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Policies for drugs and alcohol

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Key points

- The workplace mirrors drug and alcohol use in society at large.
- The inappropriate use of drugs and alcohol can create a workplace risk, either through individual impairment or the longer term risk of dependency.
- A workplace policy has to provide rules and solutions that address both impairment and dependency. The key elements are:
 - a clearly worded policy, developed through consultation
 - education around the issues of drugs and alcohol
 - support for those who may need it
 - monitoring compliance with the policy, including the use of testing.
- Testing should not be the starting point of the policy, but it has a valuable role in making people take notice of the policy.
- Testing decisions include who and when to test, the test method and the consequences of a positive result.
- Testing should always be carried out to the highest scientific and ethical standards.

Introduction

This chapter looks at the practicalities of implementing a drug and alcohol policy that includes testing. The emphasis is on establishing the policy objectives, using testing as a support. Key elements of the approach are education and the provision of an Employee Assistance Programme (EAP).

Elsewhere in this book (see Chapter 4) there is information on the responses of different European countries to drugs, alcohol and work. The

legality of workplace testing will vary from country to country, but the underlying principles of the policy remain the same. The purpose of the policy should be established first, with testing used as a support for the objectives.

Background

Alcohol and drug use is common throughout the world, and has a long history. Drugs and alcohol have had, and continue to have, medicinal and mystical uses, as well as their social function of providing pleasure, relaxation and enjoyment.

From the workplace perspective the problem is that social use can sometimes encourage irresponsible use, such as excessive consumption, or use immediately before or during working hours. Drugs and alcohol can also be used as a form of self-medication, to escape from the pressures of life. Use may then become a habit, with the danger that habit could become dependency.

The workplace is a mirror of society. It will include people who use drugs and alcohol occasionally as well as some regular social users who may from time to time over-indulge. Additionally there may be some who try a variety of substances but never become addicted, while others who are less fortunate may develop problems. A workplace policy must acknowledge the social use and the problem use of drugs and alcohol.

The inappropriate use of drugs and alcohol in the workplace context can affect the safety and security of co-workers, the organisation and the public. Drugs and alcohol can reduce the user's ability for logical judgement and sensible assessment. They can accentuate tiredness and other conditions that may already be reducing the individual's capabilities. As shown elsewhere in this book, there is a wealth of evidence to support the observation that the use of drugs and alcohol can cause impairment and lead to human error. Accidents are usually caused by a sequence of events, with one trigger. The risk is that the trigger could, for example, be an individual impaired by cannabis smoked some 12 hours previously, or suffering the ecstasy user's 'suicide Tuesday' hangover from the previous weekend's use.

Another consequence is that excessive use of drugs and alcohol can affect the health of individual users, making them more susceptible to minor illnesses and increasing sickness absence rates. These individuals also run the risk of dependency on a particular drug, and dependency in itself is considered an illness.

With the growth and normalisation of drug use, organisations are realising that doing nothing is no longer an option. There is a danger that because drug use is less understood and less visible than alcohol use management may assume it is not a problem. Ignoring the possibility can appear to condone it, leading drug users to believe their activity is tolerated, thus allowing the problem to grow.

Workplace policies

A workplace policy on drugs and alcohol has to provide rules and solutions for the two main problems associated with alcohol and drug use: impairment and dependency. Impairment creates an issue for any workplace in terms of safety and business critical risks and the resources required to manage the impaired individual. Dependency will probably only affect a few employees but the indicators of developing problems may only slowly become apparent, creating a gradual drain on productivity, with occasional acute incidents that start to highlight the problem use.

As a consequence, most workplace drug and alcohol policies have three objectives. These are to:

- deter the inappropriate use of alcohol and drugs
- provide positive intervention for problem users
- comply with legislative, regulatory and contractual requirements.

If an employee decides to challenge the validity of the policy, it will be judged on whether, in the context of your own country's employment culture:

- it is fair and reasonable, and a proportionate response to the issue
- there was proper consultation with employee representatives
- it is clearly stated, fully explained and understood
- it is being applied in a reasonable and consistent manner.

These are good criteria against which to measure your own policy. The remainder of this chapter looks at ways of achieving the objectives and creating a robust and effective drug and alcohol policy.

Where do you start?

The starting point is to be clear about why you want a policy and what you hope it will achieve. The motivator might be a straightforward commercial decision to keep up with standards and expectations for a particular industry or it may be because an issue has arisen at work, and it is apparent that there is no structure in place to handle it. Testing is a valuable tool within a policy, but it should not be a policy objective in itself.

A simple 'risk assessment' approach can help set out the need for the policy. On the basis that the inappropriate use of drugs and alcohol can constitute a hazard for the workplace, each organisation needs to consider the consequences for their working environment and the likelihood that they will occur.

Any occupation has associated risks. These can be compounded by other factors, for example poor training or tiredness. The use of drugs and alcohol can in turn make these factors worse and increase the risk of inattention or

risk-taking behaviour. Although safety critical risks get most attention, business critical outcomes could also be considered. Employees who have direct contact with customers can damage your reputation, and within an office poor performance can reduce morale. A hidden danger may lie in the many functions that are now computer controlled, as errors of judgement might not become apparent for some time. The impact will vary from business to business, but each organisation has to assess the potential damage to:

- people
- property
- productivity
- public image
- profitability.

The consequences have to be matched with the probability of the inappropriate use of alcohol and drugs occurring among people working on the company's premises, or in the company's name. The likelihood can be linked to various factors:

- **Availability.** The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) annual reports indicate the widespread use of drugs throughout Europe.¹ The British Crime Survey occasionally asks questions about access to drugs, and in 2001/2002 65% of the 16- to 24-year-old age group acknowledged that it was very or fairly easy to obtain cannabis.² A Eurobarometer poll in 2002 again showed that the majority of people questioned would find it easy to purchase drugs³ (see also Chapter 1).
- **Acceptability.** Alcohol is a socially acceptable drug when used in moderation. Recreational drug use is usually taken to mean use of drugs such as cannabis and ecstasy, and the word 'recreational' suggests that use is acceptable. As the current younger age group who see little wrong with cannabis use move into the workplace, acceptability will increase.
- **Age.** Younger people are more likely to be involved in illegal drug use. The 2007/2008 British Crime Survey reveals that 21.4% of 16- to 24-year-olds have used illegal drugs in the past year, compared with 9.3% of the population aged 16–59, and similar data are reflected each year in the EMCDDA annual reports.^{1,4}
- **Pressures.** People with stressful and/or boring jobs are more likely to seek the relaxation and diversion that alcohol and drugs can provide.
- **Independence and lack of immediate supervision** gives people opportunities to break any rules in an organisation, including those on drugs and alcohol.

This assessment of consequences of the hazard occurring and the probability that it might occur can provide the rationale for policy development, since the logical 'hazard control' is a corporate approach to alcohol and drugs.

The organisation must be able to demonstrate to auditors, insurance assessors, customers, the public, the media, shareholders and their own employees that they have effective procedures in place to minimise the safety and business critical risks created by drugs and alcohol. This is where testing has an important role, which will be discussed later.

Who do you involve?

A policy often starts on the initiative of one individual, but steps must be taken to ensure that it reflect the needs of the whole organisation. European legislation promotes the consultation of workers and their involvement through Works Councils, seeing this as an important element of anticipating and managing change.

In every organisation there will be many people and groups who can make a useful and constructive contribution to policy development. Depending on the size of the company, a working party should consider including representatives from the following areas:

- directors/senior management
- human resources/occupational health/health and safety/security
- line management and employee representatives
- company lawyers/public relations
- drug testing service providers.

Directors/senior management

As with any workplace policy you need buy-in at the highest level, with acceptance that the policy will apply from top management down. Many an alcohol policy has foundered because senior management have assumed that the 'social' need for alcohol within business merits exemption from company rules, and a similar bias may apply to drug use. Senior managers' attitudes to drugs may be lenient and relaxed or harsh and intolerant, and these views will influence and may even distort the structure of the policy. If the commitment of this group to the overall tenor of the policy is not obtained at an early stage the efforts of the working party could be wasted. A manager who is not in agreement with the policy, or testing, can be obstructive, for example by refusing to release people for education or finding excuses for them not to be available for testing.

Human resources/occupational health/health and safety/security

People with these responsibilities are likely to have ownership of the policy in part or whole. Their shared knowledge will contribute to a robust foundation

for the policy, and ensure that it is fairly balanced between the different interest groups.

Health and safety is a serious responsibility for companies, and in the context of a risk assessment approach might be expected to dominate policy development, particularly in industries with a poor accident record. Similarly, security staff may see their involvement with drug-related problems as critical, and may be pushing for a policy that helps them deal with issues such as fraud, drug dealing or impaired employees.

However, if the concept of a policy on drugs and alcohol involves a cultural change for the organisation, the human resources department is likely to be tasked with leading this. They will also be aware of the balance that has to be kept between the needs of the organisation and the rights of the employees. Human resources will have to handle the disciplinary consequences of policy breaches and will also be concerned about the implications of testing, and what impact that might have on industrial relations within their organisation. On a more practical side, human resources is the function that often holds the evidence of absences, work performance and disciplinary issues that may give a clue to an individual developing the type of problems that the policy is trying to prevent.

Occupational health is primarily concerned with the preventative element of the policy, and in helping people with dependency problems. There is consensus on this across most countries, but there is a difference in approach towards occupational health's involvement in testing. In some countries testing may need to be part of the occupational health remit (e.g. Finland, France, Ireland, see Chapter 4). However, where this is not prescribed, the occupational health department will have views on how closely they will want to be involved in the testing regime. Some may have the view that occupational health should only be concerned with the individual's health, not with policing a safety policy. However, personal medical information may be obtained during the testing process, and storing this would normally be within the remit of the occupational health department. These different views highlight the need for involving all departments in the policy development.

Line management and employee representatives

These are the people who will have closest involvement with the application of the policy on a day-to-day basis. They will be able to identify and resolve many of the operational issues that will arise. Their input will be an essential contribution to a practical and effective policy. They will be the people who have to spend most time explaining the policy and responding to queries so their understanding of the purpose of the policy, and the reasoning behind the words and phrases used within the policy document will smooth its introduction and ongoing implementation. It is critical that their views and

concerns are listened to and addressed, as they will have prime responsibility for policy implementation.

Company lawyers/public relations

Although these two functions may not be specifically represented in the working group, their overview and input into the final version of the policy and its implementation is important because they are the people who are likely to be called on if things go wrong. If the company is too small to merit a specific PR function, then whoever would normally respond to external questions about the company's attitudes and working practices should be fully informed about the progress of the policy.

Drug testing service providers

If the decision is taken to include testing, then remember that your service provider should be a good source of information on the practicalities of implementing a drug testing programme, and if involved early on in the process can give valuable help. The working party could invite several service providers to make presentations, which would give them the opportunity to learn, compare and evaluate the common themes.

Working group activities

The working group (which could comprise anything from 2 to over 20 people, depending on the size of the company) has the responsibility for developing the policy along the lines of the agreed objectives.

To demonstrate commitment to the policy, it is important to start by agreeing a schedule of regular meetings, with a target date for completion. Built into this schedule should be plans for communicating the policy and its progress to the remainder of the workforce. The communication need not start immediately; it can wait until the policy is taking shape, at which point useful and constructive feedback can be obtained.

Some research may be necessary – for example looking for references to drugs and alcohol in existing company policies and also looking at how other policies that raise issues of personal rights (mobile phones, dress code, smoking) have been managed. The working group may also have to consider how company-sponsored social events will be managed in the context of their proposed policy.

Information can be sought from local, national and international sources, although it is always wise to consider the ethos of the source and balance this against the company's own values. For example, the United States is a good source of information on the practicalities of drug testing, but the cultural response to drug issues is substantially different to that in much of Europe.

In the UK the national sources of information are the Health and Safety Executive, the TUC (Trade Unions Congress) and the CBI (Confederation of British Industry), as well as the charities DrugScope and Alcohol Concern. Similar safety, union and employer organisations in other countries should be a source of information or opinion. A very useful source of international information is the ILO (International Labour Organization) SafeWork workplace drug and alcohol abuse prevention programmes.⁵

Other companies in the local area or similar industry may have policies available for comparison. The working group must consider carefully whether elements of other organisations' policies will work within their own company.

The working group members are the people who will have to answer questions on the policy so they should agree on wording that is meaningful and understandable, and they should check that they all put the same interpretation on it. Within the constraints of company policy templates, simple explanations should be used, and contentious issues should not be hidden in over-elaborate language as this will increase the risk of ambiguity and the suspicion that the organisation has a hidden agenda.

Inevitably questions will be asked, and it is arguable that the more detail that is provided, the more questions that will be provoked. Box 5.1 shows a list of the sort of questions that have been asked of policies within the UK. This questioning process should be viewed constructively, and where genuine anomalies or impractical steps are identified, amendments should be made.

The formal communication of the policy and the date from which it, and testing, becomes effective should be done in accordance with the organisation's normal process for the introduction or amendment of company policies. Sometimes there is a requirement for signed acceptance of changes to terms and conditions of employment, or it may be sufficient for the principle of testing to be accepted by the employee representatives.

Key elements of a policy

There are four key elements of a successful drug and alcohol policy:

- policy document
- education
- help
- monitoring compliance.

Policy document

The actual format of the policy document will have to conform to the template for other policies within a particular organisation, but there are some standard features that need to be covered.

Box 5.1 Drug and alcohol testing programmes – questions asked

- Why does the company see the need to test?
- Why are you testing for drug use, not impaired work performance?
- If an employee feels capable of working, is it fair to catch them out with random tests?
- What are the consequences of refusing to take a test?

About the tests

- How long will someone be kept if they are suffering from ‘shy bladder’?
- What are the cut-off levels for the drug tests? Who sets them?
- What is the risk of a false positive result?
- What protection does the chain of custody give?
- Why aren’t steroids and solvents included?

Follow-up to positive results

- What if the individual refuses help? Isn’t dismissal then the only option?
- Can the individual go straight to HR with problem if manager is unsympathetic?
- If an individual is re-deployed, won’t it be obvious that they have a drug/alcohol problem?
- How will you treat someone who tests positive for methadone?
- Will someone who opts for treatment avoid disciplinary consequences – is it the ‘easy option’?
- What data on drug testing is available for comparison with the company’s results?
- Will job applicants who have positive results be offered help?
- How is ‘help’ made available? How do managers direct people to help?

Random selection

- How was the random rate decided? Will it be changed? When will it stop?
- Will the selection process be published?
- How will shift workers and people frequently away from site (i.e. sales) be dealt with?

- If you get a positive result from random testing, will this person be targeted next time?
- How many times will a person be tested each year?
- Who will make the decision about ‘unavailability’ for random tests? Managers will have greater opportunity to avoid tests.

Contractors

- Will contractors have pre-access tests?
- Will you tell other companies if a contractor tests positive?
- Are temporary staff treated as contractors?
- Will visitors be subject to the policy?
- Will company employees from other divisions be subject to the policy?
- How will contractors be made aware of the policy?
- How will self-employed contractors be made aware of the policy?
- Continental contractors may have different attitude to drugs – is it fair to impose a policy on them – their own company may tolerate drug/alcohol use?
- Has the company considered that there may be a risk of excess charges from contractors if their employees are delayed because of drug tests?

General

- Will accident investigation reports identify if person is undergoing treatment?
- Will testing lead to under-reporting and/or misleading investigations to justify not testing?
- Who would you test if an incident occurs because individual was varying procedures on manager’s instructions?
- How will the company respond to anonymous phone calls alleging drug misuse?
- What would the company do if cannabis were legalised?
- How do you intend to achieve consistency in drug testing ‘for cause’ decisions?
- What is the cost of testing? Couldn’t the money be better spent elsewhere?
- Why don’t you test for drugs at routine medicals?
- What do you do while waiting for the results to come through?

Source: © Concateno plc

The opening statement needs to summarise the purpose of the policy. Sample introductory paragraphs are shown in Box 5.2.

The statement should continue with the rules concerning the possession and consumption of alcohol, illegal drugs and medicines. This summary should briefly detail the consequences if the rules are broken and make clear the measures that will be taken to ensure compliance with the policy.

The policy statement is expressing the principles of the policy. Some organisations may prefer to include the detail in their policy document – others may provide the detailed guidelines in separate supporting documents. The advantage of this latter approach is that changes to practical details can be made more easily, while the principles underlying the policy remain intact.

Either way, covering the following points will contribute to the understanding, acceptance and effectiveness of the policy.

- Information to support the need for the drug and alcohol policy (i.e. the justification built up from your ‘risk assessment’).
- The detail of the rules governing the use of drugs and alcohol. The policy should distinguish between impairment due to the inappropriate use of drugs and/or alcohol, and dependency or personal problems resulting from their use.
- The disciplinary process that will apply if the rules are broken. The seriousness of the response will reflect the company culture and the nature of its business.
- Explanation of the measures to ensure compliance with the policy, which should include education on drug and alcohol issues.
- Information about the help available for employees, and how to access this.
- The drug testing programme, detailing who is eligible, and on what occasions. Drug testing protocols should be available for inspection.

Definitions of key terms such as ‘misuse’, ‘drugs’, ‘positive result’ are needed to avoid ambiguity. In the case of a word like ‘misuse’ the definition will help to avoid disputes arising from subjective opinions. ‘Drugs’ could mean illegal drugs, prescription drugs and over-the-counter medicines – it should be clear which of these are included. If the term ‘substance’ abuse is preferred, a definition will be required to identify which types of substances are subject to the policy.

Education

Communication is an essential part of building confidence in the policy. If employees understand the purpose of the policy, can see that it has clear and unthreatening objectives, and that they have the opportunity to give feedback, on the whole they will feel more comfortable with what they may otherwise see as an intrusion into their private life.

Box 5.2 *Sample opening statements for drug and alcohol policies*

- The abuse and misuse of alcohol and drugs is a significant and growing problem in today's society, and unfortunately the company cannot expect to be exempt. Management has a prime responsibility to take reasonable measures to ensure employee well-being and that any use of alcohol or drugs by employees or third parties involved in the company's operations does not jeopardise safety, performance or otherwise adversely affect the company.
- The company holds the health and safety of its employees to be of paramount importance and is committed to ensuring the highest possible safety standards. The purpose of the drug and alcohol policy is to maintain safe and efficient operational standards, to promote the health and well-being of the company's employees, and to ensure that their interests are protected in any accident investigation. Drug testing will be used to help us achieve this aim, to provide both a deterrent to use and a reminder of the company's expectations.
- The company recognises the generally responsible attitude of its employees, and believes that its Drug and Alcohol Policy should be primarily based on training, advice, recommendations and guidance. However the company also recognises its international and regulatory responsibility to implement a formal policy. Some rules, including testing for drugs and alcohol on a random and 'for cause' basis, must be implemented to protect the well being and safety of the vast majority from the occasional imprudence of a small minority.
- The company is committed to providing a safe, productive and healthy workplace for its employees, and acknowledges and appreciates a responsible attitude shown by all employees towards safety issues. The company recognises that alcohol, drug, or other substance misuse by individuals can have an adverse effect on their ability to perform work and consequently put the company and others as well as themselves at significant risk. The company has identified a need to respond to public concerns about the nature of its operation, its contractual obligations and its compliance with legislation. This policy aims to demonstrate that all possible steps are being taken to eliminate risk to individuals, the public and the environment.

- The company has a responsibility towards employees to provide a safe and healthy working environment and recognises that this may be jeopardised by those who misuse alcohol and drugs. The company also has to protect its business and commercial interests from the consequences of any such misuse. The company will, therefore, take appropriate action to protect all employees' health, safety and welfare, company property and the efficiency and success of our business against substance abuse.
- For reasons of health and safety, efficiency and effectiveness, and responsibilities towards customers and the public, the company is committed to a workplace free of substance misuse. The company recognises the importance of balancing respect for individual privacy with the need to maintain a safe, secure, and productive working environment free of alcohol and drug misuse. The policy encourages those employees who are experiencing difficulties with drugs, alcohol, or any other substance to seek help. Evidence of breach of this policy may be treated as serious misconduct that may lead to termination of employment.
- The company expects employees to be fit to carry out their work duties at all times without any risk of their performance being impaired or their efficiency reduced by drugs or alcohol. This applies equally to work in an office, on a site, or while travelling on company business. Any breach is regarded as gross misconduct. Nevertheless the company is anxious to help employees before a dependency on alcohol or drugs impairs their performance at work. The aim of the company's rehabilitation policy is to help the employee achieve successful treatment and return to productive employment with the minimum disruption to work, personal and social life.
- The company is committed to maintaining a healthy and productive workplace through the highest standards of safety and employment practice. The company recognises that the use of illegal drugs, misuse of legal drugs and the abuse of alcohol can impair job performance and can be a serious threat to safety, health, productivity and the environment. The company will minimize the risks involved by ensuring that all employees, subcontractors and other providers of services to this company are made aware of this policy as part of its induction and communication procedures.

There are four strands to the education process associated with a drug and alcohol policy. The first three are essential if the policy is to benefit both the organisation and individual employees. Education leads to understanding, and understanding to acceptance of the need for the policy. If the policy is accepted, most people will work towards ensuring that it is effective.

The first strand is the basic communication about the policy itself, so that employees cannot claim ignorance of its content. This process may start with the information released by the working group as the policy develops, but the completed policy must have some formal acknowledgement of inclusion into the company's procedures. If this step is neglected, employees could argue that although they are aware of the discussion phase, they did not realise that the policy had become 'live' and that they were now subject to its rules. The basic information about the policy must also be integrated into new employee and site visitor induction programmes. Depending on the size and resources of the organisation, newsletters, payslips, toolbox talks, etc. can be used to get the information about the policy circulated, discussed, amended and approved.

The second strand is general education on the effects and consequences of drug and alcohol use. With the exception of messages about safe driving, the adult population tends to be neglected by drug and alcohol awareness campaigns, which are usually designed either for schoolchildren or problem users. The general adult population remains uninformed and left to make assumptions based on information published in the media, which may present an alarmist and distorted version of the truth. However, within the workplace the problems associated with the inappropriate use of drugs and alcohol can be brought to employees' attention either directly linked to the policy, or aligned with other education campaigns on personal health, or as part of a workplace safety campaign. This information will help employees understand how they may need to moderate their drug use to comply with the policy requirements. Education can be provided by whatever means is appropriate to the organisation – it could be simple leaflets, on-line computer-based interactive learning, videos or visiting speakers – and it needs to be ongoing, planned to be repeated on a regular basis.

The first two types of education are company wide. Between them they should raise awareness of the issues, and show how the policy seeks to address them, for the benefit of the organisation and the employees. It is important to have commitment from all management to release people to attend education sessions or complete on-line training, if this is the chosen route.

Within the company there will be people who are likely to be directly involved in the application of the policy – line managers, supervisors, human resources, employee representatives. These people need to have confidence in their ability to handle situations that the policy might generate, and need to become aware of the signs to look out for. This is especially important if they are expected to take decisions about whether to ask someone to take a 'for

cause' test. Without confidence in their own judgement, and the knowledge that they have the support of the company, the easy option would be to do nothing, and as a result the policy would gradually be undermined. The education should make them appreciate the importance of accurate recording of absence and accident statistics and other information which could be the first indicator of a developing problem. If these are ignored this could be a lost opportunity to encourage someone to seek help before the need for testing or disciplinary action.

The final strand is the requirement for specific training which may be necessary if some parts of the alcohol and drug testing programme are to be operated by the company. If alcohol breath test equipment is purchased for use on site, then the operators must have training in the operation, calibration and maintenance of the devices. Some occupational health departments may opt to collect the samples for laboratory drug analysis, which will require training to ensure that full 'chain of custody' procedures are understood and followed. And if the company's medical officer intends to receive the results from the laboratory, then training in the medical review officer role will be necessary to get a full understanding of how to interpret the results. As with all technical training, this should be subject to regular competency assessment and planned refresher training.

Employee Assistance Programme

Broadly, the aim of an Employee Assistance Programme (EAP) is to prevent an employee with problems becoming a problem employee.

The remit of the EAP should be much wider than just drug and alcohol issues. An EAP should function as a resource which employees can turn to for help in resolving work or personal matters. Such concerns may affect work performance, and in some cases, where the employee 'self-medicates' with alcohol or drugs, become the start of 'problem use'.

An EAP provider should be able to offer help across a wide range of topics, covering work-related issues such as relationships with colleagues, work/life balance, harassment, bullying and stress as well as personal issues that might distract the individual from their work, for example family problems, the need to care for relatives, problems with neighbours, consumer issues, medical advice and so on.

Ideally, access to the EAP would be via a telephone helpline available round the clock. Calls can be made from work or home, using an agreed means of identification – company name, password, PIN. The people answering the phone are likely to be from the caring professions (e.g. nurses, doctors, psychologists) as they will be in a position to deal with a caller's immediate emotional crises. If the caller is seeking advice on less pressured legal, financial or other issues, then the EAP service should be able to arrange for them to

speak to an appropriate professional adviser. Most EAP services will give access to assessment and counselling sessions, with all the appropriate safeguards for confidentiality.

The EAP service provider should be able to provide management reports at agreed periods. These should show anonymous statistical data about the usage of the service, which could help the organisation understand the type of problems their employees are facing. Beyond that, the service should be completely confidential.

The benefit an EAP brings to the company's objectives for its drug and alcohol policy is firstly preventative. Too often the individual will use the 'oblivion' qualities of alcohol and drugs as a way of temporarily forgetting about the problem that they need to confront, but this temporary solution may become permanent unless the problem itself is solved – and that is what the EAP is there for.

The second benefit is having access to support for people with drug or alcohol problems. This may start with a supervisor or line manager ringing the helpline for advice on how to manage a particular situation, how to raise the issue with the individual, how to encourage the individual to seek help. Drug and alcohol problems are personal to each individual and require an initial assessment meeting before any decision can be taken on treatment. The treatment needs to be matched, not imposed, so an EAP service should be able to provide access to a wide range of treatment options.

Where EAP services are not available, local resources should be identified where people can turn to for help. The policy should be clear that 'help' is a genuine option for people who acknowledge that their use of alcohol and/or drugs is becoming a problem.

Whatever is provided, there should be regular reminders that the services are available and how they can be accessed. This should help all employees to move away from the belief that the best approach is to hide problems with drugs and alcohol and cover up for colleagues even when it is clear they have problems. Although this is a natural protective instinct, the individual concerned will benefit more from being encouraged to seek help while they still have a job.

Treatment for employees with problems

This encouragement for employees to seek help does not necessarily require a commitment from the company to pay for treatment. Help given to people with drug and alcohol problems can sometimes be perceived by co-workers as unfairly generous, so time off and funding for treatment should be dealt with in accordance with the company's policy on health matters.

To ensure the employee's participation in the chosen treatment option the company might agree a contract with the individual, which could stipulate

regular attendance at counselling sessions, may make allowances for the fact that relapses are a common feature of giving up an addiction, and could include regular testing as a way of demonstrating that the problem use has been overcome.

Monitoring compliance with the drug and alcohol policy

Compliance with the policy can be recorded in various ways. Training records should be maintained to show the pro-active and ongoing approach to drug and alcohol education. Absence, accident and work performance records should be reviewed regularly to spot problems before they become entrenched. Usage of the EAP is an indicator that problems are being solved, and that employees have responded to the idea that help is available.

Testing is a valuable monitoring tool, because over time it provides statistics. The focus tends to be on positive results, but negative results are the marker of a successful policy. The American Civil Liberties Union (ACLU) circulated a report in 1999 which questioned the cost effectiveness of drug testing. By totalling all the costs associated with the federal drug testing programme, and then dividing by the number of positive results, ACLU quoted a figure of US\$77 000 to find one drug user.⁶ Where the objective of a drug testing programme is to deter drug use, then the higher the cost per single positive result, the more effective the programme.

What does testing bring to a policy?

Testing for drugs and alcohol within a policy is seen by some as an unnecessary step, one that intrudes into a person's private life and breaches their right to privacy under Article 8 of the European Human Rights Act.

Article 8 may give the right to privacy in private life but this right is balanced by the requirement not to affect other people's rights. As always, European laws get interpreted in the context of national cultures but the key is that the response must be proportional. Chapter 4 explores these aspects in more detail.

It is also argued that testing can destroy trust and undermine employee relations, which indeed it could if introduced without the explanation, discussion or justification described in this chapter.

A drug and alcohol policy does not have to include testing – however doing so can bring benefits, providing the policy development has followed the steps outlined above.

The principal benefit is that testing makes people notice the policy. Without testing the policy will be one paper policy among others – how many employees will (a) be aware of any rules and (b) consider they have to comply with them? Tell them that testing is about to be introduced and they will study the policy in detail to find out how they might be affected. And if

unannounced testing based on random selection is included they will be constantly aware of the fact that they might be tested while at work, so will modify their social behaviour to make sure that their drug or alcohol consumption will not breach the policy. So testing helps with the first policy objective identified above by providing a deterrent to drug use, especially if random testing is used. This can help reduce the risks to the workplace and can benefit individuals by making them think about their own consumption, so possibly stopping a slow slide into problem use.

Testing raises concerns and prompts questions, so introducing testing encourages a company to invest more in education and supervisory support than they might do otherwise. Supervisors who may have to request ‘with suspicion’ tests will be particularly keen to learn the signs to look out for, and this increased knowledge can help with the positive intervention for problem users.

Testing helps to identify individuals who need help in two ways. Obviously a positive test result will prompt an investigation, and this may be the stimulus the individual needs to acknowledge that they do indeed have a problem. Many companies also find that as the policy gets discussed during its development stage and people become aware of the implications of testing, those who recognise that they will have difficulty complying with the testing programme will come forward to seek help – but only if they are aware of the help available, which takes us back to the importance of education, information and communication.

In these days of measurement as proof of management, testing provides statistics. Reduction in positivity levels or continuous negative results can demonstrate effective management of drug and alcohol issues, and provide the evidence necessary for compliance with legislative, regulatory and contractual requirements.

Testing – the practicalities

There are several decisions that have to be made if testing is to be integrated into a policy on drugs and alcohol. In some countries the options may be limited by local legislation. The list of questions below will have different answers according to the size, location and business activity of the organisation, but can be used as a basic checklist.

The issues to some extent reflect the various conventions that have become associated with the process of workplace drug testing. In some countries these may be mandatory, but where they are not the subjects need to be addressed to reduce the fear and uncertainty often associated with testing. Typical concerns relate to the accuracy of the testing, the risk of ‘false positive’ results, the degree of privacy and confidentiality surrounding the testing process, how the results are disclosed to the individual, and who within the organisation gets to

see the results. There is also a perception that there are opportunities to cheat the test process, which can make people question whether any credence can be put on the results. The reliability and robustness of the test procedures is addressed elsewhere in this book, and these are fundamental to the success of a testing programme.

The policy, in either its main or supporting documents, needs to make sure that the following questions are answered:

- 1 What will be the consequences of a positive result?
- 2 Who will be eligible for testing?
- 3 Why and when will people be tested?
- 4 What drugs will be included in the tests?
- 5 Who will carry out the testing? (collection and analysis)
- 6 What is a 'positive' result for drugs, and alcohol?
- 7 Who will interpret the results?
- 8 What records will be kept, and who will have access to them?
- 9 What will be the consequences if someone refuses to take a test, or is clearly trying to defeat the test process?
- 10 How will the disclosure of illegal or problem drug use once a test is under way be handled?

What will be the consequences of a positive result?

An obvious first question is what will be the consequences of a positive result? There is an important distinction between 'drugs' and 'alcohol' which should be reflected in the wording of the policy. International drink/driving laws mean there is an accepted relationship between blood alcohol levels and impairment, and the time over which alcohol is eliminated from the body; however a positive drug test result merely provides evidence of use. It is not possible to say whether the individual was impaired at the time of the test, or when or where the drug was taken. This means that dismissal for an offence worded as 'impaired by the use of illegal drugs' or 'using drugs on company premises' might be challenged if the only evidence is a positive drug test result.

The disciplinary consequences of breaking the company rules will already have been specified but consideration must be given as to how test results fit into this process. It must be clear that a positive test result is a breach of the policy, irrespective of impairment or when the drug was used. However refusal to take a test, or deliberate interference with the test procedures should not be assumed as evidence of guilt, but should be dealt with under disciplinary procedures as refusal to comply with a company policy (unless national laws give entitlement to refuse to be tested).

There is an assumption that employees who test positive must lose their jobs. This may be appropriate for some organisations, but generally

companies treat a positive result as a warning sign of developing problem use, not as a dismissal issue. However, the consequences of a positive result are always significant for the individual concerned, and this must be reflected in the standard of analysis. Employees must have confidence that they cannot be wrongly accused of alcohol or drug misuse, so using a drug testing organisation that follows the European Workplace Drug Testing Society Guidelines is essential (see Chapter 11).

Who will be eligible for testing?

‘Safety critical’ posts head the list of acceptable eligible job functions. The problem can come when defining which jobs should be considered as safety critical. In some businesses the decision can be made by looking at other identifiers, such as ‘unescorted access’ within a particular area – this may then include some people whose work may be administrative. Other approaches are to include those people with responsibility for people in safety critical posts, since they may take decisions that affect the working conditions, for example by increasing time pressures.

Some organisations may consider business critical factors to be as important as safety critical. In others the working group developing the policy may get feedback that all employees from directors down should be subject to testing. A decision also has to be taken on whether temporary staff, agency staff, contractors and visitors be subject to all or part of the testing programme, and, if so, how will this will be communicated to them.

Why and when will people be tested?

The typical occasions for testing are outlined in Box 5.3. They fall broadly into those used to detect drug use, and those that will be helpful in deterring drug use. It has to be remembered that a drug test is a snapshot in time, merely indicating whether drugs are absent or present at the time of the test.

Pre-employment testing is often described as an intelligence test, as most employable drug users would be able to abstain for long enough to achieve a negative result. In countries where pre-employment testing is permitted, the applicant must be fully aware that testing will be part of the recruitment process. To minimise the need for testing, it should be carried out as the last step in the recruitment process, as a condition of the job offer. However, if the applicant starts work before the result of the test is known, this may negate the condition, as the individual would then be subject to the organisation’s terms and conditions of employment.

‘For cause’ testing is investigative, but is after the event (an accident, or behaviour giving rise to concern) has happened. Defining the category of incident that would automatically trigger a ‘with cause’ test causes much

Box 5.3 Opportunities for testing

Opportunity	Advantages	Disadvantages
Pre-employment	<p>Establishes company's attitude to drugs and alcohol</p> <p>Deters drug users joining company</p> <p>Does not require changes to terms and conditions of employment</p> <p>Helps to introduce concept of testing to other employees</p>	<p>Result is only true for the day of the test</p> <p>No deterrent factor</p> <p>May create 'blacklist' of applicants in some sectors</p> <p>Needs record keeping to avoid repeat testing</p>
Pre-access	<p>Variation on pre-employment, where companies insist that all contractors must have a negative drug test result before being allowed on site. If an individual fails the test, they would not be allowed on to the site, although they may still retain their employment with the subcontracting company</p>	
Routine medicals	<p>Can be integrated into medical</p>	<p>Advance notice of dates means alcohol/illegal drug use can be adjusted to avoid detection</p> <p>Association with 'policing policy' compromises health benefit aspects</p>
Post accident/post incident	<p>Indicates whether drugs or alcohol might have contributed to incident</p> <p>Demonstrates that drugs/alcohol did not contribute to incident which brings PR benefits and reassurance to individual concerned</p>	<p>Unless integral part of any accident/incident investigation, testing may not be used</p> <p>If drug or alcohol related this is identified after event (i.e. too late)</p>
'Reasonable cause' (i.e. behavioural indicators)	<p>May confirm suspicion of drug/alcohol consumption contributing to impairment and/or deteriorating work performance</p> <p>If negative, may direct attention to some medical condition or other cause</p>	<p>Perception of victimisation</p> <p>If behaviour is drug or alcohol related then problem use has probably already developed</p>
Unannounced, random selection	<p>Constant possibility of selection means constant threat of detection</p> <p>Impartial selection method – can be made available for inspection by employee representatives</p> <p>Deterrent effect encourages people to examine and amend drug/alcohol habits, and recognise problem use at an earlier stage</p>	<p>Need to guard against risk that administrative convenience can lead to bias in selection process</p> <p>Need to closely define and monitor reasons for 'unavailability' for test</p>

Box 5.3 (continued)

Opportunity	Advantages	Disadvantages
	<ul style="list-style-type: none"> Nil or below-average positive rate is positive image for company Demonstrates company's proactive approach to safety etc. 	
Monitoring	<ul style="list-style-type: none"> Used as disciplinary option after a positive result Useful to help individual demonstrate recovery from problem use 	Regular testing needs management

Source: © Concateno plc

debate, but can be justified by looking at past data on accidents, and by being clear on whether the tests are to be used to show that drugs and alcohol did or did not play a part in the accident. In this way it becomes merely a process and does not carry any implication about the behaviour of the individuals being tested. Where there is a suspicion of drugs as a cause for unusual behaviour the decision to test needs to be based on clear criteria agreed within the organisation, and typically based on work performance, absence and accident records, and knowledge of the individual. Testing on the basis of behaviour can cause great anxiety, and as a result can be under-used unless the training and support for supervisors is maintained. Consistency for 'with cause' tests is essential if accusations of victimisation are to be avoided, so it needs to be reviewed regularly. This review needs to cover occasions when tests did not take place, as well as the occasions when they did. The policy also needs to specify what happens to the individual while waiting for the results, which if positive may not be available for some days. Reliable on-site screening tests can reduce the cost of personnel downtime, since only 'not negative' results would have to go for laboratory analysis.

Unannounced random testing provides the best deterrent, but needs safeguards for it to be recognised as a deterrent to the inappropriate use of drugs and alcohol. For random testing to be accepted, the basis for selection needs to be perceived as fair, and removed from the influence of management. If this cannot be achieved within the organisation, an external agency can be used. The selection can be as simple as a draw from the names of people present, or at the opposite extreme an elaborate computer-based tracking and selection process. Statisticians can debate the relative chance of detection at varying rates of random selection, but frequency and visibility (i.e. the knowledge that random testing is occurring) are more important factors in making sure that employees are aware that testing does take place. Eligible employees should

understand that any time they are at work they may be selected for testing without warning. Random testing should not be predictable (i.e. not always on Mondays) and should not have ‘blind spots’ where it is known that testing will not take place. The proposed random selection process should be carefully reviewed for bias against particular groups (e.g. day workers more likely to be selected than shift workers).

Thought needs to be given as to who within the organisation will be given notice of a scheduled test, and penalties need to be applied if this information is circulated. The notification to the individuals selected for testing should be kept to a minimum, subject to the operational constraints of the business.

The essence of random selection is that every eligible employee has an equal chance of being chosen on every occasion that the selection is made. Further, the pattern of selection – the frequency interval between tests, the days and times of day – must be unpredictable. The method of selection should be demonstrably random and open to inspection by employee representatives. It is particularly important that the random selection method cannot be influenced, as suspicion that it is being used to target individuals will quickly reduce confidence in the programme and devalue the deterrent effect.

The distinction between random and ‘for cause’ testing must be maintained. Those selected must be confident that no assumptions will be made about their fitness to work at the time of the test, so they should return to work after the specimen for analysis has been collected. The use of on-site screening tests does not contribute anything useful to random testing.

What drugs will be included in the tests?

The best advice on drugs to include in the testing panel will come from your chosen analytical service provider. Alcohol, cannabis, amphetamines and cocaine are widely used recreational drugs, while the depressant drugs that have both medicinal use and abuse potential can be included. See Chapter 8 on the analytical process.

Who will carry out the testing? (collection and analysis)

Employees will be concerned about the testing process, because whichever matrix is used, urine, oral fluid, hair, there is an element of intrusiveness and loss of dignity. In some jurisdictions testing has to be carried out in a medical environment, but whether this should be the company’s own medical department or an external one is a decision that has to be made. The use of independent collectors can avoid internal disquiet about occupational health in a ‘policing’ role, or security officers having access to personal information. Whoever collects the sample, they need to have guidance on what do to if problems arise during the collection, examples of which are given in Chapter 6.

Chapter 6 details the ‘chain of custody’ requirements that contribute to the ‘informed consent’ of the individual to the testing process. There are two stages of consent to testing. The first is the informed acceptance of the inclusion of testing within the drug and alcohol policy, which can be achieved by following the steps outlined in the earlier part of this chapter. The expectation will be that the employee will agree to take a drug/alcohol test whenever they are asked.

Thereafter each time they are asked to provide a sample (breath, urine, oral fluid, hair, blood) they should give their consent for that sample to be analysed. For such consent to be ‘informed’, the individual must be aware that it is a drug/alcohol test and they must be satisfied that it is their sample appropriately identified for testing.

The European Workplace Drug Testing Society (EWDTS) guidelines specify acceptable and reliable analytical methods, supported by appropriate quality control and assurance. Accepted by European accreditation agencies, laboratories that work to these standards will provide robust support for the testing programme within the drug and alcohol policy.

It is accepted good practice to allow the individual the right to challenge positive test results. In Europe this has evolved into a process where the individual witnesses the specimen (oral fluid, urine, hair) they have provided split into two portions, each of which is sealed. Only one of these portions is used for the analysis, with the second portion retained for independent analysis if requested. The policy should make it clear that such challenges will be allowed, but make it clear at whose expense – the company’s or the individual’s.

What is a 'positive' result for drugs and alcohol?

The policy must make clear what is meant by a positive result for drugs and for alcohol. A typical definition of a positive drug test result is ‘a laboratory-positive result that has no legitimate medical explanation’.

There are one or two areas where the jargon associated with testing in some languages can conflict with the layman’s use of the word. For example as described elsewhere (Chapter 8) the analysis that results in a positive result is a two-stage process whereby the samples are first ‘screened’, and those that are not negative are then ‘confirmed’. If ‘drug screening’ is used within the policy as the generic term for drug testing, this can cause confusion – would ‘positive drug screen’ mean a positive screening test in the laboratory context, or a confirmed positive result?

This becomes especially relevant when on-site screening tests are used. With on-site tests the knowledge of a ‘not negative’ (i.e. presumptive positive) result has to be managed within the workplace, as it quickly becomes apparent when someone has not been allowed to return to work pending laboratory confirmation analysis.

For alcohol a level in blood, breath and urine is usually quoted, and is typically linked to the drink driving laws of the country (although in the UK, which has a high drink driving cut-off, many companies have opted for a cut-off lower than the drink driving legislation). Breath testing is considered the most appropriate way of testing for alcohol. A urine alcohol test may be considered a useful way of confirming a positive breath test result, but the levels of alcohol in the urine could be substantially different to the breath test result. Will you allow a urine test result to override a breath test result? These issues need the input of your medical adviser or the organisation chosen to provide the testing services.

The relationship of the result to impairment, and the conclusions that can be drawn are covered in Chapter 10, and as already recommended must be dealt with carefully in the policy.

Who will interpret the results?

Unqualified personnel must not be able to make judgements about positive results, and disciplinary proceedings should not be started on the basis of a laboratory-positive result that has not been through a medical review process, or on the basis of an on-site test result which has yet to be confirmed. The concept of medical review is essentially to make sure that a test result is interpreted correctly, and that the legitimate use of medication does not get confused with drug abuse. The importance of the medical review process merits a separate chapter, as it is an integral part of the acceptability of workplace drug testing (see Chapter 10). As a consequence of this review process the individual may be aware of the medical review officer outcome (i.e. positive or negative) before the company, and in some organisations this may not be acceptable, so alternative procedures would have to be developed.

What records will be kept, by whom, and where? Who will have access to them?

Testing generates records, and care needs to be taken that information is not obtained or stored unnecessarily or passed to third parties in breach of data protection laws.

People will question how the results will be handled. They need assurance that they will remain confidential, irrespective of whether they are negative or positive. If problem use is diagnosed, how much information will be passed to line management, bearing in mind that the individual may need support on returning to work.

Information on recent medication is taken into account if the test result is positive. How this information is obtained and recorded will again be affected

by cultural variations, but it is important that individuals have confidence in the process, and disclosure of sensitive personal information is treated with care and respect for data protection legislation.

If job applicants are refused employment because of a positive result, will your policy have a rule that such individuals cannot re-apply within a certain time frame? How will this be managed? Similarly, if contractors are expected to have a negative drug test result before they come on site, how will this be monitored?

What will be the consequences if someone refuses to take a test, or is clearly trying to defeat the test process?

The policy must cover as a separate disciplinary issue what will happen if a person refuses to be tested. The penalty must be at least equal to that for a positive result, but it must not be assumed that the individual is refusing because they anticipate a positive result. The offence is refusing the request to be tested.

Similarly there must be a disciplinary consequence if someone is discovered trying to cheat the test process, by substituting, adulterating or otherwise tampering with the specimen to be tested. The organisation should agree with the service provider about how information on 'cheating' is communicated back to the company. It may be identified during the collection process, or during the analysis.

How will you handle 'late' disclosure of illegal or problem drug use during the test procedures?

The relationship of the drug testing programme to the policy as a whole must be clearly defined. Will the access to help, in whatever form it takes, be given to anyone who admits to problem use, even if this is at the time they are asked to take a drug test? Will the reason for the test make a difference? For example, if there are concerns about an individual's performance that result in a request for a test to establish whether drug use is contributing to the performance issue, and this prompts an admission from the individual, that is a demonstration that testing can help an individual confront the problem. However, if an admission of problem drug use is made when an individual is asked to take a random test, this might be viewed as the individual trying to mitigate the consequences of a positive result. Employment legislation, national laws and your own company culture will determine your company policy for these situations.

There may be occasions when an individual admits to the person collecting the sample that they have taken illegal drugs recently. The collector needs to know what to do with this information, as they have a duty of care to your company, as well as the need to respect the confidentiality of the individual. If your expectation is that you should be told, what will you do with this

information? There is no guarantee that the drug test result will be positive, so does your policy cover an admission of drug use that took place in the individual's own time?

Conclusion

Drug and alcohol policies touch on employees' private lives, but there is growing recognition that the consequences of inappropriate use can impact on the workplace. The issues cannot be ignored, but they can be handled constructively, if the policy is based on considered judgement of the risk that drugs and alcohol create. The policy should be considered as part of a package that will deliver a positive message to employees – and education and support for employees' problems are necessary parts of this package.

When added as the final element in the drug and alcohol policy, testing helps bring the objectives of the company's drug and alcohol policy into focus. The policy is not simply another chapter in the company's protocols, but becomes something that affects all employees. It makes employees react to the policy, and listen to the education messages. It demonstrates to outsiders that the company is serious in its policy objectives, and over time it provides statistics.

Pre-employment testing establishes the organisation's attitude to drugs and alcohol. Testing after incidents is investigative rather than preventative, and has value in identifying and eliminating possible causes. Testing in the workplace context is best considered as a deterrent to drug use, not a way of detecting drug users, and this is where the benefit of a properly administered random programme lies. The selection method must be impartial and available for inspection by employee representatives. The possibility of selection must always be there, to encourage people to amend their drug/alcohol habits. It can also help individuals to acknowledge their problem use at an early stage.

Testing is becoming an expected, even accepted, part of workplace life, but it should never be the starting point of an organisation's drug and alcohol policy.

Sources of information

International Labour Organization 'SafeWork' – comprehensive advice and information on the management of drug and alcohol issues within the workplace.

European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) – source of information on drugs in Europe, including new member states and Norway. Includes the European Legal Database on Drugs which contains information on the status of drug testing.

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