

June 2020

WORKSAFE POSITION

Impairment and testing for drugs at work

This position sets out our view on identifying and managing impairment at work, including testing for drugs.

You should read this position if you're a:

- worker
- person conducting a business or undertaking (PCBU)
- WorkSafe inspector.

Key points

Impairment at work can be caused by things like fatigue, drug and alcohol use, distractions, noise, health conditions, and stress.

We're concerned about people who are impaired at work and the potential impact on their health and safety, and that of others, regardless of how that impairment is caused.

If a PCBU has identified impairment as a risk, we expect them to manage that risk in a way that's proportionate to the task being undertaken and level of risk identified. Sometimes, drug testing may be a useful and proportionate tool.

We don't require mandatory drug testing as it's not a prescribed legal requirement.

When we visit a PCBU, we may look at whether risks associated with impairment are being managed effectively, whether caused by drugs, alcohol or other means.

We don't offer advice about drug testing methods, or about the use of drug testing at work.

A PCBU may choose to implement drug testing. If you choose to implement drug testing, there are employment matters you need to think about.

What does the law say?

PCBUs have a primary duty of care

Under the Health and Safety at Work Act 2015 (HSWA), a PCBU has the primary duty to ensure the health and safety of their workers while at work. PCBUs need to:

- provide a safe work environment and systems of work
- provide appropriate information, training and supervision to protect people from risks to their health and safety
- do what is reasonably practicable to eliminate risks that arise from work. Where the risk cannot be eliminated, it must be minimised so far as is reasonably practicable. Our fact sheet can help you decide what is reasonably practicable:

worksafe.govt.nz

PCBUs have a duty to engage with workers

PCBUs must engage with workers on health and safety matters when assessing workplace risks and deciding how to manage them.

This means PCBUs must:

- ensure workers know how to make suggestions and raise concerns in their workplace
- ask workers for their input, and ensure they're given the ability to contribute to decisions about the assessment, management and monitoring processes for risk.

Workers have duties too

Everyone has a role to play in work health and safety, including workers. Workers need to:

- turn up fit for work and consider their safety
- ensure their actions do not harm the health and safety of others
- comply with any reasonable policy, procedure or instruction given by the PCBU about how to work in a safe and healthy way.

What does this mean in practice?

Workers need to be mentally and physically alert at work. Things like fatigue, drug and alcohol use, distractions, noise, health conditions, and psychosocial stress can impact on a worker's ability to do their job safely.

We expect PCBUs and workers to fulfil their responsibilities under HSWA. If impairment is identified as a risk, we expect PCBUs to manage that risk in a way that is proportionate to the level of risk identified regardless of how that impairment is caused.

This means if you have a higher risk operation, you should have stronger, practical interventions in place. Sometimes, drug testing may be a useful and proportionate tool.

PCBUs should have effective policies in place to identify and deal with risks that may arise from impairment. PCBUs should consult with workers and their health and safety representatives when developing a policy.

When we visit a PCBU we may look at whether risks associated with drugs, alcohol, or other impairment are being managed effectively.

We won't ask for, or expect, mandatory drug testing as this is not a requirement from us or a prescribed requirement in law. We also don't offer advice about drug testing methods, or about the use of drug testing at work.

Things to consider about drug testing

If a PCBU chooses to implement drug testing, there are employment matters you need to think about beforehand. Employment New Zealand's website contains comprehensive information on this for employers and employees: www.employment.govt.nz