



CONSTRUCTION CONFEDERATION

**DRUGS & ALCOHOL AT WORK:
GUIDANCE FOR EMPLOYERS**

Generic Advice and other useful information including CIJC pay rates, holiday dates and other information on the Working Rule Agreement is available on the CC website at www.thecc.org.uk. Please remember you will need your password to gain entry to the members section of the website.

All members are able to access the ACAS (Advisory Conciliation Arbitration Service) free helpline on 08457 47 47 47

This document is intended to give general advice and guidance and is not a definitive statement of the law on the particular subject. If in doubt consult your trade association or professional advisor.

1. INTRODUCTION

This guidance has been prepared to provide a basic understanding of the signs, effects and risks of drug and alcohol misuse. It also sets out a best practice approach to dealing with drug and alcohol related problems at work.

The use of drink and drugs by an employee is of serious concern to employers, given the risk of the employee under-performing and the possibility that the safety of others may be compromised. There is also a need to comply with legislation in this area, including the Health and Safety at Work Act 1974, the, the Road Traffic Act 1988, the Transport and Works Act 1992 as well as the common law duty to provide a safe working environment. Employers can also be held liable for the acts of employees under the misuse of Drugs Act 1971.

2. SCOPE OF THE PROBLEM

Problems present at the workplace relate not just to consumption at or before work or to intoxication at work. The indirect effects of alcohol and drug problems on individuals' functioning within the workplace can also be severe.

Successfully tackling alcohol and drug misuse can benefit both your business and your employees. For example by:

- ❑ Saving on the cost of recruiting and training new employees to replace those whose employment might be terminated because of untreated misuse.
- ❑ Reducing the cost of absenteeism or impaired productivity.
- ❑ Creating a more productive environment by offering support to those employees who declare a drug-related problem, improving employee morale.
- ❑ Reducing the risk of accidents caused by impaired judgement.
- ❑ Enhancing the public perception of your organisation as a responsible employer;
- ❑ Contributing to society's efforts to combat alcohol and drug misuse.

3. IDENTIFICATION OF ALCOHOL AND DRUG PROBLEMS

The misuse of drugs or alcohol or solvents by your employees may come to light in a variety of ways. The following behaviour may indicate the existence of a problem:

- ❑ Absenteeism
- ❑ Poor time keeping
- ❑ High accident levels

- ❑ Tendency to become confused
- ❑ Poor performance of duties
- ❑ Mood swings
- ❑ Irritability or aggression
- ❑ Misconduct

Other ways of identifying alcohol and drugs problems among your employees include:

- ❑ Self identification and or self referral to treatment
- ❑ Identification by a co-worker
- ❑ Identification by a supervisor
- ❑ Performance testing

Education of employees about the nature of alcohol and drug problems, the workplace policy and treatment options will improve the chances of the affected person or a co-worker identifying that a problem exists.

The benefits of such identification need to be clear and you need to guarantee that employees who seek help will not be disadvantaged or punished. Your management, supervisors and employees should not interfere in someone's private life unless aspects of that person's use of alcohol or drugs affect work performance.

Your supervisors/managers should only identify or refer where there are performance deficits or other work-related indications that a problem may exist. Your supervisors/managers may need training to be effective in identifying and addressing problems. Methods of identification should be clear from the policy and be agreed to in the consultation process.

4. ADDRESSING ALCOHOL AND DRUGS AT WORK

Consultation between yourself and your employees is essential if alcohol and drug problems are to be addressed adequately. You can achieve this through a committee or through direct consultation with workplace health and safety representatives. Unions, employer associations and professional bodies can assist with advice to help develop a workplace alcohol and drugs policy. In any event, the introduction of a new policy is likely to be considered a change to your employee's terms and conditions and should only be introduced following consultation.

5. DEVELOPMENT OF A WORKPLACE POLICY

A workplace policy applying to all staff can benefit all organisations and should form part of the overall health and safety package. The alcohol and drug policy that you adopt will need to take account of the particular needs and the practical situation of your company. However, there are a number of minimum requirements for such a policy, which must:

- ❑ Contain a clear statement of the behaviour that is expected of employees.
- ❑ Apply equally to all employees, including managers and supervisors, at the workplace.
- ❑ Be part of your comprehensive health and safety policy.
- ❑ Result from adequate consultation with your employees before it is adopted.
- ❑ Be made known to all employees.
- ❑ Address issues in the work environment that increase the use of alcohol or drugs.
- ❑ To the greatest possible degree, be non punitive.
- ❑ State the conduct likely to result in action under the discipline.
- ❑ Provide for appropriate treatment and rehabilitation for employees with problems.
- ❑ Be evaluated, after implementation and amended, if necessary, in line with the outcome of the evaluation

Any interference by an employer in an employee's private life must be "lawful and proportionate". The policy is likely to be lawful and proportionate if:

- ❑ It is instituted to protect and promote employee's safety.
- ❑ Employees are aware of the policy.
- ❑ Employees will know what the employer will do with the test results, and
- ❑ The employer has no other reasonable alternative way of obtaining the same result.

6. ALCOHOL & DRUGS POLICY: IMPLEMENTATION

Implementing such a policy has four essential components:

- ❑ Education and information
- ❑ Organisational support
- ❑ Addressing issues in the work environment
- ❑ Prevention and rehabilitation support

Information about the policy must be provided, to all your employees and be included as part of induction training for new recruits. The policy needs to be supported by education about the harmful effects of alcohol and drugs and the rehabilitation services available.

It is important that your management demonstrates support for the policy by ensuring observance by all staff and endorsing changes to the working environment to facilitate the policy.

The provision of treatment and or referral services is an important component of implementing the policy. If problems are detected early, before serious physical and social effects occur, a brief intervention may be all that is needed. Facilities can be provided in-house by for example, employee assistance programs or referral can be arranged to outside treatment agencies. Confidentiality for your

employees undergoing treatment and rehabilitation must be guaranteed. Also employees should not be disadvantaged in terms of promotion or seniority because they have sought or are accepting help. Treatment and rehabilitation should be covered by adequate leave entitlements.

However, as with all workplace health and safety matters, consultation with your employees and the provision of education and information may prevent alcohol and drug problems at work

7. TEMPORARY AND SUB-CONTRACTED STAFF

Don't overlook temporary staff, who should also be made aware of the content and purpose of misuse policies. A policy should also address the use of sub-contractors. Sub-contractors are normally obliged to work within the organisation's policies and this should form part of the contract.

8. ABUSE OUTSIDE OF THE WORKPLACE

Generally, an employee's conduct outside of the workplace is outside of the employer's control. However, if drug or alcohol use during recreational times impinges on the employee's performance at work action can be taken. Further, your policy should consider situations where an employee's behaviour outside the workplace may affect the organisation e.g. by damaging its reputation. In such a case, or the case of an employee convicted of criminal offence outside the workplace, the circumstances would have to be properly investigated. If an employee whose job involves driving were to lose his or her licence through a drink driving offence, the employer would need to consider whether this is grounds for dismissal or if an alternative role can be found for the employee.

9. SCREENING AND TESTING

Screening and testing are sensitive issues because of the many implications involved. No one can be tested against his or her will. However, if testing is introduced, a refusal can lead to disciplinary action. Securing the agreement of the workforce is crucial (except in the case of pre-employment testing).

Some of the issues that must be considered are as follows:

- How much will a screening system cost?
- What type of testing is needed?
- How will test samples be collected?
- What action will be taken if a positive result is given?

Screening can be used in various ways, for example:

- As part of a selection process for job applicants
- Testing all or part of the workforce routinely, occasionally or on a random basis
- In specific circumstances, such as after an accident or incident or as part of an aftercare rehabilitation programme.

Screening itself will never be the complete answer to problems caused by drug misuse and its results must always be supplemented by a professional assessment of the employee. Prevention is just as important and this guidance is relevant whether screening is introduced or not.

In any event, if you wish to screen your employees you will have to introduce an occupational health policy containing detailed procedures where the introduction of screening is clearly designed to prevent risks to the abuser and others.

10. TAKING DISCIPLINARY ACTION

Employees with a drink or drugs problem or suspected of abusing drink or drugs should have the same rights to confidentiality and support as they would if they had any other medical condition.

It can be very difficult for employees to admit to having a drink or drugs problem either because of the stigma or because of the fear of reprisals. Your hands may be tied if an employee has broken the law at work, however, to encourage openness, staff should be aware that, where possible, drug and alcohol problems will be treated as health issues rather than as an immediate cause for dismissal or disciplinary action.

An Employment Tribunal may consider an employee to have been unfairly dismissed if the reason for the misconduct was drug or alcohol related and no attempt was made to help the employee at first instance.

However, common sense must prevail. A safety critical environment or role will allow for a less tolerant policy. Clearly, one-off incidents of drunkenness in the case of employees returning from the pub at lunchtime must be dealt with immediately under the disciplinary procedure. Employees must not be permitted to evade disciplinary proceedings by claiming a dependency problem where none exists. The following are examples of cases in which the policy should specify disciplinary action will be taken:

- ❑ Gross misconduct
- ❑ Refusing a test/drug screen
- ❑ If help is refused and/or impaired performance continues
- ❑ Possession/dealing will be reported to the police and that there is no alternative to this procedure.

Your disciplinary policy should allow for the suspension of employees suspected of being intoxicated or under the influence of drugs and solvents. The employee should be prohibited from resuming work until sober and/or suspended pending disciplinary action/counselling. In the case of suspension on health and safety grounds, the employee should receive full pay for the duration of the suspension. In the case of suspension following an allegation of gross misconduct, it may be permissible to suspend an employee on no pay if the disciplinary policy allows.

It is essential that the drug and alcohol policy is consistent with your disciplinary procedure. The latter may require amendment to ensure that, where appropriate, disciplinary action can be taken against your employees.

FURTHER INFORMATION IS AVAILABLE FROM THE FOLLOWING SOURCES:

A Drug and Alcohol Workplace Service offering advice, consultancy and training to organisations and employers including developing and implementing a policy is provided by Alcohol Concern. They can be contacted on 020 7928 7377 or by contacting workplace@alcoholconcern.org.uk

ADVICE FOR PEOPLE WITH DRINK OR DRUGS PROBLEMS IS AVAILABLE FROM:

Alcoholics Anonymous (head office) 01904 644026

National Drugs Helpline 0800 7766000
(Free Confidential, 24 hours a day)

Central Drugs Co-ordination Unit 020 7270 5776

The Scottish Drugs Forum 0141 221 1175

Welsh Drugs and Alcohol Unit 01222 667766

Advisory Unit on Alcohol and Drugs 0161 745 8925

RELEASE 020 7729 9904

Alcohol Concern 020 7928 7377

DRAFT DRINK AND DRUG ABUSE POLICY AND PROCEDURE

N.B. The attached draft policy is for guidance only. Any policy should reflect the requirements of the business and must be implemented in practice. Introducing a policy that is not followed or is inappropriate to the business may be worse than not having a policy at all. The policy imposes obligations on you as an employer as well as your employees, if you have a policy you may for example have to agree to treatment for employees where you may otherwise have simply followed the disciplinary procedure.

Further, if a policy is adopted it must be reviewed regularly to ensure that it is working and changed as necessary. You must also ensure the employees remain aware of the policy and its consequences.

1. POLICY

The Company recognises the potential dangers of alcohol, drug and solvent abuse, known as substance abuse, to both the individual and the Company.

The Company aims to prevent, where possible, alcohol, drug and solvent abuse amongst employees and to detect at an early stage employees with problems.

The Company aims to prevent, where possible, will offer assistance such as counselling or leave of absence from work if required for treatment. There may be, however, some instances when this offer may not be appropriate and Managers must assess each case individually.

2. RULES

Employees must not use, possess, conceal, transport, promote, or sell prohibited substances whilst on Company premises, in Company vehicles, on client premises or at the work site.

Employees must not report for work under the influence of prohibited substances.

Employees must not consume alcohol in the office or on site except on approval occasions.

3. DEFINITIONS

‘Under the influence’ means that there is a sufficient amount of the substance in the employee’s system to produce a positive result from a medical test or breathalyser unit and/or that the employee shows erratic abnormal behaviour likely to pose a risk to others or to interfere with their job performance.

Substance includes the use of illegal drugs, misuse of legal drugs or other substances such as solvents or alcohol.

Company premises means all property owned, operated, leased by or otherwise under the control, in whole or part of.

4. ESTABLISHING THE PROBLEM

Managers should be aware that the misuse of drugs, alcohol, or solvents by employees may come to light in various ways. The following characteristics, especially when arising in combinations, **may** indicate the presence of a substance problem.

- Absenteeism
 - Instances of unauthorised leave
 - Frequent Friday/Monday absences
 - Leaving work early
 - Lateness (especially on returning from lunch)
 - Excessive level of sickness absence
 - Strange and increasingly suspicious reasons for absence
 - Unusually high level of sickness for colds, flu, stomach upsets
 - Unscheduled short-term absences, with or without explanation
- High Accident Level
 - At work
 - Elsewhere, e.g. driving, at home
- Work Performance
 - Difficulty in concentration
 - Work requires increased effort
 - Individual tasks take more time
 - Problems with remembering instructions or own mistakes
- Mood Swings
 - Irritability
 - Depression
 - General confusion
- Misconduct
 - An employee's substance problem may come to light as a mitigating factor in a disciplinary interview. It may be treated as a mitigating factor for certain 'less serious' disciplinary offences, such as poor timekeeping to lateness, provided the person is prepared to undergo treatment.
- Self referral
 - In some instances, employees may come forward voluntarily and seek help themselves.

5. MANAGER'S RESPONSIBILITY

A [Manager] who suspects one of their employees of having a substance abuse problem must discuss the matter with the relevant [Manager/Director]

The (Manager) will then discuss the matter with the employee and try to establish the cause of the problem (although it must be pointed out that individuals with a drugs or alcohol problem will often go to great lengths to conceal the situation).

The employee should be reminded or informed of the assistance the Company is prepared to give employees who are trying to overcome an alcohol or drugs problem and should be informed of outside agencies where help can be obtained.

The employee should be informed that the Company requires his or her performance to be improved to an acceptable standard and that failure to achieve this will result in dismissal. The (Manager) (having consulted with the (Director)) should agree with the employee what follow-up action is to be taken. Where it is established that alcohol or drugs is or could be the problem, an appointment should be arranged with the Company Doctor.

If the employee denies that either alcohol or drugs are the cause of the problem (whether believed or not), he or she should be treated as for any other disciplinary/capability problem, whichever is judged as appropriate by the (Manager) and (Director).

However, if there are strong signs that the employee's unsatisfactory performance is drug or alcohol-related and he or she will not admit or acknowledge this, further encouragement should be given at all stages of the disciplinary/capability procedure to face up to the true underlying problem.

6. TREATMENT AND ASSISTANCE

Where employee acknowledge that they have a problem and are given help and treatment, this will be on the understanding that:

The Company will give employees, assessed as having a substance abuse problem, all reasonable time off in accordance with the Company's Absence Policy.

Every effort should be made to ensure that on completion of the recovery programme employees are able to return to the same or equivalent work.

However, where such a return would jeopardise either a satisfactory level of job performance or the employee's recovery, the appropriate (Director) will review the full circumstances surrounding the case and agree a course of action to be taken. This may include the offer of suitable alternative employment, or the consideration of retirement on the grounds of ill health or

dismissal. (Before a decision on dismissal is made, it should be discussed with the employee and an up-to-date medical opinion obtained).

7. RELAPSE

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

8. RECOVERY UNLIKELY

If, after the employee has received treatment, recovery seems unlikely, the Company may be unable to wait for the employee any longer. In such cases, dismissal may result but in most cases a clear warning will be given to the employee beforehand and a full medical investigation will have been undertaken.

9. DRUG SCREENING PROGRAMME

Procedure

Employees may be required to submit to a test to check for the presence of drugs or alcohol under the following circumstances:

Following an accident or incident on Company or client premises, at a worksite or involving a Company vehicle;

Following the discovery of a prohibited substance on Company premises;

Where there is reason to suspect that the employee may be under the influence of a prohibited substance;

Where it is suspected there has been a breach of the policy, e.g. high individual accident experience, excessive absenteeism, observed erratic behaviour and/or deteriorating job performance

Refusal to take a drugs test

If the employee refuses to take a drugs test the employee will be subject to action under the Company's disciplinary procedure up to and including dismissal.

Release of the test result

It is a condition of employment that all employees agree to the release of the results of screening for prohibited substances as required.

Right of search

The Company reserves the right to search the person, his/her possessions and or immediate work area of any employee or third party personnel who work, visit or perform services on Company premises.

10. SERIOUS MISCONDUCT CAUSED BY ALCOHOL, DRUGS OR SOLVENTS

Intoxicated employees

If an employee is known to be, or is strongly suspected of being, intoxicated by alcohol, drugs or solvents during working hours, arrangement will be made for the employee to be escorted from the Company premises immediately. The Company Doctor may also be consulted on the incident. Disciplinary action will take place when the employee has had time to become sober.

Consumption of alcohol on the premises

Employees are expressly forbidden to consume alcohol when at work or to bring onto Company premises under any circumstances. Any breach of this rule will result in disciplinary action being taken which is likely to result in summary dismissal.

Drug abuse on the premises

Employees who take drugs, which have not been medically prescribed to them on medical grounds, will, in the absence of any mitigating circumstances, be deemed to be committing an act of gross misconduct and will thus render themselves likely to be summarily dismissed, as will any employee believed to be buying or selling drugs, or unlawfully in possession of drugs.

11. EDUCATION AND TRAINING

The Company will provide training for appropriate staff in recognising the responding to the early stages of alcohol or drugs problems amongst employees. The Company will provide health educational initiatives to raise awareness of the policy and the risks associated.