

DRUG AND ALCOHOL TESTING: THE GREAT DEBATE - TO TEST OR NOT TO TEST

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Stand first

As some see it, workplace drug and alcohol testing is a safety driven issue. These people are passionate about its implementation. To others it is an unreasonable and ineffective incursion into their private lives. As *David Mason-Jones* finds out, the issue can be highly contentious and HR directors have no chance of success if they stumble in without careful preparation.

Pulls quotes

“It’s not your manager who’s going to kill you. It’s your workmates.”

“By definition a good business is a safe business.”

“As with any management system, the best way to gain implementation is by fully involving the workforce.”

“I don’t want a 240 tonne dump truck driving around the mine site where I work and thinking that the driver might be boozed or high. If anyone thinks that’s okay; they’re crazy.” – Hunter Valley coal miner

A safety based work culture

“For drug and alcohol testing to be accepted in a workplace, there needs to be a work culture where one worker will not accept the idea that a fellow worker might be affected by drugs or alcohol.” This is the view of Jock Murray, a former director general of the NSW Transport Department in the period leading up to and including the Sydney 2000 Olympics.

“By definition a good business is a safe business,” he says. “I think that one must seriously question the motives of people who are objecting to D&A testing as part of a company’s overall safety management regime.

“The perception that drug and alcohol testing is a safety driven is critical to its acceptance,” says Murray, now a Sydney based international consultant and company director.

The key to implementation

Where the conditions of worker acceptance are met and there is a clear recognition that a drug and alcohol free workplace is a safer workplace, then the result can be the smooth implementation of D&A testing. But the critical factor appears to be that the move for

testing should come from the workers themselves, not imposed by management from the top down.

A practical example of worker agreed D&A policies exists in the mining industry in the Hunter Valley. Many years ago, risk taking was accepted as part of the macho coal mining culture. Hard drinking and the ability to tough it through the hangovers next day may have also been a part of the public perception of a coal miner. In the past few decades this culture has turned around completely.

Drayton Mine, located in the Upper Hunter Valley, NSW, adopted a D&A policy over six years ago in which random testing is conducted for five substances. Drayton mine was one of the earlier mines to gain wide acceptance in the workplace that D&A testing was a necessary part of a safe working culture. Now the trend has been set, most of the mines in the region have agreements relating to the need for drug and alcohol testing as part of the monitoring process.

The perception at the coal face at Drayton is that D&A testing is an expression of the worker's right to know that fellow workers are safe.

One mineworker comments: "On a day to day basis, it's not your manager who is going to kill you. It's your workmates.

"I don't want a 240 tonne dump truck driving around the mine site where I work and thinking that the driver might be boozed or high. If anyone thinks that's okay; they're crazy," he says.

The Drayton case illustrates the important role the unions can play in this.

One union's position

Grahame Kelly, a vice president with the United Mineworkers Union covering the Drayton and the upper Hunter says that safety is the number one priority from the union's perspective.

"Our experience is that companies in the mining industry do not necessarily want to be social thought police. But they have a huge interest in mine safety as well.

"In the Drayton case, the whole thing was driven by safety and negotiated fully before being implemented. This is the critical point. Unless there is consultation with the workers, and they get to 'buy-in' on the policy right from the start, the program will meet huge resistance and fail," he says.

Similar agreements as exist at Drayton are now common in the coal industry.

Management of a new mine should resist the urge to clone a successful D&A policy from a nearby mine and apply it without consultation.

One new coal venture in the start up process at the moment is the Newpac mine. Although the HR management and workers would have the easy option of taking a workable D&A policy from the shelf at a nearby mine, the option chosen at Newpac has been to talk it through right from the start.

“At Newpac they are studying documents and discussing issues as a new workforce,” says Kelly. “The policy they adopt may differ in detail to nearby mines but it will be a truly democratic policy where everyone has contributed.”

Confirming the union approach outlined by Kelly, a more senior union official, Ron Stothard, senior district check inspector, says: “We accept that there are different views about random testing or ‘for cause’ testing at different work sites and this has led to differing site agreements.

“The one thing we will not accept is a policy that is driven by the company without consultation and without acceptance by the majority of the workers on site.

“Another feature we like to see is a self testing option where the worker can self test prior to going on shift if he/she had a big night the night before,” he says.

HR directors – caution

The big caution, however, for HR directors is not to jump to the conclusion from cases like Drayton and Newpac, that all work teams and all unions will be equally as keen about adopting D&A policies involving testing.

The car manufacturing industry in South Australia is a case in point. At the Mitsubishi plant, for example, there is no random testing and it seems that the issue is not even really on the agenda. Mitsubishi itself declined to comment but the union covering the workers – The Australian Manufacturers Workers’ Union (AMWU) is opposed to D&A testing.

A different union approach

John Camillo, the state secretary for the AMWU in South Australia, says that the union’s position is based on four factors:-

Firstly, that the rights of the individual is being impinged,

Secondly, that some residues – such as THC from cannabis – remain in the system a long time and do not indicate the person’s current ability,

Thirdly, that there is a possibility of criminal action being taken against its members and,

Fourthly, that there is a possibility for fake or incorrect results.

Camillo states: “I think there are cases where the HR departments want to rush in and start testing when they haven’t really done their sums and thought the issue through. The

big stick approach of imposed D&A testing does not resolve the issue and only gets the workers off side.

“We believe that the better approach is training in the workplace for health and safety staff and for line supervisors. The best role the HR departments can play is to help provide education about the issue and how to recognise the symptoms of impairment.

“It’s impairment we want to monitor not necessarily just drug taking,” he says, pointing out that impairment may not come from drugs or alcohol alone. It can result from tired parents or noisy and dirty work conditions or poorly planned shift rosters.

“The factor causing resentment with the employers’ desire to start D&A testing is that there is an element of blame and suspicion about the way in which it is done,” says Camillo. “It leads to secrecy on both sides but we believe that if a person has a problem it is better to bring it out into the open and help the employee deal with it. If the tests are just used to sack people then the problem may go away from your workplace but it will surface somewhere else.”

And unfortunately for HR directors thinking of the need for D&A testing, the Camillo view has a wide acceptance among academics and other researchers into drug use.

Alcohol and other drug council

Among those advising HR managers to exercise caution when considering the prospect of starting a testing regime is the Alcohol and Other Drug Council of Australia’s CEO, Donna Bull. Far from being a zealot for random testing, Donna says she often advises HR directors against starting a testing program. Bull says that the jury is still out when it comes to finding hard-nosed evidence that the programs actually work.

In what may come as a surprise to many HR directors, Bull says: “There is no scientific evidence that random drug testing increases productivity or safety. I agree that, intuitively, it certainly makes sense but as far as a rigorous scientific process is concerned it is yet to be proven.”

“There is also no real evidence that it reduces the rate of drug usage. What it can do is switch the drug taking preference of workers away from one drug – cannabis for example which remains detectable in the body long after use – to another drug which clears from the body more quickly,” she says.

Bull’s advice to HR directors is to sit down and really think it out before you automatically adopt a random D&A testing program. “You really have to ask yourself why you are going to introduce it and what you really believe it will achieve,” she says.

“And if you identify some positives in what you mean to achieve with a random testing program, you then need to stand back and assess the negative impacts the program may have on your business,” she says.

Demonstrating lack of trust is one negative impact. The method of collection of a urine sample can create another.

It is a sad fact that wherever people can buy drugs they can also often buy 'clean urine samples' and keep these hidden on their bodies. If it happens that they have to give a drug test, it is a simple matter of providing the clean urine instead of their own urine.

It is because of this possibility that the most rigorous random drug testing procedures require that the person obtaining the sample actually sees the urine come out of the body.

"This can become highly resented by non drug or alcohol taking people who must undergo the indignity of having other personnel peering at their private parts as they pass a sample," says Bull.

Many drug testing companies do not require this degree of rigor but, as soon as the standards of collection are relaxed, the possibility increases of clean urine substitution. If substitution becomes an avoidance tactic even in a small percentage of cases, the whole purpose of the random testing program is defeated. HR directors run the risk of getting non drug takers off side by an invasive method but have still not identified the people affected by drugs or alcohol. This is called a lose-lose situation.

The process may lead to various other forms of invasiveness and discrimination. The NSW office of the Civil Liberties group recently received a complaint from a male worker that he been required to give a sample while a female attendant watched the intimate details. The caller's main complaint was that he could not imagine a circumstance where the sample collection company would demand the reverse – male attendant checking a female's sample to the same degree.

There are a host of ways in which personal sensitivities can be deeply offended in the random collection process and HR directors really need to think this through at the outset. Just imagine the fertile ground for offense, insult and embarrassment that this can create in a multi-cultural workplace.

Bull prefers a system of targeted testing where people are only tested when they have given other signs that they may be impaired.

Tampering with trust

Dr Peter Holland, Australian Centre for Research in Employment and Work (ACREW) in the Department of Management, Monash University says: "One of the fundamental problems about D&A testing is that it conveys a negative message about trust.

"So much of modern HR theory and the theory of gaining maximum employee engagement and productivity is about demonstrating trust and creating work environments of trust.

“The existence of random D&A testing conveys the message, ‘We don’t trust you and we have systems in place to catch you out,’” he says.

Holland agrees that maybe there are some industries where some form of mandatory – every time – testing may be necessary or demanded by the public. He agrees it is true that you can’t just pick up the aeroplane, put it back together again and put it back in the sky.

“But,” he cautions, “most of us these days fly desks – not aeroplanes – and HR managers need to get that in perspective.

If the consequences of a safety error are catastrophic then this may create a pressure for mandatory testing. This brings us full circle to the start point and the case of the Drayton Mine. If there are no safety consequences of impaired performance by workers in a particular business, then HR managers would probably do well to just avoid the issue altogether. The productivity cost of insulted workers will never be matched by the productivity gains of catching a few drug users.

Drug testing vendors

In the middle of this situation stand the drug testing companies which, on the face of it, would appear to have a vested interest in talking up the problem and selling more and more drug and alcohol kits and services.

But these companies are not necessarily as one eyed about promoting the benefits of D&A testing in all cases as one might expect.

Andrew Leibie, National Account Manager for d:tec Australia (A division of Medvet Science) says: “I live between the two extremes of the civil libertarian and the test in every instance approach.

“On the one hand I have seen cases where employers have considered random drug and alcohol testing for completely the wrong reasons, such as to catch out a few employees who are obviously drug and alcohol impaired. We have advised employers against this where it happens.

“On the other hand, we are generally of the opinion that a well run random testing program is a valid part of any D&A policy. Our view is that a random program – involving all levels in the organisation – is less open to the accusation of victimisation than a targeted or incident related program,” he says.

The idea behind a targeted program is that supervisors should be trained to identify the signs of alcohol or drug impairment. The idea is that the supervisor can ask the worker to remove himself or herself from the workplace and report to the sick bay for a drug and alcohol test.

Liebie asserts: “In practice this just doesn’t work because the supervisors are frightened of being accused of victimisation or picking on somebody they don’t like. The worst fear

for the supervisor in this situation would be to send someone for a test and for the test to come back negative [that is, clear of drugs or alcohol] .

“In one case where such a program was introduced in a motor vehicle components manufacturer, there was not a single test conducted in the first full 12 months,” he says.

A variant of the targeted approach is that there should be a test of everyone involved whenever there is an accident or near miss. The problem here is that this system is not identifying and managing risk before it becomes an accident statistic. It is only finding who to blame after the accident has happened. The best safety approach is that the accident should never happen in the first place.

Another problem with the targeted approach is that it assumes the industrial factory model of work where there are supervisors and supervised. But this ignores the way that many workplaces are organised at the moment where less workers are directly supervised as in a production line.

“We see that the introduction phase of a D&A testing program is essential to its success,” Liebie says.

HR directors should plan for an education phase at the very beginning of the program.

This can be followed with a no blame, no fault period in which the employees get to see their individual results but the employer is not informed of any individual result. During this period, however, the employer is informed of the overall statistics for the company.

It is only after this period that the random test results start to become known to the management and start to become the basis for further action – be it counseling, participation in an employee assistance program or removal from the company after an appropriate number of positive tests.

“Our case studies show that with a no fault period and planned introduction over a period of months, the incidence of positive results will fall measurably,” he says.

The role of judicial recommendation

Another pathway by which companies become involved in random drug testing is as a result of a judicial inquiry which recommends random D&A testing. This has happened at NSW RailCorp.

A Railcorp spokesperson says: “When the final report of the Waterfall accident was completed in January 2005, RailCorp had already begun drug and alcohol testing. Justice McInerney recommended RailCorp continue with its drug and alcohol testing procedures including making testing mandatory after an accident and allowing employees to self-identify.

“A number of recommendations were made in regards to medical testing of staff. RailCorp introduced more rigorous health standards for train crews post-Waterfall including new health assessment program in March 2004 developed by the National Transport Commission.

“The Safety, HR and IR units within RailCorp all worked together on designing and implementing the drug and alcohol testing procedures. Extensive consultation was also undertaken with the unions.

“An important feature of our program is that it is not just the drivers who are tested – it is everyone. For myself, as a media spokesperson, I have been tested at eight o’clock in the morning when coming out of an early business meeting. The random nature of the testing applies fairly to everyone,” said the spokesperson.

Conclusion

The acceptance of the need for testing is far from universal. HR directors need to be fully informed of the issues as they apply to their business before starting out on a workplace D&A program.

What seems most obvious is that acceptance is highest in industries – such as mining – where safety is the prime concern and where the pressure for testing comes from the workers, not the management.

HR directors need to look for avenues to facilitate the workers’ desire for a safe working place rather than just trying to force their own plans without consultation.

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A CHECK LIST FOR HR DIRECTORS

If your company is not already in a D&A testing program, and you are considering it as an option, the following list contains significant factors you should consider.

Study and understand both sides of the argument.

Talk with vendors of drug testing solutions for the ‘pro’ side of the argument. Speak with HR directors from other companies who have testing in place. For a good summary for the ‘against’ visit the American Civil Liberties web site at

<http://www.aclu.org/Files/Files.cfm?ID=9998&c=184>

Explore other alternatives

Look at other methods of assessing fitness for work or performance testing to see if less invasive methods can be used to determine a person’s ability to perform their work safely.

Evaluate the adviser's position

Many of the people giving advice about D&A testing are vendors and, therefore, in the business of selling systems. Take the adviser's commercial position into account before relying on their advice.

Look at your own motives

Carefully analyse if any part of your motive is based on moral positions or judgements about what people should, or should not do in their own time. Drop the plan if it is based on morality.

Analyse the business case

Look at the aims and objectives you hope to achieve in the program. Think hard about how testing will really lead to the achievement of the aim.

Desks or Aeroplanes?

Ask what industry you're in and decide if safety drives the need for testing and whether safety will even be enhanced by testing in your business.

Who is supporting you?

Ask where the support for the program is coming from. If it is grass roots and safety driven there is a high chance of success. The chances of resistance increase if it is a top-down hierarchical decision imposed on the workers.

Assess negative impacts

Research the negative impacts that may be felt by people related to civil liberty, privacy, gender and cultural issues. Decide if the negative impact is unacceptable.

Research successful models

Have a look at the D&A policies in companies which have successful testing programs. Talk to stakeholders in these companies about how the site policies were agreed between owners, management, workers and unions.

The overall risk management context

Do not evaluate the safety results of a D&A testing program as a stand alone issue. Place it within the overall culture of the company towards risk management. Understand how the drug and alcohol risk may add to the cumulative risks created by other causes.

Dispersed or concentrated?

Is your workforce in a concentrated location where testing can be conducted effectively and efficiently? A dispersed workforce may be much harder to test fairly and cost effectively than a concentrated workforce.

One in – all in

If you decide that testing is to be proposed at your company then it must be seen as something to which all ranks must submit in a spirit of egalitarianism.

How many strikes?

Decide what happens when a positive result is obtained. Will you have a 'one strike and you're out policy' or will there be a system of notifications and counselling.

Employee assistance programs

Decide what forms of employee assistance programs will be offered to people found to have a drug and alcohol challenge.

Education

What forms of education and information can you offer your workforce about the effects of drug and alcohol in the workplace.

Phase in period

Decide what will happen in the phase in period. Will there be a no fault period and how long will it last?

What to do about contractors

Decide what your policy will be about contractors who come onto your worksite. Logic would have it that if safety is at stake, contract personnel should be subject to the same provisions as your own workforce. How do you gain contractors' agreement to this? How do you write this into the contract clauses?

What to do *if* a contractor

How should you position yourself if you are a contractor seeking jobs with companies which have testing programs?

What to do about temps, casuals and labour hire personnel

Decide how your policy will be implemented to cover non permanent members of your workforce.

Manage merger danger

Be aware that room for dispute can arise when there is a merger of takeover. The dispute can arise where the dominant partner in a merger has a more stringent or invasive policy than the other party. In merger the transition must be negotiated with as much care as the initial policy.

Insist on lab back-up

Do not accept a proposal from a vendor which accepts the screening test as the final proof of a negative test. Insist that initial positive tests are followed by a lab test.

Check lab's credentials

The best case is for the lab to be accredited to AS4308. This standard is the procedures for the collection, detection and quantitation of drugs of abuse in urine. It covers how a sample should be collected, how the lab process should work, how to maintain privacy and confidentiality of the donor, and general 'best practice' for laboratory processes.

Watch technology advances

Once a testing program is decided, watch closely for further technology advances in the biomed field to see the progress with less invasive testing techniques. Improved saliva testing may be one of these.

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THE THREE MONTH MYTH FOR CANNABIS RESIDUES

With regard to what he refers to as the three months myth – the myth that cannabis residues can remain in the body for three months, Andrew Liebie, National Account Manager for d:tec Australia (A division of Medvet Science) says: “A common misconception regarding drug testing is the length of time THC can be detected in a urine sample to AS 4308. For an infrequent, casual smoker (ie 1 or 2 'average' consumptions of cannabis/month), the individual will typically test positive for no more than 2-3 days.

“It is rare, but not impossible, to test negative (to AS 4308) within 24 hours for light use from a very infrequent cannabis user.

“Heavier use will take longer to clear from the system. It is uncommon for individuals who have actually ceased use to test much longer than a month. To test positive for so long the user would have to be a frequent, heavy user, and have been for some length of time (typically years).

“To date, the longest we have seen someone who has actually given up has been approximately six weeks. By their own admission they had been smoking approximately 4-5 times/day, 7 days/week for the past 25-30 years.

“Scientific studies also show quite clearly that exposure to passive smoking will NOT lead to a positive under AS 4308.

“The 3 month 'myth' comes from people who reduce their consumption from several times/day to once or twice a week, and call this 'giving up',” says Andrew Liebie of d:tec.

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