

Health and Safety Bulletin

Working under the influence of drugs

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In March 2015 new legislation came into force making it illegal for an individual to drive with a controlled drug (e.g. cannabis, cocaine, ecstasy and ketamine) in their body above accepted limits for each drug – for example the Department of Transport has estimated that one smoke of cannabis will put drivers over the limit. Any drivers convicted under the legislation will receive a minimum 12-month driving ban, a criminal record, and a fine of up to £5,000 or up to six months in prison or both.

Why such harsh penalties?

In 2004 the HSE published research they had commissioned on “The Scale and Impact of Illegal Drug use by Workers” (RR193). In developing the report, researchers carried out tests based on computer tasks that showed that the drug users not only had reduced alertness, but that the drugs also affected their memory and ability to reason. In fact, the researchers concluded that people who were under the influence of drugs suffered 10% impairment. This level of impairment is comparable to one that would lead to a ban from driving – they used this comparison because alcohol is well known to affect people’s judgment, physical coordination and their reaction speeds.

In addition, the HSE’s guidance “Drug Misuse at Work” (INDG91), highlights the effect that drugs can have on the user, explaining, for example, that cocaine can give individuals a sense of well-being and confidence and LSD use results in hallucinations with mixed-up sense of vision and time.

In conclusion there is plenty of evidence that anyone operating a dangerous piece of machinery (such as a car) while under the influence of drugs has a greater likelihood of committing an error – possibly one that could result in an accident. Therefore, the extent of the punishment available to the courts is going to reflect the risk taken.

How does this affect health and safety at work?

RR193 also presented data that suggested 29% of workers under 30 years old had used drugs in the previous year, compared to only 3% of over 50 year olds. Since this study was conducted in 2004, the percentage of workers who use drugs has probably risen since then.

Employers have a duty to protect the health and safety of their employees and non-employees so far as is reasonably practicable and therefore, if they do not take steps to minimise the risk that they are allowing people to work while under the influence of drugs it is unlikely they are meeting their common law “duty of care.”

Many organisations have introduced policies that cover not only the prohibition of the use of drugs in the workplace and encourage teams to consider the potential influence of drugs or alcohol during accident and incident investigations. Some have also provided awareness training for workers on the harmful effects of drugs.

Many employers have also introduced screening procedures. In 2014 the BBC reported that some drug screening companies have seen a 40% to 470% increase in the number of annual tests carried out over the past four years. Such screening may involve workers to provide blood or urine samples, but they also offer the opportunity for employers to intervene where there is a problem, not only protecting other workers, but also potentially helping individuals to overcome addiction.

Recently issued health and safety information:

- HSG252: A recipe for safety Health and safety in food and drink manufacture <http://www.hse.gov.uk/pubns/priced/hsg252.pdf>
- WIS40 (rev1) Four sided moulding machines www.hse.gov.uk/pubns/wis40.pdf
- Revised printing industry guidance <http://www.hse.gov.uk/printing/machine/safe-guarding-paper-machines.htm>
- HSL GRIP Ratings (slip resistance on safety shoes) <http://www.hsl.gov.uk/products/grip/grip-ratings>
- CITB CDM15 Industry guidance (includes video and wizard app) <http://www.citb.co.uk/health-safety-and-other-topics/health-design-and-management-regulations/>
- CIS80: Construction phase plan <http://www.hse.gov.uk/pubns/cis80.pdf>
- HSE website for disabled workers updated <http://www.hse.gov.uk/disability/>

2015 Health and Safety Week

The theme of the 2015 week is occupational health such as

- cancer, as a result of exposure to asbestos, silica and shift work
- other asbestos-related illnesses
- respiratory diseases such as asthma, emphysema and bronchitis
- noise-induced hearing loss
- musculoskeletal disorders
- work-related skin disease

- stress
- mental ill health
- hand-arm vibration diseases

The week is scheduled for 15 to 19 June.

From the official website <http://www.healthandsafetyweek.com/> organisations can access the business health calculator to measure how well they are complying with health related legislation or the supporters pack, allowing them to share success stories which have achieved health improvements.

About Clwyd Associates...

We are a management consultancy, focusing on health and safety, and SAP based in the Midlands.

We employ consultants with at least 15 years practical experience backed up by recognised professional and academic qualifications - ensuring our clients receive first class service.

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Case Law update

This issue focuses on recent cases involving incidents that affected workers health

The Royal Cornwall Hospitals NHS Trust was fined after failing to take measures to prevent or monitor at least 23 cases of dermatitis among staff between 2007 and 2012. The Trust failed to carry out regular health checks of employees to detect any symptoms of dermatitis or other skin issues. As and when symptoms were reported by members of staff, they were simply told to see their GP by the trust's occupational health team. The Trust was fined **£10,000** and ordered to pay costs of **£9,620**

A hi-tech manufacturer was fined a total of **£22,000** and ordered to pay **£604** after two incidents, one

of which involved a two-man team attempted to lift a 70-90kg reel of synthetic plastic material. One of the workers lost their grip on the reel causing it fall and trap his co-worker's hand against the surface of a wrapping table. The injured person had a finger pad partially severed and required reconstruction of his fingertip and nail-bed

A veterinary firm was fined after workers were potentially exposed to harmful substances found in animal chemotherapy drugs prepared in a fume cupboard at the veterinary practice over a four year period. There was no safe system of work in place to prevent or reduce the risk of exposure to employees, that there had been

no maintenance of the fume cupboard for many years and the cleaning procedures were inadequate. The company was fined **£35,000** and ordered to pay **£50,378** in costs

An engineering company was prosecuted after an inspection by HSE revealed that risks to health from exposure to vibration, noise and dust had not been adequately managed or controlled. The company was fined a total of **£7,000** and ordered to pay **£1,379** in costs after admitting legal breaches of health and safety legislation including the Control of Vibration at Work Regulations and two breaches of the Control of Substances Hazardous to Health Regulations

Magistrate Court fines unlimited

Section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (also known as LASPO) came into force in March 2015.

This has removed the £5,000

and £20,000 cap which used to limit Magistrates' sentencing powers – the upper limit is now 'unlimited.' This will only apply to offences committed after March 2015.

The Ministry of Justice has

explained that the purpose of the new powers is to encourage greater use of fines and to enable magistrates to impose more proportionate fines on 'wealthy or corporate offenders and organisations.'

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