

MKA: Making Knowledge Accessible

MKA Risk Mitigation has been steadily presenting the message on achieving positive workplaces! On June 4th 2004, Martha Knox Haly presented a paper at the Futuresafe

Conference. The paper describes how a 74% reduction in psychological injury claims was achieved in one year. The paper is available at

www.safetynews.com.au.

Martha Knox Haly (organisational psychologist) was interviewed by the Sydney Morning Herald on organisational strategies for reducing occupational stress. The article advocates use of employment suitability testing, work sampling and frankness about the realities of the job role at job interviews. More details are available in the Sydney Morning Herald's My Career Section, p 11, June 5th 2004. Some of you may also chatted us over a good cappuccino at the MKA Risk Mitigation stand at the October Safety Show. The stand was a success, and more importantly a lot of fun! Thanks for visiting us and we hope you enjoyed yourself as well.

This newsletter covers some of the controversies around drug and alcohol testing at work; we hope you find it informative.

Using the power of Business Psychology to Define and Manage Human Resources Risk

Employer Responsibilities

More employers are using either mandatory or voluntary drug testing in the workplace. The results are mixed. Drug and alcohol testing is about carefully balancing the obligation to create a safe workplace against employee's rights to privacy. These considerations need to be evaluated on a case by case basis, and will vary from industry to industry.

Developing a Drug and Alcohol Policy

Drug and alcohol policies need to be developed with the involvement of all the parties who are going to be affected by it's implementation. The policy also has to apply to everyone on site. This includes contractors, as well as employees, management and senior executives. Changing cultural beliefs around drug and alcohol abuse is very much about every level of the organisation setting a consistent example; otherwise substance abuse will prove very resistant to improvement. Good professional legal advice is essential when navigating this area, as it is a potential minefield!

Employer Responsibilities

It is clear that the employer is responsible for not permitting employees who are under the influence (of whatever pharmaceutical it might be) into the workplace,

(Inspector Steven Jones v State of New South Wales (Department of Public Works and Services) [2002] NSWIR Comm 284).

If an employer believes that a worker is not sober, the employer has to encourage the employee concerned to leave the premises and attend a general practitioner. As the employer is also liable for journey claims, then it is advisable to organise a taxi to take the employee directly to the nearest medical centre, or responsible management can drive the employee to the medical centre. It is probably best to indicate to the person that they are not well enough to work, rather than make the assumption that an employee is drunk or stoned. There are many medical conditions whose symptoms can mimic the appearance of drunkenness, and a great disservice can occur when incorrect assumptions are made.

Drugs and Alcohol

Signs of Intoxication

When putting a drug and alcohol policy together, the workplace must give thought to how one would recognise that an employee was unwell and/or a risk to themselves and to others. Possible signs for alcohol intoxication might include: unsteady gait, fumbling, lack of focus in gaze, mumbling, slurred incoherent speech, disoriented appearance, stupor or coma and impairment in attention or memory, change in behaviour.

Signs of amphetamine intoxication include presentation of either extreme euphoria, hypervigilance, paranoia, anger, irritability, pressured speech, dilated pupils, sweats and chills that are not temperature related, vomiting, agitation, confusion, seizures, disorientation, confusion and physical agitation.

Criteria for cannabis intoxication are reddened eyes, increased appetite, dry mouth, possibly perceptual disturbances, slow gait, impaired coordination, paranoia and/or euphoria. These lists are not exhaustive and the intoxicated person should always be reviewed by a medical practitioner. If it is not feasible to have the person reviewed medically because of the size or location of the workplace, then there is an option of training peers to recognise signs of impairment.

Cut-Off Points

When introducing drug testing the workplace needs to consider what the cut-off point should be for a positive indicator of

substance abuse. For example, in some workplaces, the minimum cut-off point is 100 ug/l; in other workplaces it is 50 ug/l for cannabis testing. The higher the cut-off point, the more risk there is that recent cannabis use will not be detected.

Confidentiality

The other concern is confidentiality. Taking prescription medication may influence the results of the test, and it is necessary for employees to advise company testers of any medications that they may be on. However some companies insist that employees advise their supervisors about prescription medications for safety reasons. Whilst it is correct that some prescription medications will affect safe operation of equipment; is it necessary to advise supervisors of this? What about trusting employees to be responsible for themselves? This is essentially an industrial relations issue and a privacy issue that needs to be negotiated between the relevant stake-holders, and the Privacy Commissioner and legal representatives. If supervisors are to be privy to such information, then they need to be trained in ethics and maintaining confidentiality.

Test Result Records

There is the matter of how long records of drug and alcohol test results should be used as an indication of performance. Is the slate to be wiped clean each year, or should testing be cumulative over the duration of a worker's employment? How should an employer react if an

employee refuses to be tested? How does this refusal fit in with disciplinary procedures? In the matter of *Larkin v Boral Construction Materials Group Ltd* 2003 (WAIRC 07963, 20 March 2003) the employer terminated an employee's employment, after the employee refused to submit to a drug and alcohol test. The West Australian Industrial Court of Appeal ruled that the termination was an "oppressive exercise" of the employer's right to dismiss. Any disciplinary action in connection with testing or refusal to be tested needs to be done with appropriate legal advice and in conjunction with other company policies.

Future Topics

- **Fatigue to Energy**
- **Inspired Performance Management**
- **Adventurous workplaces without risk**
- **Positive Mental Health at Work**
- **Goodbye Chronic Pain**
- **Mediation that Works**
- **Safety Culture Plus**
- **Real Team Building**



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Disclaimer The material contained herein is not intended to be a comprehensive checklist of strategies to deal with Drug & Alcohol issues. This newsletter provides general advice only and does not constitute a prescription for a specific workplace or circumstances; if a legal opinion is required you should consult with your solicitor. This material is reproduced with the permission of the NSW Attorney General's Department.