Mail: Homelesslink
10-13 Rushworth St
LONDON
SE1 0RB

Tel: 0207 960 3010

e-mail: feedback@homelesslink.org.uk

website: <http://www.homeless.org.uk/>

DrugScope

Mail: DrugScope
32-36 Loman St
London
SE1 0EE

Tel: 020 7928 1211

Fax: 020 7928 1771

e-mail: services@drugscope.org.uk

website: www.drugscope.org.uk

Shelter

Mail: Shelter
88 Old St
London
EC1V 9HU

Tel: 0845 458 4590

e-mail: info@shelter.org.uk

website: <http://england.shelter.org.uk>

Additional Reading Material

On the KFx website:

Managing Drugs on Premises: Working within Section 8 of The Misuse of Drugs Act 1971 and Section 1 of the Antisocial Behaviour Act 2003: KFx: 2006 (rev)

Tenants and Drugs - Guidance for Landlords: KFx: 2006 (rev)

Policing Cannabis: Joint working protocols for managing cannabis use in residential settings: KFx: 2004

Drugs and the Law: a briefing for housing workers and other professionals: KFx 2004

Drugs the Law and Premises:

Supplement for Youth Workers	(forthcoming)
Supplement for women-specific agencies	(forthcoming)
Supplement for residential children's services	(forthcoming)
Supplement for NHS settings	(forthcoming)

Room for Drugs: Flemen, K: Release: 1999

The above resources are cross-posted to the Drugs and Housing Website at www.drugsandhousing.co.uk

There is also a discussion forum for professionals interested in the subject at this website, which is run by KFx.

Other Resources:

You can download the Anti-social Behaviour Bill at:

<http://www.publications.parliament.uk/pa/cm200203/cmbills/083/2003083.pdf>

Explanatory notes relating to the Bill can be viewed at:

<http://www.publications.parliament.uk/pa/cm200203/cmbills/083/en/03083x--.htm>

The Guidance Notes Relating to the Closure Powers under the ASB can be viewed at:

<http://www.homeoffice.gov.uk/inside/consults/current/index.html>

Youth homelessness and substance use: Wincup, Buckland and Bayliss: Home Office: 2003

Drug Services for Homeless People - a good practice handbook: Randall;

Drugscope/Homeless Directorate:

Home and dry? Homelessness and substance use in London: Jane Fountain and Samantha Howes. Crisis 2002

Tackling Drug use in Rented Housing: DTLR:Robinson & Flemen: 2002