

# Drug and Alcohol Management within the workplace



**Honest Employment  
Law Practice Ltd**

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## **Introduction**

A business of any size can experience issues relating to drug and alcohol misuse at some point with their employees.

It has become a growing concern amongst organisations and leading specialists that the misuse of these items is impacting far more than they realise on health, business and financial stability.

It is for these reasons that many employers are seeking to put in place a drug and alcohol policy that can seek to resolve issues before they arise and deal proactively with existing ones.

### **Facts you should be aware of: -**

- The Health and Safety Executive estimates between 8 and 14 million working days are lost each year as a result of alcohol impaired performance
- The annual cost to industry of drug misuse is estimated at £800 million
- The annual cost to industry of alcohol misuse is estimated at £3.3 billion
- The International Labour Organisation states, 'In many workplaces, 20 to 25 per cent of accidents at work involve intoxicated people injuring themselves and innocent victims.'
- 2 million Britons have taken a day off work in the last six months to recover from a hangover.
- Only 21% of employers have a strict policy in place for alcohol and drug misuse.

## **The Impact of Alcohol and Drug Misuse**

Impact on the Employer:

- Impaired performance
- Increased absenteeism
- Lower productivity
- Potential damage to employer reputation
- Failure to meet orders leading to a loss of work or clients
- Increased staff turnover
- Increased damage to Company equipment
- Increased accidents in the workplace
- Increased stress levels
- Increased employee theft
- Potential inability to show 'Due diligence'
- Bad working relationships and attitudes
- Increased risk of litigation

Impact on the Employee:

- Impaired performance
- Change in personality
- Increased absenteeism resulting in a potential lack of pay
- Lower morale
- Damage to reputation
- Increased stress levels
- Bad working relationships
- Increased accidents in the workplace and potential personal injuries
- Workplace bullying

With an outstanding number of issues impacting on both the business and employee due to drug and alcohol misuse, introducing a drug and alcohol policy which could include testing may combat the effects of misuse.

## **Signs of Employee Drug and Alcohol misuse**

- Reduced work performance characteristics – lack of judgement, memory, confusion
- Absenteeism, poor time keeping and repeated absence with peculiar excuses
- Personality changes – mood changes, irritability and aggression
- Physical Changes – alcohol odour, lack of hygiene and lack of appetite
- Feeding addiction – dishonesty and borrowing money

## The Law

The legal position on testing at work is confused as there is no legislation that covers this specifically. Each decision is based on a combination of Health and Safety, Human Rights and Data Protection law including:

- Health & Safety at Work etc. Act 1974
- Management of Health and Safety at Work Regulations 1999
- Health & Safety (Consultation with Employers) 1996
- Safety Representatives & Safety Committees Regulations 1977
- The Transport & Works Act 1992
- Road Traffic Act 1988
- Misuse of Drugs Act 1971
- Human Rights Act 1998
- Employment Law Guidelines

### **The basic guidelines should be:**

- The employee is entitled to a private life
- The employer has a duty of care to employees, the general public, clients and customers.
- Employees are entitled to dignity
- Only credible evidence may be used against employees in disciplinary proceedings and tribunals.

If an employer wants to introduce alcohol and drug testing into the workplace they must have a legitimate concern regarding drug and alcohol use amongst their employees in a restricted set of circumstances only:

- The employee is engaging in illegal activities in the workplace
- Where the employee is actually intoxicated in work hours
- Where drug or alcohol use is having a demonstrable impact on the employees' performance that goes beyond the threshold of acceptability
- Where the nature of the work is such that any responsible employer would be expected to take all reasonable steps to minimise the risk of accidents
- Where the nature of the work is such that the public are entitled to expect a higher than average standard of behaviour from employees and/or there is a risk of vulnerability to corruption

With the web of legal issues surrounding the introduction of an Alcohol and Drug Policy, and the resulting confusion it is important to understand the arguments for and against.

### **For**

- The UK Government's National Workplace Initiative states *"It is important that all businesses are aware of the potential impact of drink and drugs to their bottom line..."*
- Improved health and safety, production, profitability and working relationships.
- Enables the Company to identify problem issues such as alcohol or substance dependency.
- Employers have a duty of care both at common law and under the Health and Safety at Work Act 1974, to ensure so far as is practicable, the health, safety and welfare at work of employees. Organisations permitting the misuse of alcohol or other substances may be in breach of this duty by putting other staff and visitors at risk.
- Reduced accidents in the workplace.
- The Government's guidance on sensible drinking, published in December 1995, lists the following as examples of specific situations when the best advice is not to drink at all:
  1. Before or whilst driving
  2. Before using machinery, electrical equipment or ladders
  3. Before working or in the workplace (when appropriate functioning would be adversely affected by alcohol)

### **Against**

- An amendment is required within the written Statement of Employment
- The introduction of this policy will take time to implement and careful consideration, consultation and continuous communication is required.
- May be an infringement of civil liberties.
- Possible drop in morale and potential staff loss.
- A detailed policy is required and constant review is needed.
- Appropriate training is required for all employees involved in the maintenance of the policy.
- A breathalyser should only be used under the direction of medically qualified personnel experienced in this field.
- Unless justified on safety grounds, testing procedures to identify drug or alcohol misuse should only be introduced with the consent of employees. (This can usually be justified on health and safety grounds).

Much consideration is needed when thinking of introducing a policy that has confused legal support and other substantial implications. The employer needs to consider all aspects and consult with their employees in order to reach a common solution that will benefit both parties and not breach the rights of either the Company or the employee. A Company alcohol and drug policy is beneficial in many instances. However there must be a quantifiable need for the policy that is in the genuine best interests of everyone involved.

# Implementation of a Drug and Alcohol Policy In the Workplace

## Stages

### **Introduction of the policy**

#### **Assess the risk**

Assess the risk to your business of drug and alcohol misuse and evaluate current company resources, culture and attitudes in order to see if the change is required.

Introduce the proposal of a policy to staff, union representatives and all those it is likely to affect.

You should specify:

- The aim of the policy
- Why it is required
- Main features
- How you plan to implement it
- Consequences of breach

It is essential that continuous consultation occurs at each stage of the implementation process. If there is involvement of all parties the Company will have less opposition when the policy comes into force.

#### **Drafting the policy**

A policy should be seen to be fair and reasonable, two important considerations if judged by an Employment Tribunal or Court of Law. The policy statement should clearly state the Company's objectives, rules and the consequences if the rules are broken. It should be supported by an ongoing education programme which places appropriate emphasis on both health benefits and employee responsibilities.

- A senior manager must be instructed to oversee the development of the policy
- All staff/union and safety representatives (where appropriate) must be involved throughout the procedure.
- Feedback from staff must be sought at appropriate stages.
- The final draft of the policy must be approved and endorsed by the Chief Executive or equivalent.

#### **Implementation and Communication**

The implementation should:

- Have senior management involved in the implementation, communication and maintenance of the policy.
- A strict timetable must be set for implementation
- Details of the policy and the date it becomes effective must be widely communicated to all staff.

You must keep communication lines open throughout the whole process and make the new policy easily accessible by as many of the following methods as possible:

- Intranet
- Staff Newsletter
- Posters
- Email bulletins
- Leaflets and posters
- Interview, Training and Induction
- Staff Handbook

## **Training**

Awareness training for all managers must be provided to cover:

- Identifying signs and symptoms of misuse
- Policy content
- Testing methods
- Taking action when dealing with misuse
- Legal implications

Inform new starters of the policy and include training on the induction programme. It is advisable to provide brief training to all employees informing them of what to expect in terms of the tests that may be carried out and their implications.

## **Auditing**

Policies will only be effective if audited on a regular basis. Whoever is responsible for implementation must also:

- Be properly trained
- Have the ability and knowledge to keep up to date with procedural changes
- Be prepared to make changes and improvements from regular audits
- Make sure that testing equipment is calibrated, audited and that professionally qualified staff can perform and prepare the results of tests
- Keep medical records and results confidential and not retain results that are negative
- Introduce a procedure to see that samples are not interfered with and that they are analysed by a professional.

## A Model Policy

<b>Aims</b>	Why have the policy, Why is it necessary?
<b>Responsibility</b>	Who is responsible for implementing the policy and maintenance?
<b>The Rules</b>	How does the company expect employees to behave to ensure that their alcohol consumption does not have a detrimental effect on their work? What is an acceptable level of alcohol? Is it a zero tolerance policy?
<b>Special Circumstances</b>	Do the rules apply in all situations or are there exceptions? Lunchtime drink? Where do you draw the line?
<b>Confidentiality</b>	A statement assuring employees that any alcohol problem will be treated in strictest confidence or any test results will remain confidential.
<b>Help</b>	A description of the support available to employees who have problems because of their drinking, such as advice and counselling.
<b>Information</b>	A commitment to providing employees with general information about the effects of drinking alcohol on health and safety.
<b>Disciplinary Action</b>	The circumstances in which disciplinary action will be taken such as a positive result from a test.



## **What services & products are available for breathalysing?**

There are various options available to the Company when introducing and maintaining a Drug and Alcohol Policy.

- Saliva Alcohol Test Strips – Can be purchased from various sites on the internet and provide an alternate to the breathalyser test
- Digital Breathalysers – These are an accurate way to measure the level of alcohol, however this item may need calibrating after a period of time for accuracy and also the mouthpieces will need replacing after use
- Disposable breathalysers – A good way to perform hygienic testing, however accuracy may be affected and challenged when not audited by a professional

### **Case Study**

#### **DMM Engineering Ltd**

DMM Engineering Ltd, a company in Wales employing 80 people, has taken a positive approach to promoting workplace health. As well as having clear rules about not allowing alcohol on the factory premises or not allowing employees to use heavy machinery after consuming alcohol, the company also encourages its employees through posters and leaflets to think about the long-term health hazards of alcohol misuse.

**\*Recommended Alcohol & Drug abuse Consultancy Service\***

[www.adsis.org.uk](http://www.adsis.org.uk)



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