

Dealing with **alcohol
and drugs** in work -
a manager's guide

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introduction

Fortunately many managers will never have to deal with an incident at work that has been caused by an employee's use of alcohol and / or drugs. However some will and the aim of this resource is to provide clear guidance and a step by step approach for those managers who do have to deal with incidents of this type.

It also sets out the steps you need to take to protect yourself, and the organisation you work for, from the adverse effects of an employee's use of alcohol and / or drugs in a way that impacts on his / her performance in work and ability to do the job.

This pack will help you identify and respond to situations in work where the performance of a member of your team is adversely affected by alcohol and / or drugs including prescribed drugs and over the counter medicines.

The following topics are addressed:

- definition of the terms that might be used by the person in their explanation of what is happening,
- a list of the names of illicit substances,
- a description of what they look like, how they are taken and the effect they might have on someone taking them
- signs and symptoms of inappropriate alcohol and drug use
- gaining support in dealing with a work related problem
- the law and how to respond
- referral pathways
- frequently asked questions

We hope you will find the checklist and flow chart helpful as you proactively and positively deal with these issues.

a checklist to get you started

Please tick the appropriate box in either the Yes or No column in response to each of the questions. Feedback on your responses is to be found in the next section 'Interpreting your responses'.

		Yes	No
1.	Does your organisation have a policy on alcohol and drugs?		
2.	Are your employees aware of the organisation's policy on alcohol and drugs?		
3.	Are your employees aware of the implications for them of the organisation's position on alcohol and drugs e.g. zero tolerance etc		
4.	Does your organisation allow drinking during the working day including lunchtime?		
5.	Do you think that one of your employees might have used or is using alcohol or drugs in an inappropriate way?		
6.	Have you ever had to deal with someone with an alcohol or drug related issue		
7.	Who, in your organisation, would you go to if you needed advice on what do if someone in your team was affected by alcohol or drugs while in work? Would it be someone from:		
	Human Resources (HR)?		
	Health and Safety (H & S)?		
	Occupational Health (OH)?		
	No-one?		
8.	Does your policy promote or make possible support for employees who have an issue with alcohol and drugs?		
9.	Are you aware of agencies in your area that you can refer people to?		
10.	Does your organisation test employees for alcohol and drug use?		

interpreting your responses

			Further action
1.	Does your organisation have a policy on alcohol and drugs?	If Yes	This is a great position to be in. Be sure that you are familiar with the responsibilities you have as a manager as outlined in your policy or statement. By the way, when was the last time the policy was reviewed – and is it up to date? For further information on policy development and review go to www.alcohol,drugsandwork.eu
		If No	Your company should consider developing a positive and proactive approach to alcohol and drugs. This would include creating a working group to take this forward that includes staff representatives, someone with responsibility for health and safety, a representative of senior management, and if you have access to these services, someone from Human Resources and someone from Occupational Health. For further information on policy development go to www.alcohol,drugsandwork.eu
2.	Are your employees aware of the organisation's policy on alcohol and drugs?	If Yes	Great! But sure that they continue to be aware and that briefings and awareness raising events are held regularly.
		If No	Your organisation needs to put in place communication processes / awareness raising events to help increase employees' awareness of the policy on alcohol and drugs. Consider your role in bringing this about.
3.	Are your employees aware of the implications for them of the organisations position on alcohol and drugs e.g. zero tolerance etc	If Yes	Take steps to maintain this awareness possibly through specific awareness raising events or through team or workforce briefings etc.
		If No	Action should be quickly taken to arrange short briefing sessions for the employees which raise awareness of the organisation's position on alcohol and drug use and work. Such sessions could be run in team meetings, toolbox talks, workforce briefings etc.
4.	Does your organisation allow drinking during the working day including lunchtime?	If Yes	Consider whether this approach is suitable or appropriate. You run the risk of encountering problems linked to safety, inappropriate behaviours, performance, increased mistakes, absence and accidents, and higher levels of 'presenteeism'.
		If No	A zero tolerance approach provides a crystal clear position that reduces grey areas and makes the job of a manager easier. Such an approach sends the strongest possible message to employees that working while under the influence of alcohol or drugs is not acceptable.



cont...		Further action	
5.	Do you think that one of your employees might have used or is using alcohol or drugs in an inappropriate way that is impacting on their work?	If Yes	Consider what action has been taken already - has this addressed the problem. If not consider the further action that may be needed and use this resource to help you.
		If No	Consider yourself lucky! This is a problem that occurs in almost every workforce. It is recommended that you develop a strategy that is firmly in place should any situation arise in the future.
6.	Have you ever had to deal with someone in connection with an alcohol or drug related issue	If Yes	Can you apply the experience gained last time? If the situation was resolved positively take the learning points and apply them appropriately. If the issue was resolved unsatisfactorily the actions suggested in this guide will give you a foundation for dealing with this situation.
		If No	The actions suggested in this guide will give you a foundation for dealing with this situation. A range of scenarios and suggested solutions is provided in the FAQ's section
7.	Who, in your organisation, would you go to if you needed advice on what to do if someone in your team was affected by alcohol or drugs while in work? Would it be someone from:		
		Human Resources (HR)?	<p>If Yes</p> <p>Ensure that the human resources advisor is up to date and knowledgeable on the law in relation to alcohol and drugs and fully understands the organisation's position on the topic</p> <p>If No</p> <p>Consider who you would go to should an issue arise. Help can also be gained by contacting 'Work Boost Wales'. Other sources of advice would include specialist agencies (see list at the end of this resource).</p>
	Health and Safety (H & S)?	If Yes	All organisations will have a nominated lead for health and safety and / or a specialist external provider. Consideration should be given to involving health and safety in the solution to the issue.
		If No	All organisations should have someone who is responsible for health and safety. However if your organisation doesn't, or if you are not able to access them then contact 'Work Boost Wales'. Other sources of advice would include specialist agencies (see list at the end of this resource).



cont...		Further action	
	Occupational Health (OH)?	If Yes	Occupational health can provide support and advice for you, the manager, and the individual who is a cause for concern. Involve them as early in the process as you can.
		If No	If you do not have an occupational health provider help can also be gained by contacting 'Work Boost Wales. Other sources of advice would include specialist agencies (see list at the end of this resource).
	No-one?	If Yes	Help can also be gained by contacting work boost Wales. Other sources of advice would include specialist agencies (see list at the end of this resource).
8.	Does your policy promote or make possible support for employees who have an issue with alcohol and drugs?	If Yes	If yes, well done. This is the correct approach. It is important to strike a balance between supporting an individual and discipline in certain circumstances.
		If No	Consider changing the organisation's policy so that support can be provided to staff with a problem. By doing this key knowledge, skills and competencies can be retained.
9.	Are you aware of agencies in your area that you can refer people to?	If Yes	Great, use them! Check that they have the relevant knowledge, skills and competencies, that they can provide management support in a timely way, and if referring a member of staff to them that the waiting lists are reasonable – ideally two weeks or less for the first appointment.
		If No	Refer to the list at the end of this resource to identify agencies that can help you resolve this problem.
10.	Does your organisation test employees for alcohol and drug use?	If Yes	Ensure that a protocol has been developed for undertaking testing and that you know what to do once a positive result is obtained.
		If No	Your organisation should give careful consideration to the introduction of testing. This is not without difficulty. For further information see the FAQ's and also refer to www.alcoholdrugsandwork.eu

alcohol and drugs

When a member of staff is in work and is thought to be under the influence of either alcohol and / or a drug it is important to understand the issues that may be present. To help you do this the following section provides you with a definition of the terms that might be used by the person in their explanation of what is happening, together with a list of the names of illicit substances, a description of what they look like, how they are taken and the effect they might have on someone taking them.

Definition of terms

Drugs (See Note 1)	<i>"The scientific definition of a drug is that it is a substance that by its chemical nature affects the structure or function of a living organism"</i> (From Dusek and Girdano 1993). It alters the way in which the body or mind works. The term drug applies to alcohol, drugs controlled under the Misuse of Drugs Act 1971, prescribed drugs, over the counter medication and solvents. It is acknowledged that nicotine and caffeine are also drugs, but these will not be addressed in this pack. (Drugs at Work, Health Promotions, Grampian Health Board 1998)
Prescription only medicine (POM)	A medicine that is obtained on prescription. This may refer to methadone, tranquillisers and anti-depressants.
Pharmacy medicines (P)	Medication that is available without a prescription but provided only under the supervision of a pharmacist.
General sales list medicines (GSL)	Medicines that are available from pharmacists without a prescription e.g. proprietary cough and cold medication.
Inappropriate use	<i>"Using a drug or alcohol in a way that affects an individual's ability to do their job effectively, reporting for work, working or attempting to work whilst impaired through drink or drugs, dispensing, distributing, manufacturing, possessing, using, selling or offering to buy or sell a controlled drug"</i> .
Recreational use	The use of drugs or alcohol for pleasure or leisure. The term is often used to denote the use of E (ecstasy) and other "dance" drugs. It implies that drug use has become part of a person's lifestyle even though they may only take drugs occasionally.
Problem use	Refers to drug use and alcohol use which could be either dependent or recreational. It is not necessarily the frequency of the drug or alcohol use that is the problem, but the medical, legal, social and employment consequences that affect the user's life.



Compulsive use	Compulsive users are either physically and or psychologically dependent on their habit.
Dependence	Describes a compulsion to continue taking a drug to feel good or avoid feeling bad. When this is done to avoid physical discomfort it is known as physical dependence, when it has a psychological aspect (the need for stimulation or pleasure or to escape reality) then it is known as psychological dependence (ISDD 1996).
Addiction (See Note 2)	Implies that a drug dependency has developed to such an extent that it has serious detrimental effects on the user. (ISDD, 1996)

Note 1: Hard drugs - A term in common use which refers to drugs which are seen to be more dangerous and more likely to cause dependence such as heroin and cocaine

Soft drugs - A term in common use which refers to drugs that are seen to be less harmful – even though this is not necessarily the case!

Although in common use these terms will not be used in the remainder of this guidance as drugs should not be categorised as “hard” and “soft”. It is the way that the drugs are used and the circumstances around their use that cause the harm and associated problems, not the substances themselves. For example the use of Rohypnol, a legitimate drug used in the short-term treatment of sleep disorders that has been abused for more sinister purposes.

Note 2: The term drug misuse is often used to refer to the use of illegal drugs and the misuse, whether deliberate or unintentional, of prescribed drugs, and substances such as solvents. In this pack the preferred term is inappropriate use.

alcohol and drugs: their appearance and their effects on health and performance

Class A Drugs

Name and street/trade name	What it looks like / How taken	Desired effects	Possible harmful effects
Cocaine / coke, Charlie, snow, base, C	Sold as a white powder / Snorted in powder form, injected, or smoked	Sense of well-being, excitement, alertness and confidence	Dependence, respiratory or heart failure, damage to nasal membranes, short term psychological disorders including paranoia, may also occur
Crack /freebase, rock, wash, Stone)	Small crystals / generally smoked through a pipe	As cocaine but much more intense	Same as cocaine, but smoking crack can also lead to breathing problems
Ecstasy / E, XTC, doves, disco biscuits, echoes, Scooby doos (Chemical name MDMA)	Usually in tablet form / swallowed	Alert and energetic but with calmness and a sense of well-being towards others. Heightened sense of sound and colour. Increased energy and stamina.	Possible nausea and panic, overheating and dehydration if dancing which can be fatal. Use has been linked to liver and kidney problems. Long term effects not clear but may include mental illness and depression.
Heroin / smack, horse, gear, H, junk, brown, stag, scag, jack	Usually a brown powder derived from the opium poppy and can be used as a strong painkiller / can be injected, sniffed or smoked when burnt on a piece of foil and inhaled. Is available on prescription as diamorphine (used as a strong painkiller)	Drowsiness, sense of warmth and well-being. The person feels relaxed, free from worry and pain.	Physical dependence, tolerance, overdose can lead to coma and even death. Sharing injection equipment increases risk of HIV and / or hepatitis infection. Heroin may be cut with other substances such as crushed paracetamol it is thus difficult to know how strong or pure the heroin is which increases the risk of overdose.
LSD / acid, trips, tabs, dots, blotters, microdots	Impregnated on paper / swallowed with the effect being experienced 30 to 60 minutes later, and lasting 8 to 12 hours.	Hallucinations including distorted or mixed up sense of vision, hearing and time. The effects depend to some extent on the mood of the person taking the drug and this can determine whether they have a 'good' or 'bad' trip.	There is no way of stopping a bad trip that may be a very frightening experience. Increased risk of accidents due to impaired judgement. Can trigger underlying psychological problems – delusions, paranoia and schizophrenia like states
Magic mushrooms, shrooms, mushies	Fungi that grow wild in the UK / eaten raw or dried, mixed with food, or brewed in a tea	Strong hallucinogenic properties. 20 to 50 mushrooms will cause a trip which will last anything between 4 to 12 hours. Low amounts may produce a sense of detachment and joyfulness.	As for LSD with the additional risk of sickness and poisoning. There are no physical or psychological dependencies and the biggest risk is probably mis-identification as some species are highly poisonous. Possession of raw mushrooms is not illegal but once dried or processed in any way Class A penalties apply.



Class A Drugs cont...			
Name and street/ trade name	What it looks like / How taken	Desired effects	Possible harmful effects
Methadone	A green or yellowish liquid also produced in injection and tablet form that is available on prescription to be used as a substitute for heroin as part of a withdrawal programme.	Mimics the action of heroin and other opiates, effects of methadone last longer than heroin producing similar feeling that are often not as intense	Side effects include constipation, sweating and itchy skin, dependency on methadone can occur. If it is mixed with heroin or other depressant drugs such as alcohol the risk of overdose is greatly increased.

Class B Drugs			
Name and street/ trade name	What it looks like / How taken	Desired effects	Possible harmful effects
Barbiturates, barbs or downers	Tablets, capsules, ampules / swallowed or injected.	Calm and relaxed state. Larger doses produce a drunken effect	Dependency and tolerance. Overdose can lead to coma or even death, severe withdrawal symptoms.
	Powders formed into a variety of tablets or more commonly a sulphate powder / dissolved in drinks, injected or sniffed	Stimulates the nervous system, feeling of energy, wakefulness.	Loss of appetite, insomnia, mood swings, irritability, panic. The come down (hangover) can be severe. Heavy regular use can lead to temporary psychological disorders.
Cannabis, hash, dope, grass, blow, ganja, weed, puff, marijuana, shit	The most commonly used form is the solid brown lump of resin called hash or hashish which is sold by weight. The leaves stalks and seeds of the plant are known as grass. Generally mixed with tobacco and rolled into a cigarette called a joint, refer or spliff. It can also be smoked in a pipe, brewed in a drink or eaten.	Relaxed, talkative state, heightened sense of sound and colour, increased appetite.	Impaired co-ordination and increased risk of accidents, poor concentration, anxiety, depression, increased risk of respiratory diseases including lung cancer.



Class C Drugs			
Name and street/trade name	What it looks like / How taken	Desired effects	Possible harmful effects
<p>Tranquillisers, brand names include diazepam (valium), Ativan, mogadon (moggies), Temazepam (wobblies, mazzies, jellies)</p> <p>Prescribed drug. It is not illegal to possess without a prescription apart from Temazepam, but supply is subject to Class C penalties</p>	Swallowed as tablets or capsules, injected.	Relief of anxiety, sleeping problems or mental distress	<p>Dependence and tolerance.</p> <p>Increased risk of accidents, overdose can be fatal, severe withdrawal symptoms.</p> <p>Withdrawal should be conducted under medical supervision.</p>
<p>Anabolic steroids</p> <p>Many trade names</p>	Can be swallowed in tablet form or injected	With exercise can help to build up muscle.	<p>For men: problems with erection, risk of reduced sex drive, lower sperm count, reduction in the size of testicles and the growth of breasts</p> <p>For women: development of male characteristics – body hair, deeper voice</p> <p>For children and young people: can impair growth and risk of liver damage</p> <p>When taken by injection increased risk of HIV and hepatitis infection</p>
<p>Amyl, alkyl and butyl nitrites, poppers, liquid gold, rush</p> <p>Possession is not illegal, but sale can be an offence</p>	Vapours which are inhaled through the mouth and nose	Brief and intense head rush caused by a sudden surge of blood through the brain. Heart rate accelerates, blood pressure drops	<p>Nausea and headaches, drop in blood pressure can cause fainting and loss of balance.</p> <p>Particularly dangerous to people with heart conditions, blood pressure problems or glaucoma.</p> <p>Swallowing poppers can lead to unconsciousness.</p>
<p>Solvents, lighter gas refills, aerosols, glue, petrol, paint thinners and correcting fluids.</p> <p>Not illegal to possess, but it is illegal for a shopkeeper to sell solvents to anyone if they suspect that it is going to be inhaled</p>	Sniffed or inhaled	Similar to those of alcohol. Short lived effects including thick headed, dizziness and possible hallucinations	<p>Nausea, blackouts, increased risk of accidents, heart failure and physical exertion after inhalation are the most common factors causing death. Directly spraying aerosols into the mouth can cause freezing of the throat and suffocation.</p>

Signs and symptoms of the inappropriate use of alcohol and drugs

The following are signs and symptoms that someone might display if they are using alcohol and / or drugs inappropriately. It is important to realise that it is rare to only see one of the signs or symptoms on the list below, it is more usual to see two or even a cluster of them. It is also important to note that some of the signs below can be triggered by other health issues, in particular acute levels of pressure and / or stress

Work related signs of inappropriate use of alcohol and drugs include:

<ul style="list-style-type: none"> ○ Absenteeism <ul style="list-style-type: none"> • Unauthorised leave • Friday and or Monday absences • High levels of sickness absence • High levels of self certified sickness absence • Improbable excuses for absence 	<ul style="list-style-type: none"> ○ Work performance <ul style="list-style-type: none"> • <i>Periods of high and low productivity</i> • <i>Lower quantity / quality of work</i> • <i>Missed deadlines and appointments</i> • <i>Increased number of mistakes</i> • <i>Difficulty in concentrating and remembering instructions</i> • <i>Increased complaints</i> • <i>Avoidance of authority</i> • <i>Procrastination – frequently putting off tasks to another time</i>
<ul style="list-style-type: none"> ○ High accident level <ul style="list-style-type: none"> • At work and / or elsewhere • Particularly on Mondays or Fridays • Repeated violation of safety practices • After break / rest periods 	<ul style="list-style-type: none"> ○ Lateness <ul style="list-style-type: none"> • <i>Poor timekeeping</i> • <i>Arriving late / leaving early</i>

Other signs include

• Deterioration in appearance	• <i>Mood swings</i>
• Tiredness and exhaustion	• <i>Impaired coordination</i>
• Poor concentration	• <i>Blackouts</i>
• Headaches	• <i>Smell of alcohol</i>
• Unclear or slurred speech	• <i>Dehydration (drinking a lot of water for example)</i>
• Loss of weight	• <i>Blood-shot or bleary eyes, dilated pupils</i>
• Sweating	• <i>Tremors</i>

If a member of staff arrives in work displaying any of the above signs then an immediate investigation should be undertaken to determine their fitness for work. In all situations caution should be exercised before permitting someone to continue working.

If there is any doubt that the person is fit for work then the person should be taken / sent home safely and the investigation resumed the next time the person is in work in a fit state.

gaining **support** in dealing with a work related **problem:** who can help?

If you have a member of the team who you suspect is drinking inappropriately or is taking drugs and this behaviour is impacting on the individual at work, guidance and support is available from several sources.

a. Human Resources Advisor

If your organisation has a Human Resources (HR) department or has access to Human Resources advice either externally or from another site in the company, it is well worth contacting them before taking action.

The HR Advisor will be able to tell you the best way to handle the particular situation e.g. if an individual arrives at work one morning smelling strongly of alcohol, what is the most suitable course of action to take? There are various options open to you:

- a) Leave the individual to him / herself until he / she feels better and can continue to do the job
- b) Tell the individual to go home and to come and see you the next morning
- c) Make arrangements for the individual to go home either by taxi or by someone taking them home to ensure they get home safely and ask them to come to see you the following morning
- d) Send the individual to the First Aid room to 'sleep it off'

Option C is usually the most appropriate form of action but your HR specialist will not only be able to recommend the most suitable way forward, they will also be able to refer to any relevant company policy e.g. alcohol and drug policy, disciplinary policy to ensure consistency of practice. They will also be able to advise you on how best to conduct the investigatory interview the next day.

There are many different situations that arise in the course of the working day where alcohol and drugs might be an issue. Even if the HR Advisor is not certain of the exact course of action to take, he / she should be able to access specialist support or have access to specialist resources which will assist in handling the situation appropriately.

The HR Advisor will also be responsible for developing / maintaining an alcohol and drug policy for the organisation and should be able to offer guidance on the legal position in relation to any particular situation that arises.

b. Occupational Health

If your organisation has access to an Occupational Health Service / advisor contact them immediately. The Occupational Health (OH) Advisor can provide support for individuals who have any type of problem that is connected with alcohol and drugs. If it appears that a member of the team has an alcohol and / or drugs issue of any kind, it is advisable to treat that individual as if they had an illness / incapacity and to offer them support. The OH Adviser will be able to make an assessment of the employee's condition and offer them the most appropriate type of support e.g. a referral to an external specialist agency, referral to the individual's G.P or a referral to the organisation's counselling provider (if they have one), whichever is the most suitable in the circumstances.

The OH Advisor can then ensure that the individual's condition is reviewed regularly particularly if he / she remains in work while receiving treatment.

If you are unsure about what support the organisation can offer to an individual with an alcohol or drug issue, of any kind, the OH adviser is a very useful first 'port of call'.

It is important to remember that OH works under strict terms of confidentiality so will only discuss a situation with you with the employee's permission or when a safety critical situation exists and the health and safety of that individual and / or others is at risk.

c. The manager

It is your responsibility to ensure that the performance and behaviour of each member of your team is up to the standard required by the organisation. If an individual does not conform to the appropriate standard, then you need to address the issue with the person concerned.

It is important that you take action as soon as you suspect that an individual's performance at work could be affected by alcohol or drugs. You are also responsible for ensuring that your team is informed of the organisation's policies and how to access them. This will include an alcohol and drug policy, if the organisation has one. You should keep up to date with the terms of any policy changes and communicate these to the team.

If you have a situation involving alcohol and drugs that is difficult to resolve, you can refer on to a more senior manager, Human Resources or Occupational Health for further support. If your organisation does not have access to these services please see the list of local resources in at the end of this resource.

d. The employee

It is up to every employee to ensure that he / she is aware of the terms of the organisation's alcohol and drug policy or stated position on alcohol and drugs; he / she is also responsible for behaving according to the terms of the policy / statement e.g. if it is a zero tolerance policy and no drinking is allowed before work or during the working day.

Each employee is responsible for his / her own health and safety at work ensuring that they do not knowingly put any colleagues at risk at any time.

If an employee approaches a colleague concerning an issue connected with alcohol and drugs, it is advisable to encourage him / her to speak to HR or the OH Advisor.

the law and how to respond

The law when it comes to alcohol and drugs at work falls into several categories

- Alcohol and drugs specifically
- Health and safety law
- Human rights law
- Data protection law
- Employment law

The law, in relation to alcohol and drugs is not always straightforward and may often take into account several of the areas mentioned above at the same time.

If you come across a situation where the law is under question it is always advisable to seek specialist advice. Your HR Advisor will either be able to offer that advice or will be able to refer you for an expert opinion.

A brief resume of the law as it stands at the time of writing is detailed below.

Alcohol and drugs specifically

The Misuse of Drugs Act (1971) is the main legislation in the UK for controlling drugs. Nearly all drugs with misuse and / or dependence liability are covered by this Act. The Act makes the production, supply and possession of controlled drugs unlawful except in certain specified circumstances (e.g. when they have been prescribed by a doctor). See the link for details of drugs and their penalties:

http://www.drugscope.org.uk/resources/faqs/faq_pages/what-are-the-uk-drug-laws.htm

If an employer (or the employer's representative) knowingly permits the production or supply of any controlled drugs, the smoking of cannabis or certain other activities to take place on his / her premises, he / she could be committing an offence.

There are also specific laws relating to those working in particular industries. For example, The Transport and Works Act (1992) makes it a criminal offence for certain workers to be unfit through drink and or drugs while working on railways, tramways or other guided transport systems. This includes all railway workers / contractors.

The Railways and Transport Safety Act 2003 sets an alcohol limit of 20 milligrams for aircrew. In industries such as the railway industry and the aircraft industry alcohol and drug testing is commonly in place.

There is also the legislation that relates to driving. The Road Traffic Act (1988) states that 'any person, who when driving, or attempting to drive a motor vehicle on a road or other public place is unfit to drive through drink, drugs or volatile substances, shall be guilty of an offence.'

If an employee is convicted of a drink driving offence and his / her job involves a reasonable amount of driving, the employer will need to decide what action to take. Although dismissal may be an option, he / she needs to discuss the possibility of alternative employment and any other courses of action before making a decision.

Health and Safety Law

The Health and Safety at Work Act (1974) places a general duty on employers to ensure the health, safety and welfare of their employees. This includes providing and maintaining a safe place and a safe system of work as well as adequate supervision. Employers must ensure that employees do not constitute a danger to others or do not injure themselves. Failure to protect third parties is also a criminal offence.

Under the Management of Health and Safety at Work Regulations (1999) employers have a duty to conduct a risk assessment of the risks to the

health and safety of employees and others affected by the organisation. The use of alcohol and drugs at work inappropriately can be covered by either of these laws depending on the circumstances.

Human Rights Law

Article 8 of the Human Rights Act (1988) sets out the right to respect for family and private life. It also covers how organisations hold and use information about employees. The act has been cited as one of the main arguments against alcohol and drug testing at work.

Data Protection Law

Employers need to ensure that the processes and procedures that they use in the collection and storage of information relating to employees conform to the latest requirements of the Data Protection Act 1998. This becomes relevant if alcohol and drug testing is introduced and confidential employee data is kept in work.

General Employment Law

This is a complex area and there are many varied implications for alcohol and drug use in work in terms of general employment laws and practices.

Alcohol and drug misuse can trigger several different issues for you to deal with which could include: misconduct, performance, health and safety and dishonesty. The key to dealing with these issues successfully is to aim to be as consistent as possible when treating employees, with similar offences resulting in similar sanctions.

It is important for you to be clear about whether any misuse of alcohol and drugs that impacts on work is occasional or happens regularly. If it's occasional, it is more likely to be considered as misconduct, if it happens more frequently or there appears to be an addiction, it is more likely to be considered as a capability issue. There are different ways of dealing with the two issues.

Treating the misuse as a capability issue has the benefit of offering the employee support and rehabilitation opportunities. However, there are still some circumstances where an employer will need to treat the inappropriate use of alcohol or drugs as misconduct. For example, cases of unauthorised absence, erratic behaviour or fighting or attending work while under the influence of alcohol could result in disciplinary action.

In any of the instances cited above, it is important that a proper procedure is followed and that the employee is aware of the possible consequences of his / her behaviour.

If an employee's actions out of work impact directly on the business, an employer might be entitled to take action e.g. if an employee's performance suffers due to out of work recreational drug use or an employee has been charged with a drug-related offence, the employer might be able to show that the employee's behaviour reflects badly on the organisation.

If an employee is dependent on alcohol or drugs it is possible, in certain circumstances, that he / she could have grounds for a claim under the Equality Act 2010, for reasons related to a dependency. While alcoholism or drug addiction are not in themselves classified as disabilities under the terms of the act, there may be indications of other conditions e.g. stress, depression etc.

Some people may use alcohol and drugs to alleviate the symptoms of stress. Employers need to be mindful that if the stress is caused primarily or largely by work related factors, then employers may have a liability for the consequences of this behaviour and the employee could make a personal injury claim against the business.

If you encounter any of the situations described above then it is important to seek specialist support (HR, OH or an employment law specialist) before taking any definitive action.

Please note, that the law is constantly changing and the above is relevant at the time of writing.

frequently asked questions

Q. *My organisation does not have an alcohol and drug policy and I've noticed one of my team, coming into work smelling of alcohol and looking bleary eyed on more than one occasion. What do I do?*

A. There are two main issues here, firstly the importance of having a policy and secondly, how to deal with an individual who you suspect of coming into work under the influence of alcohol.

Firstly, if an organisation has a clear policy statement on alcohol and drugs at work, it is much easier for managers to know when and how they must deal with an issue related to alcohol and drugs. The policy should set out what to do when the terms of the policy are breached. Having a policy at work also clarifies what is acceptable and non acceptable behaviour in terms of alcohol and drugs for all employees.

An alcohol and drug policy should be written in the same format as your organisation's other policies and should clearly set out what standards of behaviour are acceptable to the organisation and when drinking is not permitted. There is normally a blanket statement prohibiting the taking of illicit drugs and advice for employees on when they need to inform the organisation if they are taking prescribed or over the counter drugs.

If an alcohol and drug policy is being introduced to the organisation, it is important to ensure that Trade Union / staff representatives are consulted on the terms of the policy, that there is a detailed timetable for the implementation of the policy and all staff are informed of the terms of the policy and the timetable for activating it.

Secondly, if an employee comes into work smelling of alcohol, looking bleary eyed and 'unwell', you need to ensure that the individual goes straight home from work safely i.e. arranges someone from the organisation to take him / her home or provides a taxi to take them home.

You would arrange to see the individual on his / her return to work usually the following day. At that interview, you will need to carry out an investigation about what happened and make a decision whether further action is necessary. That action could include a disciplinary interview, referral to Occupational Health, an alternative form of support e.g. counselling depending on the exact circumstances of the incident.

Q. *My organisation has an alcohol and drug policy but it is currently under review. Up until now employees have not been permitted to drink alcohol before or during work time but were allowed to drink during their (unpaid) lunch period. Indeed, it is common practice for a group of staff to go out for a drink Friday lunchtimes or to celebrate a colleague's birthday or promotion. Senior managers want to stop lunchtime drinking. What should we do?*

A. Employers need to consider all the implications in deciding whether to enforce 'a zero tolerance' ban on drinking including lunchtime drinking. The benefits of having a zero tolerance policy include the fact that employees know exactly what is permitted in the organisation; in other words there are fewer 'grey areas'.

It also means that all employees irrespective of grade, type of job and whether the job is safety critical or not are treated the same. It is also beneficial to have a zero tolerance policy in terms of promoting health and wellbeing of the workforce.

The disadvantage of introducing a zero tolerance policy is that it might be contrary to the established culture of the organisation, therefore staff might not wholeheartedly support it initially. However, the way in which this is consulted, communicated and introduced to staff can help to get over some of these problems.

It is important that if a zero tolerance approach is chosen, it is strictly and consistently enforced throughout the organisation. The policy needs to state explicitly that, should employees wish to celebrate an occasion with their colleagues it is fine to do so providing it is at the end of their working day. If for example team members celebrate a Christmas lunch together which includes alcohol, then they would not be expected to return to work afterwards.

Q. The Health and Safety Manager in my company has said he wants to introduce alcohol and drug testing for safety related jobs. Are there any drawbacks to testing?

A. The decision to undertake alcohol and drug testing should not be taken lightly. The law in connection with testing is complex and there are many issues to consider, for example when to test e.g. pre-employment, after an incident, when behaviour calls for it, random testing etc? The organisation also needs to decide what methods of testing to use and to check that any providers they use are credible and follow recommended practices.

There are currently several methods of testing that are not considered reliable by an Employment Tribunal, should an employee claim for unfair dismissal due to being dismissed for a positive test.

If the organisation is a safety critical one, then alcohol and drug testing may be more acceptable. Before introducing any testing programme refer to guidance such as: 'Guidance on alcohol and drug misuse in the workplace' Faculty of Occupational Medicine 2006 or www.ico.gov.uk

Q. My organisation has introduced an alcohol and drug testing programme, that includes random testing. One of the members of my team has just had a positive test for cannabis. Do I dismiss him?

A. Random testing should be limited to employees who hold safety critical positions. Testing to detect illegal substances can be justified when illegal use breaches the employee's employment contract (i.e. the contract explicitly states that testing will take place and a positive test will result in dismissal) or if the illegal use causes damage to the business e.g. by undermining public confidence in some way.

If an employee who does not hold a safety critical position has a positive drug test, a dismissal of that individual on no other grounds is likely to be unfair. Therefore alternative disciplinary action needs to be considered. ▶▶▶▶

Q. *We introduced alcohol and drug testing a year ago. One of the members of the team has refused to sign a form agreeing to testing. What shall I do?*

A. If the testing was introduced as part of the employees' contract of employment, then refusal to agree to testing, will be refusal to agree to a contractual term. In this case disciplinary action is appropriate. However, if the testing does not form part of the employment contract, it is more difficult to insist that the testing takes place. Employees cannot be forced to take tests. It is important to bear in mind the facts of each individual case.

Q. *A small amount of an illegal substance was found in the locker of one of our employees. What do I do with it?*

A. Employers have a duty to report cases of possession of illegal drugs to the police under The Misuse of Drugs Act 1971. However if an employer is considering involving the police, it is vital that suspicions of possession are based on very strong grounds. If not, involving the police could result in a fundamental breach of the implied term of trust and confidence that will entitle the employee to resign and claim constructive dismissal.

Q. *We have been supporting one of our employees with an alcohol problem. He has been receiving treatment and is now back in work. However, he has left the programme he was following and has suffered a relapse. Should we sack him now?*

A. It is normal for individuals who have a dependency problem to suffer one or more relapses, when they are receiving treatment. The organisation needs to be clear on how many relapses are acceptable before disciplinary action will take place. As a caring employer, it is recommended that you support an individual through relapse but each individual case needs to be considered on its own merit.

Q. *One of my team members was drunk at work and was shouting and yelling at two of his colleagues, who have made a complaint to me about his behaviour. Do I need to take this complaint seriously?*

A. Yes, employers who fail to deal with employees who are intoxicated at work could be liable. An employer may be held vicariously liable in law for the behaviour and actions of their employees if they behave inappropriately towards other employees or customers. Employers should not tolerate inappropriate consumption of alcohol during work time or related improper behaviour during work.

Q. *We are taking our staff out for a Christmas celebration. The function is after working hours and will include alcohol. We are providing one drink and then a bar is available for further drinks. Someone has asked me if we are providing transport to and from the function. Do we need to?*

A. As a caring and responsible employer, it would be good practice to provide transport particularly at the end of the evening. If you do not provide transport and an individual drives after the event having had several alcoholic drinks and an accident occurs, there could be an argument that the employer is vicariously liable for the behaviour and actions of the employee (see previous question). It is much better practice to make transport arrangements so that if an employee does not take advantage of these, drives and an incident occurs, it would be solely the responsibility of the individual.

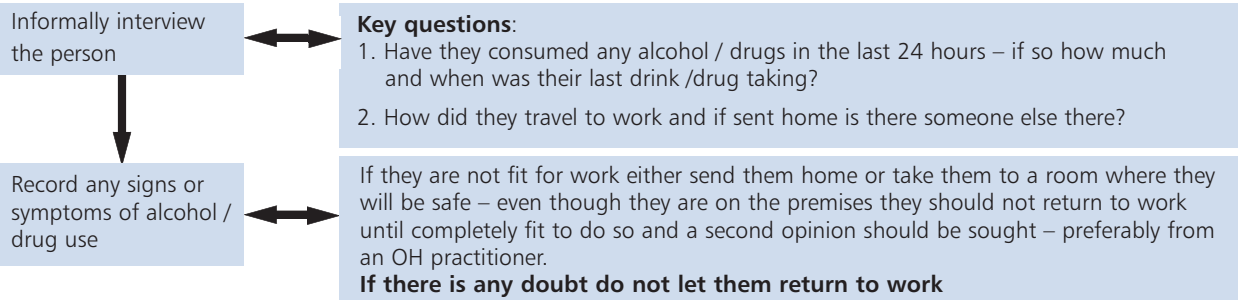
Q. *One of our employees has just informed me that he has been found guilty of drink driving and has lost his driver's license for a year. He needs to drive for his job. Can I sack him?*

A. It is important to look at how much driving is involved in your employee's job and whether he can still carry out his job without it. For example, if driving forms only a small part of the job, then a good employer would make alternative arrangements for the year of the ban. If, however, driving forms the main part of the job e.g. the individual is employed as a lorry driver, then the Employment Tribunal would expect the employer to see if there is alternative employment for the employee. If no alternative employment can be found within the organisation after a reasonable time of looking, and the employee is then dismissed, the dismissal may be seen as fair.

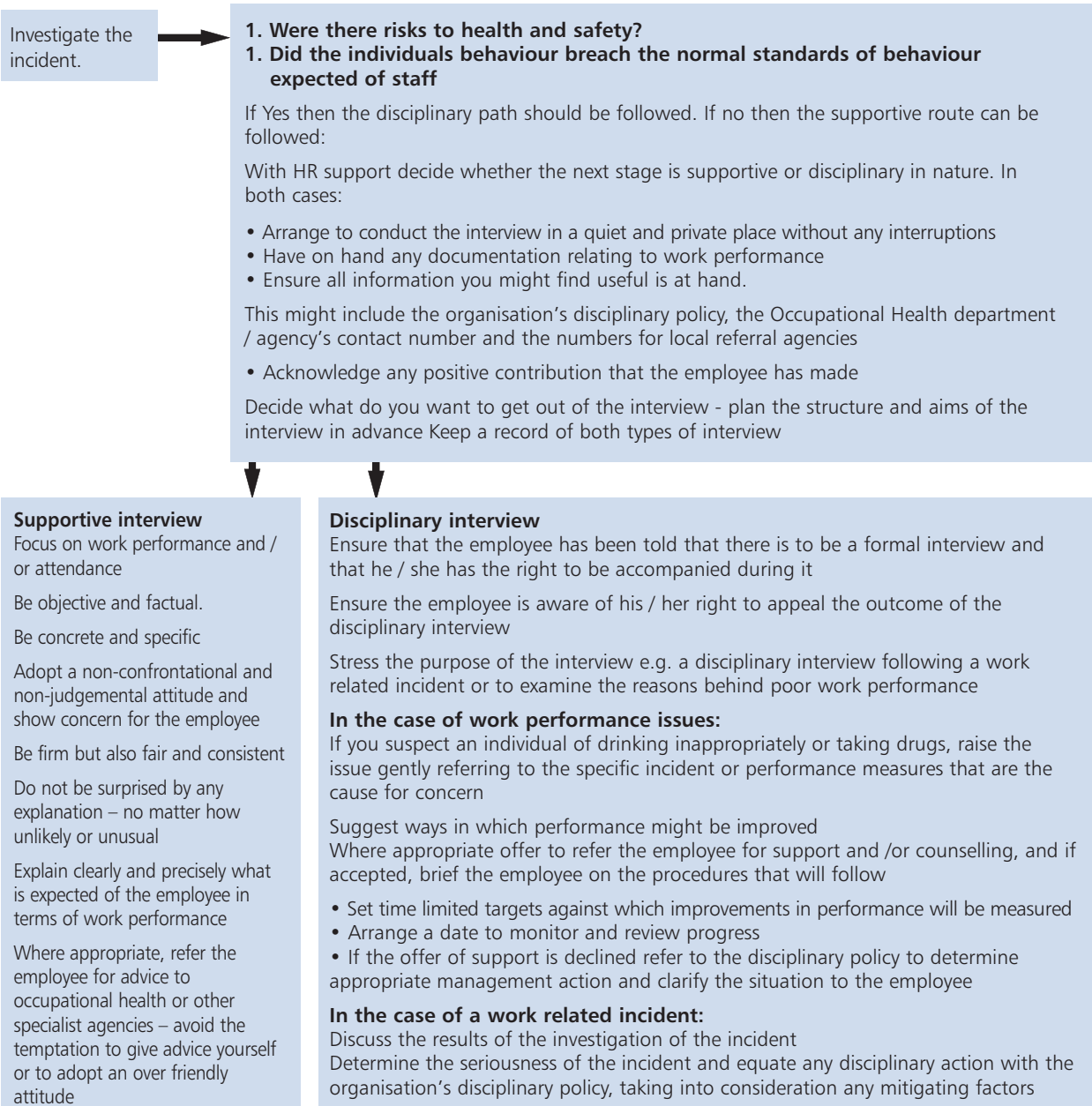
Dealing with the issues

Use this flow chart to help you decide what to do if a member of your team comes into work and you suspect that they are not fit for work as a result of alcohol and / or drugs.

1. On the day of the incident



2. Investigating the incident when the person returns to work



A list of local support agencies and how they can be accessed

Affect

Discreet treatment services for employees across the UK
www.affect-ltd.co.uk
enquiries@affect-ltd.co.uk
Tel: 01244 893202

Brynawel House

Residential alcohol rehabilitation centre
Llanharry Road
Llanharen
Rhondda Cynon Taff
CF72 9RN
Tel: 01443 226864

CAIS

Provider of drug and alcohol services in North Wales
No. 12 Trinity Square
Llandudno
Conwy
LL30 2RA
Tel: 084506 12112

Choeselife Centre

Drug and alcohol intervention service in Carmarthenshire
Antioch Centre
Copperworks Road
Llanelli
Carmarthenshire
SA15 2NE
Tel: 01554 771122

Cyswll

Information and advice on alcohol, drug abuse and eating disorders in West Wales
49 North Parade
Aberystwyth
Ceredigion
SY23 2JN
Tel: 01970 626470

Drugaid Wales

Helping individuals and communities tackle drug and alcohol problems in South Wales
16 Clive Street
Caerphilly
Mid Glamorgan
CF83 1GE
Tel: 0870 060 0310

Gwent Alcohol Project *Alcohol counselling and information service*

1 Palmyra Place
Newport
NP20 4EJ
Tel: 01633 252045

Pen Yr Enfys

Support for those who have or may be developing alcohol or substance problems in Cardiff and the Vale of Glamorgan
182a Cowbridge Road East
Canton
Cardiff
CF11 9NE
Tel: 02920 388715

Powys Drugs and Alcohol Service

Drug and alcohol treatment services across Powys
1st Floor Gwalia Annexe
Ithon Road
Llandrindod Wells
LD1 6AS
Tel: 01597 825131

Prism

Mid and West Wales drug advisory service
Forestry House
Brewery Road
Carmarthen
SA31 1TF
Tel: 01267 231634

Rhosserchan

Residential drug and alcohol rehabilitation centre
Blaencastell
Penrhyn – Coch
Aberystwyth
Dyfed
SY23 3EX
Tel: 01970 820575

Swansea Drugs Project *Services to minimise the harm caused to individuals and society by both drugs and alcohol*

73-74 Mansel Street
Swansea
SA1 5TW
Tel: 01792 472002

T.E.D.S Centre

Services to users of drugs or alcohol throughout Rhondda Cynon Taf
Brynffynon House
46 Merthyr Road
Pontypridd
CF37 4DD
Tel: 01443 407686

Welsh Council on Alcohol and Drugs

Cardiff based addiction counselling services
58 Richmond Road
Cardiff
CF24 3AT
Tel: 02920 493895

West Glamorgan Council on Alcohol and Drug Abuse

Drug and alcohol support in South West Wales
41/42 St James Crescent
Uplands
Swansea
SA1 6DR
Tel: 01792 646421

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