



Health & Safety

MATTERS

Health & Safety Information for GMB Safety Reps

Drug and Alcohol Policies

We know that Health and Safety Representatives are often asked to comment upon and formally negotiate drug and alcohol policies, often with little-to-no experience of the subject. Here are some key principles for agreeing or scrutinising a drug and alcohol policy.

1. Overall Approach to the issue

The policy should be framed in a context of health and safety management, rather than any disciplinary agenda. There should be a clear statement of intent in the policy that the approach is proactive; sympathetic to workers with substance misuse problems; and has clear links to risk assessment processes and stress policies, as work-related stress can often be a trigger for substance misuse in the first place.

2. Types of testing

There are generally three different times when employers will seek to test a worker for intoxication caused by drugs or alcohol. These are:

a) Pre-employment testing

Pre-employment testing is increasingly being favoured by large employers, usually to explain how the testing process works to new employees. Companies do not generally apply this retrospectively and make existing employees take tests, and it is rare for employees to fail testing at this time. GMB is not in favour of pre-employment testing as it has little value, but we will accept it in return for agreement that random testing will not be implemented.

b) For cause testing / post-incident testing

This is testing workers on suspicion of intoxication at work, either in the general working environment or after a specific incident. Any requirement for testing must be handled sensitively and with discretion by management, with the employee under suspicion given a full explanation of the grounds under which a test is requested. The employee under suspicion must be given the opportunity to be accompanied by a health and safety representative, shop steward or other colleague, to ensure that the procedure is fairly applied, that no victimisation occurs, and that the testing is conducted without foul

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play. GMB generally accepts the need for testing post-incident and for cause, although this must be applied equally to all staff, from the most junior new employee on the books to the chief executive, and workers on the shop floor must have the right to raise suspicions against management staff on safety grounds.

c) Random testing

There is little evidence that random testing effectively “solves” drug or alcohol problems, and the negative impact on worker morale and trust of management heavily outweighs any rare positive gain in removing dangerous workers from the workplace. GMB policy is therefore to reject the need for random testing of workers unless the work involved is extremely hazardous and the employer can make a convincing case, backed by evidence, of an existing problem with misuse of alcohol or drugs.

3. How are tests performed?

Any testing must be performed by an independent company, with the test itself conducted by a trained and competent operative. A sample of hair or saliva is taken for analysis, with a result available on-site in a short period of time, often less than 2 hours after the sample is taken. It is rarely necessary to take a blood sample these days, as this brings an extra element of medical training and clinical risk. Two samples should be taken (an “A” sample and a “B” sample) to ensure that a retest can be performed if any appeal is needed. Workers do have the legal right to refuse to be tested, particularly if the test is against religious beliefs, but it is important to remember that this may be a breach of disciplinary policy which can result in immediate suspension from work.

4. What are the legal limits for testing for drugs and alcohol?

The testing process does not look for a “legal limit” for the presence of drugs in the bloodstream. The test instead looks to see whether the presence of certain chemicals in the bloodstream linked to taking drugs are elevated enough to cause intoxication. It is accepted that it is possible to be exposed to marijuana, cannabis and other smoked drugs through second-hand smoke, and that the after-effects remain in the bloodstream for some time. However, this alone is unlikely to cause intoxication to the point of impairment at work.

There are, however, legal limits for alcohol in the bloodstream. Each business will set its own blood-alcohol level in consultation with trade unions (including GMB), and for most workplaces GMB will only negotiate a blood alcohol level of 0.08%, which is 80 milligrams of alcohol per 100 millilitres of blood, or 35 µg (microgrammes) per 100 ml of breath. This is the UK limit for driving motor vehicles, and GMB has adopted this limit to ensure that we are not compromised by a worker passing a police breath test on the way to work, then failing a company test on site. There are legal exceptions to this, based

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around high-hazard industries with a greater need for safety. For workers in aviation, the legal limit under the Railways and Transport Act 2003 is 0.02%. This applies to anyone piloting, crewing or maintaining aircraft or helicopters.

5. What happens if a worker fails a test?

On failing a test, a worker will usually be suspended from work with pay whilst an investigation is conducted and further testing of the sample takes place. The employee in question should be sent home by taxi, to ensure that they do not attempt to drive whilst potentially impaired and unsafe to do so. When a test is failed, workers are strongly advised to seek immediate representation from GMB. Arrangements should be made to ensure that the B sample is tested by an independent testing company. This can be an expensive process, and the retesting should be paid for by the employee, to ensure that the cost of retesting is not obstructing justice.

If the retest is also positive, then the case should be handled in line with the drug and alcohol policy. This should be a sympathetic approach that involves counselling, support and rehabilitation, but in repeat cases or gross misconduct, may involve disciplinary measures, including dismissal in the most serious cases.

6. How do I get more information?

The best resource is Hazards Magazine, which is an invaluable aid for all health & safety Representatives. There are a number of articles and fact sheets on the Hazards Website - see <http://www.hazards.org/workstyle/index.htm>. In 2004, the Joseph Rowntree Foundation published an independent report into Drug and Alcohol testing, with evidence from trade unions a key part. The report can be downloaded from: <http://www.jrf.org.uk/publications/drug-testing-workplacesummary-conclusions-independent-inquiry-drug-testing-work>.

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