

Note: Delete this page and following two pages (total 3 pages) once you complete tailoring the template for your own business

Why do I need this document?

This Policy can be used by all Australian employers and is one of the tools available to the employer to manage health and safety risks at work.

The policy should be used in conjunction with any alcohol testing procedure which **must be** compliant with Australian regulatory standards.

1. Can I test my employees for drugs and alcohol?

It is an accepted principle by industrial courts and tribunals that random testing is an intrusion on the privacy of the individual which can only be justified on health and safety grounds. The employer has a legitimate right (and indeed obligation) to try and eliminate the risk that employees might come to work impaired by drugs or alcohol such that they could pose a risk to health and safety. Beyond that the employer has no right to dictate what drugs or alcohol its employees take in their own time.

Random testing for drugs and alcohol can be appropriate for workers in safety critical work. At the Commonwealth level, in 2008 regulations were approved by the Executive Council and came into force requiring random alcohol and drug testing for workers in the Australian aviation industry. Legislation also exists at State level authorising drug and alcohol testing in certain industries.

In the broader policy context, given the potentially hazardous nature of the work in a particular workplace, together with the heavy obligation imposed on an employer by State or Territory occupational health and safety legislation, the introduction of random alcohol and drug testing at such a workplace could be justified.

However, it also needs to be recognised that the introduction of any form of drug and alcohol testing should comply with the **ILO code of practice** on the management of alcohol and drug related issues in the workplace. This is particularly so when the testing is random, rather the 'for cause'.

2. How should I deal with an intoxicated employee?

Individuals considered unfit for work because they are a safety risk or because their work performance is affected should be removed from any position of risk. Transportation home should be provided and disciplinary action should be taken on their return. Details of the employee's performance and the fact that he or she was sent home should be documented.

3. Can I dismiss workers who are under the influence of drugs/alcohol?

Employees can be dismissed as a result of drinking or drug abuse if it affects their ability to perform their job productively or safely or results in intolerable behaviour. However, such incidents will require a thorough investigation before dismissal takes place and the employee should be given an opportunity to respond.

Certain behaviours can warrant instant dismissal, such as using or selling illicit drugs in the workplace. Again, a thorough investigation is required with the employee again given an opportunity to respond.

Getting it wrong

The first step in combating drug and alcohol use in the workplace is to put in place a comprehensive policy on drugs and alcohol in the workplace. Educating employees about the standards that are expected of them, what their responsibilities are, and what the consequences of a breach will be is essential. The employer is in a much better position to defend the dismissal of an employee for drug and alcohol use if the employee is aware of a company policy on the issue. It is also important to let employees know that assistance is available to them if they need it.

Corporations found in breach of privacy laws, such as divulging an employee's drug or alcohol tests results can face civil penalties of up to **\$1.7 million**.

General Information

When using the template for this policy, you should have regard to the following considerations:

- Whether your business is required to consult with employees or union(s) in the introduction of the policy. Awards, Enterprise agreements, existing policies, or existing consultative mechanisms are potential sources of obligation and should be checked. In addition, work health and safety laws and regulations are also sources of potential consultation obligation.
- Whether as a matter of practice you wish to consult with any union(s) in your workplace in order to gain their co-operation and support for the policy.
- This policy contains an option to include provisions for conducting drug and alcohol testing. If the policy provides for testing, the type of testing (breath test, urine sample, oral swab, blood test etc) must be appropriate and suitable. Testing should be performed by skilled technicians and appropriate consents from participants should be obtained.
- Whether the policy should be made available in languages other than English in order to promote understanding and compliance.
- The policy is written to apply to all employees, contractors, visitors etc. These 'workplace participants' should be made aware of the policy, the standards that are expected of them, and the consequences of non-compliance.
- Training is a means to promote understanding and compliance. Ideally, training should take place as part of the induction procedure. A record of training should be kept and this should include an acknowledgement by the participant of their attendance.
- The policy extends to all functions and places that are work-related. For example, conferences, work lunches, Christmas parties, client functions etc.
- The policy should be applied consistently, and in a non-discriminatory way.
- Non-compliance with the Policy may have disciplinary consequences. The nature of discipline should be proportionate to the nature of the non-compliance.
- Review the policy regularly and take into account any changes in relevant laws and practice.
- Develop supporting documentation. This includes notification and consent forms for the workplace participant to undertake the necessary testing, and to any medical practitioner/agency/clinic for the purposes of seeking the test results.

- The policy contains a number of 'disclaimer from liability' clauses. These disclaimers are general in nature, and are not necessarily sufficient to avoid liability in every circumstance where a workplace participant's behaviour causes injury or damage.

How to complete this template

Designed to be customised

It is completely customisable based on your specific requirements.

Include what you must and can comply with

This document should be used in conjunction with your contract of employment, and any specific company procedures and processes. Only include the commitments you are confident you can comply with, make sure you update and review the document regularly.

Important: You may have legal obligations to your employees under an employment or industrial agreement such as an award, workplace agreement or employment contract. Make absolutely certain what's written in this document is consistent with these. If you're unsure what covers your employees, FIAA Members can contact FIAA's workplace advice team on 1300 FIAA 4U or on 02 4340 2000 for further advice/assistance.

To complete the template:

1. Using Word's Replace function, search for (INSERT COMPANY NAME) and replace with your company name.
2. Replace (items in brackets) with your own wording.
3. Once you have finished work on the template, delete the introduction/explanation page/s of the document.
4. Update page numbers.

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Workplace Drug and Alcohol Policy

1. Aim

- 1.1 (Insert company name) is committed to providing a safe and healthy work environment, so far as is reasonably practicable in which all workers are treated fairly, with dignity and respect. The use of drugs and alcohol may impact on an individual's capacity to perform work safely, efficiently and with respect, thereby posing a risk to the health and safety of the individual and others at the workplace.
- 1.2 This policy outlines (insert company name) commitment to a safe workplace and is aimed at preventing, or minimising, any risk of injury or harm to the health and safety of its workers, or others at the workplace, from the use of alcohol or drugs. It describes the standards of behaviour expected in relation to the use of drugs and alcohol, the responsibilities of (insert company name), workers and others at the workplace, and the consequences of breaching the policy.

2. Commencement of the Policy

- 2.1 This Policy will commence on XX/XX/XXXX. It replaces all other drug and alcohol policies (whether written or not).

3. Scope

- 3.1 This Policy applies to:
- a) all employees of (insert company name) (whether full-time, part-time or casual) and all persons performing work at the direction of, or on behalf of (insert company name) (for example contractors, subcontractors, agents, consultants, and temporary staff) (collectively referred to as 'workers');
 - b) all of (insert company name) workplaces and to other places where workers may be working or representing (insert company name) for example, when visiting a customer, client or supplier (collectively referred to as 'workplace'); and to
 - c) all work-related functions, for example, work lunches, conferences, Christmas parties and client functions.
- 3.2 This Policy has been developed and implemented in consultation and co-operation with (insert company name) workers and/or the work, health and safety representatives. It does not form part of any employee's contract of service, nor does it form part of any contract for service.

4. Definitions

- 4.1 The following are terms used in this Policy:

'drugs' — include illegal drugs, prescription or pharmacy drugs, or synthetic drugs as defined below.

'illegal drugs' — include:

*** This is only a preview of the document, you will need to purchase the document to see all the content.**

***Please Note: As a Business Plus or Premium FIAA Member you can download all the policies on our website for free or have them customised specifically for your business at no additional charge. FIAA Members can also request policies and resources which are not on our website through our HR Department. This is just one of the many services that are included with our annual membership subscription.**