



**Australian Council of Trade Unions**

**Alcohol and Other Drugs in the Workplace Policy**

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## **1 INTRODUCTION**

The Australian trade union movement is acutely aware of the dangers posed by alcohol and/or other drugs (AODs). The underlying causes may be personal and/or social in nature, related to the work environment and needs to be addressed in a strong, consistent, humane and evidence based manner, by employer, workers and their representative organisations.

## **2 PURPOSE**

- 2.1 The purpose of this Policy is to provide a framework for employers and workers to follow when dealing with issues relating to the consumption of AODs and to meet their obligations under relevant occupational health and safety (OHS) legislation.

## **3 GLOSSARY OF TERMS**

### **3.1 Appropriate person**

- 3.1.1. Is a worker representative, such as a union delegate, elected health and safety representative or elected OHS committee worker representative, trained and competent to perform a Preliminary Impairment Assessment.
- 3.1.2. The appropriate person must be an employee and the position/title must be acknowledged in workplace policy and procedure.
- 3.1.3. In addition to becoming familiar with the information, education and training programmes that are directed at all workers, the appropriate person should receive supplementary training and be allowed facilities to conduct training to:
  - 3.1.3.1. refer workers who may need help to an employee assistance professional to identify signs and symptoms of potential alcohol- or drug-related problems;
  - 3.1.3.2. be able to assess the working environment and identify working methods or conditions which could be changed or improved to prevent, reduce or otherwise better manage alcohol- and drug-related problems;
  - 3.1.3.3. be able to explain and respond to questions about the enterprise's policy regarding alcohol and drugs;
  - 3.1.3.4. be able to help a rehabilitated worker with his or her needs when the person returns to work.

### **3.2 Drugs**

- 3.2.1. A drug is:
  - 3.2.1.1. any substance that may temporarily or permanently deprive one of any of their normal mental or physical faculties;
  - 3.2.1.2. may be prescription or over-the-counter medication or other legal or legally prescribed drug.

### **3.3 Employee assistance program**

3.3.1. Is a national program that aims to assist workers affected by personal or job related problems.

### **3.4 Reasonable Belief**

3.4.1. A reasonable belief is based on the worker's behaviour or appearance such as:

- 3.4.1.1. physical condition;
- 3.4.1.2. mental alertness;
- 3.4.1.3. unusual behaviour.

## **4 A WORKPLACE AOD PREVENTION PROGRAM:**

### **4.1 Introduction**

4.1.1. Prior to the introduction of any AOD policy or program, there should be an assessment into the extent and nature of any AOD problem within an enterprise. The International Labor Organisation's (ILO) assessment method is detailed in APPENDIX 1.

4.1.2. AOD use is a very complex issue and needs to be addressed at many different levels, rather than taking an overly simplistic approach such as drug testing.

4.1.3. AOD programs in the workplace must be part of a broadly based occupational health and safety program which is jointly developed by employers, workers and their unions, and is designed to identify, assess and control *all* workplace hazards.

4.1.4. Testing for AOD use is not an appropriate feature of a prevention program for a number of reasons, including:

- current testing methods measure use or exposure, not impairment;
- inaccuracy and errors with interpretation of test results, both positives and negatives;
- pre-employment testing is discriminatory;
- effects of prescribed medications and over-the-counter drugs;
- infringement of individuals' rights, including the right to privacy and the right to refuse invasive procedures on whatever grounds;
- costliness compared to benefits gained - testing is expensive, and studies indicate that few employers carry out cost - benefit analysis of testing programs or evaluate their effectiveness in terms of reducing accidents;
- available evidence suggests that drug and alcohol testing can lead to lower morale and lower productivity.

4.1.5. The focus on impairment and a positive and pro-active response rather than a punitive and negative response should be the objective of any policy.

### **4.2 Impairment**

- 4.2.1. There are a range of factors that can lead to impairment of people at work and interfere with their ability to carry out their work safely. Unions believe that impairment essentially caused by work factors other than alcohol and drug use is a growing health and safety issue in Australia.
- 4.2.2. Under state and territory OHS legislation, all employers have a duty of care to provide a healthy and safe workplace and safe systems of work. This means providing a working environment free from occupational hazards that can cause impairment.
- 4.2.3. There has been a growing focus by employers on possible impairment at work arising from the use of AOD, even though alcohol and drugs have not been shown to play a significant role in industrial accidents.
- 4.2.4. The ACTU believes this is a misplaced focus by employers, which is often at the expense of proper attention by them to other, more common causes of impairment at work, and/or in the absence of any comprehensive policies or strategies to deal with the known hazards in their workplaces.
- 4.2.5. What is needed instead is a better recognition and understanding of the most common causes of impairment at work and improved measures to eliminate or reduce them wherever possible.

### **4.3 Impairment factors include:**

#### **4.3.1. Fatigue**

Fatigue is tiredness that results from physical and/or mental exertion. The level of fatigue experienced will depend on the workload imposed by a job, the length of shift, previous hours and days worked, and the time of day or night. Signs of fatigue can be similar to impairment from AOD use.

#### **4.3.2. Chemicals**

Many industrial chemicals, particularly solvents are known to have effects similar to fatigue or alcohol, including dizziness, inability to concentrate, perceptual and mood changes - all of which can be an impairment risk.

#### **4.3.3. Heat**

Working in hot conditions can result in a number of adverse health effects - ranging from discomfort to serious illness, which are generally grouped together as heat stress. Workers in a variety of occupations may be exposed to heat stress.

#### **4.3.4. Noise**

Not only is occupational noise a hazard, in terms of hearing loss - noise is a significant impairment hazard. Obviously, excessive noise in the work environment prevents everyone from hearing what is happening around

them, which could include instructions and / or warnings. Exposure to noise is also a significant cause of stress.

#### 4.3.5. Stress

When people are exposed to chronic, prolonged stress at work, they may experience any of a range of physical and psychological symptoms. Chronic stress can cause or worsen a range of ill-health problems, which can severely affect quality of life, including: cardiovascular disease; asthma; digestive disorders such as peptic ulcers and irritable bowel syndrome; psoriasis; sexual problems; depression; and alcohol and drug use.

### **4. 4 Impairment based approach**

4.4.1. The ACTU recommends that a workplace AOD prevention program should be:

- developed and coordinated jointly in consultation between the employer, workers and their representative;
- part of a comprehensive health and safety prevention program ;
- related to safety at work ;
- concerned with preventing impairment ;
- applicable to all parties in the workplace;
- consultative, educative and rehabilitative - not punitive ;
- able to maintain confidentiality at all levels.

4.4.2. It is always better practice to establish the cause of impairment by speaking to the worker/s and investigating exposure to the most common impairment hazards.

4.4.3. Workers who may have AOD problems should be provided with the opportunity to obtain assistance and be entitled to the same rights and benefits as any other worker who is ill. Problems in this area should not affect job security, or other employment conditions and workers should be entitled to the same respect, sick leave and confidentiality as workers with any other health problem.

4.4.4. If the impairment is related to working conditions, employers should initiate steps to remove the impairment hazards and ensure that workers are allowed to recover.

4.4.5. If the impairment is the result of the use of AODs, a non-punitive procedure is needed to deal with the impairment situation. Attached to this policy are guidelines for employers and workers on the impairment-based approach to drugs and alcohol in the workplace.

### **4. 5 Consultation, cooperation and education**

4.5.1. The development, implementation and monitoring of an appropriate policy must be done in consultation with workers and their unions. All parties have an obligation to cooperate with each other. Joint educative processes may also be of assistance.

4.5.2. The ILO regards consultation with workers and their representatives as a critical part of any policy development, implementation and monitoring.<sup>1</sup>

4.5.3. If any AOD program/policy is to be successful and have credibility, it must have acceptance amongst the workforce. Any policy that is developed in the absence of consultation and agreement with the workers and their representatives is only likely to create problems for the employer.

#### **4.6 Employer's responsibilities**

4.6.1. Employers are responsible for ensuring a safe working environment for all workers and the general public by identifying hazards that can lead to impairment, assessing the risks associated with all aspects of their operations and the taking of appropriate measures to eliminate and/or control them in consultation with the workforce and their representatives.

4.6.2. Employers should also be aware that the use of AODs might be a response to other work related issues over which the individual worker may have little control, including the following:

- shift work;
- long hours of work;
- hazardous work;
- boring, monotonous and repetitive work;
- poor work environment;
- unrealistic deadlines;
- job insecurity;
- lack of participation and/or control;
- inadequate training and/or supervision;
- stress.

4.6.3. Employers are also responsible for providing support to workers who have a problem associated with AOD.

4.6.4. Employers must recognise the workers' right to privacy.

#### **4.7 Workers' responsibilities**

Workers have responsibilities:

4.7.1. To recognise that AODs and work don't mix and that impaired workers can affect safety and work performance.

4.7.2. To ensure they do not attend work if they believe they are impaired by AODs.

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<sup>1</sup> The ILO Code of Practice on the Management of Alcohol – and drug – Related Issues in the Workplace is replete with references to consultation with “workers and their representatives” (ILO, 1996, pp1, 8, 10, 13, 14, 19, 20-21, 26, 28).

- 4.7.3. Workers should not (without permission) drink alcohol at work.
- 4.7.4. To participate in and abide by an agreed and appropriate AOD program.
- 4.7.5. Workers should consult with their doctor or pharmacist about possible side effects before medicine is prescribed.
- 4.7.6. If workers have been informed by their treating doctor of possible impairment as a side effect of the medication or feel impaired by prescription medication they should inform an appropriate person.

#### **4.8 Preliminary Impairment Assessment (PIA) by an appropriate person**

- 4.8.1. Where there is reasonable belief that a worker is impaired then a PIA may be conducted. A PIA can be conducted by an appropriate person who is trained to undertake such an assessment. A PIA is non-intrusive and observation based.
- 4.8.2. If it is the view of the appropriate person undertaking the PIA that the individual is impaired, the worker should be encouraged to voluntarily leave the workplace or, if appropriate, undertake non-safety critical duties. If the worker refuses to voluntarily leave or undertake non-safety critical duties, the appropriate person should refer the matter to the employer. The employer may direct the worker to leave the workplace. The employer should provide appropriate assistance to the impaired worker, including transport, to ensure their safe return home.
- 4.8.3. If workplace factors are considered to be the cause of impairment, the worker will be paid as per normal.
- 4.8.4. The worker should only return to work when they are no longer impaired.

#### **4.9 Disciplinary procedures**

- 4.9.1. The focus of any policy should be supportive and non-punitive. However, there may be cases where serious or persistent breaches of the agreed policy may warrant disciplinary action in association with remedial measures.

#### **4.10 Regulatory requirements**

- 4.10.1. The prevailing focus should be at an enterprise level through an agreement between the employer and workers and their representative. Any AOD policy developed by the parties should be read in conjunction with any regulatory requirements imposed upon the parties. Where there is an inconsistency the regulatory requirements will prevail.

#### **4. 11 Assistance to workers**

4.11.1. The issue of AODs in the workplace is essentially a health and safety issue and must be dealt with as such. As the International Labour Organisation states, "...alcohol – and drug – related problems should be considered as health problems, and therefore dealt with, without discrimination, as any other health problem at work and covered by the health care systems (public or private) as appropriate and practicable".<sup>2</sup>

4.11.2. Workers who have a problem associated with AOD usage should be offered appropriate assistance and support. For example, access to a worker assistance program. This would include the employer paying the fees associated with rehabilitation and/or referring the worker to counselling to a practitioner of the workers choice.

#### **4. 12 Right to representation and support**

4.12.1. Workers have the right to representation during any of the above processes, including representation from a workplace representative.

### **5 DRUG AND ALCOHOL TESTING**

- 5. 1 The ACTU recognises that in certain workplaces, drug and alcohol testing is prescribed by legislation and is unavoidable.
- 5. 2 Attached to this policy are drug testing procedural safeguards.

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<sup>2</sup> *International Labour Organisation (1996), Management of Alcohol – And Drug – Related Issues In The Workplace – An ILO Code of Practice.* International Labour Organisation, Geneva, 1996. p.8.

**APPENDICES**

The following appendices must be read in conjunction with the ACTU policy.

APPENDIX 1 – Assessment	p. 11
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APPENDIX 3 – Drug Testing Procedural Safeguards	p. 14

## **APPENDIX 1- Assessment**

1. Employers and workers and their representatives should jointly assess the effects of alcohol and drug use in the workplace.
2. The following indicators, among others, should provide useful information for identifying and assessing the nature and size of the problem in a given enterprise:
  - a. national and local surveys on prevalent consumption rates in the community;
  - b. surveys which have been carried out in similar enterprises;
  - c. absenteeism in terms of incidence of unauthorized leave and lateness;
  - d. use of sick leave;
  - e. accident rates;
  - f. personnel turnover;
  - g. alcohol consumption in the enterprise's canteen, cafeteria or dining area;
  - h. opinions of supervisors and managers, workers and their representatives, safety personnel, and occupational health and safety personnel.
3. Although the above indicators can only give an approximate idea of the extent of alcohol and drug-related problems collectively in the workplace, they should be useful in clarifying the enterprise's needs and priorities in the organization of prevention and assistance programmes.

Based on *ILO Code of Practice: Management of alcohol- and drug-related issues in the workplace, 1996*

## **APPENDIX 2 – Impairment Guidelines**

The ACTU supports a drug and alcohol policy that:

- is impairment based;
- has an adequate educational component;
- is co-ordinated jointly by employers, workers and their representatives;
- is non punitive and supportive;
- has a rehabilitation as a key component;
- provides a safe and productive working environment.

Any policy must recognise that the respective parties have responsibilities.

### **Example Impairment Clause**

1. If there is reasonable suspicion that a worker is a safety risk then:
  - a. Report that suspicion to the appropriate person<sup>#</sup>
2. The appropriate person will conduct a risk [impairment] assessment using the impairment checklist for drugs and alcohol.
3. If the appropriate person determines that the worker is a safety risk, the appropriate person will:
  - a. recommend the worker go home immediately;
  - b. arrange for a taxi, at the employer's expense, to take the worker home safely;
  - c. the appropriate person then informs the employer.
4. If the appropriate person determines that the worker is a safety risk but the worker refuses to go home:
  - a. the appropriate person immediately informs the employer;
  - b. the employer can direct the worker to go home or perform alternative duties.
5. Upon return to work, the worker will be directed to meet with the employer, the appropriate person and the union:
  - a. The worker receives a written warning and is offered rehabilitation;
  - b. If within the 12 month period since their first warning, the worker is impaired for a second time, they are given a second written warning and offered rehabilitation;

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<sup>#</sup> The appropriate person is a worker representative trained and competent to perform an impairment assessment.

- c. If within the 12 month period since their first warning, the worker is impaired for a third time they are give a their last written warning and rehabilitation is recommended;
- d. If within the 12 month period since their first warning, the worker is impaired for a fourth time they may be dismissed.

### **APPENDIX 3 – Drug Testing Procedural Safeguards**

Where drug and alcohol testing is prescribed by legislation and is unavoidable, the following procedural safeguards are mandated.

Any workplace drug testing program must be subject to procedural standards and other safeguards to protect the privacy interests of those who are obliged to submit to them.

No workplace drug testing program should be implemented before procedures are clearly established for:

- Sample collection, including procedures which preserve the privacy and dignity of the individual to the maximum extent practicable;
- Chain of custody procedures to prevent accidental loss or misidentification of samples and to prevent deliberate tampering with or exchange of samples;
- The testing methods to be used for each drug being tested for, including a requirement that all positive drug test results be repeated by the most accurate available method;
- The threshold concentrations for each drug which will determine whether a test result can be considered 'positive';
- The storage and security of personal information collected through the drug testing program;
- The use and disclosure of personal information collected through the drug testing program;
- Permitting the individuals tested to obtain access to personal information relating to their drug test, including the result and the conclusions, if any, drawn from the test and to seek correction of this information through repeat testing of the sample.

Organisations undertaking drug testing should have a formal written policy to consult with workers and their union and inform people about these procedures and in particular to enable them to easily ascertain:

- The circumstances in which they may be tested;
- The purpose of testing;
- The drugs that will be tested for;
- The various possible consequences of a drug test result.

Both the initial and confirmatory test must be preformed by a laboratory accredited by the National Association of Testing Authorities (NATA) to ensure that there are uniform standards covering all aspects of workplace drug testing from the collection and handling of samples through the use and disclosure of test results.

Workplace drug testing should be made subject to legislative provisions covering these matters.

At any stage the worker has the right to union representation.