



HEALTHY
WORKING LIVES



Policy into Practice

A GUIDE TO WORKPLACE DRUG
AND ALCOHOL POLICIES



Introduction

A workplace alcohol and drug policy is part of an organisation's overall commitment to the safety and health of staff.

Alcohol and drugs, through their effects on health, safety, work performance and absenteeism, can have a serious impact on business. Additionally employers have a duty of care to their employees under employment and health and safety law.

An effective alcohol and drug policy can reduce the likelihood of the inappropriate use of alcohol or drugs impacting on a business and set out how best to support employees who have alcohol or drug problems.

Who is this guidance aimed at?

- 1 Workplaces which do not have an alcohol and drug policy.

- 2 Workplaces which have a policy but wish to update it to reflect best practice.

- 3 Workplaces which require their policy to meet the criteria set out in the Healthy Working Lives / Scotland's Health at Work award programme.



Definition of alcohol and drugs

For the purposes of a workplace alcohol and drug policy it is suggested that the following substances be covered:

Alcohol, drugs controlled under the Misuse of Drugs Act 1971, prescribed drugs and over-the-counter medications. Volatile substances such as glues, gases and aerosols should also be included.

Further guidance on definitions can be found in the developing policy section.

The impact of alcohol and drug use on the workplace

Both alcohol and drugs can impact on performance efficiency, sickness absence and overall productivity but the link between drug use and workplace accidents is less clear.

The 2004 Independent Inquiry into Drug Testing at Work was able to find no conclusive evidence of a link between drug use and workplace accidents, except for alcohol². Accidents with alcohol as a contributory factor were estimated to account for 10% of all workplace injuries¹.

Prevalence of alcohol and drug use

Alcohol

- 41% of men aged 16-74 and 15% of women were drinking at levels hazardous to their health³.
- Approximately 1 in 8 men and 1 in 24 women in Scotland had some degree of alcohol dependence³.

Drugs

- 13% of working respondents reported illegal drug use in the previous year⁴.



- Drug use in the previous year varied considerably with age, from 3% of those aged over 50 to 29% of those aged under 30⁴.

Benefits of a workplace alcohol and drug policy

An effective alcohol and drug policy potentially enhances the health, work capability and conduct of all people in the workplace. It can also help to ensure retention and employability of those experiencing, or who have experienced, alcohol or drug problems.

A major responsibility is placed on employers (and employees) to ensure that risks within the workplace are kept to an absolute minimum. This includes the risks associated with the use of alcohol and drugs while at work or in the hours and days leading to the start of work. A clear policy will help to reduce these risks

and place the employer in a much better position should any incident or accident occur that is linked to the consumption of drugs and/or alcohol.

Training and awareness raising for all can help prevent any problems arising in the first place. An effective policy can also provide scope for the training of managers, supervisors and workplace representatives to address the complex and sensitive issues involved.

Who should be involved in developing the policy?

Any alcohol and drug policy should reflect the partnership working between management and staff.

For a policy to be effective and to help secure ownership from the workforce, it should be developed following formal consultation with staff, management and trade unions. There should be a representative staff/trade union forum working collaboratively on the development, implementation and monitoring of the policy. It may be worth integrating or cross-referencing alcohol and drug policies with other relevant policies, such as those relating to health and safety, occupational health

or employment. Any in-house expertise in these areas should be consulted when developing the policy.



Developing the policy

Sections to be included in a policy document



Introduction

The policy should contain an introductory section that sets out why the policy exists. This section should explain that the policy is part of the organisation's overall commitment for the health, safety and welfare of staff.

The introduction should also mention the need for the organisation to comply with any relevant legislation.

Aims and objectives of the policy

Clear aims and objectives are essential components of the policy. It is worthwhile to have an introductory paragraph setting out the reasons why the organisation has developed an alcohol and drug policy and what it hopes to achieve.

Who the policy applies to

The policy should apply to employees at all levels of the organisation, including the most senior managers and directors. This should include elected members or members of any board of management, whether remunerated for such duties or not. Ambassadors for the organisation must be seen to maintain the highest standards of conduct to uphold the organisation's credibility and reputation. A policy will only be seen as fair and consistent if it applies to all staff within an organisation.

Safety Critical Work

Some policies take a different approach and may include different rules, for employees undertaking 'safety critical' work. Such roles can be very difficult to define accurately. Safety critical would not only include the operator e.g. a train driver, but would have to include anyone else who is concerned with the safe planning, supervision, operation and maintenance of the safety critical role. This would then encompass a number of other staff, including but not limited to, inspectors, engineers, guards, signalmen and cleaning staff. When you consider the number of roles, associated with the initial safety critical duty, it is clear that precise definitions are difficult.

This explains why in many industries e.g. offshore oil and gas operations, no attempt is made to separate safety critical roles and the same policy is applied to all staff involved in the operation, regardless of their duties. So the industry, rather than jobs within it, is defined as safety critical. This approach avoids ambiguity and employees being unclear about whether their role is safety critical. If policy procedures for those in safety critical roles are to be different, there should be a clear definition of such roles and every employee must know whether or not their role is safety critical.

Legal and Statutory framework

The policy should be underpinned by reference to any relevant legislation and statutory responsibilities placed upon the employer and employee. This legislation may include:

- Misuse of Drugs Act 1971.
- Health and Safety at Work Act 1974.
- The Workplace (Health Safety and Welfare) Regulations 1992.
- Management of Health and Safety at Work Regulations 1999.
- Disability Discrimination Act 1995.
- Human Rights Act 1998.
- Data Protection Act 1998.

It is important that legal advice is sought to ensure that the policy is in accordance with the above legislative requirements.

Definition of the substances covered

The policy should cover all substances that can impair performance and affect safety. Alcohol, being the most widely used performance impairing substance, should always be included. Good health and safety management should address these risks and bringing all such substances together under one policy makes good business sense. Sometimes companies have separate alcohol and drug policies,

on the basis that one is legally permitted while the other is not. However the Misuse of Drugs Act is complex and permits certain drugs to be legally obtained and held without prescription. Many over-the-counter drugs and prescription drugs cause impairment that can affect performance and safety. These drugs will normally be legally possessed by the employee.


Almost all workplaces use volatile substances whose deliberate or accidental inhalation can cause serious impairment. These products include adhesives, cleaning products and various different gases. In the workplace setting many of these products will be considered under COSHH (control of substances hazardous to health) guidelines, but they should also be considered in an alcohol and drug policy in terms of their potential for deliberate misuse. At least 4% of 15 year olds in Scotland have deliberately used volatile substances for their intoxicating effects⁵.

Should the policy include tobacco?

As tobacco use is prohibited in most enclosed workplaces, it is recommended this be subject to a separate policy. The Smoking, Health and Social Care (Scotland) Act 2005 came into effect on 26 March 2006. To communicate the law and all of its implications, workplaces are



encouraged to develop and implement a written smoke-free policy. For more information on developing a smoke-free policy please visit:

 www.clearingtheairscotland.com or contact your local Healthy Working Lives advisor.

The following definition is recommended for most policies:

Alcohol, drugs controlled under the Misuse of Drugs Act 1971, prescribed drugs and over-the-counter medications. Volatile substances such as glues, gases and aerosols should also be included.

Responsibilities

This section should clearly state who is responsible for enforcing and monitoring the policy. If certain posts have responsibilities for implementing,

monitoring, training staff and managers or reviewing the policy, then this should be detailed here.

Clear rules and guidelines relating to the inappropriate use of alcohol or drugs

The policy should be clear about what is acceptable in relation to employee use of alcohol and drugs. Employees need to be clear as to what is considered a breach of the alcohol and drug policy and the disciplinary procedures that may result.

There are key rules that must be included as they are legislative requirements. These include:

The production supply and possession of controlled drugs is unlawful - unless they are held on prescription or there are other special circumstances. Employers have a duty to ensure their premises are not used for the above purposes and leave themselves open to prosecution if they do not take all reasonable steps to prevent it.

Employees should not report for work while under the influence of alcohol or drugs. Employers also have a duty to ensure employees are not placed at risk by staff working, while impaired by alcohol or drugs.

One of the most contentious issues is the use of alcohol in and around the working

day. Given that one drink can cause impairment, alcohol use should not be permitted in and around the working day. The employer's statutory duty to ensure the health, safety and welfare at work of employees is not fulfilled if they knowingly allow employees to return to work, while under the influence of alcohol or drugs. Clear guidance around corporate hospitality should also be included. If there is ambiguity around alcohol use, it will make misconduct more difficult to define and address. Any disciplinary action taken is then less likely to stand the scrutiny of any employment tribunal process.

Other issues to consider:

Prescription and over-the-counter medicines - The policy should encourage employees to discuss their use of these drugs where they may affect work performance in any way. The policy should encourage employees to seek advice from their GP on any drugs prescribed and whether they may affect their ability to undertake their work duties.



Alcohol and drug related behaviour outside work - off duty drinking and drug taking might become a disciplinary matter, where there is a resulting impact on the employee's ability to carry out his or her job.

Employers may also take an interest in out of hours alcohol and drug taking behaviour, where the public is entitled to expect a higher than average standard of behaviour from employees, e.g. air traffic control, air crew, police or prison service, armed forces etc. Some of the situations where an employer may have an interest include:

- A conviction for drink driving, where having a driving licence is a requirement of the job.
- Misconduct at an out of hours work event, where clients or colleagues are present.
- A drug conviction, that could damage the organisation's reputation or level of public confidence.

Education and Training

A written policy should include a commitment to ensure the provision of alcohol and drugs education and information for all staff, to promote awareness of the effects of alcohol and/or drugs and to encourage positive health among staff. Ideally this should include:

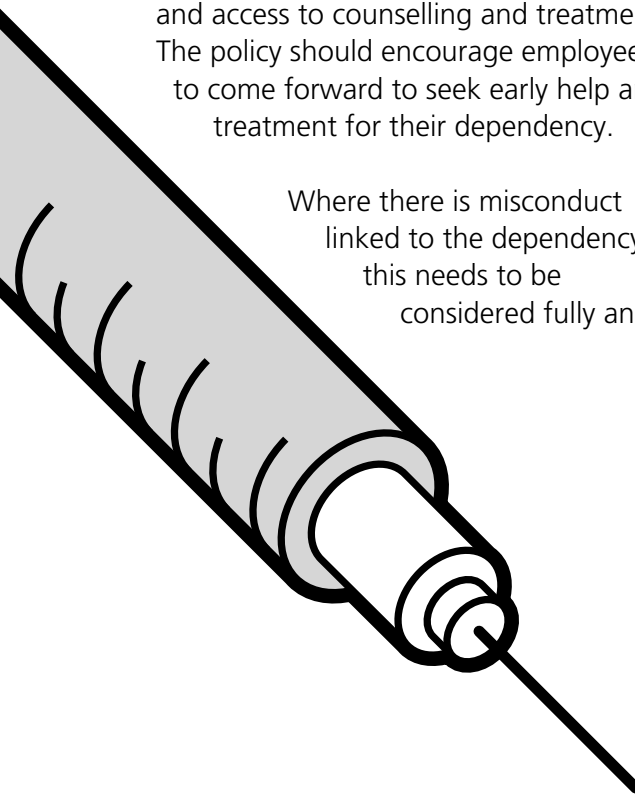
- Raising awareness of the health effects and risks of alcohol and drugs.
- Information on sensible drinking.
- Explanation of the content of the policy.
- Clarification of the company's rules in relation to alcohol and drugs - particularly in and around the working day.
- Organisational procedures including discipline and support.
- Testing procedures - where testing is justified and necessary.

In addition managers and supervisors should receive specific training in early recognition of problems, how to raise the issue with an employee, discipline and grievance procedures, referral procedures and relevant legislation. This training should be made available to all departmental managers and not just to one or two staff such as senior managers or human resources personnel who are likely to be involved in dealing with disciplinary matters or referral procedures.

Disciplinary Procedures

The policy should, as far as possible, set out what constitutes a breach of the policy and the disciplinary action that will be invoked as a result.

Employees, whose performance, behaviour or attendance is affected by alcohol or drugs, leave themselves open to disciplinary procedures up to and including dismissal. In most cases substance misuse will fall within the 'misconduct' or 'sickness' category. It will not always be clear which category the misuse falls into and it may fall into both. Alcohol or drug dependency should be seen as an illness and employers should offer support and access to counselling and treatment. The policy should encourage employees to come forward to seek early help and treatment for their dependency.



Where there is misconduct linked to the dependency, this needs to be considered fully and

any dependency should be seen as a possible mitigating factor. Employers should investigate any mitigating circumstances put forward by employees following alcohol or drug related misconduct. Manifestations of an illness in the form of gross misconduct may still be treated as such under disciplinary rules, but the employer's response needs to be seen as fair and reasonable for a tribunal to uphold the employer's decision. Often the employer will need to obtain independent medical advice to enable an informed decision.

At times there will need to be interaction between the helping route, dealing with the incapacity, and the disciplinary route, dealing with the misconduct. Where an employee has agreed to a programme of support and treatment for their problem, the poor work performance or misconduct should not be dealt with as a disciplinary matter. This is known as holding disciplinary action 'in abeyance' pending the successful outcome of counselling, treatment or rehabilitation for the alcohol or drug problem. Not following any programme of support or further incidents of misconduct would normally result in the resumption of the disciplinary process.

Support for employees with alcohol or drug problems

The policy should detail what support will be provided for employees with alcohol or drug problems. It should describe sources of support and assistance within and outwith the workplace. It should identify the initial point of referral within the organisation. For organisations where there is no obvious internal point of contact, details of a local alcohol and/or drug agency, which can identify relevant referral agencies, should be included.

The policy should explain the organisation's approach to employees with alcohol and drug problems. This may include:

- A statement encouraging those with an alcohol or drug problem to seek help.
- Details of entitlement to leave.
- Stages and process of return to work following absence.
- Employer's approach to relapse.

Confidentiality

The policy should include a section that assures confidentiality for those seeking advice or support for an alcohol or drug problem.



Date of implementation, monitoring and review

The policy should contain the date of implementation and details of a monitoring or review process, including when the policy will next be reviewed.

Drug and alcohol testing

Drug testing has not been included as a recommended policy section, as it is controversial and, for most workplaces, of limited value in addressing alcohol

and drug problems in the workplace. Drug testing can play an important role in safety critical industries and where public trust is an issue, but should only be introduced in workplaces after careful consideration of the benefits it might bring, balanced against the costs and problems of implementation. Because of its civil liberties and employment relations implications, testing should only be introduced with full workforce and trade union support. Employers should also seek expert legal advice as recent legislation, like the Human Rights Act and the Data Protection Act, have placed tighter limits on the scope for drug testing at work.

One of the main difficulties with drug testing is that it does not measure impairment and only tells that a particular substance has been ingested sometime in the preceding days or weeks. Drug testing does not indicate a dependency on the drug tested for, nor does it indicate that the employee has ever, or will ever report for work, while under the influence of drugs.

Alcohol testing on the other hand detects the amount of alcohol in the system and there is a direct correlation between the blood alcohol concentration (BAC) and the level of impairment. Though

more effective at detecting impairment, alcohol testing across a workforce is also controversial and needs the same careful analysis that should be afforded to the case for and against drug testing in the workplace.

Workplaces who are considering implementing drug and alcohol testing at work should read the other guide in this series "Testing Times", which will help employers to understand the complex issues surrounding workplace drug and alcohol testing.



Checklist

Does the policy include the following

YES



- 1 Details of consultation process during policy development.
- 2 An introduction explaining that the policy is part of the organisation's overall concern for the health, safety and welfare of staff.
- 3 A definition of the substances covered.
- 4 Clear aims and objectives.
- 5 A statement that the policy applies to all employees irrespective of grade or status.
- 6 Relevant Acts and legal requirements have been considered and preferably referred to.
- 7 Details of training to be provided to managers on effective implementation of the policy.
- 8 Details of education on drugs, alcohol and how key policy information will be communicated to staff. This should promote sensible drinking as part of a healthier lifestyle and work culture.
- 9 Clear rules and guidelines relating to the inappropriate use of alcohol and drugs.
- 10 Explanation of disciplinary procedure that will be invoked if policy is breached.
- 11 Details of support available for employees including information on where to get help and advice locally.
- 12 A section on confidentiality.
- 13 Details of monitoring and review process and date of implementation.
- 14 Persons or departments responsible for implementing, monitoring or reviewing the policy are detailed.
- 15 Details of any testing/screening procedures, if applicable.

Healthy Working Lives

Working to improve the health of working age people in Scotland by ensuring healthier and safer workplaces, promoting healthier lifestyles and developing employability.

The Scottish Centre for Healthy Working Lives is an exciting new development in the field of workplace health. It was established in April 2005 to lead and support the delivery of the Workplace strand of the Scottish Executive's Health Improvement Challenge policy. The Centre brings together the excellent work currently being delivered by Scotland's Health at Work, Safe & Healthy Working and the Workplace Team within NHS Health Scotland. Its aim is to create a collaborative system that will add value to existing services.

Healthy Working Lives advisors, based within each NHS Board area of Scotland, can advise and support workplaces through the process of planning, developing and implementing an alcohol and drug policy.

For further information on this or any other health or safety related query feel free to contact the Healthy Working Lives advice line on

📞 **0800 019 2211**

or visit the website

🌐 www.healthyworkinglives.com



References

- 1 Alcohol concern - Acquire 2006
- 2 Drug Testing in the Workplace - The Report of the Independent Inquiry into Drug Testing at Work 2004
- 3 Alcohol Statistics Scotland 2005
- 4 Health & Safety Executive - The scale and impact of illegal drug use by workers 2004
- 5 Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) 2004

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