Drug and alcohol testing in the workplace: Guiding principles

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Overview

Together, the social partners - employers, workers and their representatives, and governments - should assess the effect of drug and alcohol use in their workplaces. If they conclude that a problem significant enough to require action exists, they should jointly consider the range of appropriate responses in light of the ethical, legal and technical issues enumerated in this document.

A comprehensive policy to reduce the problems associated with alcohol and drug use may cover employee assistance, employee education, supervisory training, information and health promotion initiatives, and drug and alcohol testing. A workplace drug and alcohol testing programme is technically complex and should not be considered without careful examination of all the issues involved.

When a testing programme is being considered, a formal written policy should be developed indicating the purpose for testing, rules, regulations, rights and responsibilities of all the concerned parties. Drug and alcohol testing, as part of a comprehensive programme, should be based on the greatest possible consensus among the parties involved in order to ensure its value.

Background

Reliable analytical methods now exist to detect substances in breath and bodily fluids and tissues. These substances include alcohol as well as other drugs. To ensure programme success, the methods of detection to be used must be of the highest quality and reliability, taking into consideration the purpose of the test. Although the number of competent laboratories is growing, it is recognized that in many nations such facilities do not exist. Policies should therefore be developed to take this into account.

There are two categories of tests: screening and confirmation. The screening test constitutes a rapid but initial stage of the process. However, in the event of a positive test result, confirmatory methods should be used to verify the results. Some legally prescribed drugs may, under certain conditions, be misidentified as illicit substances. Under these conditions, a correct interpretation of the test results is imperative. This highlights the need for high standards not only in technical equipment but also in the training and qualifications of personnel.

It should be recognized that current methods of drug and alcohol testing may involve invasive procedures, which may constitute a risk as well as an intrusion into privacy. In addition, costs for a well-designed drug and alcohol testing programme vary and it is recognized that these may be considerable. It is therefore imperative that these issues be fully considered prior to implementation of any alcohol or drug testing programme.
Assessing the relationship of drug and alcohol use and the workplace

The assessment of problematic use reflected in the workplace should recognize the inherent national, social, cultural, ethnic, religious and gender variables that will affect not only the mode and meaning of use but also the behavioural outcomes evidenced by use. The nature and significance of problematic use must be carefully evaluated.

It is also important to recognize that people often use multiple drugs. Those substances may include, but not be limited to, alcohol, prescribed or over-the-counter medications and illicit or controlled substances.

In addition to the need for a sensitive instrument to assess problematic use of various substances as reflected in workplaces, the **significance** of those defined problems must be assessed. Is it a health, safety, disciplinary or other issue? The identified problematic use should be considered with respect to all of the relevant issues.

Effectiveness of drug testing

The scientific evidence linking the use of alcohol and drugs to negative consequences in the workplace is equivocal. Most evidence, so far, is anecdotal and inferential. Studies are lacking on whether testing programmes reduce possible work difficulties resulting from alcohol and drug use. The available data do not produce sufficient evidence to show that alcohol and drug testing programmes improve productivity and safety in the workplace.

Alcohol and drug testing only recognizes the use of a particular substance. It is not a valid indicator for the social or behavioural actions caused by alcohol and drug use. No adequate tests currently exist which can accurately assess the effect of alcohol and drug use on job performance. There are correlations between behavioural effects and blood alcohol concentrations but there are variances among individuals. Such correlations have not yet been demonstrated for urine alcohol concentrations, blood drug concentrations or urine drug concentrations.

Programme outcomes

The manner in which organizational, local, national and international drug and alcohol policies and practices are mutually influential is poorly understood. The implementation of a successful policy in one country may have unintended consequences in other countries. Programmes which provide benefits in specific countries may have adverse consequences for other jurisdictions. Since the world is becoming more closely linked by the existence of multinational corporations and international trade agreements, for example, countries and work organizations should examine more closely the international impact of their initiatives. Drug and alcohol policies must be individualized to meet the needs of particular users. One locality’s policy cannot meet all users’ needs.
Concern about the consequences of drug and alcohol use in the workplace should be addressed in a comprehensive strategy. If testing is considered as one of the elements in a comprehensive strategy, the intended outcomes as well as unintended effects should be considered. Review of these effects can assist in the decision to include or remove testing from a programme strategy. If testing is to be included, this review can assist in determining the nature and extent of the testing to be carried out.

Some of the intended outcomes may include:

- Assistance in the development of a comprehensive programme to improve safety and security as well as to reduce potential liabilities.
- A comprehensive productivity and quality assurance programme including reduction of absenteeism.
- Some of the unintended outcomes may include:
  - Deterioration of work environment through fear, mistrust, polarization between management and workers, lack of openness and social control.
  - Not following legal and ethical rules.
  - Breaches of confidentiality.
  - Adverse effects on individuals from test errors.
  - Decrease in security of employment.

Legal and ethical issues

There are ethical issues of fundamental importance in determining whether to test for drugs or alcohol. Is testing warranted? If so, under what circumstances? Recognizing that the situation differs in each country and each workplace, ethical issues are one of the most important concerns to be resolved before any testing is undertaken. Rights of workers to privacy and confidentiality, autonomy, fairness and the integrity of their bodies must be respected, in harmony with national and international laws and jurisprudence, norms and values. Workers who refuse to be tested should not be presumed to be drug or alcohol users.

The need for testing should be evaluated with regard to the nature of the jobs involved. With some jobs, the privacy issue may be determined to outweigh the need to test.

As a protection to workers, positive test results should be subject to independent medical review. For those workers whose positive test results reflect problematic drug or alcohol use, participation in a counselling, treatment or self-management programme should be encouraged and supported.

Various national laws, customs or practices may require the accommodation of employees who test positive by referral to treatment, assignment to other work or other means that assure security of employment.
Specific procedures should be developed which demonstrate a programme's capacity to comply with existing national laws and regulations. Such regulations may include:

- Legislation on workplace drug and alcohol testing
- Labour law
- Medical confidentiality laws

Drug and alcohol testing must be placed within the larger context of the moral and ethical issues of collective rights of society and enterprises, and individual rights, as embodied in the Universal Declaration of Human Rights and international labour standards. (See Appendix 3 for relevant text of Universal Declaration and ILO standards.)

Other rights are also important: Examples here are the right to choose one's own physician, the right to representation if needed, the right to notification that testing will be carried out as part of a pre-employment screening programme and the right to information on test results.

It is assumed that the participants in any work situation have rights and responsibilities which may have been agreed upon. Drug and alcohol testing programmes should fit within existing arrangements for ensuring the quality of work life, worker rights, the safety and security of the workplace, and employer rights and responsibilities (e.g. protection of the public interest).

Programme organizers should be sensitive to the potential for any adverse consequences of testing (e.g. harassment, unwarranted invasion of privacy). Workers should have the right to make informed decisions about whether or not to comply with requests for testing.

Safeguards should be installed to eliminate any potentially discriminating impact from testing. The testing programme should be conducted in a nondiscriminatory manner in compliance with the appropriate legislation and regulations. In those jurisdictions with constitutional rights to work, efforts should be made to enable the person to remain in the workforce.

Programme organization and development

Setting up a programme

Where problems in workplace performance exist, a number of responses may be considered. If the problems are related to the effects of alcohol and drug use, the balance of the corrective strategy should lean towards education and prevention. Partners in the workplace must consider whether employee assistance programmes are available within the enterprise, through the union or external associations in the community at large.
Assistance programmes should be voluntary, broad brush approaches which are capable of addressing a wide range of wellness issues. If drug testing is an option within the assistance programme, a number of methods exist including pre-employment, post-accident, for cause, reasonable suspicion, post-treatment, random or voluntary testing.

In any case, drug testing should be viewed only as part of a systematic approach which includes assessment, information on the effects of various levels of substance use, education concerning the elements of a healthy lifestyle and a programme of reintegration into the workplace for problematic drug or alcohol users.

The response selected must be directly related to the workplace problems to be addressed. The objectives to be met by the testing programme must be clearly defined and articulated. Before drug testing is selected as an appropriate response, there must be clear evidence that testing can reasonably be expected to achieve its intended goals.

In this context, it is especially important to determine that the technical capacity for state-of-the-art testing procedures exists and is used. Analysis of test results must take into account the differences between alcohol and other drugs.

**Programme policy statement**

The written policy should detail the procedures to be adopted by the testing programme and these should be agreed upon by all the social partners. The policy should clearly identify the purpose of testing and the uses for the results. It should indicate any laws or regulations concerning drug and alcohol testing that may apply. If needed, a summary statement could explain how the programme intends to comply with those laws or regulations.

It should emphasize worker rights, employer rights, public rights and individual rights. It should identify the substances to be tested for and how these substances will be detected. It should describe the testing method and the relevance of that method to the results. It should explain the laboratory procedures and the analytical methods used by the laboratory. It should detail how the testing programme is to be organized, the level of administrative support required, the technical expertise needed and who will carry out the tests and with what equipment.

Any changes to the policy, because of new conditions or other substances being sought, should take place with the agreement of all the social partners.

**Administrative structure**

The testing programme's administrative structure, areas of responsibility and lines of authority should be clearly delineated in written form and available. A specific organization officer should have primary responsibility for the
programme's operations. The manner in which the testing programme fits within the organization's larger administrative structure should be clearly stated. The qualifications of programme personnel should also be clearly stated.

Administrative procedures should be established to ensure due process. These procedures should address the status of the tested individual and the responsibility of the organization during the time that test results are being analysed.

Confidentiality

Standards to protect the privacy of the workers and to ensure the confidentiality of test results should be specified. Among the steps that should be taken:

1. The identity of the worker should be kept confidential.
2. The records concerning the worker should be kept in a secure location.
3. Separate authorization by the worker should be obtained before the release of each test result, specifying the tested substances.
4. Signed authorization to divulge a worker's information to third parties should name the specific individual(s) who will receive the information.
5. A separate authorization should be obtained for each intended recipient of information about the worker.
6. Authorization forms should be witnessed.
7. Policies concerning the confidentiality of the testing programme should be communicated to relevant parties.

Programme linkages

A mechanism should be in place for communicating test results to the tested person. Appropriate mechanisms should be established to allow that person to be referred for assistance when indicated and when the person consents.

Policy options/purposes

The purposes of any drug and alcohol testing programme should be specified in writing. Among the most common purposes given for testing programmes are:

- Investigations of accidents and incidents
- Referral for assistance
- Deterrence
- Meeting legal and regulatory requirements
- Communicating an organization's policy

The form of drug and alcohol testing in a particular programme should be explicitly tied to the purposes of the programme. For example, many forms of
testing may be adopted to meet regulatory requirements. Although there may be some disagreement regarding the value and utility of any particular form of testing, it seems that:

-For cause, reasonable suspicion and post-accident testing are most clearly linked to investigative purposes.

-Pre-employment, post-assistance monitoring and voluntary testing may be most appropriate if the organization wishes to refer persons who have been identified as drug and alcohol users for assessment and consultation.

-Pre-employment, random, transfer, promotional and routine scheduled testing may be compatible with deterrence purposes.

It is imperative to establish written criteria governing when to apply one of the options listed above. In addition, the frequency and duration of testing assigned as part of assistance monitoring and/or a return to work programme should be prescribed in the overall testing policy. When a pre-employment test is utilized, it may be part of a comprehensive medical examination used to determine fitness for work.

**Determining which drugs to test for**

Decision-making on testing should be flexible and existing conclusions reviewed periodically. Decisions to test for alcohol and drugs should be made only when reliable and valid initial and confirmatory testing services or facilities are available. These facilities should protect confidentiality and, for forensic purposes, ensure the chain of custody. All positive results should be confirmed prior to notification or any other action.

Several criteria should be considered in selecting which substances to test for:

- The prevalence rates and the consequences of use in the workplace.
- The likelihood of harm to health due to use of various substances.
- The likelihood of substance use affecting work-related behaviour.

**Programme evaluation and review**

Ongoing evaluation and review are essential to ensure that, a testing programme is able to attain the objectives for which it was established. The plan for monitoring and evaluation should be set out when a testing programme is designed.

The evaluation plan should:

1. Be based upon the written goals and objectives established for the programme.
2. Identify means to determine whether or not the programme is being implemented as intended.
3. Establish criteria and mechanisms for determining the impact and effect of the testing programme.

Evaluation plans should adhere to acceptable standards. Results of evaluations should be made available to all relevant parties.

Technical and scientific issues

In many parts of the world no programmes exist for the accreditation of testing laboratories. In order to ensure the highest accuracy and reliability of the testing programme, standard operating procedures should be in place to document the manner in which specimens are handled, instruments are checked for proper functioning and quality control is carried out. Accuracy and reliability must be assessed in the context of the total laboratory system. If the laboratory uses well-trained professional personnel who follow acceptable procedures, then the accuracy of results should be very high.

The working group recognizes that national and international standards are lacking. It recommends that the ILO consider using such standards as those developed by the National Institute on Drug Abuse and the College of American Pathologists as a basis for developing international standards.

Extreme caution must be exercised in the testing procedures. Testing specimens beyond the authorized list of drugs for other types of analysis (e.g. HIV, other disease criteria or pregnancy) should be expressly prohibited. Additionally, the possible impact of a positive result on an individual's livelihood or rights, together with the possibility of a legal challenge of the results, should set this type of testing apart from most clinical laboratory analysis. All workplace alcohol and drug testing should be considered as a special application of analytical forensic toxicology. That is, in addition to the application of appropriate analytical techniques, the specimens must be treated as evidence and all aspects of the testing procedure should be documented and available for examination.

The purpose for which testing is conducted will often dictate the specimen of choice. Typically blood is examined when impairment issues are addressed and urine is examined when drug use is being questioned. In many countries the law may require consent prior to submitting to the sampling procedure. Before any sample is collected the employee should be informed as to the collection procedure, the drugs that will be tested for, the associated medical risk and the use of results. Provisions should be made for the protection of the personnel responsible for specimen collection.

At present urine appears to be the best specimen for analysis in the context of detecting drug use in the workplace. Specimen collection procedures should be done in such a way that the privacy and confidentiality of the donor is protected as well as the integrity of the specimen.
Blood can be used to detect the presence of alcohol and most drugs. However, the invasiveness and discomfort of the sampling procedure and the requirements for a trained phlebotomist and provision for emergency medical assistance makes blood a less desirable specimen for workplace testing.

In terms of testing for alcohol, the breath is the most commonly used specimen. Equipment is readily available and breath can be collected in a noninvasive manner.

At this time, insufficient data exist to support a recommendation for an alternative specimen such as hair, sweat or saliva.

Initial screening and confirmation methods must be based on different principles of analytical chemistry or different chromatographic separations.

Quality assurance and quality control protocols should be in place before the initiation of the analytical procedures. These procedures should encompass all aspects of the testing process, from specimen collection through reporting of the results and final disposition of the specimen. Quality assurance procedures should be designed, implemented and reviewed to monitor each step of the process.

A positive result does not automatically identify an individual as a drug user. The results should be reviewed, verified and interpreted by a medical expert. Prior to making a final decision, the medical expert would check all medical records, examine alternate medical explanations for a positive test result and conduct a medical interview with the individual (including the individual's medical history). This would determine whether a confirmed positive could be explained by the use of a legally prescribed medication.

Before making the final interpretation of the test result, the individual should be given the opportunity to discuss the test results with the medical reviewer. If there is a legitimate medical explanation for the positive test, the result should be reported as negative and no further action should be taken.

**Recommendations for action and research**

The expert working group recommends that:

- Research should be undertaken to evaluate the relationship between use of drugs and alcohol and job safety and productivity.
- Research should be initiated to evaluate the costs and benefits of testing programmes. Evaluations should be done to study the costs and benefits for each of the parties, including social, economic and psychological costs and benefits.
- The ILO should consider the need for developing international standards for drug and alcohol testing and laboratory certification.
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