



### Introduction

- Within transport and logistics industries it is essential that drug and alcohol policies be robust to ensure the safety of the public and the existing workforce. It would be widely accepted that staff within this sector, coming to work with alcohol or drugs in their system potentially present a significant risk. Unions and organisations need to work together to prevent this risk and the negative impact on their employees, clients and potentially the general public
- It is not only illegal drugs that cause problems at work. Legal ones, including prescription drugs and alcohol, can be misused. In addition some drugs, even when prescribed by a doctor, can affect someone's ability to work, especially if the job requires a high level of concentration or alertness. However, on the other hand, many people have conditions that require drugs to help them live a normal live and could not work without them.

- The use of alcohol and drugs socially may have no direct effect on the person's work, but if a person comes to work under the influence of either of these it will impair their performance and can lead to them taking risks or putting others at risk. This is not just a problem for drivers, construction workers, machine operators and emergency staff. It can be an issue for all groups of workers. Many drugs can also have psychological effects that can affect performance or mental wellbeing, especially after long-term use or if a dependency develops.
- Alcohol and drugs have no place in the workplace, unless required for a medical condition, however we also believe that employers should not interfere in a person's private life unless it impacts on their work.
- Many people who drink socially or use recreational drugs at weekends do not, in any way perform any worse, or take more time off sick as a result. If however a person's health suffers, or they are trying to work while under the influence of drink or drugs then it can become a workplace issue. It is also a matter for trade unions because many people turn to alcohol or drugs because of the stress of work, or to painkillers because of musculoskeletal problems caused by work.

## Prescription medicines

It's illegal in England and Wales to drive with legal drugs in your body if it impairs you're driving.

It's an offence to drive if you have over the specified limits of certain drugs in your blood and you haven't been prescribed them.

Talk to your doctor about whether you should drive if you've been prescribed any of the following drugs:

- amphetamine, e.g. dexamphetamine or selegiline
- clonazepam
- diazepam
- flunitrazepam
- lorazepam
- methadone

- morphine or opiate and opioid-based drugs, e.g. codeine, tramadol or fentanyl
- oxazepam
- temazepam



You can drive after taking these drugs if:

- you've been prescribed them and followed advice on how to take them by a healthcare professional
- they aren't causing you to be unfit to drive even if you're above the specified limits

You could be prosecuted if you drive with certain levels of these drugs in your body and you haven't been prescribed them.

Legal drugs are prescription or over-the-counter medicines. If you're taking them and not sure if you should drive, talk to your doctor, pharmacist or healthcare professional.

The police can stop you and make you do a 'field impairment assessment' if they think you're on drugs. This is a series of tests, e.g. asking you to walk in a straight line. They can also use a roadside drug kit to screen for cannabis and cocaine.

The law doesn't cover Northern Ireland and Scotland but you could still be arrested if you're unfit to drive.

## Penalties for drug driving

- a minimum 1 year driving ban
- an unlimited fine
- up to 6 months in prison
- a criminal record

Your driving license will also show you've been convicted for drug driving. This will last for 11 years. The penalty for causing death by dangerous driving under the influence of drugs is a prison sentence of up to 14 years.

## Other problems you could face

A conviction for drug driving also means:

- your car insurance costs will increase significantly
- if you drive for work, your employer will see your conviction on your license
- you may have trouble travelling to countries like the USA.

## Substance misuse

- Substance misuse is described as the problematic use of alcohol, drugs and other substances.
- Drug or alcohol use can become problematic when an individual uses a substance so regularly or in such quantities that they start to depend on it in order to feel normal in everyday life. Dependence can develop into addiction, where day to day life focuses on obtaining and regularly drinking or taking a drug to maintain either a physically stable state or a preferred mental state. In the case of alcohol, the term misuse can refer to binge drinking or regular heavy drinking.
- It is important not to confuse substance misuse, with occasional use of alcohol or drugs. Nevertheless, all forms of substance use, whether alcohol or drugs, legal or illegal, can affect the workplace. Those with dependency problems may find that

their performance is affected, that they develop mental health problems, or they are off work more often. At the same time, any person who either uses drugs or alcohol at work, or who comes to work while under the influence of drugs or alcohol could put themselves and their colleagues' safety at risk.

## Drug and alcohol abuse at work

- A survey by Drug Scope and Alcohol Concern found that 27 per cent of employers say drug misuse is a problem at work while 60 per cent have experienced problems due to staff drinking alcohol. While that may be what employers think there is little evidence that this is accurate.
- The 2017 crime survey for England and Wales showed that 4.3% of adults between 16 and 59 had taken an illicit drug in the last month. This figure has fallen since a decade ago despite a number of additional drugs (legal highs) having been made illegal in 2016. The most common illicit drug used is cannabis, followed by cocaine. Many of those who have taken drugs in the last month are not in work because they are unemployed or unable to work. Of these that are at work, the vast majority of people restrict their use to social use at weekends.
- Among people who are at work, the use of prescription drugs is much more common. An estimated 1.5 million people are addicted to prescription and over-the-counter drugs in the UK. A large number of others use them occasionally. Many of these drugs can have a significant effect on performance, concentration, or alertness.
- In the case of alcohol, an NHS survey said that 25 per cent of men reported drinking over 8 units and 16 per cent of women reported drinking over 6 units on at least one day in the past week. This does not mean that these people have a dependency issue or that it is affecting their work, but it is estimated that between 3 per cent and 5 per cent of all absences are due to alcohol.
- Many people use alcohol or drugs to help cope with work-related stress, and if there is a problem with alcohol or drug misuse in your workplace then this may be part of a wider stress problem. Some forms of drugs are also used to combat fatigue. Even caffeine, a legal and very commonplace substance, can be used to cover up tiredness caused by excess hours at work.

## The law

**Under the Health and Safety at Work Act**, the employer has a duty to ensure the health, safety and welfare of employees and develop a health and safety policy. Section 7 of the Act requires employees to take reasonable care of the health and safety of themselves and others who may be affected by their acts or omissions at work. While the Management of Health and Safety at Work Regulations say employers should conduct risk assessments. This would include the use or presence of drugs and alcohol at work, if there appears to be a risk to workers. The main causes must then be treated in the same way as any other workplace hazard by the implementation of preventive measures.

It is a criminal offence under the Misuse of Drugs Act for any person knowingly to permit the production, supply or use of controlled substances on their premises except in specified circumstances (such as when they have been prescribed by a doctor). The Medicines Act 1968 also controls the sale of drugs that are considered medicine

## Transport Law

**Under the Road Traffic Act and the Transport and Works Act**, drivers of road vehicles must not be under the influence of drugs or alcohol while driving, attempting to drive or when they are in charge of a vehicle. Certain rail, tram and other guided-transport system workers must not be unfit through drugs or alcohol while working on the system. The operator of such a system must exercise all due diligence to avoid those workers being unfit.

## Negotiating a policy

Prior to developing a policy, it is best to find out what problem exists, if any. That can be done through looking at sickness and disciplinary records, accident investigation reports or talking to any provider of occupational health or counselling services for the organisation if they exist. However even if there is no evidence of a problem then you should encourage your employer to develop a policy.

The policy should set out its aims. These should include:

- Recognition that alcohol and drug abuse is both a health problem and a safety problem.
- That drug and alcohol abuse should be prevented through both increasing awareness of the issue and changing the culture of the organisation.
- That those employees with a problem should be identified at an early stage.
- That assistance should be offered to those with a drug or alcohol related problem.

Many unions have a model policy, so check your union website.

## Key elements of a policy

Any policy should address the following issues:

- It should make it clear who has overall responsibility for implementing the policy.
- It will cover both legal and illicit drugs.
- The policy should cover all employees, including senior managers.
- The employer should guarantee that any employees who seek help will be treated in a non-judgemental supportive way and should guarantee confidentiality.
- It should lay down processes for dealing with any cases when someone is believed to be impaired by drug or alcohol while at work and outline when, if at all, alcohol can be consumed while at work or on work premises.
- It should ensure that all managers are trained to spot the early signs of abuse and there will be procedures to ensure that any problems are discussed with staff at an early stage.
- Alcohol and drug misuse should be treated as a medical and not a disciplinary matter. There will also be recognition that in many cases alcohol and drug use can lead to addiction which may require help.
- If drug or alcohol testing is to be used as part of a drugs and alcohol policy, it should be restricted to safety reasons and staff should be aware of their rights.
- The policy should outline how employees can get assistance both within the organisation and, if necessary, outside.



- It should stress that any requests for assistance or treatment will be treated confidentially.
- The employer should consider making available alternative work where this will help an employee's rehabilitation.
- The policy should make it clear that absence for treatment and rehabilitation will be regarded as normal sickness absence.
- There should be a recognition that staff may relapse.
- The policy should outline under what circumstances disciplinary action may be taken. This may include where help is refused and performance is consistently poor due to drug or alcohol abuse, or where a person comes to work under the influence of drugs or alcohol and others are put at risk.
- The employer should undertake to run an information and awareness campaign in support of the policy.
- It is also important that any policy is regularly monitored and reviewed.



## Safety Reps Check List

There are a number of positive steps that safety representatives can take to raise awareness and tackle problems related to drugs and alcohol misuse.

- **Membership awareness and information**

Safety representatives can work with local support organisations and take the opportunity of raising awareness of drugs and alcohol misuse through posters or leaflets.

- **Surveys and inspections**

Safety representatives could conduct a survey to find out whether drugs and alcohol misuse is a problem in the workplace. This can be done on a confidential basis as some members may be reluctant to contribute otherwise. Safety representatives can also use their routine inspections or undertake special inspections to speak to members. Safety representatives should report any concerns and those of their members to management in writing.

- **Supporting members**

Sometimes a person with a drug or alcohol problem will contact you asking for help. While you are not expected to be a counsellor or expert you can talk to the person and suggest that they seek help from a local support or addiction service, or even through their GP.

## Checklist around Drug Testing

Drug testing is a costly and time-consuming process that is often used by organisations as a substitute for an effective drugs and alcohol policy. There is no real evidence that regular drug testing has any effect on production or safety, and branches should resist it. However, if an employer does introduce a testing programme unions should ensure that:

- It is done by a laboratory accredited by the UK Accreditation Service.

Before a testing regime is introduced there is a 28 day period to allow people to come forward with any concerns or disclose any problems.

- It is part of an effective and agreed workplace drug and alcohol policy which aims at supporting any person with a drug or alcohol problem.

- There is an information and education campaign on drugs and alcohol
- It is only done after impairment testing has been carried out and there is evidence that the person may be impaired as a result of drugs.
- No samples are taken without the informed consent of the person (this cannot be given under duress).
- There is an appeals process, with right to union representation, if anyone tests positive

## Checklist around Drug Testing

### 1. Employment Screening

- 1.1 In accordance with the Agreement, you consent to be subject to periodic task-related health assessments at appropriate intervals and, where appropriate, according to statutory requirements and/or policy requirements.
- 1.2 You will be subject to our Drugs and Alcohol Policy, including the operation of random and for-cause drug testing.
- 1.3 You will be tested for alcohol and drugs in all cases where you have had any involvement in a workplace accident or in any incident that has caused or could have caused a danger to health or safety. The term "drug" includes all drugs and psychoactive substances (formerly known as "legal highs") that could adversely affect behaviour or performance and lead to an increased risk of accident and/or injury occurring in the workplace.
- 1.4 Testing will also be carried out where management has grounds to believe or suspect that the employee is or may be under the influence of alcohol or drugs.
- 1.5 Random alcohol and drug testing will be carried out on members of staff who work in safety-critical jobs, including those whose job duties involve driving.
- 1.6 Alcohol and drug testing will be carried out only by qualified and competent personnel who will use accepted and reliable methods and ensure that tests are carried out with the least possible intrusion into employees' privacy. All possible measures will be in put in place to ensure confidentiality of test results, and checks will take place to avoid any false results.

- 1.7 Employees who are tested have the right to be informed of their test result before the result is passed to management.
- 1.8 The outcome of a positive test will depend on the circumstances, but may include disciplinary action, up to and including dismissal where:
  - 1.8.1 the effects of the employee's alcohol or drug taking are or could be serious, for example if the employee works in a safety-critical job and his/her use of alcohol or drugs has or could lead to a risk to health and safety; or
  - 1.8.2 a previous alcohol and drug test of the employee within the previous six months has produced a positive result.
- 1.9 An employee who unreasonably refuses to submit to an alcohol and drug test in accordance the organisation's rules will be subject to disciplinary action.



## Resources/Further information

### TUC

[www.tuc.org.uk/resource/drug-testing-workplace](http://www.tuc.org.uk/resource/drug-testing-workplace)

### HSE pages on drugs and alcohol

[www.hse.gov.uk/alcoholdrugs](http://www.hse.gov.uk/alcoholdrugs)

### Hazards magazine

[www.hazards.org/workstyle/index.htm](http://www.hazards.org/workstyle/index.htm)

### Business in the Community toolkit

<https://wellbeing.bitc.org.uk/all-resources/toolkits/drugs-alcohol-and-tobacco-toolkit-employers>

### UK Gov

[www.gov.uk/government/collections/drug-driving#table-of-drugs-and-limits](http://www.gov.uk/government/collections/drug-driving#table-of-drugs-and-limits)

