

Drugs and Alcohol in the Workplace

There are various legal reasons, as well as a moral duty which compel employers to take action against drug and alcohol abuse at work.

The Law

Under the Health and Safety at Work Act 1974, every employer has a duty of care over their employees and anyone affected by their work activity. The Management of Health and Safety at Work Regulations 1999 require employers to ensure that they have assessed the risks to which employees and others are exposed to through the course of the work.

In addition it is an offence under the Misuse of Drugs Act 1971 for any person to possess controlled substances, and for any person to knowingly permit the production, supply or use of controlled substances on their premises. Under the Road Traffic Act 1988 and the Transport and Works Act 1992 drivers of road vehicles must not be under the influence of alcohol or drugs while driving, attempting to drive or when they are in charge of a vehicle.

Therefore, if an accident occurs due to an employee under the influence of drugs or alcohol, (depending upon the circumstances) there is the potential for the employer to be held responsible.

Effects on Business

As well as legal action, a company which doesn't take action on drugs and alcohol may suffer the following:

- loss of productivity/reduced performance
- poor punctuality and increased absenteeism
- safety concerns
- effects on morale and employee relations
- bad behaviour and lack of discipline
- adverse effects on corporate image and customer relations.

Alcohol is estimated to cause 3-5% of all absences from work with about 8 to 14 million lost working days in the UK each year.

What are the Signs?

There are various signs of drug misuse which employers can look out for. It is important to remember that these can result from other factors (e.g. stress) and should only be used as an indication that there may be a problem. Individuals may display:

- sudden mood swings
- unusual irritability or aggression
- a tendency to become confused
- abnormal fluctuations in concentration and energy
- impaired job performance
- poor time-keeping
- increased short-term sickness absence
- a deterioration in relationships with colleagues, customers or management
- dishonesty and theft (arising from the need to maintain an expensive habit).

Make a Policy

All businesses should have an agreed policy on drugs and alcohol applying to **all members of staff**. The key elements of such a policy on drug misuse are described below:

Aims

~~A statement~~ A statement on the purpose of the policy and who it applies to.

Responsibility

~~Who is responsible~~ Who is responsible for carrying out the policy?

Definition

~~A definition~~ A definition of what constitutes drug/alcohol misuse.

The Rules

~~The policy~~ The policy should clearly state how an organisation expects employees to behave to ensure that drug/alcohol misuse does not have a detrimental effect on their work.

Safeguards

~~The policy~~ The policy should contain statements which make it clear that:

- absence for treatment and rehabilitation will be regarded as normal sickness
- you recognise that relapses may occur
- the policy will be monitored and reviewed regularly in consultation with workplace representatives

Confidentiality

~~A statement~~ A statement is necessary to assure employees that a drug/drink problem will be treated in strict confidence, subject to the provisions of the law.

Help and assistance

~~A description of the support~~ A description of the support available to employees who have a problem together with a statement encouraging those who do have a problem to seek help voluntarily.

Information

~~A commitment~~ A commitment to providing employees with general information about the effects of drugs on health and safety.

Disciplinary Action

~~An example policy~~ An example policy is attached at the end of this document.

The circumstances in which disciplinary action will be taken must be clearly set out. Employers can:

- explain that if help is refused and/or impaired performance continues disciplinary action is likely
- explain that dismissal action may be taken in cases of gross misconduct
- state that possession/dealing in drug will be reported immediately to the police and that there is no alternative to this procedure.

Taking Action

A four-step process to establish and implement the policy for dealing with drug and alcohol misuse at work is set out below:

Establish if a problem exists

~~You may wish to consider the~~ following issues when trying to decide if there is a problem:

- sickness record (e.g. unexplained or frequent absence)
- behavioural changes
- productivity
- accident records/near misses (has there been an increase involving particular employees?)
- disciplinary problems

Decide what to do

~~The following options~~ may be considered:

- An awareness programme for ALL staff. There are many ways to provide such training such as group sessions, seminars etc.
- A programme of training for managers or supervisors on recognising the signs of misuse.
- Encouraging those with a problem to seek help (some useful organisations are listed at the end of this booklet).
- Emphasising the need for confidentiality if an employee admits to a problem. People with a problem may be persuaded to come forward if they are assured that they will be dealt with discreetly.
- The nature of the workplace. There may be safety-critical activities taking place such as using machinery, electrical equipment or ladders, as well as driving or operating heavy lifting equipment.
- As part of the decision making process you should consult with employees and safety representatives.

If you suspect that an employee has a drug or alcohol problem it is essential that they are given the same rights to confidentiality they would receive for any other medical condition. To help employees open up you should try to reassure staff that you will treat it as a health issue.

Disciplinary action should ordinarily be a last resort in order to avoid claims of unfair dismissal, where employers have made no effort to assist staff. In safety-critical work it may be necessary to move individuals to other jobs.

Implementation

~~At this stage~~ employers should be implementing their drug and alcohol policies. It is essential that staff at all levels is made aware of the responsibilities as set out by the policy and that they know what action to take should there be a problem.

Alcohol/Drug Screening and Testing

~~An increasing number of companies~~ are considering using screening and testing as a way of controlling alcohol problems. It 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; in specific circumstances, e.g. after an accident or incident, where there is evidence of drinking/drugs that contravenes the company's regulations, or as part of an aftercare rehabilitation programme; or to monitor a particular problem, e.g. employees reporting for work with alcohol in their bloodstream from the previous evening's drinking.

Screening is of course, a sensitive issue. Securing the agreement of the workforce to the principle of screening is essential due to the practical and legal issues involved. Screening is only likely to be acceptable if it can clearly be seen to be part of a company's occupational health policy and is designed with the aim of preventing risks to others.

Agreement to the principle of screening should be part of each member of staff's contract of employment. For new staff this is fairly straightforward but existing staff are under no legal obligation to agree to changes in their terms and conditions of service. If an employer tried to force a test on an unwilling employee, the employee could resign and claim 'constructive dismissal'.

Employers should also obtain the written consent of the individual for each test. This consent applies only to tests relating specifically to alcohol and to no other substances, condition or disease. Where more extensive testing is required (i.e. for drug abuse), further consent from the employee should be obtained. Employers should ensure that employees are fully aware of this procedure and medical confidentiality should be assured. Managers should only be informed when an employee is considered fit or unfit for work.

Laboratories accredited by the United Kingdom Accreditation Service (UKAS) will have satisfied assessors that they meet all testing criteria (telephone: 020 8917 8500).

Review

Employers should regularly check to see if the policy is functioning as it should and whether any alterations are needed. The aspects set out in Step 1 should be looked at again to see if the situation has changed, e.g. has sickness absence or the number of accidents altered?

REFERENCES

Don't Mix it! A Guide for Employers on Alcohol at Work INDG240 (Free)
Drug Misuse at Work: A Guide for Employers (Free)

Drugs and Alcohol Policy (Example)

Model Drug and Alcohol Policy

Introduction

..... (Company name) have agreed the need for drug and alcohol policy which applies to all employees irrespective of status. Its objective is to ensure employees receive training and information on sensible drinking and drug awareness. The aim is to encourage those with drug or alcohol-related problems to seek the support of medical advice and counselling by an outside agency.

General Principle

..... (Company name) recognise that drug or alcohol abuse at its various levels is a health problem requiring sympathetic help and special treatment. It is the aim of this policy to provide this.

Organisation

.....is the Director/ Manager with responsibility for implementation of this policy.

.....will be responsible for advice on suitable outside agencies and counsellors.

.....will be responsible for implementing a training programme.

The names of external drug and alcohol counsellors and how they can be contacted will be posted on notice boards. All such counsellors will be made aware of this policy on drugs and alcohol.

Arrangements

1. Information

Every employee will be given a summary of the main points of this policy, and anyone with a drug or alcohol related problem will be encouraged to seek counselling. A training session and leaflets on sensible drinking and drug awareness will be provided and repeated periodically.

2. Removal of Stress

It is accepted that stress at work can contribute to drug or alcohol abuse. We are therefore committed to identifying and reducing workplace stress factors.

3. Reducing Opportunity to Drink at Work

Research shows quite clearly that some jobs involve a much higher risk of alcohol abuse than others. The social pressure to drink can be stronger in some working communities. Irregular hours, travel and separation from the family, and the strain of a heavy workload are just some of the common job-related causes of alcohol abuse.

..... (Company Name) recognise that such problems, coupled with the opportunity to drink at work, creates a hazard. Therefore,

- a) Alcohol will not be available on company premises during working hours. This will apply throughout the company, at all levels, without exception.

- b) At any social functions organised by the company, among the beverages provided, there will always be non-alcoholic drinks available.

4. Solvent Abuse at Work

Where problems involve the deliberate or unintentional abuse of solvents, whether or not used in the workplace, the person concerned will be covered by this policy. Where abused solvents are specifically work related, the employer will ensure that the use of solvents has been subject to the provisions of the Control Of Substances Hazardous to Health Regulations (COSHH Regulations), that the risks involved have been assessed and that measures have been taken to reduce all exposures to solvents to the lowest that is reasonably practicable.

5. Prescribed Drugs

Where problems involve the deliberate or unintentional abuse of prescribed drugs, the person concerned will be covered by this policy.

6. Confidentiality

The company undertakes to ensure that any counselling is strictly confidential, and that any records compiled by a counsellor will be treated as the individual property of that counsellor. No discussions about an employee will take place between the company and the counsellor without the written permission of the person concerned.

7. Job Security

The company accepts that job security will be maintained for any employee participating in treatment and/or counselling in an attempt to deal with drug or alcohol abuse.

Where an employee has to be away from work to undergo treatment, their job will be held open in accordance with normal sickness procedures. However, it has to be accepted that, in the long-term, job security must depend on work returning to an acceptable level. Advice will be sought and consideration given as to whether the person's original job would be consistent with maintaining recovery.

8. Disciplinary Procedures

Drug or alcohol abuse will not in itself constitute grounds for dismissal, unless the person's action or performance reaches an unacceptable level. Such cases will be dealt with under normal disciplinary procedures.

Where an employee is referred for treatment under this policy, any disciplinary procedures associated with drug or alcohol abuse will be suspended and remain so for the duration of the treatment.

Where an employee with a drug or alcohol-related problem is able to continue to perform his/her duties whilst undergoing treatment, adequate time off for treatment will be allowed.

Relapses will be referred to the independent counsellor for assessment, and consideration given to further job protection.

9. Treatment and Advice

Any employee with a drug or alcohol-related problem is encouraged to seek guidance and assistance from the recommended local counselling agency.

Where indicators, such as poor work performance, absenteeism, poor health or deteriorating behaviour, indicate a possible problem, employees will be advised to refer themselves for confidential counselling and advice. Paid time off for counselling and treatment will be allowed in accordance with the normal sick pay scheme. Refusal of treatment will not in itself be grounds for discipline, unless an employee's action or performance reaches an unacceptable level.

10. Testing

If testing procedures are agreed, they must only be enacted on suspicion based on specific personal observations that the person concerned is under the influence of drugs or alcohol. Tests will be at the expense of the company.

Any person testing positive shall have the right to challenge the results and obtain an independent analysis of the sample.

Any person testing positive, who accepts the results, will be referred for treatment and advice in accordance with the rest of this policy.