

FACT SHEET 5

Wirral Drugs in the Workplace Initiative

Employers, drugs and the law

The misuse of drugs, alcohol and other substances is everyone's concern. It damages health, causes absenteeism and reduces productivity. It also increases the risk of accidents. (Health and Safety Executive: www.hse.gov.uk)

As an employer – where do I stand?

You have a number of statutory duties and responsibilities towards your employees.

If you know or suspect any member of your staff to be drunk or under the influence of drugs and do not take appropriate steps to ensure their safety and the safety of your other employees and customers, you could be committing an offence. It is also illegal for you to knowingly allow the supply of illicit drugs on your company premises or allow the use of most drugs on your site. (Misuse of Drugs Act 1971)

What about my employees?

Your employees have a responsibility:

- to take reasonable care of themselves
- not to put other people's lives at risk
- to co-operate with you, as their employer, to tackle problem behaviour.

What should I do?

The best way to ensure everyone knows how they are affected by law is to develop and actively promote a drugs and alcohol policy. (For advice, refer to the third in our series of fact sheets, 'Developing a Drugs Policy') A well-written policy appropriate to your own workplace setting, will offer you, your managers and staff alike a practical framework for approaching issues of substance misuse, and ensure the health and well being of all your staff.

How does the law affect me?

Health and Safety at Work Act 1974 lays out your general duty to ensure, so far as is reasonably possible, the health, safety and welfare at work of all employees. There is particular emphasis on protecting young people who are under 18 years of age.

Misuse of Drugs Act 1971 allows for the prosecution of “occupiers of premises” who permit the supply of controlled drugs on their premises. Not taking reasonable action to prevent supply has been legally found to constitute “permitting.” The Act covers almost all drugs that are liable to be misused or which promote dependency in users – and includes some prescribed medicines. The Act makes the production, supply and possession of these controlled drugs at work unlawful except in certain circumstances, for example an employee has a drug, which has been prescribed by a doctor. Section 8 of the Act: “makes it unlawful for an occupier or person concerned in the management to knowingly permit or suffer to take place the production, use or supply of illegal drugs”

Data Protection Act 1998 states that all the information you hold about an employee’s possible drug or alcohol misuse must be handled securely and confidentially.

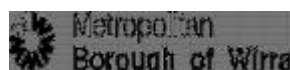
Transport and Works Act 1992 makes it a criminal offence for certain jobs to be undertaken by those unfit through drink or drugs. In jobs where safety is of critical importance, workers who are called in to cover when they are under the influence of alcohol or drugs must inform their employer and refuse to provide cover. This reporting also includes the use of prescribed and some over the counter medicines.

Road Traffic Act 1988 details the offence of driving or attempting to drive a motor vehicle while unfit through drink or drugs misuse.

Assessing the risks

You have a legal requirement under the Management of Health and Safety at Work Regulations 1999 to conduct a risk assessment across your organisation. This assessment can help you to evaluate risks from substance abuse and the results from the risk assessment can be threaded into your substance misuse policy.

Wirral Drugs at Work programme is funded through the Communities Against Drugs initiative – a partnership between Wirral (DAAT) Drug and Alcohol Action Team and Wirral Metropolitan Borough Council’s Crime and Disorder Reduction Partnership. It aims to:



- reduce drug related crime and disorder
- strengthen community partnership
- disrupt drug markets

National helplines and websites

FRANK is a national helpline that offers free confidential advice and information about drugs 24 hours a day. Contact FRANK online at www.talktofrank.com or call 0800 77 66 00.

Drinkline provides free and confidential advice on any aspect of drinking. Tel: 0800 917 8282 (Tuesday to Thursday 9.00 am to 11.00 pm, Friday to Monday 24 hours)

Release is a confidential help line offering advice on drug use and legal issues. Tel: 020 7729 9904 Monday to Friday from 10.30 am to 5.30 pm or www.release.org.uk

The Health and Safety Executive website offers advice on policy development and legal issues etc. www.hse.gov.uk/alcoholdrugs/index.htm

DrugScope aims to advise on policy development and reduce drug related risk. Tel: 020 7928 1211 or visit www.drugscope.org.uk

The **ACAS** advisory booklet **Health and Employment** provides information on handling drug related problems in the workplace. Call ACAS Publications on 0870 242 90 90 or view online at www.acas.org.uk