

**CFMEU**  
**IMPAIRMENT**  
**POLICY**

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# CFMEU IMPAIRMENT POLICY

## 1. Principles

The health, wellbeing and safety of employees are of paramount importance to the employer, employees and their Unions. This policy is part of a broad work, health and safety (WHS) program to secure the highest level of health and safety in the workplace.

The policy adopts a WHS approach that involves identifying, assessing and controlling all workplace hazards, using the hierarchy of control, and then reviewing these controls to ensure ongoing improvements.

The focus of this policy is on the WHS risks associated with impairment and should be read in conjunction with other company policies concerning health and safety, particularly in relation to fatigue management, risk management and safe systems of work.

This policy has been compiled in a manner that is non-punitive and supportive of employees. This policy shall not be used in a discriminatory manner. Anti-Discrimination Law protects against discrimination on the basis of addiction and may also protect against discrimination on the basis of impairments caused by drug and alcohol addiction or use.

The policy and procedures adopt a peer based intervention approach based on fairness and equity for all employees.

## 2. Scope

This policy will apply to all employees (including managers and supervisors), contractors and labour hire staff. The policy applies to these groups at all times when they are engaged in company business, whether on or off site and when driving company vehicles.

## 3. Structure

The Impairment Policy is categorised in order with the intended implementation:

3.1 Training and Awareness - extensive research has shown training and awareness of impairment related issues provides the most effective means of behavioural change and encourages better decision making. The two types of training in accordance with this policy to do this are:

- a) Workplace Impairment Training (WIT) - all workers onsite will do this training.
- b) Preliminary Impairment Assessment (PIA) - HSR's, delegates and the PC's safety staff will undertake this training.

3.2 Testing - testing for drugs and alcohol is used to support and measure the results of the education and awareness program.

3.3 Support Services - rehabilitation, counselling and EAP's. Support is strictly non-punitive, and can be accessed at anytime (self-identification of the need for help is strongly encouraged).

#### **4. Objectives**

The objectives of this policy are as follows:

- To provide a safe and healthy working environment for all workers.
- To work collaboratively in the implementation and co-ordination of this policy with employees, employers and their elected representatives to achieve the objectives of this policy.
- To eliminate and control risks which may lead to impairment affecting health and safety in the workplace.
- To ensure that there is a mechanism for managing impairment at work that is transparent, objective and in accordance with the purpose of this policy.
- To ensure that all persons are provided with adequate information and education on the health and safety issues surrounding impairment, and on the operation of this policy.
- To ensure that employees have access to rehabilitation, support and counselling of their choice on a voluntary basis that is independent, professional and confidential, without jeopardising their employment.
- To ensure confidentiality of information concerning the application of this policy to a worker is maintained.

#### **5. Responsibilities**

The employer shall:

- Provide a work environment that is safe and without risks to health and safety.
- Provide information about the testing requirements to all existing employees, contractors and labour hire staff and to all new staff at the point of induction.
- Ensure that this policy is implemented fairly and equitably across all sections of the workforce.
- Comply with the four policy implementation steps outlined below.
- Have adequate resources (e.g., a room that allows for confidential impairment assessments to be discussed, if necessary, suitable transport to safely remove impaired employees from the workplace to be able to meet the objectives of this policy).

Employees shall:

- Co-operate reasonably with the employer in the implementation of this policy.
- If any employee reasonably believes that any person on the site may be a health and safety risk to themselves or others they should inform their employer and their relevant Preliminary Impairment Assessor (PIA) of this belief.
- Not possess, consume, or be under the influence of, alcohol or other drugs while working.
- Ensure that they do not work, if they believe that they may be impaired.
- Consult their doctor or pharmacist about possible side effects of using prescribed or over-the-counter medication.
- Inform their employer, their Preliminary Impairment Assessor (PIA); and Delegate, if they have been made aware by their treating doctor or pharmacist of possible impairment as a side effect of medication, or if they feel impaired by medication.

**6. Policy implementation will involve the following steps.**

- a) PC/Employer and Union shall agree on a policy start date.
- b) Engagement of an agreed training and rehabilitation/treatment service providers.
- c) Provision of on-going Workplace Impairment Training (WIT) and Preliminary Impairment Assessors training (PIA).
- d) Ongoing promotion of this policy.

A purpose of the policy and procedure is to provide protocols and procedures for workplace alcohol and other drug testing that are evidence-based, consistent with best practice, comply with relevant Australian Standards, and contribute to workplace safety and worker wellbeing.

The following drug and alcohol testing programs will be adopted:

- Self-testing
- Random Shift testing
- For-cause testing
- Post-incident testing
- Reasonable concern testing
- Testing of Minors

Any employee who is assessed as being impaired shall be advised to contact the rehabilitation/treatment provider.

The employee will be permitted to access personal leave in the first instance and then take accrued personal leave entitlements for the period of time they are accessing the treatment provider.

With the endorsement/acceptance of the CFMEU Impairment Policy the Principle Contractor (PC) will undertake to not pass the implementation and cost of drug and alcohol testing to its subcontractors.

It will also ensure compliance with this policy as follows:

- Subcontractors will be contractually required to comply with this procedure as a condition of contract/EBA.
- All direct employees of the PC as a condition of their employment must agree to adhere to the terms and conditions of the impairment policy.

Notwithstanding anything else contained in the policy, the costs of all testing contained within this policy shall be borne by the PC unless otherwise specified in this document.

## **7. Definition of a Worker**

Anyone who carries out work for a Person Conducting a Business or Undertaking, such as:

- an employee (either salaried or wages);
- a contractor or subcontractor;
- an employee of a contractor or subcontractor;
- an employee of a labour hire company;
- an apprentice or trainee;
- a student gaining work experience;
- an outworker;
- a volunteer;
- a visitor to a workplace

## **8. Training**

The training provider shall be the CFMEU Workplace Impairment Officer or other agreed provider between the Union and the PC/employer. Impairment awareness training sessions will be delivered to all workers (including principle contractor workers), sub-contractors and labour hire workers at least once every two years.

In addition to the below training course outlines, principal contractors will be required to develop a site specific information session to be delivered as part of the site induction outlining their Drug and Alcohol testing procedures for the site.

The below requirements will be audited on an annual basis.

Requirements for an approved training provider:

- Must have previous experience delivering Workplace Impairment Training
- Must consult with professional organisations to develop all training courses
- Must be able to demonstrate a continuous improvement plan for each training course

Trainers must have the following qualifications:

- Cert IV in WHS
- Cert IV in Training and Assessing (TAE)
- Nationally Accredited Course in On-Site Drug and Alcohol Testing

### **All training must be delivered Face to Face (F2F)**

#### 8.1 Workplace Impairment Training (WIT)

WIT course must be a minimum of (2) hours in length and must cover the following topics:

- Australian Workplace Health and Safety construction statistics
- Overview of the Workplace Health and Safety Act, state specific
- Mental Health - discussing at length stress, anxiety and depression
- Fatigue - overview of causes and coping mechanisms
- Illness and Injury - management of illness and injury, legal requirements and rehabilitation process
- Chemicals, Heat, Cold, and Noise and their abilities to cause impairment at work
- Legal/Illegal Drugs and Alcohol - statistics on current usage, potential negative consequences to the workplace, workplace deaths and accidents associated with drug and alcohol use
- Harm related to drug and alcohol use
- Understanding what is a standard drink and how long this will stay in your system
- Detection rates for illegal drugs
- Administering self-alcohol and drug tests
- Information about EAP and the services they offer

#### 8.2 Preliminary Impairment Assessor (PIA)

PIA training must be a minimum of (4) hours in length and must cover the following topics:

- Understanding the signs of impairment
- Conflict resolution
- Skills to conduct an impairment Assessment
- Overview of what a PIA is
- What are possible impairment factors
- Causes and symptoms of impairment

- Investigative skills

Training is not to be conducted in a lunchroom, unless there are multiple lunchrooms on site and:

- (i) the training session will not interfere with workers wanting to use the room for smoko or lunch; or
- (ii) the training session will not be interfered with by workers wanting to use the room in general

**No worker can be tested for drugs and/or alcohol unless they have been trained in this policy.**

## 9. Testing Methods

### 9.1 Alcohol Testing Method-

- Alcohol testing must only be done by use of an Accredited Breath Test device. The device must be calibrated and meet the minimum requirements of AS3547.

### 9.2 Drug Testing Method-

- Drug testing may only be performed by oral fluid testing
- The equipment used to perform the test shall be used, tested and calibrated to the manufacturer's instructions and certified to AS 4760 (Process for specimen collection and the detection and quantitation of drug in oral fluid)
- The drug testing shall be conducted by an accredited person, following all of the chain of custody provisions.
- The test must be performed in accordance with AS 4760 (Procedures for specimen collection and the detection and quantitation of drugs in oral fluid).

As part of this policy with regards to Drug and Alcohol testing the following substances must be tested for:

- a) Alcohol;
- b) Opiates;
- c) THC;
- d) Cocaine;
- e) Benzodiazepines;
- f) Amphetamine; and
- g) Methamphetamine



## **10. Testing Provider**

- Must be NATA Accredited
- Must have accreditation AS4760:2006 Procedures for specimen collection and the detection and quantitation of drug abuse in oral fluid
- Must be agreed upon by the PC/Employer and the Union

Minimum standards that the testing company must meet are as follows:

- competent and trained staff
- appropriate equipment and instruments
- proper management and storage of test kits and reagents
- secure and controlled storage and management of samples
- comprehensive record keeping; and
- clear and precise reporting

Before the Authorised Testing Agent is engaged to be the sample collector for the principle contractor all relevant stakeholders must be engaged to make sure there is no conflict of interest and that they are totally independent. If a conflict of interest exists, or should arise, the Authorised Testing Agent must report it immediately.

## **11. Room Requirements**

Each workplace shall have a room nominated for use to undertake drug and alcohol testing consistent with this procedure. This room will not normally be the first aid room at a workplace unless a workplace has multiple first aid rooms and the use of a first aid room for the purpose of drug and alcohol testing will not affect the ability of the workplace to respond to a first aid incident.

The room selected for use must so far as reasonably practicable:

- Provide privacy for the Worker being tested including but not limited to:
  - Have a closing door
  - Not allow for casual visual observation of the testing process by other Workers external to the room e.g. through glass windows.
  - Not allow conversations to be casually overheard by other workers.
- Be clean and hygienic
- Be free from interruption whilst testing is being undertaken
- Include discrete entry and exit

## 12. Testing Requirements -

### 12.1 Code compliant workplaces -

On workplaces where the value of the Commonwealth's contribution to the project that includes the building work is at least \$5,000,000, and represents at least 50% of the total construction project value or the Commonwealth's contribution to the project that includes the building work is at least \$10,000,000 (irrespective of its proportion of the total construction project value) the following minimum testing requirements must be adhered to.

**Alcohol** - on the day of testing all workers onsite shall be required to submit a breath sample i.e. blanket testing.

#### **Drugs** -

As a minimum, frequent periodic testing (at least once per month where required by law, at intervals required by the client or by mutual agreement by the PC/employer and the Union) of the workforce (both construction Workers and site office Workers) will be as follows:

- (a) where there are less than 30 Workers at a workplace – at least 10% of the workforce;
- (b) where there are 30 to 100 Workers at a workplace – a minimum of 5 Workers; and
- (c) where there are greater than 100 Workers at a workplace – a minimum of 10 Workers.

The frequency of testing and the number of workers selected shall be increased in line with the escalation below where test results meet the criteria indicated:

Number of Workers	Criteria	Action
Less than 30 Workers at a workplace	Confirmed Positive results in 2 consecutive tests at the same workplace	Testing of 20% of workforce
30 to 100 Workers at a workplace	Confirmed Positive results for 3 or more workers in 2 consecutive testing rounds at the same workplace	Testing of 10 workers
Greater than 100 Workers at a workplace	Confirmed Positive results for 6 or more workers in 2 consecutive testing rounds at the same workplace	Testing of 20 workers

The increased testing requirements shall continue until no Confirmed Positive test results are recorded for 2 consecutive testing periods.

## 12.2 Other jobs-

On jobsites/workplaces where there is no Commonwealth contribution testing frequency will be agreed upon by mutual consent by the PC/Employer and the Union. Testing requirements will remain the same for all jobsites i.e. blanket alcohol and code requirements for drug testing.

## 13. Prescribed Medications

Workers that are taking Prescribed Drugs or Pharmacy Only Drugs that they believe could register a positive test result should inform the Authorised Testing Agent prior to undergoing any requested test

If a Worker fails to declare that they are taking Prescribed Drugs or Pharmacy Only Drugs before being tested and they record a Non Negative Result Initial Test result, a post test declaration will not be considered relevant to the result and the Worker will be excluded from duty for the remainder of the shift, subject to a Confirmatory Test.

Workers who record a Non Negative Result Initial Test result will be excluded from their work duties and the workplace until a Confirmatory Test result has been received.

If that confirmatory result is a Positive Result Confirmatory Test, then:

The terms and conditions of the applicable industrial agreement shall be observed in relation to consultation and consequence management action.

When a confirmatory test result is negative or the result recorded is less than the target level or is consistent with a level expected from therapeutic use of a Prescribed Drug or Pharmacy Only Drug, which was advised by the Worker, then the test result shall be considered a Negative Result Initial Test for the purpose of any consequence management action

Where a Worker is excluded from the workplace as a result of a Non Negative Result Initial Test for Drugs and the confirmatory test is positive for a Pharmacy Only or Prescription Drug, the following factors would normally be considered in deciding when it is appropriate to allow a worker to return to the workplace and/or return to normal duties:

- Whether the worker declared the medication during the pre-test interview with the Designated Collector or Authorised Testing Agent;
- The level of the medication detected is consistent with therapeutic use;
- Written advice from the worker's doctor advising that the medication is required to treat a medical condition; and

- The medication will not affect the worker's ability to perform the inherent requirements of their job - i.e. they are fit for work

#### **14. Special Circumstances for Prescription Medication**

A Worker participating in a treatment plan for a medical condition, managed by a Registered Medical Practitioner and involving a Prescribed Drug/Only Drug could result in a Non Negative Result Initial Test if they are selected for Drug and Alcohol testing.

If in the above circumstance a Non Negative Result Initial Test occurs, and provided that the Worker has:

- Declared their use of the Prescribed Drug/Pharmacy Only Drug in a letter less than 12 months old from a registered medical practitioner before the commencement of testing; and
- Declared their use of the Prescribed Drug/Pharmacy Only Drug to the Authorised Testing Agent or Designated Collector before the commencement of testing;

Then the Non Negative Result Initial Test result shall be recorded at the workplace and a second sample of oral fluid shall be taken and sent for confirmatory testing. The worker shall be allowed to remain at work but must be precluded from high risk construction work activity until the result of the confirmatory test is known.

Where the results of the confirmatory test identify the Prescribed Drug/Pharmacy Only Drug declared and the levels are consistent with that prescribed by the prescribed medical practitioner, then a Negative Result shall be recorded and no results retained.

Where the results of the confirmatory test identify the Prescribed Drug/Pharmacy Only Drug declared and the levels are not consistent with that prescribed by the Registered Medical Practitioner or another drug(s) type is recorded then a positive result confirmatory test shall be recorded.

Where the Worker has not provided both declarations contained within this part then the Worker shall be excluded from the workplace until the results of the confirmatory test are known.

## 15. Testing Results

### 15.1 Alcohol -

A worker who returns a negative alcohol test will be allowed to return to work with no record of the test kept. A worker who returns a positive result for alcohol (above 0.00mg/ml) will be deemed not fit work and will not be permitted to return to work.

When a worker tests positive to alcohol in their system the workers blood alcohol concentration (BAC) may be decreasing or it may be increasing. In the interests of safety the Workers will be directed to remain within the testing vicinity and they will be re-tested no sooner than 60 minutes after the original test.

If the second test result is 0.000% the test will be regarded as negative and the Worker may return to normal duties. A Positive Result Confirmatory Test will not be recorded in these circumstances.

If the later confirmatory test indicates a BAC of greater than 0.000% a Positive Result Confirmatory Test will be recorded.

Alcohol testing shall be carried out by an Authorised Testing Agent agreed upon by the PC/Employer and the Union. The following steps shall be undertaken:

- a) Details of the identity of the Worker to be tested shall be recorded including the workplace name, work area and their employer will be listed on a drug and alcohol testing record form by the independent Authorised Testing Agent.
- b) Workers with a BAC of greater than zero (greater than 0.000%) shall discontinue any work activities and shall be directed to undertake a second test sixty (60) minutes after the first test and the results recorded on a Drug and Alcohol Testing record Form by the independent Authorised Testing Agent.
- c) Where the second test indicates a level greater than 0.00% BAC the Worker will be further excluded from work duties for the remainder of the shift;
- d) Where a Worker is to be sent home using their own transport this shall only be permitted if the blood alcohol concentration test result is below that prescribed by applicable road transport legislation and has been determined as not rising for that Worker.

Note: If the Worker's blood alcohol concentration result is greater than or equal to 0.05% BAC, all reasonable assistance is to be afforded to ensure an affected Worker can make their way from the Workplace to a safe location without harm (e.g. taxi, lift from a friend or Supervisor).

Contractors will be responsible for the management/arrangements for their employees in accordance with their own employment arrangements.

- e) Any Worker that is excluded from work duties for the remainder of a shift or sent home, must, before commencing work for their next shift undertake an alcohol breath test prior to commencing that shift. If the results are negative (0.00mg/ml) the Worker shall be allowed to commence work. If the Worker returns a positive test they will not be allowed to commence work, hence page 12 of this document, 15.1 Alcohol- d) will apply.

## 15.2 Drugs-

A worker who returns a negative test will be allowed to return to work. A worker who returns a non-negative test result from their initial test (equal to or above the relevant cut-off levels of the substances referred to in AS 4760) will be deemed not fit for work and will not be allowed to return to work. (Benzodiazepine level to be provided by the prescribed testing laboratory.)

Drug testing will be administered by the collection and analysis of an oral fluids specimen (saliva). Before conducting a drug test, the process used by the independent Authorised Testing Agent must be explained to the Worker providing the saliva sample.

Collecting and testing of saliva specimens shall be carried out by an Authorised Testing Agent, agreed upon by the PC/Employer and the Union, and confirmatory testing is to be carried out by a NATA accredited laboratory.

A Confirmatory Test will be required where a Non Negative Result Initial Test is recorded at the initial test. The handling of specimens taken for confirmatory testing is detailed in the process used by the Authorised Testing Agent and must be completed to Australian Standards.

Any worker attending the workplace under the influence of drugs or alcohol will be prohibited from entry. A worker returning to the workplace following their exclusion for a Positive Result Confirmatory test will be required to submit to a drug and alcohol test prior to commencing work and receive a Negative Result Initial Test for Drugs or Alcohol prior to commencing work.

## **16. Forms of Testing**

### 16.1 Self-Testing

The PC/Employer shall be required to provide sufficient self-testing facilities for alcohol and/or drugs for up to 10% of the workforce.

Where self-test facilities are made available voluntary or self-testing for alcohol will be available for Workers prior to presenting for work. A wall mounted breathalyser (optional) will be located in an area that provides for discrete privacy for the worker, whilst

completing the test so the test results cannot be inadvertently observed and disclosed to other parties.

A Worker undertakes self-testing at his/her own accord; therefore, no test details are recorded. However, all Workers have obligations under the Work Health and Safety Act or equivalent occupational health and safety or occupational safety and health legislation in other States or Territories and must not wilfully place at risk their health and safety or the health and safety of other Workers or people at the workplace by commencing work if they believe they're impaired.

## 16.2 Random Shift Testing

In terms of Random Shift Testing it is imperative that the PC/Employer and the Union do not know on what day, or at what time the Authorised Testing Agent will conduct the tests.

It is a condition of entry for all Workers at any workplace to comply with any request to participate in random Drug and Alcohol testing as a condition of employment or contract. This means that all Workers attending or seeking to attend a workplace will be eligible for testing.

Testing for Alcohol or other Drugs for Workers shall be mandatory and will be undertaken at any time throughout the Worker's hours of work (including overtime) or at any time whilst at the workplace.

Individual Workers will be selected for drug testing using a simple random selection process. A random draw will be conducted using an Authorised Testing Agent independent software to randomise the selection of Workers for testing.

The random selection process includes the selection of Workers from across the entire workplace subject to the testing.

A Worker selected for testing will be required to present themselves for testing within a reasonable time. Random shift testing shall be conducted in a room which provides for privacy for the selected worker during testing; the requirements for this room are outlined in the Room Requirements section of this policy.

## 16.3 For Cause Testing

An employer/supervisor may only request an employee to undertake for cause testing if:

- (i) The employee has been involved in an accident or incident, or had the potential to, cause:
  - a) serious and major damage to mobile plant or property; or
  - b) an injury to themselves or other individual(s); or

- c) Participation in a relevant and specific industry focus area when the worker is undertaking High Risk Work as identified by the employer and consistent with OHS legislation. Workers will be selected for testing using a random selection process nominated by the employer following a consultation process in line with OHS legislation.

#### 16.4 Post Incident Testing

After the occurrence of a significant incident/event at a workplace, all Workers involved in the incident may be required to undergo an initial Drug and Alcohol test.

Where a Worker(s) is to be tested following a significant incident/event they shall be supervised by an Employer Representative and Employee Representative continually from the time of the incident until they have completed all testing required.

Post Incident Testing will be conducted as soon as practical after the incident/event and when it is safe to do so.

An injured Worker who requires immediate medical attention may only be tested when it is appropriate and safe to do so. This will be determined by the Construction Manager, the HSR, Delegate and the relevant PIA in consultation with the attending medical practitioner. In such cases, where testing can be conducted while under medical care, a saliva testing process will be used.

#### 16.5 Reasonable Concern Testing

An employer may only request an employee to undertake reasonable concern testing if the following criteria are met:

- I. An observable phenomena occurs, which is:
  - a) the direct observation of the employee of use of, and/or the physical behavioural symptoms of being impaired by, alcohol and/or
  - b) Unusual and/or inexplicable actions by the employee
- II. There is evidence that the employee is involved in the use or possession of alcohol and/or other drugs while working; or
- III. The employee has breached safety precautions or procedures.

#### 16.6 Testing of Minors

A letter of consent contained within the work experience and student placement procedure shall be signed by the parent or guardian of any worker who is a minor seeking to access a workplace where the CFMEU impairment policy is in place, as a condition of



entry to that workplace. Alternatively, an equivalent letter signed by the parent or guardian can be provided through the minor's employer/host employer.

Where a minor is selected for testing and:

- A letter of consent is held, then the provisions of this procedure shall apply; or
- Where a letter of consent is not held, every effort will be made to contact the minor's parents/guardians to get verbal consent to participate in the testing procedure. If consent is given then the normal testing procedures will apply, if contact cannot be made and/or consent is not given then the minor will be excluded from any high risk activities or potentially excluded from site until consent is given.

### **17. Refusal to Test**

If a Worker refuses to participate in workplace Drug and Alcohol testing the following will apply;

- a) The Employer, will inform the Worker and the workers chosen representative, that the refusal will have the same consequences as a non-negative result, i.e. that the employee will be deemed to be unfit for work due to the presence of alcohol or drugs.
- b) If the worker still refuses, the Employer and the PIA , shall consult with the worker and the workers chosen representative, regarding the requirements, process and consequences of refusing to test and encourage them to partake in the test. This would be the second request to be tested.
- c) If the worker still refuses, the refusal will be treated as a confirmed positive result, and will be subjected to the relevant consequences of such. All reasonable assistance is to be offered to ensure the employee can make their way from the workplace to a safe location without harm (i.e. taxi, lift from a friend or fellow worker). An agreed leave of absence arrangement is to apply for the duration of their absence.

### **18. Disciplinary Action**

The following sets out the action which may be taken when a worker returns a confirmed positive result to an alcohol or drug test.

- a) First Occasion - A worker who has received a first confirmed positive test for alcohol or drugs (other than by self-testing) will be:
  - I. Required to attend the Support as referred to in this Policy;
  - II. Informed of the consequences of testing positive and their obligations to present, or remain in a fit state;

- III. Informed of further disciplinary action and testing requirements should they have a confirmed positive result (alcohol or drug) within the next 12 months.
- b) Second occasion - A worker who has received a second confirmed positive test for alcohol or drugs (other than by self-testing) within any 12 month period will be:
- I. Required to re-attend the Support as referred to in this Policy
  - II. Required to participate in a rehabilitation program referred to in "Support" in this policy
  - III. Informed of the consequences of testing positive and their obligations to present, or remain in a fit state;
  - IV. Given a verbal warning with a diary entry placed on file; and
  - V. Informed of further disciplinary action and testing requirements should they have a confirmed positive result (alcohol or drug) within the next 12 months.
- c) A worker who has received three confirmed positive test results for alcohol or drugs which has been detected in a 12 month period may be disciplined under the Employer's disciplinary processes.
- d) A worker who fails to attend EAP sessions may be disciplined under this policy in accordance with principles of natural justice.
- e) No disciplinary action will be taken in respect of positive test results from a self-test.

## **19. Support**

The Principle Contractor (PC)/Employer will make available support to workers in respect of drug and alcohol issues. This will include:

- a) allowing access to any Union support programs; and
- b) provide an employer funded Employee Assistance Provider (EAP) to be available to workers.

The worker will be allowed to access a Union support program and/or EAP counselling during normal working hours and without loss of pay, or any form of employer retribution.

## 20. Self- Declaration

- a) Workers will not be disadvantaged for self-disclosure and therefore will be supported through counselling and rehabilitation processes and provided with the Support contained in this policy. In such cases the worker will be permitted to access personal leave in the first instance, then accrued leave, and may return to work when fit for duty.
- b) The worker may be suspended from any work, with pay, with immediate effect in order for an assessment to be made of the duties they are able to perform safely and a drug and alcohol test is to be taken as soon as reasonably practicable.

## 21. Privacy

Drug and Alcohol testing results shall remain confidential and will only be used for the purpose of compliance with this Procedure in the manner required by the *Privacy Act 1988* (Cth). Any information provided or declared by a Worker regarding:

- Prescribed Drug and Pharmacy Only Drug consumed
- Medical conditions or the like
- Their proposed return to the workplace following exclusion by this procedure;

Will also remain confidential and managed in accordance with the *Privacy Act 1988* (Cth). Similarly, where a Worker supplies information regarding the use, sale or supply of Drugs or Alcohol at a workplace, unless the Worker otherwise agrees or as otherwise required by law, the Worker's identity will be kept confidential.

All Positive Results Confirmatory Test will be maintained on the relevant Worker's personnel records located at the workplace.

Protections from Worker Deoxyribonucleic Acid (DNA) misuse

Workers selected for testing shall have their personal DNA protected by:

- In the case of unintended collection of a Worker's DNA during the collection of an oral saliva sample for an initial test, by the worker being offered the used collection cartridge upon completion of the initial test.
- In the case of unintended collection of a Workers DNA during the collection of an oral saliva sample for testing at a NATA approved laboratory for an initial Non Negative Result Initial Test, by ensuring that the documentation that accompanies the collection cartridge to the NATA approved laboratory does not include the workers name or address but contains only that information sufficient to comply with AS4760 e.g. test report number and date of birth.

These protections will be notified to Workers during training.

## **22. Consultation**

If a party believes that an amendment to the impairment policy is required, they shall request and organise a consultation meeting involving the Employer, the Union and any other relevant stakeholders.

The attendees shall seek to reach agreement on any proposed amendments.

No amendments shall be implemented unless agreement is reached by the Employer, the Union and the relevant stakeholders.

### **Employment Assistance Program (EAP)**

The Employment Assistance Program (EAP) is an agreed independent, professional and confidential service that aims to provide employees with assistance when affected by personal or job related problems.

To have a successful Impairment Policy at the workplace, the Policy must address how those at the workplace, including employees of the principal contractor, subcontractors and their employees and others, will be required to comply with the Impairment Policy.

The below requirements will be audited on an annual basis of the employer:

- Must be able to provide EAP support in all States, Territories and regional areas of Australia
- Must outline in their Impairment Policy how workers who attend for work affected by drugs or alcohol will be counselled and assisted, apart from any disciplinary process that might apply
- Must have a memorandum of understanding (MOU) with relevant stakeholders within treatment support areas
- Provide support for their workers and their immediate families
- Must be able to provide treatment services which must include the following:
  - General counselling
  - Drug and Alcohol counselling
  - Drug and Alcohol detoxification services
  - Drug and Alcohol rehabilitation services
  - Case Management services
  - Psychology services
- Must have a history of delivering support services to the Building and Construction Industry
- Must be able to develop and implement a plan to promote the impairment policy within the workplace

### **23. Appendix-**

Refer to the National CFMEU Impairment Policy for more information and detail about impairment in the construction industry. The policies and procedures in the national document look at the impairment issues of Mental Health, Injury and Illness, Fatigue, Chemicals, Heat, Cold and Noise, and Alcohol, Illegal Drugs and Legal Drugs.