



# Drug and alcohol testing at work

*Guidance for workers and union officials regarding workplace drug and alcohol policies.*

The focus with any drug or alcohol testing should always be on **impairment**.

Drug testing itself does not improve workplace safety. Testing captures use, and not necessarily if a substance was impairing a worker's ability to perform their duties.

- Depending on testing methods and the type of drug, testing can detect a substance in the system for [up to 90 days](#).

Employers should always focus on the source of risk. They have [a duty to eliminate or minimise](#) that risk where reasonably practicable to do so.

## Worker rights

Workplace drug and alcohol testing requires a careful balancing of conflicting interests:

Workers have the right:

- [To privacy](#),
- To be free from unlawful discrimination, and
- [To a healthy and safe workplace](#)

Workers have [obligations](#) to not endanger themselves or others, and to follow all reasonable health and safety policies

Employers must respect these rights and provide a healthy and safe workplace.

When making decisions that impact health and safety, [employers must engage with workers](#). This includes decisions on drug and alcohol policies.

## Workplace policies

Employers' policies on drugs and alcohol must be proportionate. Policies need to recognise that drugs and alcohol are not the only source of risk in a workplace.

Testing for drugs and alcohol must not be at the expense of addressing risks to health and safety.

**Consider the following sections when working on workplace policies.**



## Advice for employees

### *Engagement with workers*

Employers must engage with workers, and their unions, in the:

- creation,
- review, and
- operation of workplace drug and alcohol policies.

Engagement with workers and their reps must happen by law.

Workers must follow reasonable instructions and workplace policies about health and safety.

To be able to engage, workers must have all relevant information. Their views must be a consideration in the decision-making process.

The workers elected health and safety representatives should always have a voice.

### *Testing*

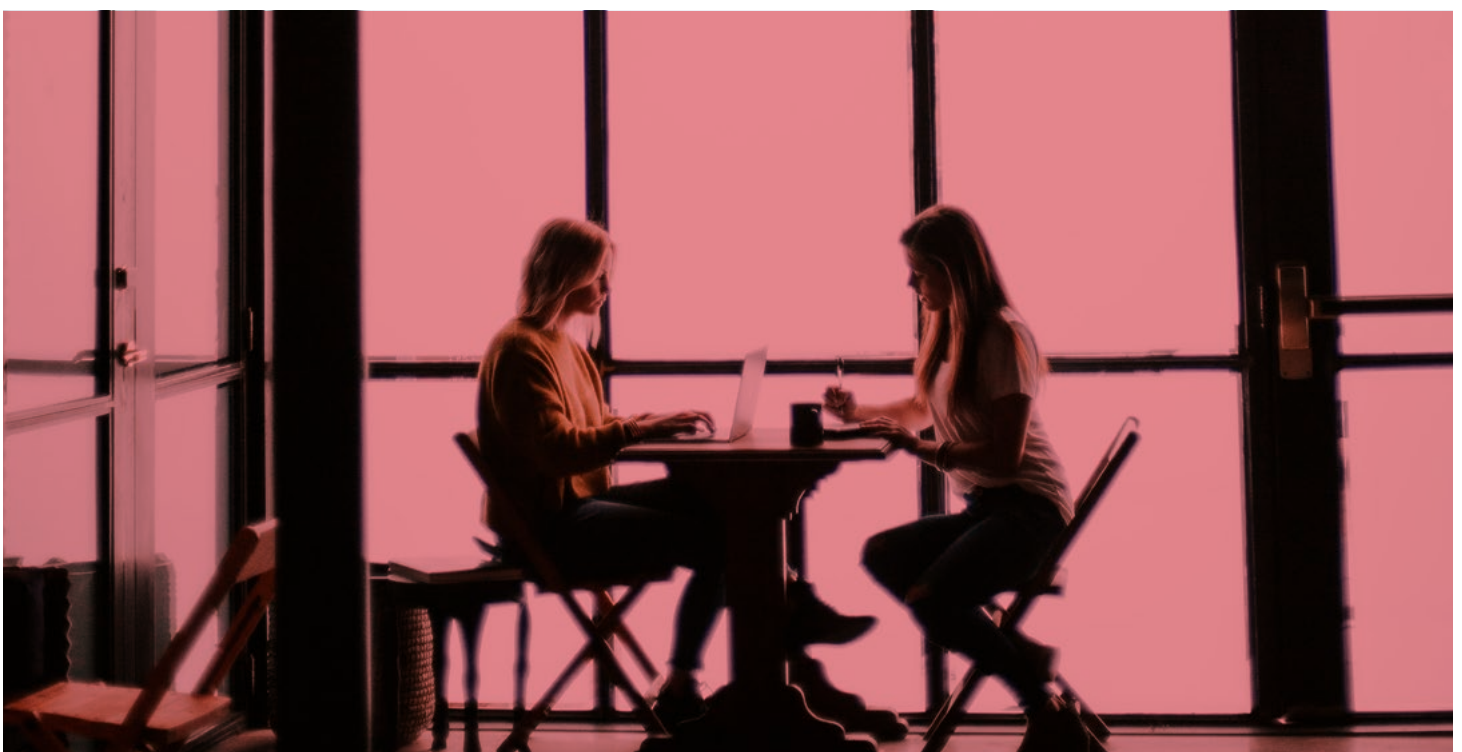
Drug and alcohol testing should capture actual impairment (i.e., fitness for work). It should not just be detecting the presence of a substance.

- Detection shows that **a substance was consumed**. It does not say whether the substance was impairing the worker.
- Case law tells us that the less invasive, up to date, testing technology should be used by employers.
- Drug and alcohol testing must be for genuine health and safety reasons.

### *Random Testing*

- Random testing may only be justified in “**safety sensitive roles**”.
- Safety sensitive work must be agreed by the employer, workers, and the union. Generally, it involves work that would result in a serious incident if conducted while impaired.
- In almost all other cases, random testing is unreasonable.

**Health and safety duties, and worker rights, are critical considerations for any workplace drug and alcohol testing policies**





## Advice for employees

### *Prescription drugs*

Prescription drugs, including medicinal cannabis, are legal. They can also cause impairment at work. Again, impairment should always be the focus of drug and alcohol policies.

It is important to structure work to ensure every worker is safe. It is not helpful to focus on moralistic arguments around drugs and alcohol.

### *Privacy*

A worker's right to privacy must be upheld as much as possible. Workers have the [right to refuse medical treatment](#). And a right against [unreasonable search and seizure](#).

These rights, however, are not absolute. Although they must be a consideration when ensuring a healthy and safe workplace.

Drug and alcohol testing is invasive by nature, so it is important that worker's privacy is respected. All medical information relating to testing must be held in confidence.

A worker's right to privacy should only be limited to the extent reasonably necessary for health and safety.

Testing must be the least invasive method available while maintaining scientific veracity.

### *Rehabilitative approach*

Drug or alcohol issues are health issues, and the most effective responses focus on wellbeing, not punishment. Policies should take a rehabilitative approach in line with this.

- Workers and unions are entitled to engage on these policies.

Testing policies should deal with the process when testing indicates impairment at work.

- Workers should be offered support and the opportunity to rehabilitate.
- The focus of policies should be about keeping workplaces safe. They should not be punitive.
- Workers should feel safe to self-report if they are feeling impaired at work.