

Under the **INFLUENCE**

by Crystal McLaughlin

Employees that report for duty under the influence often present a real problem to employers. The use of alcohol affects an employee's sight, speech, coordination and reaction speed. Employees working with machinery or driving a vehicle, who are under the influence, hold a high risk to the employer, themselves and their colleagues. It is the employer's responsibility to create a safe working environment for all employees and must therefore always act in accordance with the disciplinary code.



TELLTALE SIGNS

Labour legislation does not specify the symptoms to determine whether an employee is under the influence of alcohol. Therefore, it is crucial to implement an alcohol policy in the workplace. Employees may be tested for alcohol during working hours, but only if this is stipulated in their employment contracts or in an alcohol policy, or if the employee has given his/her permission.

In general, employers can consider the following symptoms in order to determine whether an employee is under the influence of alcohol:

- red and bloodshot eyes with enlarged pupils
- slurred and incoherent speech
- change in behaviour
- staggering – the employee is disoriented
- delayed reaction and coordination
- breath smells like alcohol.

FOLLOW THE RIGHT PROCEDURE

1. Call the employee aside, preferably to an office. Ensure a witness is present.
2. Determine whether the employee is under the influence. Request the employee to blow into an alcohol tester. If you do not have such a device, you can take the employee to a physician for blood tests to determine his/her alcohol level.
3. If none of these methods is available, or if the employee refuses to give his/her cooperation and permission, it is crucial to record his/her behaviour. Also, ask witnesses to record their observations in writing.
4. Send the employee home for the rest of the day, without pay.
5. Follow the correct procedure as per your disciplinary code. Keep in mind that the sanction given must be appropriate in relation to the type of work performed by the employee.



Disciplinary hearing

If a disciplinary hearing is held, it is important to follow the correct procedure to ensure fair procedures and substantive fairness. In labour legislation, the burden of proof weighs lighter than in criminal cases. Therefore, the employer only has to prove on a balance of probabilities that the employee was under the influence of alcohol during working hours. During the disciplinary hearing, all witnesses that have observed the symptoms must be present to testify.

Alcohol and drug offences in the workplace are serious and are the employer's responsibility to address. If an accident occurs in the workplace and the employee was under the influence, the employer will be held responsible if he/she failed to act against such an employee. To maintain discipline in the workplace, it must be applied consistently. Clear rules in the workplace are paramount in creating a working environment with limited conflict and increased productivity.

Alcohol abuse is a social problem common among farm workers. When an employee is found guilty of being under the influence during working hours and admits to having a problem, it is the duty of the employer to establish if the cause of the problem is related to working conditions in any way. If so, the employer should review the conditions if necessary. Furthermore, the employer must

INTERESTING FACTS

ACCORDING TO THE AMERICAN COUNCIL FOR DRUG EDUCATION:

- **nearly three out of every four substance abusers are employed**
- **substance abusers raise costs and reduce profits**
- **substance abusers are also 10 times more likely to miss work**
- **substance abusers are five times more likely to file a worker's compensation claim**
- **substance abusers are 33% less productive.**
- **substance abusers are five times more likely than other workers to injure themselves or co-workers and cause 40% of all industrial fatalities**



assist the employee to undergo counselling and make time available for rehabilitation. This can be seen as unpaid leave without placing the employee's position in jeopardy. Alcoholism is widely accepted as a disease and should be treated as such.

An alcohol policy

A policy informs employees of the rule/s in respect of a certain topic. The employer puts these rules in place to ensure the smooth and efficient running of his/her business operations. Policies are not underwritten by labour legislation, but define the employer's own rules, which must be reasonable, for the workplace. The aim of an alcohol policy is to ensure that all employees are aware of the rules in terms of alcohol in the workplace and that corrective and progressive discipline is applied. The policy should be clear and stipulate the test procedure, for example a breathalyser test for alcohol or a urine test for drugs. Through this policy, the employer can also acquire the employee's consent to undergo these tests.

Implementing a policy

When appointing a new employee, implement policies along with his/her employment contract. When employees are already employed, policies can be implemented in various ways:

- Have a meeting with all the employees to discuss the policy. Take note to complete a signed attendance register to prove that employees are aware of the policy.
- Circulate the policy via e-mail or per hand – take note to have proof of receipt.
- Display the policy on a communal notice board accessible to all employees, for example in a canteen or changing rooms where employees can see it.

It is important that the employer can prove that the employees are aware of the policy, especially when the employer intends to take disciplinary action.

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