

UNIONSAFE

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Drugs and Alcohol Policy

Information Sheet 1: Background Information

In Australia, alcohol and tobacco are legal substances enjoyed by many adults. Indeed, enjoying a drink is considered part of the Australian way of life. If people choose to use alcohol, tobacco and other drugs in their private lives it is their own business. But if they do it in the workplace or come to work affected by alcohol and drugs and pose a risk, it becomes the concern of their employer.

Under the NSW Occupational Health and Safety Act 2000, employees also have a responsibility to take reasonable care for the health and safety of others and cooperate with employers in their efforts to provide a safe workplace.

The development of a workplace Alcohol and Other Drugs policy should generally be included with the workplace's occupational health, safety and welfare policies. In this context, prevention strategies relating to the misuse of alcohol and other drugs should be developed in accordance with appropriate risk assessment and control principles.

Alcohol and Other Drug policies should also be linked, where appropriate, to the workplace's performance management systems for issues relating to poor performance, and to the workplace's disciplinary procedures, which may be required as a last resort.

There are three major issues associated with the misuse of alcohol and other drugs, which should be addressed by organisations:

- On-the-job intoxication;
- Use or dependence that adversely affects work performance; and
- The possession, consumption, distribution and sale of illicit drugs in the workplace.

These issues should be dealt with in terms of the effect on work performance and the organisation's responsibility to provide a safe and healthy work environment.

Work, alcohol and drugs just don't mix. Alcohol and drug misuse in the workplace can affect safety and work performance. Putting safety first, alcohol and drug misuse in the workplace may lead to increased health and safety risks for the affected employee, other employees or visitors to the workplace. Under the NSW Occupational Health and Safety Act 2000, employers have a legal responsibility to ensure the health and safety of all employees, contractors and visitors to the workplace. This means taking reasonable measures to provide and maintain a safe workplace.

The employer needs to identify risks associated with a person who is impaired or affected by a substance or fatigue (**refer to information sheet 7**).





Drugs and Alcohol Policy

Information Sheet 2: Effects of Alcohol and Other Drugs including Health Effects

Extent of Drug Use

Workplace policies need to have a strategy for addressing the impairment caused by the use of drugs and alcohol. A survey conducted by the Victorian Occupational Health and Safety Commission found cannabis use was reported by 7% of workers at work (**refer to information sheet 7**).

In 1991, 32% of the adult population had tried marijuana, 8% amphetamines, 7% hallucinogens, 5% barbiturates, 2% heroin, 2% ecstasy and 3% inhalants.

Alcohol and Other Drugs, Chemicals and Performance

Both legal and illegal drugs can be broadly categorised as depressants, stimulants or hallucinogens. Most drugs, including medication, even in very low doses, could affect the capacity of an employee to carry out their duties safely.

Workplaces use chemicals on a daily basis and particular chemicals can cause impairment to employees, and can have a similar effect to types of drugs. Where chemicals are used a strict hierarchy of hazard control should be implemented and workers should be educated in the potential hazards.

Depressants

Alcohol

Alcohol is the most commonly used depressant drug. Alcohol in combination with other factors, affects mental and motor function, the level of impairment being related to the blood alcohol level.

Blood Alcohol Concentrate (BAC) which is determined by how much a person drinks and over what period of time' is affected by a number of factors

- Gender – females will almost always have a higher BAC.
- Body size – A smaller person will have a higher BAC.
- Weight – people with low body weight can be more affected.
- Health/Fitness.
- An empty stomach.
- Aging effects – your body's response to drugs and alcohol in a number of ways.

After an alcohol drink, the alcohol is absorbed rapidly into the bloodstream. The time it takes between the last drink and the point at which blood alcohol concentration (BAC) peaks can range from 30-90 minutes. On average you can metabolise 6-8 grams of alcohol every hour. Therefore, a bit less than one standard drink per hour is cleared from the body.





Drugs and Alcohol Policy

Information Sheet 2: Effects of Alcohol and Other Drugs including Health Effects (Cont'd)

The effects of alcohol on performance can be:

- Loss of inhibition;
- Impairment of coordination, judgement, Intellectual capacity, and slowing of reflexes;
- Blurred vision;
- Slurred speech;
- Hangover – headache, shakiness nausea and vomiting;
- Reduced awareness of environment;
- Limited response to things going on around you; and
- Feeling sleepy.

Long term affects (may) include:

- Damage to the liver, heart and stomach
- Damage to the brain – impairment of memory, difficulty learning new skills.

Drugs that may have a warning not to drive or operate heavy machinery include, but are not limited to:

- Antihistamines (for allergies);
- Benzodiazepines (for sleepy and anxiety);
- Monoamine oxidase inhibitors (for depression); and
- Phenthiazines (for mental disorders).

Minor Tranquillisers

These are drugs usually prescribed by a doctor for treatment of anxiety and sleeplessness. They may cause drowsiness and impair motor coordination, judgement reaction time and intellectual capacity. The effects are greatly increased when mixed with alcohol. These drugs come under the name of benzodiazepines and include Valium, Serapax, Mogadon and Normison. Daily use over time can lead to dependence, and withdrawal symptoms may include increased anxiety, agitation, disturbed sleep, pain and flu like symptoms.

Other prescription medications that can affect performance in the workplace are barbiturates and other sedative hypnotics, which include Amytal, Nembutal, Seconal, and Sodium Pentothal.

Opiate analgesics

These drugs are used to relieve pain, they may also produce a euphoric effect, and impair the ability to drive and operate machinery. They can cause nausea and vomiting, constipation, and depress breathing. Long-term effects include tolerance, dependence and withdrawal symptoms. Intravenous use of these substances may pose a serious danger from life threatening infections e.g. Hepatitis, HIV and other blood borne diseases.

- Opium
- Morphine
- Codeine (can be available as a component of cold medications or medications for pain relief – e.g. Panadeine Forte and Panamax Co)
- Heroin
- Pethidine





Drugs and Alcohol Policy

Information Sheet 2: Effects of Alcohol and Other Drugs including Health Effects (Cont'd)

➤ Methadone

Opiates are readily available – either by obtaining prescriptions for medications that contain opiates or by purchasing them illicitly on the black market.

Note: Methadone – people prescribed regular doses of methadone for dependence on heroin, do not generally suffer impairment, which would effect their work performance.

Antihistamines

Antihistamines are prescribed or purchased over the counter as allergy or cold remedies. Some of these antihistamines can cause drowsiness and impaired performance and should not be mixed with alcohol.

Cannabis

Known as pot, dope, marijuana and hashish. Can also be classified as a depressant with hallucinogenic properties. In the short-term cannabis use can impair motor coordination, short-term memory, tracking ability, sensory functions and perception. Long-term use it may cause lasting memory impairment, decreased sperm count and motility in males, interfere with ovulation in females and impair immune responses.

Other Drugs

Non-opiate analgesics

This drug group includes aspirin, paracetamol and some anti-inflammatories used for arthritis. In recommended doses

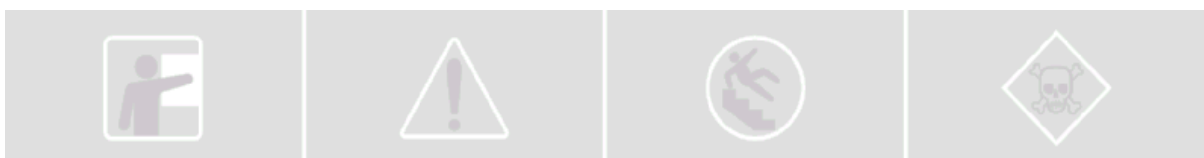
this group have no effects that could affect a person's capacity to work safely. However, the effect of pain on an employee's ability to carry his/her duties in a "safe" manner needs to be discussed with their GP.

Stimulants

Stimulants are drugs that stimulate the Central Nervous System and can elevate a person's mood and wakefulness. Negative symptoms produced by stimulants include anxiety, restlessness, confusion, impatient and aggressive behaviour, poor judgement, tremors, increased blood pressure and heart rate, which can potentially result in a heart attack or stroke. Withdrawal from this type of drug can result in fatigue, restlessness and depression. In some people use of stimulants can result in paranoia, hallucinations and irrational behaviour.

Types of stimulants include

- Amphetamines (illegal, or on prescription in forms such as dexamphetamine). Also known colloquially as "speed". Pseudoephedrine – which is an ingredient in cough mixtures, is often used as a base ingredient in the manufacturing of illegal amphetamines.
- Cocaine
- MDMA, also know as ecstasy
- Caffeine





Drugs and Alcohol Policy

Information Sheet 2: Effects of Alcohol and Other Drugs including Health Effects (Cont'd)

Note: All of these drugs produce dependency

Hallucinogens

Hallucinogens are capable of producing profound alteration of perception and thought processes.

LSD (illegal)

Known as acid. LSD can produce profound alterations to perception and sensory functions. It can also produce brain damage.

Inhalants/Solvents

Inhalants are liquid or aerosol products such as petrol, solvents (e.g. Hexane, Toluene) or glues. These drugs can be used by individuals to achieve a "high" or can be inhaled inadvertently at work. If these substances are used in a workplace, the risks have to be addressed.

The effects include

- drowsiness,
- disorientation,
- anxiety and tension,
- nausea and vomiting,
- sensitivity to sunlight,
- eye irritation and
- double vision.

Inhalants can cause death from arrhythmia (irregular heart beat) or suffocation.

Long-term exposure can cause significant health risks. Refer to hazard sheets on the UnionSafe website.

Pesticides e.g. Organophosphate, Organochlorine

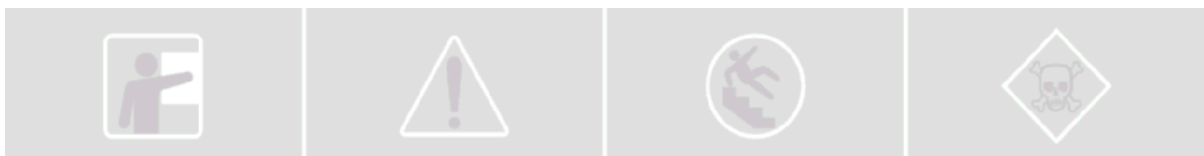
These chemicals can produce effects similar to tranquillisers.

Effects include

- drowsiness,
- slowed reaction time, headache,
- giddiness,
- confusion,
- ataxia,
- slurred speech and
- convulsions.
- Can also produce 'flu' like symptoms and impairment of vision.

When mixed with alcohol the effects are increased. In high doses these chemicals have a stimulant effect, producing poor coordination and excitability. Over exposure can cause violent convulsions, coma and death.

The OHS Regulation 2001 provides information and employers under the hazard clause of the OHS Regulation are required to address the risks associated with exposure to chemicals and hazardous substances. Refer to Easy Guide to the Law – Hazardous Substances.





Drugs and Alcohol Policy

Information Sheet 3: What the Law Says

The NSW OHS Act 2000 requires employers to consult with their employees on all aspects of Occupational Health and Safety, this includes the risk identification, assessment and control process and the development of workplace policies and procedures.

This duty to consult includes the development and implementation of a Drug and Alcohol Policy. Refer to information sheet 4 – What to include in a D&A Policy.

Occupational Health and Safety Act and OHS Regulation 2001 Employer's Obligations

The *Occupational Health and Safety Act* and the *OHS Regulation 2001* place a firm obligation on employers to ensure the health, safety and welfare at work of all employees, contractors and visitors to the workplace.

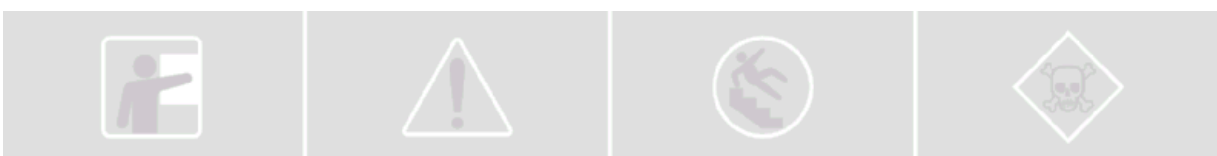
Employers are also responsible for ensuring that risks to health and safety in the workplace are identified, assessed and eliminated or controlled, and that information, instruction, training, and supervision needed to ensure employees health and safety in the workplace is provided.

The Act also places an obligation on individual employees to take reasonable care for the health, safety and welfare of others, and to cooperate with employers in their efforts to comply with occupational health and safety requirements, follow workplace policies and report all incidents to the employer.

Legislation

Reference to the following legislation may be useful in developing Alcohol and Other Drugs policies:

- Anti-Discrimination Act, 1977
- Drug Misuse and Trafficking Act, 1985
- Industrial Relations Act, 1996, NSW
- Occupational Health and Safety Act 2000 & Occupational Health and Safety Regulation 2000
- Motor Traffic Act 1999
- Workers Compensation Act 1987, NSW
- Workplace Injury Management and Workers Compensation Act 1998, NSW
- Rail Safety Act
- Responsible Service of Alcohol





Drugs and Alcohol Policy **Information Sheet 3: What the Law Says (cont'd)**

The type of information required in the report will be decided in consultation between the provider and the organisation. Normally, the following information would be regarded as useful:

- Referral rate;
- Client profile (may include gender, age, education, work area, ethnic background, etc.);
- Type of referral (self referral, manager referral, union referral);
- Reasons for referral (personal, work-related, redundancy, etc.);
- Ratio of personal to work problems;
- Training/awareness programs;
- Consultation with management or unions;
- Results of client satisfaction survey;
- Identification of organisational 'hot spots' in terms of stress, conflict, interpersonal problems, communication problems, work overload, role ambiguity, etc.; and
- Recommendations - solutions to the issues identified.

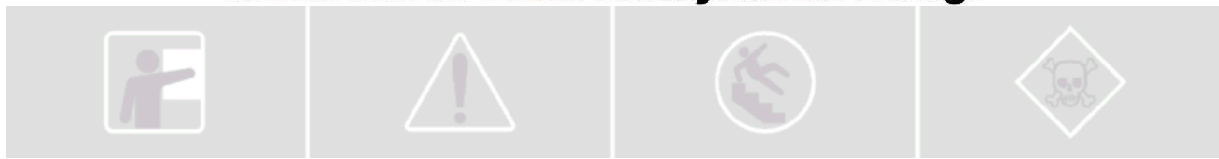
While an organisation cannot have access to details of service provision such as the nature of the problem, apart from the group data provided by the employee assistance provider, it is possible and useful to survey the provider's clients to ascertain their views of and satisfaction with the services provided. Such a survey may be conducted by asking the employee assistance counsellors to request that clients complete a confidential survey after their counselling session, to be returned directly to the organisation.

The survey would seek to identify:

- General level of satisfaction with the services;
- The degree of helpfulness of the counselling;
- Whether performance or conduct improved;
- The effect on morale, confidence, and personal life;
- The usefulness of career planning assistance;
- Whether employees would recommend the services to others; and
- Other comments.

Organisations may also wish to conduct a random survey throughout the organisation to ascertain the level of knowledge and understanding of employee assistance services and whether employees would be likely to use the services if they experienced work-related or personal problems.





Drugs and Alcohol Policy

Information Sheet 4: Policy Principles - What to include in a Drug & Alcohol Policy

Provision of information

The Workplace alcohol and other drugs policy should be a cooperative effort between the employer, employees and their unions.

The policy should recognise the cultural and social problems associated with drugs and alcohol that are endemic in today's society and provides a clear specific procedure to manage them in the workplace.

It is important to develop a workplace culture through education where workers are prepared to encourage each other to be safe and not impaired at work. Employees should be aware of the need to refer incidents likely to pose a safety hazard to their supervisor, and if the problem is ongoing to the chairperson of the OHS committee or OHS Representative. The policy should be well communicated within the workplace and provide for a suitable information and education program for all staff.

Induction Programs

Information on the Alcohol and Other Drugs and Fatigue Policy should be provided in induction and on-going training and posted on noticeboards for all employees to refer to.

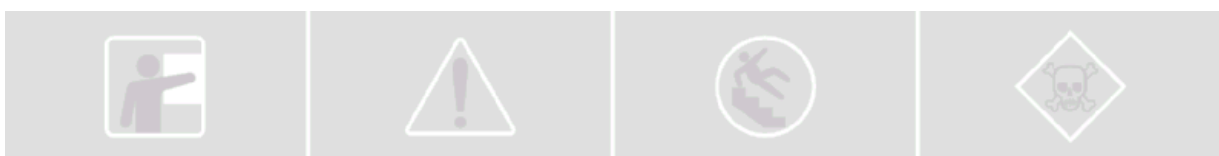
Developing an Effective Policy

Managing alcohol and drugs problems at work

Developing a policy to manage alcohol and drugs problems in your workplace is a proactive way to deal with potential alcohol and drug problems.

The main aim of an alcohol and drug policy is to ensure a healthy and safe workplace. You can make this part of your workplace's occupational health and safety strategy.

An effective program can provide improved benefits to businesses and organisations and their employees.





Drugs and Alcohol Policy

Information Sheet 4: Policy Principles - What to include in a Drug & Alcohol Policy (cont'd)

These could include:

- A safer workplace
- Improved productivity through reductions in absenteeism
- Reduction in worker's compensation premiums
- Improved employee morale.

Benefits

A well-designed and implemented Alcohol and Other Drug management program should provide measurable performance and cost benefits to the organisation. Direct benefits can be expected as a result of:

- Improved productivity following reductions in absenteeism and staff turnover;
- Improved workplace safety;
- Reduction in accidents and workers' compensation premiums;
- Reduced grievance and harassment claims; and
- Improved employee commitment and morale, leading to improved individual performance

Your program should **not** be about:

- Stopping people drinking
- Forcing people to "dob" in a mate
- Embarrassing people
- Forcing people into treatment
- Getting people sacked.

No matter what type of workplace you have, your policy should:

- Focus on health and safety
- Provide strategies to encourage changes in attitude so that it becomes accepted that work and alcohol and drugs don't mix. For example, responsible serving of alcohol at work function
- Help supervisors and managers deal appropriately with employees who are intoxicated
- Help people who are misusing alcohol and drugs from developing further problems
- Help people who have problems to seek effective solutions and treatment
- Provide information enabling people with alcohol and drug problems to have choices about solutions and treatment.





Drugs and Alcohol Policy

Information Sheet 4: Policy Principles - What to include in a Drug & Alcohol Policy (cont'd)

An effective management approach

No two workplaces are the same, so businesses and organisations may need an individual approach to managing alcohol and drugs that reflects the type of operation, size and other characteristics of that workplace.

To be effective, your management program should:

- Developed in consultation with employees, supervisors, union delegates and workplace safety representatives
- Provide clear guidelines for managers and frontline employees for managing the misuse of alcohol and drugs at work. Other employees need to be clearly informed of their responsibilities and your approach to alcohol and drugs at work
- Provide appropriate support and assistance to employees with an alcohol or drug problem. This may include counselling, treatment or rehabilitation programs. Access to sick leave may be required
- Be applicable to all parties in the workplace
- Ensure strict confidentiality of personal information.

Getting Started

Policies need to include the following sections

- Roles and responsibilities – Supervisors, managers, OHS and Union Reps
- Education including self awareness
- Information and training
- Disciplinary Procedures (**refer to information sheet 5**)
- Referral to support services, persons responsible for approaching an employee suspected of being under the influence
- Confidentiality and privacy
- Early intervention – include a section on approaching the employee who may be impaired.

During the development of the policy, the organisation should identify any cultural and workplace stress factors, which could contribute to excessive substance use and aim to reduce those factors. General health and safety, management style, work practices, shift work, deadlines, equipment design and discrimination should be all examined.

In particular, measures for the safe handling, storage and use of hazardous substances should be considered. Chemicals such as solvents and pesticides can affect performance in a way.





Drugs and Alcohol Policy

Information Sheet 4: Policy Principles - What to include in a Drug & Alcohol Policy (cont'd)

Provision of Education and Training

Education and training for all employees should cover:

- The importance of being sober and drug free at work;
- What constitutes unacceptable alcohol or other drug use;
- The workplace's policy on dealing with the misuse of alcohol and other drugs, both long term and isolated incidents;
- The consequences for employees who fail to comply with the workplace's alcohol and other drugs policy;
- The effects of the misuse of alcohol and other drugs on health, safety and performance in the workplace;
- Ways of dealing with the misuse of alcohol and other drugs;
- The counselling, treatment and rehabilitation services available in the workplace and externally;
- The appropriate person/s to approach for assistance with a problem related to the misuse of alcohol and other drugs; and
- The legal position (rights and penalties) of employees and management in relation to alcohol and other drug testing, if relevant privacy and confidentiality.

Specialist Training

Training for managers, supervisors, OHS committee members and other designated people should include:

- Their role and responsibility for implementing this policy;
- How to identify and approach employees who are affected by alcohol or other drugs in the workplace;
- Dealing with the long-term user and those intoxicated in one-off situations;
- How to sensitively refer an employee to specialist counselling and treatment and to avoid taking on the counselling role themselves;
- Observation of people suspected of being under the influence of a substance;
- Role and responsibility in relation to privacy.



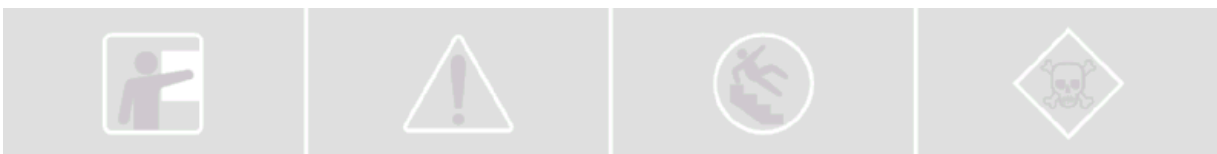


Drugs and Alcohol Policy

Information Sheet 4A: Steps Involved in Developing a Policy

Policies developed by workplaces to manage alcohol and other drugs should be based on the following steps:

- Step 1.** Involve all Employees, OHS Committees and Representatives and their unions in the development of the workplace policy and its implementation.
- Step 2.** Develop practical guidelines and procedures for supervisors, OHS representatives and union delegates on approaching an employee suspected of being impaired.
- Step 3.** Develop disciplinary and counselling procedures in accordance with WorkCover guidelines (**refer to information sheet 5**).
- Step 4.** Develop confidentiality procedures relating to personal information received from employees during counselling, treatment or rehabilitation, which will be treated in strict confidence. Ensure the policy includes a section on privacy (refer to relevant privacy legislation).
- Step 5.** Develop an awareness and education program for all employees of their responsibilities, in relation to the misuse of alcohol and other drugs that may adversely affect work performance. This should include the affects in the workplace of alcohol and other drugs that are used before work, during lunch or other work breaks, as well as during work hours.
- Step 6.** Establish an appropriate referral system (**refer to information sheet 7**) to support employees i.e. employee assistance programs (**refer to information sheet 8**).



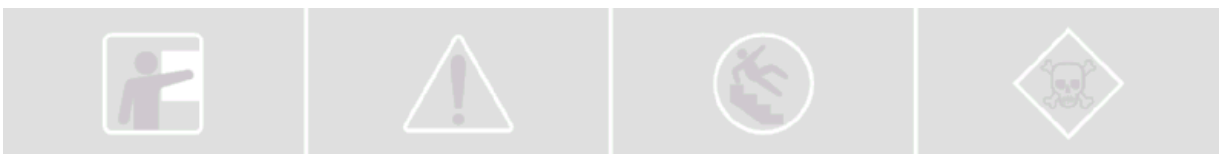


Drugs and Alcohol Policy

Information Sheet 4: Steps Involved in Developing a Policy (cont'd)

- Step 7.** Train managers, supervisors and union OHS representatives.
- Step 8.** Include a section relating to employees attending treatment or rehabilitation, having access to appropriate sick or other leave, or leave without pay.
- Step 9.** Include a section on workplace expectations, code of behaviour.
- Appropriate use of alcohol, e.g. social events including Xmas parties, lunches.
 - Appropriate use of prescribed drugs.
 - Prohibition of being under the influence of illegal drugs at work.
 - Acceptable (if any) blood alcohol levels.
- Step 10.** Regular review of the policy (refer to the NSW Fire Brigade Drug and Alcohol Protocol Model Policy as a best practice model).

NSW Health has provided a sample policy.





Drugs and Alcohol Policy

Information Sheet 5: Performance Counselling and Discipline

The WorkCover Guidelines recommend employers include a fair and reasonable disciplinary and counselling approach in their workplace policy on drugs and alcohol. The procedure for performance counselling and, if necessary, discipline of employees who may be a safety hazard should be consistent with existing awards, agreements and other established performance counselling and disciplinary measures applying in the workplace.

Note: The union should encourage the employee to seek counselling, otherwise they may face disciplinary action or termination.

WorkCover Procedures

Outlined below is WorkCover's recommended performance counselling/disciplinary procedure. This can be adapted by workplaces with no formal procedure set out in their policy, or those wishing to revise their procedure. WorkCover recommends using a series of four interviews to guide an employee away from inappropriate alcohol or other drug use, and towards safer work practices.

Interview one

The first interview should be held between the employee and supervisor and a general support person of the employee's choice. This could be a union delegate or an OHS site representative. The following should be discussed:

- Details of unsatisfactory work performance; &
- The standard of performance required.

The employee should be asked if there are any workplace factors contributing to poor work performance.

The employee should be offered professional counselling for personal or workplace factors with time off work to attend.

An agreement should be reached about the time it will take for the employee to return to satisfactory performance. If in reviewing performance it is

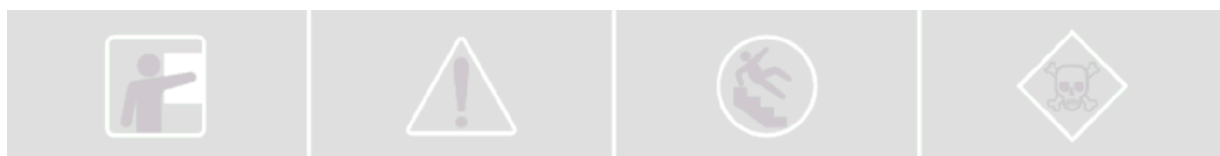
found that the employee has regained satisfactory performance there is no need to go any further.

Interview two

The second interview should be held between the employee, supervisor and union representative. At the second interview, any additional details of unsatisfactory performance and the standard of performance required should be stated.

The employee must be informed that they risk discipline and possible dismissal for failing to improve performance, and the offer of assistance through professional counselling should be repeated.

If in reviewing performance it is found that the employee has regained satisfactory performance no further interviews will be required, subject to continued good performance.





Drugs and Alcohol Policy

Information Sheet 5: Performance Counselling and Discipline (cont'd)

Interview three

Interview three should be held between the employee, supervisor and union representative. All details of unsatisfactory performance should be stated or restated. The employee must be informed that they risk losing their job if their performance continues to be unsatisfactory.

The offer of professional counselling should be repeated. The performance of the employee should then be reviewed on an on-going basis.

Interview four

Interview four should be held between the employee, a union representative and the supervisor with the authority to take disciplinary measures and terminate employment. It is convened to arrange appropriate disciplinary measures, which may include termination of employment.

Reference: This information has been reproduced from WorkCover's Guidelines.

Rights of Employees under NSW IR Act

Under the NSW IR Act 1996 and the Federal Workplace Relations Act, employees have a right to a clear and reasonable procedure, and failure to follow appropriate procedures may lead to unfair dismissal claims from a dismissed employee. There have been cases in the NSW jurisdiction where an employee has been dismissed and the Commission ordered reinstatement of that worker because the employer had not followed procedures.

Case Studies

Listed below are some of the cases that have been conducted in the NSW IR Commission and for the full text refer to the UnionSafe website: www.Council.unionsafe.net.au

- *Macleay Valley Health Service v Jeffree 1994 AILR 378.*
- *Robin v Worley ABB (2002) 51 AILR 4-560*
- *Worden v Diamond Offshore General Company (1999) 47 AILR 4-211*
- *Rossi v Australian Air Express Pty Ltd (2002) 51 AILR 4-594*
- *Ennio Lorenzato v Sydney Water Corporation (2002) IRC02/2395*
- *TWU (On behalf of Mark Burrell) v Westlakes Haulage & Earthmoving Pty Ltd (2002) IRC2955*



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Drugs and Alcohol Policy

Information Sheet 6: Fatigue and Impairment

What is Impairment?

Impairment is an inability to perform at your normal level of concentration and focus on safety. After a shortened or disturbed sleep rest break a person's ability to function and coordinate is substantially receded. For example, after a disturbed sleep with a sick child, shiftwork or a heavy social calendar.

A person who is on certain medication may be impaired, and this may give the impression of being drug or alcohol related.

Anyone who is impaired, no matter what the cause, should not be involved in safety critical tasks, i.e. operating heavy plant and machinery or driving vehicles.

Research indicates that a fatigued person's performance is similar to concentration 0.1% BAC, which is twice the legal driving limit – Dr Judith Perl.

Whilst such symptoms may suggest possible alcohol or drug affects many of these indicators may also be present as a result of fatigue, stress or health issues.

Fatigue

A person who is fatigued, ill or suffering from sleep disturbances can give the appearance of being affected by drugs and alcohol. There are many causes of sleep disturbances and fatigue, which may or may not be work related. This is about overall safety in the workplace and focusing on a person's impairment on a daily basis.

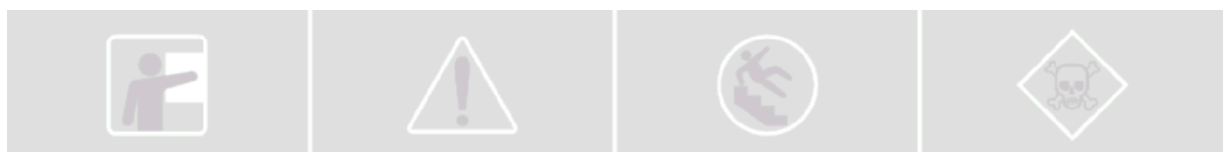
Fatigue is a serious workplace issue, which should be addressed in the risk assessment process and policy level, for example, allowing for:

- Impairment Awareness Program, similar to message "Stop, Revive, Survive"
- Regular breaks
- Sufficient time for sleep
- Avoid repetitive tasks
- Training for OHS Representatives and Managers to recognise the signs

A person who is fatigued could have the same reflex response rate as a person who is intoxicated.

Insomnia

Insomnia is a very common condition, which can seriously affect a person's workplace performance and safety.





Drugs and Alcohol Policy

Information Sheet 6A: Identifying possible factors relating to an employee who is affected by drugs, alcohol and/or fatigue

The misuse of alcohol or other drugs may result in an observable decline in work performance. While it is not the responsibility of supervisors or managers to diagnose personal or health problems, they should be aware of the common indicators that suggest that an alcohol or other drug problem may exist.

Causes of impairment and intoxication must be included in a proper and endorsed training program for person/s involved in workplace assessments.

Observable patterns of behaviour relating to "possible impairment" are listed below:

- Habitual lateness or excessive absenteeism;
- Extended lunch breaks;
- Aggressive outbursts;
- Problems with
 - Coordination;
 - Forgetfulness;
 - 'Near miss' incidents;
- Possible time management issues
- Clear intoxication at work or signs of drinking prior to commencement of work; and
- Excessive vagueness/dazed look or "over-relaxed" disposition.

Approaching the employee

It may be a fellow worker who, in the first instance, identifies an employee who poses a risk to health or safety, due to misuse of alcohol or other drugs. However, an independent assessment of the employee must be carried out, for example, by a trained and skilled employee elected safety representative. These representatives need to receive training in identification of symptoms, which may affect an employee's work performance. The OHS representative(s) should at this time determine whether the employee is performing a safety critical task, such as operating machinery. The OHS representatives should conduct the independent assessment unless the employee agrees to another mechanism, for example a first aid officer, or a nurse.

The employee must have the right to have a union representative in any discussion arising out of an assessment.

The Alcohol and Other Drugs policy should specify the chain of responsibility for approaching the affected employee in cases where initial contact produces a negative or hostile response.



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Drugs and Alcohol Policy

Information Sheet 6A: Identifying possible factors (cont'd)

The approach taken when dealing with an employee whose work performance is affected by alcohol or other drugs generally depends on:

- The industry
- The workplace culture and structure
- The position of the employee
- Whether it is a case of long-term misuse, or a 'one-off' situation.

When approaching an affected employee it can be more constructive and less confronting to talk in terms of their approach to safety and general work performance rather than their alcohol or other drug use.

Responsibilities of the manager or supervisor

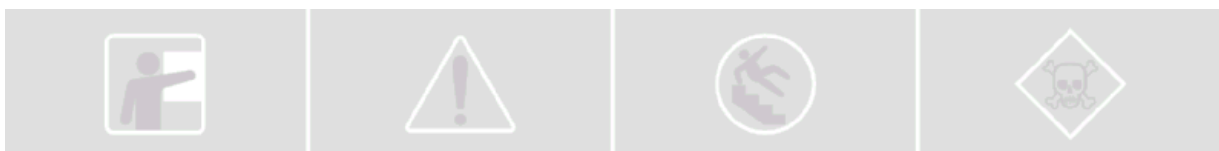
Whenever a manager or supervisor observes, or is advised of, a health or safety risk as a result of possible intoxication, they should contact the designated OHS or other Representative, to carry out an independent assessment.

It is the Manager or supervisor's duty to

- Inform the employee of the perceived risk to their own health or safety or the health or safety of others;
- Depending on the employee's duties, it may be appropriate for the person to leave or be accommodated at the workplace, however if the employee poses a risk to themselves or others direct the employee to alternative work areas or duties if appropriate;
- Ensure that any employee who appears to be intoxicated or a risk to others either leaves the workplace for the day or shift in the company of a responsible person; and
- Arrange safe transport for the employee.
- Advise the employee that they have right to be represented during the interview.

Following the incident the manager or supervisor should:

- Document the incident;
- Interview the employee with their union representative at the beginning of the next work period and ask them to provide an explanation of the incident
- Respect any requests of the employee to see a counsellor;
- Attempt to determine, with the employee, an agreed course of remedial action;
- Without breaching confidentiality, implement any other procedures to ensure that ongoing safety risks are eliminated (eg relating to dealing with machinery, access to vehicles etc);
- Treat any subsequent incidents that are the result of the misuse of alcohol or other drugs according to the workplace's performance counselling and discipline procedures (**refer to information sheet 5**); and
- Use the workplace's appropriate reporting mechanism for breaches of occupational health and safety.





Drugs and Alcohol Policy

Information Sheet 7: Referral and Rehabilitation

Note: Not every employee will require referral and assistance, for example it could be a one off incident.

Referral

In most cases, it is better that the employee choose to attend assistance or counselling service, because this helps them to recognise, acknowledge and own the problem. This improves the likelihood of a successful treatment outcome.

Managers, supervisors, union delegates or colleagues may encourage an employee to seek counselling when they are aware that he or she has a problem.

As counselling is voluntary, employees may decline to attend. If an employee refuses counselling and there is no improvement in work performance, the normal procedures for managing poor work performance (workplace discipline/performance management and/or procedures) should be followed where a suspected alcohol or other drug-related problem exists.

Rehabilitation

Organisations should aim to ensure that all employees are fully productive and are able to perform their work effectively. Assistance with rehabilitation should be available to any employee who is seeking to overcome an alcohol or other drug-related problem. It is important, however, to be aware that employees undergoing rehabilitation from dependence on alcohol or other drugs will take time to recover and that there may be relapses on the way.

Organisational support for a rehabilitation program requires the employee's cooperation. The affected employee and their manager should reach a mutually agreed position on work adjustments and progress reviews so that there is a clear understanding of expectations on both parts.

Adjustments to work arrangements will depend on the situation, but may include some measures such as:

- Removal from work with risk of personal injury;
- Work in a less stressful role;
- Temporary transfer to different work at a similar or lower grade;
- Temporary removal from a customer contact role if appropriate;
- Flexible work arrangements, as appropriate, to enable the employee to return to full time work gradually.





Drugs and Alcohol Policy

Information Sheet 8: Employee Assistance Services

Employers should support employees in effectively addressing alcohol and drug problems by referring them to employee assistance services. These include employee assistance programs (EAPs), in house counsellors, one off referral to counselling, treatment and rehabilitation services, or the utilisation of specialist area health services i.e. drug and alcohol clinics.

As part of a commitment to achieving and maintaining safe, healthy, fair, equitable and productive workplaces, organisations should consider establishing employee assistance services to help employees resolve personal and work-related problems and associated stresses.

An EAP is a confidential service that helps employees deal with a variety of personal problems that may be interfering with their work experience. Managers, supervisors, nominated employees, (safety committee or ohs representatives), and union delegates should encourage an employee to seek counselling and treatment.

Attendance of counselling should be voluntary for an employee. Employers and managers have legal obligations to protect the privacy of the employees. EAPs should be reviewed and monitored.

Benefits

The provision of employee assistance services can lead to significant performance benefits to an organisation. In particular, benefits may include:

- Demonstration by the employer of a commitment to the wellbeing of employees;
- Improved morale and commitment among employees;
- Assistance in focusing on risk assessment and preventative strategies as part of the organisation's occupational health, safety and rehabilitation policy;
- Resolution of personal issues before they become workplace issues;
- Improvements in performance and productivity as a result of a reduction in absenteeism, turnover, accidents, injuries and industrial and disciplinary action; and
- Enhancement of relations between employees and managers.

Principles

An effective employee assistance strategy would observe the following principles:

- Full and demonstrated commitment by management at all levels;
- Commitment to treating each employee fairly and with respect;
- Understanding and agreement on the responsibilities of both employer and employee where there is a problem affecting work;
- Managers skilled in dealing with a decline in performance;
- A set of clearly defined policies and procedures as part of the employee assistance strategy;
- Employees trained in referral and aware of the wide range of available resources;
- Selection of a provider able to respond to the cultural and social needs of employees;
- Continuous monitoring and evaluation of assistance services; and
- Confidentiality





Drugs and Alcohol Policy

Information Sheet 8: Employee Assistance Services (cont'd)

What is employee assistance?

Employee assistance is an effective early intervention strategy to provide professional and confidential counselling and referral services for employees in order to assist them to resolve personal, health or work-related concerns.

In addition to providing counselling for problems associated with misuse of alcohol or other drugs, the employer may wish to provide counselling and referral services for a wide range of personal and work-related issues.

These may include:

- Organisational change (eg restructuring, redundancy, transfer or redeployment);
- Harassment and victimisation in the workplace;
- Workplace violence or assault
- Marriage or family crises;
- Interpersonal conflicts;
- Health concerns;
- Grief and bereavement;
- Trauma or stress;
- Gambling and financial problems;
- Approaching retirement.

If not addressed, these concerns may impair an employee's output and interpersonal behaviour and, through a diminished contribution to teamwork, impact on the morale and performance of other employees.

There is, however, no obligation on employees to accept counselling and it would be improper to pressure employees to accept.

Performance problems of employees who decline counselling should be dealt with according to the policies on managing unsatisfactory performance or discipline procedures and the intention to follow this path should be made clear at the outset.

Providing an employee assistance service

These services are normally provided free of charge to employees without a limit on the number of counselling sessions. However, some organisations limit the number of cost free counselling sessions available, after which employees may choose to continue counselling with the organisation's provider at their own expense or to be referred to a counselling service in the community.

While employee assistance is normally available to employees, organisations might consider extending the services to the employees' immediate families.

Organisations may provide employee assistance services in a number of ways, depending on the size of the organisation and other factors. While some large organisations employ their own counsellors who work within the organisation, it is also possible for organisations to enter into contracts with employee assistance providers.





Drugs and Alcohol Policy

Information Sheet 8: Employee Assistance Services (cont'd)

There are two common arrangements:

- A contract that covers the use of the services by all employees. The cost is worked out on the total number of employees in the organisation. However, only a small proportion of employees would make use of employee assistance services in any year.
- A contract that enables organisations to refer individuals to employee assistance services on a one-off basis. In such a situation, the cost to the organisation would be difficult to predict.

It may be desirable in some circumstances to have contracts with different providers for different functions or regions. Organisations in regional or remote areas might consider jointly engaging a service provider.

Criteria

As this is an unregulated industry, criteria that organisations should carefully consider when selecting a provider include:

- Professional competency, including clinical skills, knowledge of organisational and people management issues and local community resources;
- Professional qualifications, experience and expertise of the actual counsellors
- Adherence to professional conduct and standards;
- Availability of services in regional centres or remote areas if appropriate;
- Ability to provide services at short notice;
- Ability to provide initial and ongoing employee awareness programs, publicity materials and referral training;
- Ability to provide services to employees of diverse cultural and social backgrounds;
- Support of employees and unions represented in the workplace; and
- Cost/value for money.

Organisations could ask potential employee assistance providers to supply the names of a number of referees and conduct a thorough referee check before making a decision. At the same time, it may be useful to approach other organisations of similar size and characteristics to discuss their evaluation of any employee assistance services they have used.

Organizations in selecting EAP providers should do so in consultation with the employees and their union. Further information can be obtained through the Department of Health or on the Labor Council OHS website www.Labor.unionsafe.net.au





Drugs and Alcohol Policy

Information Sheet 9: Testing for Misuse of Alcohol and Other Drugs

Alcohol and other drug testing should only be introduced where there is a legislative provisions or where employers, workers and unions agree for it to be introduced, that it will be effective and should be a part of the organisations' policy, and where legislation permits such testing. Guidelines need to set out the specific roles and obligations of managers and employees.

workers, State Transit authority ferry crews. There is also legislation prohibiting workers from working while intoxicated in the coal mining and aviation industries.

Where legislative provisions are available for testing prior to any testing being implemented, there should be consultation with OHS Committee, OHS Representatives, and employees and their unions.

Testing may be appropriate where the impact of alcohol and other drug use could be loss of life or major disruption. For example, employers and workers may determine that there is a need for the following to be tested:

- Operators of dangerous machinery
- Pilots
- Air traffic controllers
- Plant operators
- Military personnel
- Miners

NSW has legislation permitting testing of motorists (including heavy vehicle and bus drivers), sworn members of the NSW Police Service, some State Rail Authority

Limitations

A paper by Webb and Frester (1994), Journal of Occupational health and Safety – Aust NZ 10(2) 95-106 reports the main disadvantages of workplace drug testing include:

- Problems with the testing procedures;
- Legal and ethical issues;
- High cost and low effectiveness;
- The possibility of improper or malicious use against employees;
- Diversion of attention from less intrusive and less problematic methods for dealing with the problem; and
- Damage to labour relations.





Drugs and Alcohol Policy

Information Sheet 9: Testing for Misuse of Alcohol and Other Drugs (cont'd)

There are problems with the reliability of drug testing methods, for example they may produce high levels of false positive or false negative results. Tests may also erroneously identify legal substances as being illegal substances. Some screening tests available for testing urine, saliva or sweat cross react so that a positive result to a particular drug may be indicated when another substance is present, for example a positive methamphetamine result can occur when a person has used a legal pharmacy medication for treating cold symptoms. Not only can some of these produce false positives but also false negatives can occur, for example saliva tests poorly identify the active drug THC found in cannabis.

A positive result shows that a person has taken a drug but does not indicate if they are still affected.

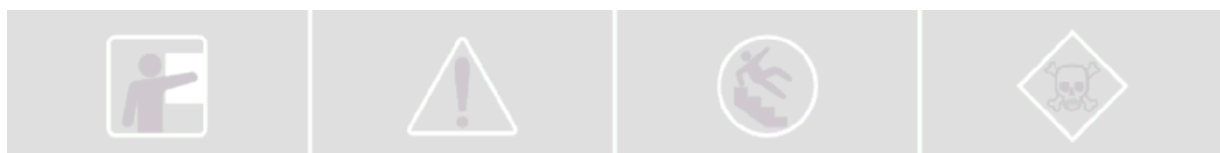
Blood – Blood tests measure the presence of the drug (not its metabolites) in your blood. Blood tests are not generally used because they are regarded as intrusive and are expensive.

Blood and saliva tend to measure the parent drug whereas metabolites (the breakdown products of the parent drug)

are commonly found in the urine, for example cannabis contains many cannabinoids including the main active drug THC, but no THC is found in urine, only metabolites such as THC acid. Since many metabolites are eliminated at a much slower rate than the active drug, a positive urine result may be obtained when there is no drug present in the blood. A positive urine result may merely indicate usage of a drug sometime prior, possibly days or weeks prior, when there is no longer any effect of the drug on the person at the time of testing. This is an important factor since the presence of drugs may have no bearing whatsoever to work performance.

Since the effect of the drug on a person's mental or physical functions occurs as a result of the drug affecting the brain, blood that carries drugs to the brain, is the only specimen that can be used to confirm relatively recent usage of the drug. The concentration in blood may still not indicate impairment.

Some drugs are converted in the body to another active drug, which prolongs the effects, for example heroin is very rapidly converted to morphine. Therefore the detection of a particular substance in





Drugs and Alcohol Policy

Information Sheet 9: Testing for Misuse of Alcohol and Other Drugs (cont'd)

blood may not necessarily indicate what the source of the drug was.

Ensuring the integrity of samples is costly and time-consuming, and if not done correctly, can destroy the ability of the test result to be upheld in a legal setting. Further, there is no adequate scientific evidence, except in the case of alcohol, to demonstrate whether the mere presence of drugs in body samples indicates impairment. A drug test can only indicate the presence of drugs, not whether a worker is likely to be adversely affected by the drugs.

Testing procedures

Where legislation allows for workplace testing, or it is agreed to by employees and their unions, testing must follow a rigorous set procedure.

This includes:

- Split samples - the subject of the test must receive a sample, which they can have independently tested.
- Chain of custody - the time, place and each person who handles samples must be documented.
- The use of accredited laboratories for testing.
- Confidentiality.

(In accordance with the Australian Standard 4308 (1995) "the recommended practice for the collection, detection and quantification of drugs of abuse in urine".)

In any discussions the parties should agree on which particular substances should be tested.

From a review of the available research evidence, Webb and Frester concluded that there were no objective, scientifically valid studies to support the effectiveness of drug testing programs in producing improved workplace outcomes such as reductions in workplace injuries. Also the cost of drug testing programs is very high, especially taking into account the lack of demonstrated effectiveness. Unfortunately, drug-testing programs also take attention away from other, more effective ways of dealing with drug problems.

Alternative Solutions

There are many alternative methods that can be used to make a real difference in controlling workplace drug problems. These include introducing workplace alcohol and other drug policies, in conjunction with worker education,





Drugs and Alcohol Policy

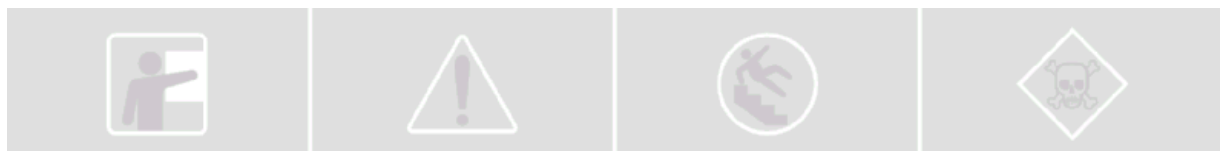
Information Sheet 9: Testing for Misuse of Alcohol and Other Drugs (cont'd)

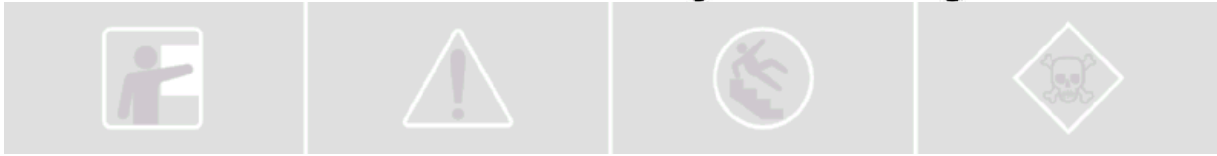
supervisor training, and referral of workers with problems to treatment agencies and rehabilitation of affected workers. The policy can be supported by workplace health promotion programs and programs to bring about changes to the organisation that will reduce the possibility of drugs becoming a problem in the workplace. Organisational changes may include workplace alcohol bans, improved food and facilities in the canteen to make it less likely that workers will go outside the workplace to drink or use other drugs during work breaks, and providing low-alcohol or no-alcohol drinks at work functions. The alcohol and other drugs policy should be firmly situated within the context of an overall workplace health and safety policy.

Conclusion

Workplace drug testing programs have many potential difficulties, including problems with testing procedures, legal and ethical issues, high cost and lack of effectiveness, the possibility of improper use, and diversion of attention from less intrusive and better methods of dealing with the problem of workplace drug use. Alcohol and drug use is a very complex issue and needs to be addressed at many different levels, rather than taking an overly simplistic approach such as drug testing. Alternative methods include workplace alcohol and other drug policies, referral of affected workers for treatment and rehabilitation, worker education, supervisor training, workplace health promotion programs and addressing factors within the work environment that may contribute to drug problems.

This information sheet has been developed by Dr Judith Perl, Consultant to NSW Police Service.





Drugs and Alcohol Policy

Information Sheet 10: Costs of Workplace Alcohol and Drug Testing

Surprisingly Few Employers Have Evaluated the Effectiveness of Their Drug Testing Programs

In its 1996 annual survey, the American Management Association (AMA) asked corporations with drug testing programs whether they had "statistical evidence" that drug testing had produced declines in:

- Absenteeism/illness
- Disability claims
- Accident rates
- Incidents of employee theft
- Incidents of employee violence

For none of these questions did the percent answering "yes" exceed single digits. Only 8 percent of companies with drug testing programs had performed any cost-benefit analysis.

SOURCES: AMERICAN MANAGEMENT ASSOCIATION, DRUG ABUSE: WORKPLACE DRUG TESTING AND DRUG ABUSE POLICIES, 1996 SURVEY

Indirect costs associated with operating and administering drug testing programs add to these figures, as does the cost of having employees absent from their jobs temporarily. Grievances and lawsuits related to the testing program create an additional financial burden, and if treatment or other rehabilitative services are offered to drug-positive workers, the price tag of a drug-testing program increases further.

A 1991 US House of Representatives report showing that tests on 28,873 federal employees had cost the taxpayer \$US77,000 for each employee testing positive (about £50,000).

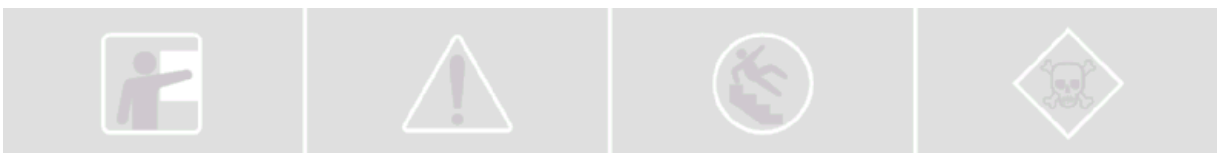
To detect one illicit drug user has cost \$US16,500.00

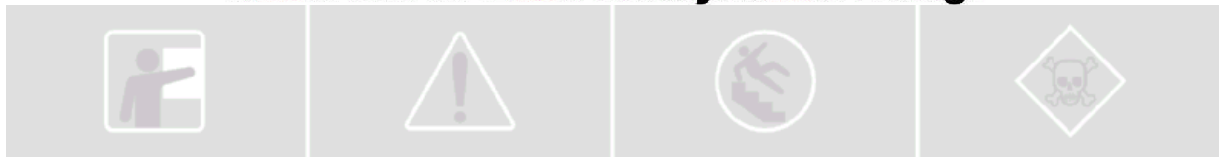
The annual cost of drug testing to the aviation industry is approximately \$14 million.

Texas Instruments, one of America's largest electronics manufacturing companies, reports spending \$1 million to test 10,000 workers – about \$100 per employee.

A US Study Of 500 prospective hospital employees: all undertook pre-employment testing. 2.6% (13) were confirmed positive.

The cost of testing the entire US workforce is estimated at between \$US8-10 billion a year (in 1994). This does not take into account legal challenges to the tests.





Drugs and Alcohol Policy

Information Sheet 10: Costs of Workplace Alcohol and Drug Testing

Other Consequences

Testing can shift drug use with a subsequent increase in hazard. Some users may change from use of drugs with a long biological half life (eg cannabis) to using drugs with a shorter half life (eg amphetamines), which are less easily detected but may be associated with greater hazard.

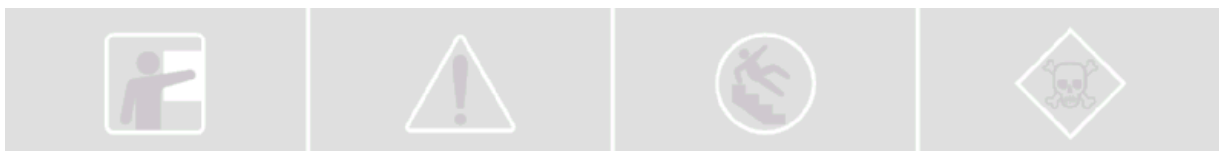
Less than 100% sensitivity and specificity of a test can result in a higher level of false positives. There is always the possibility that some employees will be identified as drug positive, when in fact drug use has not occurred.

Laboratories who do more detailed testing after initial positives do make errors.

Drug testing may undermine other methods to prevent and reduce drug hazards. It can change culture to a workplace culture of distrust.

Random testing diverts attention from other testing methods (eg observation, job design, shift design)

Sometimes drug tests fail to distinguish between legal and illegal substances. Depronil, a prescription drug used to treat Parkinson's disease, has shown up as an amphetamine on standard drug tests. Over-the-counter anti-inflammatory drugs like Ibuprofen have shown up positive on the marijuana test. Even the poppy seeds found in baked goods can produce a positive result for heroin. (American Civil Liberties Union).





Drugs and Alcohol Policy

Information Sheet 11: Privacy Committee of New South Wales Drug testing in the Workplace

Confidentiality

Confidentiality is fundamental to dealing with problems in the workplace that are related to the misuse of alcohol and other drugs in order to protect the privacy of individuals and to encourage employees' acceptance of prevention and treatment measures.

The practices to be followed to ensure that the highest levels of confidentiality are maintained are:

- Conversations relating to work performance or the misuse of alcohol or other drugs must be conducted in private;
- When employees seek counselling or treatment in their own time, management would normally not know, nor need to know, that this is occurring; and
- It is the responsibility of organisations to ensure that all counsellors providing services to their employees are aware of the confidentiality requirements relating to client information.

Employers must respect the rights of employees to privacy in matters relating to the use of employee assistance or other counselling services, and communicate those rights to employees. The practices to be implemented are:

- Information relating to counselling must be treated as confidential.
- Psychologists are bound by their code of conduct to respect the confidentiality of information obtained in the course of their work. They may disclose such information to others only with the consent of the client or the client's legal representative except in those cases where failure to disclose information would result in a clear danger to the individual or another person.
- Counsellors who are not psychologists are not required to be registered with a professional association and therefore may not be bound by a code of conduct. It is the responsibility of organisations to ensure that all counsellors providing services to their employees are aware of the confidentiality requirements relating to client information.

In view of these requirements, it would clearly be improper for anyone in the organisation to request an employee's personal information from a counsellor without the appropriate consent. Anyone who breaches confidentiality may be faced with disciplinary action.





Drugs and Alcohol Policy

Information Sheet 11: Privacy Committee of New South Wales Drug testing in the Workplace (cont'd)

Employees may wish to have their manager liaise with their counsellor. In this case, the employee must give written permission for information to be disclosed. The information that can be disclosed in such circumstances is work-related, in order to support the most effective management of a performance-related problem and the reintegration of the employee into the workforce.

A manager may wish to know, for example, whether counselling is progressing satisfactorily, whether adjustments are needed to the employee's work and whether the counselling is likely to lead to an improvement in performance. A counsellor without divulging information of a personal nature can provide this information.

Record keeping

The privacy of any records relating to work performance and counselling, treatment or rehabilitation must be protected. The following practices should be applied to the treatment of records:

- Case notes generated by employee/counsellor discussions are confidential and must not be shown to anyone in the organisation.
- For organisational purposes, counsellors should record only the fact that an employee was counselled and the date.
- Following a formal interview relating to a decline in work performance, a formal record should be prepared by the manager or supervisor and a copy given to the employee. If work performance improves, the records should be destroyed after an agreed period.
- If an employee's work performance due to the misuse of alcohol or other drugs does not improve, and the employee is unwilling to undertake counselling or treatment, the existing documents relating to work performance should be included in the on-going personnel, performance management or discipline file.
- Work performance reports should only refer to an employee's personal problems contributing to their misuse of alcohol or other drugs if the employee has given permission for such problems to be taken into account in the management of work performance issues.
- Where a matter does not progress to disciplinary procedures, the manager need only make a record of the fact that a discussion took place without recording details.

Employees should be advised that grievances will be handled in accordance with the workplace's normal grievance procedures.





Drugs and Alcohol Policy

Information Sheet 11: Privacy Committee of New South Wales Drug testing in the Workplace (cont'd)

Recommendation 1:

Unless specifically authorised by legislation, workplace drug testing should only take place when:

- (i) A person's impairment by drugs would pose a substantial and demonstrable safety risk to that person or to other people; and
- (ii) There is reasonable cause to believe that the person to be tested may be impaired by drugs; and
- (iii) The form of drug testing to be used is capable of identifying the presence of a drug at concentrations, which may be capable of causing impairment.

Recommendations

Recommendation 2:

Workplace drug testing should be prohibited by legislation other than when:

- (i) A person's impairment by drugs would pose a substantial and demonstrable safety risk to that person or to other people; and
- (ii) There is reasonable cause to believe that the person to be tested may be impaired by drugs; and
- (iii) The form of drug testing to be used is capable of identifying the presence of a drug at concentrations, which may be capable of causing impairment.

Recommendation 3:

Workplace drug testing that is permitted should be subject to procedural standards, set out in legislation, to protect the privacy interests of those who are tested.





Drugs and Alcohol Policy

Information Sheet 11: Privacy Committee of New South Wales Drug testing in the Workplace (cont'd)

Excerpt from Chapter 5 - Drug Testing and Privacy Issues

The privacy issues raised by workplace drug testing relate to both physical privacy and information privacy. Central to the question of whether a person's physical or information privacy has been breached is the issue of whether the person freely consented to the privacy intrusion.

5.1 Consent

There are a number of circumstances where people give their consent to the taking of biological samples, for example in the course of medical treatment. They also frequently give their consent to the collection of information about themselves from the analysis of those samples, for example to diagnose the cause of an illness.

Workplace drug testing, on the other hand, intrudes on physical and information privacy because it involves the taking of biological samples and the collection of personal information without the freely given consent of the subject.

Unless a refusal to take a drug test truly has no consequences for the employee or job applicant than any 'consent' obtained prior to the test cannot be considered to be freely given. Workplace drug testing is rarely completely voluntary and refusal to submit to a test usually results in counselling or disciplinary action such as transfer, demotion or dismissal.

Consent to testing must also be "informed". That is, it must be given while the person is in possession of all the relevant facts about the proposed test.

5.2 Physical Privacy

Physical privacy can be described as the interest individuals have in maintaining a degree of freedom from interference with their person and their personal space.

The term "physical privacy", used in this way includes elements of the privacy interests described by the Australian Law Reform Commission as being concerned with "privacy of the person" and "territorial privacy".

To varying degrees the collection of biological samples for drug testing, where it is carried out without the freely given consent of the subject of the testing is intrusive of physical privacy.





Drugs and Alcohol Policy

Information Sheet 11: Privacy Committee of New South Wales Drug testing in the Workplace (cont'd)

5.2 Physical Privacy (cont'd)

It is likely to be highly intrusive in the case of the collection of blood or urine. It is less intrusive in the case of breath testing for alcohol.

The collection of blood samples clearly involves a physically invasive medical procedure, that is, the puncture of the skin by a needle and the extraction of blood using a syringe.

Urine sample collection is associated with the close observation of the process of urination in order to avoid cheating. Urination is normally an activity that people carry out in private or free of active observation. Observation of this activity is both highly intrusive and capable of embarrassing and humiliating those people subjected to it.

There are many means by which a urine specimen might be interfered with in order to avoid a positive result. They include specimen substitution (the substitution of "clean" urine for that of the test subject) and sample tampering (for example, by dilution or adulteration of the sample). Observation of the genital area while urination occurs is, therefore, often considered necessary in order to rule out such interference.

There are a number of ways to reduce the chances of interference with samples and dispense with the need to actually observe urination. For example, people may be given no warning that testing is to take place and then be made to give their urine sample in a room which has had coloured solutions added to the toilet bowl water and other water sources to prevent dilution. This would still mean that test subjects would need to be closely searched before entry to the room to ensure they do not import clean samples. Even then it may be possible for a determined person to devise a method to substitute a urine sample.

Even if there were no direct observation of urine collection or if technology becomes more widely available to allow samples to be taken in a minimally intrusive manner (for example by testing hair or saliva as opposed to blood or urine) the physical privacy issues connected with workplace drug testing would remain.

This is because any process of acquiring personal information from a person's biochemistry without their consent is intrusive:

"The use of a person's body without his consent to obtain information about him, invades an area of personal privacy essential to the maintenance of his human dignity".





Drugs and Alcohol Policy

Information Sheet 11: Privacy Committee of New South Wales Drug testing in the Workplace (cont'd)

If workplace drug testing is carried out on samples that have already been taken with consent, for example in the course of a routine medical examination, the drug testing will add no intrusion on physical privacy. It will, however, involve an intrusion on information privacy rights.

Privacy Issues

In the research paper 'Drug testing in the workplace' (1992) the former Privacy Committee of New South Wales concluded that workplace drug testing is privacy invasive, both in the sense of invasion of physical privacy and information privacy, and has laid down very strict recommendations for any testing that is undertaken.

The Privacy Committee's executive summary states that:

- Workplace drug testing is privacy invasive, in terms of both physical privacy and information privacy ("data protection") interests.
- The taking of biological samples for drug testing, where it is carried out without the freely given consent of the subject of the testing, is intrusive of physical privacy.
- Workplace drug testing intrudes on information privacy interests because it involves the collection of personal information about the person being tested, without that person's freely given consent.
- The extent to which information privacy is affected by a workplace drug testing program will depend, among other things, on how the personal information is collected, what information is collected, how it is used, and to whom it is disclosed.
- Drug testing suffers from problems relating to the accuracy and relevance of test results and the cost of testing. There are alternative, less privacy invasive, means of addressing the workplace problems caused by the use of alcohol and other drugs.
- Workplace drug testing cannot be justified except in circumstances where it can be shown that the benefits of testing are significant enough to outweigh important privacy interests.
- The Privacy Committee concludes that workplace safety is a concern of such importance that, in some circumstances, workplace drug testing for safety reasons may be justified.





Drugs and Alcohol Policy

Information Sheet 12: Factors contributing to misuse of alcohol and other drugs

The consumption of alcohol and other drugs is more prevalent in some industries and occupations than others, pointing to environmental, cultural and workplace stressors as contributing factors.

The following work-related factors should also be considered as having the potential to influence misuse of alcohol or other drugs by employees:

- Bullying, harassment or victimisation in the workplace;
- Conflict with peers or supervisors;
- Organisational change (eg restructuring, redundancy, transfer or redeployment);
- Fear of losing job;
- Workplaces where alcohol is readily available;
- Peer pressure;
- Work that involves long and irregular hours;
- Work involving high risk of personal injury;
- Poor working environment, eg dirty or noisy work;
- Poor job design;
- Poorly designed, difficult to use equipment;
- Unrealistic deadlines and performance targets;
- Routine jobs that ignore or erode workers' skills;
- Lack of participation in decision making; and
- Inadequate training and supervision;
- Fatigue, including shiftwork, the inability to balance work and family.

A range of personal factors such as may influence the misuse of alcohol and other drugs:

- Grief and bereavement;
- Trauma or stress;
- Family or relationship problems;
- Interpersonal conflict;
- Health concerns; or
- Gambling or financial problems.

From a workplace perspective, employees may be less likely to misuse alcohol and other drugs if they have:

- A safe and healthy workplace;
- Well organised, adequately supervised work they find challenging and rewarding;
- Proper support to help them with problems or pressures at work; and
- Restricted access to alcohol at work.

Issues such as job design, work organisation, training, career paths, and job flexibility are firmly on the industrial relations agenda. Programs for the management of alcohol and other drugs in the workplace should be addressed within this broader industrial relations context.



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Drugs and Alcohol Policy

Information Sheet 13: Resources

Information regarding rules, regulations

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| <p>Labor Council of NSW L10, 377 Sussex Street SYDNEY NSW 2000 Phone: (02) 9264 1691 Fax: (02) 9261 3505 E-mail: mailbox@Labor.net.au Website: www.unionsafe.org.au</p> | <p>WorkCover NSW 92-100 Donnison St., GOSFORD 2250 Postal Address: Locked Bag 2906, LISAROW 2252 Assistance Service: 13 10 50 Phone: (02) 4321 5000 Fax: (02) 4325 4145 Website: www.workcover.nsw.gov.au Information on occupational health and safety, workers compensation and rehabilitation.</p> | <p>NSW Dept of Industrial Relations 1 Oxford St, Darlinghurst, 2010 Postal Address: PO Box 847, Darlinghurst NSW 1300, Australia Phone: (02) 9243 8888 Fax: (02) 9243 8771 Website: www.dir.nsw.gov.au Award, employment practices, rights and responsibilities Enquiry Service 131628 (anywhere in NSW)</p> |
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Information about drugs and alcohol

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| <p>ADIS Alcohol and Drug Information Service 366 Victoria Street, Darlinghurst Phone: (02) 9361 2111, Country areas freecall 1800 422 599. 24/7 confidential services, includes advice, information and referral to local agencies. Counselling, assessment, referral</p> | <p>MACS Methadone Advice and Complaints Service Freecall: 1800 642 428 Advice on how to deal with complaints and issues relating to methadone treatment in NSW</p> |
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Other Information Services

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| <p>ADCA Alcohol and Other Drugs Council of Australia 17 Napier Close, Deakin ACT 2606 Phone: (02) 6281 0686 Website: www.adca.org.au <i>Information, education, media</i></p> |
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Welfare and Social Services

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| <p>Lifeline Sydney 53 Regent St, Chippendale 24 hr counselling Phone: 131 114 Youthline: (02) 9951 5522 FacetoFace Counselling: (02) 9951 5577</p> |
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