



ACCI POLICY STATEMENT

DRUG AND ALCOHOL POLICY

PRINCIPLES OF DRUG AND ALCOHOL POLICY

Drug and alcohol use is a major issue for Australian communities.¹ Its misuse imposes significant economic and social costs.

Solutions to drug and alcohol issues must be developed by the community generally and by all levels of government. Governments should not attempt to transfer onto employers what are costs and challenges for society more broadly.

Drug and alcohol issues are only addressed if individuals take responsibility for their actions. Regulatory frameworks should be based on this core principle.

Drug and alcohol use impacts on the workplace and on businesses. Employee drug and alcohol use carries serious risks for health and safety in the workplace, including for that employee, other employees and the general public.

Furthermore, in many roles and situations, it is essential that employees are not impaired mentally or physically in the performance of their duties.

Drug and alcohol use is a key cause of impairment and employers need capacities to be informed about and address this, and to take appropriate steps where an employee is impaired.

Employers have a legitimate role in taking reasonably practicable steps to make their workplaces safe and to ensure employees are not impaired in the performance of their duties.

OHS laws impose significant legal obligations on employers to provide for safer workplaces. Employers must be given tools and capacities to meet their obligations under OHS laws, including in relation to drug and alcohol use.

Employer capacity to manage should not be unduly restricted or undermined by laws or regulations including workplace relations law, OHS law, anti-discrimination law or privacy law. Regulation must not place employers in double jeopardy situations.

Obligations must be balanced: the obligations of employers must be balanced against individual responsibility. In a situation where only employers bear risk and responsibility, individuals have no incentive to take personal responsibility. This is unacceptable.

There should be a reasonable expectation that employees will attend for work free from the influence of drugs and alcohol, in a fit and proper condition for work, and that employees will not, by their actions place themselves or other employees in danger. This expectation should be reflected in regulation.

No single policy or approach to managing drug and alcohol use will be effective in every workplace or situation. Instead, employers require scope to consider, implement and evaluate a wide variety of strategies and approaches; tailored to their operations, the OHS risks inherent in their activities, and the culture of their workplace.

¹ This policy is concerned with the impairment in the workplace that can arise from consumption of drugs and alcohol.

Employers can play an important role in assisting employees in managing or seeking rehabilitation for drug and alcohol problems. However employers are not drug counsellors or public health professionals and there must be an acceptance that drug and alcohol problems are primarily the responsibility of the individual concerned and the community generally.

THE POLICY FRAMEWORK

The best way to achieve effective management of drug and alcohol issues within workplaces is to empower employers and employees to consider their workplace situations, the risks and threats that arise from the use of drugs and alcohol, and how best to manage them.

A wide variety of risk profiles are associated with the use of drugs and alcohol, depending on the nature of the business operation and the work performed. For some businesses and occupations, even minor levels of use can have catastrophic effects. Therefore, appropriate policies or responses to drug and alcohol use need to be considered on the basis of individual workplace circumstances.

There are a range of employer strategies and approaches for addressing drugs and alcohol issues in the workplace. These include policies such as summary dismissal for impairment, requiring drug testing, through to counselling and leave for employees. Governments should accept that there is no one size fits all solution, and should not seek to impose a single approach on industry.

There are two core functions for governments and regulators in appropriately supporting employers and employees in addressing this issue:

- Firstly, governments should audit the legal framework to ensure it sufficiently supports employer efforts to manage drug and alcohol issues in the workplace. Where contradictory or inconsistent legal obligations are identified, laws should be amended.
- Secondly, governments should ensure they provide sufficient information and guidance to employers so they have the necessary tools to identify drug and alcohol issues in their workplace and (if appropriate) develop policies to address them.

The profile of drug and alcohol use across the Australian community is changing rapidly. Most employers are lay people and cannot be expected to operate as de facto public health experts. Businesses, and in particular small businesses, need access to information and support in considering how to respond to drug and alcohol issues.

SPECIFIC POLICY REFORMS

Governments can better support workplace management of drug and alcohol use by adopting the following approaches:

- OHS legislation in all jurisdictions should include an obligation that employees do not by their consumption of alcohol or a drug, endanger the employee's own safety at work or the safety of any other person at work.
- The capacity to dismiss staff who breach drug and alcohol policies or accepted standards of workplace conduct is essential to effectively address use of drugs and alcohol. In any unfair dismissal proceedings arising from such circumstances, the fact that an employer acted in accordance with a specific drug and alcohol policy should be given added weight in considering the fairness of the dismissal.
 - As an example, if an employee knows that a zero alcohol policy is in effect at the workplace, and wilfully breaches that policy by consuming alcohol during a lunch break, and the employer then dismisses that employee, such dismissal should be considered reasonable and fair.

- Drug or alcohol abuse is not a disability and should not be treated as such in anti-discrimination law. The Disability Discrimination Act (Cth) and other relevant State and Territory legislation should be amended, where necessary, to clarify that drug and alcohol addiction is not a disability. Treating addiction as a disability is an abuse of the concept of disability and will significantly detract from employer capacities to effectively deal with drug and alcohol use.
- Drug and alcohol testing is an effective tool to manage drug and alcohol issues in many workplaces. This includes employers conducting pre-employment screening, and testing employees when they are working.
- There are many occupations and work situations where impairment has catastrophic consequences for workplace health and safety. Under OHS law employers bear substantial responsibilities for maintaining safety and therefore must have the right to institute appropriate and effective measures to achieve that goal, including the right (where appropriate) to undertake drug and alcohol testing.
- Privacy laws should not unduly restrict or frustrate employer efforts to manage drug and alcohol use in workplaces, nor to test employees. To assist in meeting this objective, the employee records exemption in the federal Privacy Act (Cth) must be retained.
- Governments should ensure that third parties, such as trade unions, are prohibited from engaging in conduct that seeks to punish or penalise employers for taking lawful action in respect of drug or alcohol issues in the workplace.

EDUCATIONAL INITIATIVES BY GOVERNMENTS

Governments should provide information and advice to employers that outlines the nature of the risks posed by drug and alcohol use, how to identify such dangers, and options to address them.

Drug and alcohol policies and initiatives are best developed and implemented at the workplace level. Governments and regulators should avoid imposing one size fits all approaches to drug and alcohol management on the diverse range of Australian workplaces, that are subject to differing risks, differing workplace cultures and differing operating conditions.

Governments should avoid information campaigns that seek to channel employers into adopting a particular set of policy approaches. Instead, a toolkit approach should be adopted which provides employers with a range of options that can be adapted to particular workplaces.

The profile of drug and alcohol use is changing rapidly in Australia. The rise in the use of particular drugs poses new challenges and new safety risks.

- Employers are laypeople and require advice and support from professionals, including public health professionals, if they are to be capable of promptly addressing and responding to the health and safety risks posed by changing patterns of drug and alcohol use.
- Governments must ensure employers have access to information about the changing nature of drug and alcohol use and associated issues.
- That information should extend to all drugs that are possible causes of impairment, including prescription drugs.

Governments and regulators must develop alliances with the employer community to ensure advice is adequately formulated and disseminated to employers. Governments should work with industry organisations to assist employers in addressing and overcoming industry-specific challenges relating to drug and alcohol abuse. Industry organisations understand the issues employers face and can provide a crucial link between governments and employers in addressing this issue.

Governments should provide effective referral mechanisms so employers can gain assistance, and also offer rehabilitation

and treatment options to employees where employers consider rehabilitation to be a viable and appropriate strategy.

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