

FORTH PORTS LIMITED

POLICY ON ALCOHOL AND SUBSTANCE MISUSE

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1. **AIM**

The Company has developed this Policy as a positive strategy for tackling alcohol and substance related problems at work and to ensure the safety of its employees. Substances are defined as drugs, both prescribed and non-prescribed, and solvents.

The Company's responsibilities to its employees, customers and others are clearly stipulated in the Health and Safety at Work Act 1974 therefore any action taken by an individual which endangers others will always be treated very seriously.

Employees, contractors' employees and agency workers must therefore understand that this Policy applies to them and that alcohol/substance use/misuse will not be tolerated in the workplace. Any employee reporting to work under the influence of alcohol or substances will be dealt with under the Company's Disciplinary Procedure as gross misconduct.

As part of its Health & Safety Management System Forth Ports Limited, which includes all Companies within the Group, tests for alcohol and substance use/misuse as standard procedure for the following:-

- Pre-employment;
- Random testing;
- 'For Cause' testing which includes both post-incident and accident testing or if the Manager considers the employee to be impaired. It may also apply if the Manager is concerned that the employee may have a dependency problem.

The Company also seeks to prevent alcohol and/or substance related problems developing, and to help those affected, so far as is reasonably practicable. In line with the Company's Rehabilitation Programme regarding the treatment of an employee experiencing alcohol or substance use/misuse problems, help and encouragement will be given to employees who recognise that they have a problem and are seeking help.

However, if an employee fails a 'Random' or 'For Cause' test the employee cannot rely on dependency as a mitigating circumstance at any Disciplinary Investigation or Hearing.

This Policy is not intended to intrude upon the privacy of individuals, particularly in health matters, where a medical condition does not affect conduct or performance at work.

2. **DEFINING THE PROBLEM – ALCOHOL AND SUBSTANCE MISUSE**

2.1 **Alcohol Misuse**

Alcohol misuse is considered by the Company to fall into one of two categories:-

(a) Non-dependent

This constitutes the use/misuse of alcohol at work or outside of work. Where this occurs at work this will be seen as capable of being gross misconduct. Similarly if use/misuse outside of work results in conduct or performance issues in the workplace this again will be dealt with under the Company's Disciplinary Procedure as possible gross misconduct.

OR

(b) Dependent

This constitutes a dependency on alcohol which continually or repeatedly interferes with the employee's work and where this has been brought to the Company's attention and the employee has sought and/or accepted treatment. (The Occupational Health Department will be the sole arbiters as to whether an employee has a dependency and complies with the foregoing.)

This will initially be considered by the Company as an ill-health issue and treated as such (The Occupational Health Department will be the sole arbiter as to whether the matter can be treated in this way).

Being under the influence of alcohol will be determined by the tests outlined in Appendices A-D or other available evidence if no such tests are available.

In certain circumstances employees may be subject to a 'For Cause' random personal test. These circumstances will be specifically discussed with the employee in advance in order that they fully understand the reason for the additional testing.

2.2 Substance Misuse

UK legislation stipulates that it is an offence to knowingly allow controlled drugs to be used, kept or supplied on a Company's premises. Company policy is that it is strictly forbidden for employees to possess, use, distribute or supply controlled drugs or prescribed drugs for which the employee is not the prescription holder (subject to 3.3) on any of the Company's premises or assets.

Many so called "legal highs" are already illegal under the Misuse of Drugs Act but new substances will continue to emerge on the market. The Psychoactive Substances Act 2016 bans all psychoactive (i.e. mind altering) substances.

Controlled drugs are those defined in UK legislation under the Misuse of Drugs Act 1971. Substance misuse will consist of the possession or use or supply or distribution of these drugs or being under the influence of these drugs or any prescribed substances such as tranquillisers, sleeping pills or other substances such as solvents. Being under the influence of substances will, when available, be determined by the tests outlined in Appendices A-D or other available evidence if no such tests are available.

Drug dependency will be considered in the same way as 2.1 (b) above.

Note

An employee is not "at work" when he/she attends a Company function off the premises e.g. long service award ceremony or retirement party or any other special event organised by the Company where alcohol is made available. However, where the employee consumes alcohol he/she should not return to work thereafter, should always act responsibly and with proper consideration to others. Those who drive at the end of functions should not drink alcohol at all.

Special authorisation may be provided in writing by the Chief Executive Officer, Chief Operating Officer or Chief Financial Officer to allow the moderate and responsible consumption of alcohol, at certain times, on the Company's premises.

3. ESTABLISHING RESPONSIBILITY

3.1 The Company

The overall responsibility for the implementation of this Policy rests with the Chief Executive Officer who will ensure that the Company provides relevant training for Managers and Supervisors.

This training will be provided by the Training Department and will ensure that all employees, Managers and Supervisors, understand the Policy and their responsibilities.

The Company will also ensure, through the Occupational Health Department, that all employees are aware of the dangers of excessive alcohol consumption and substance misuse. This will be achieved through circulars, posters and other appropriate means of communication. The Occupational Health Department will be responsible for managing both Management and Self-Referrals via the Rehabilitation Programme.

3.2 Management

All Managers are required to support the Policy in a manner evident to all employees.

Managers are responsible for the health and safety matters in their Department and for the performance of their staff. Managers who feel that an employee's unsatisfactory performance may be substance or alcohol misuse related should initially interview the employee on a confidential basis. The Manager should raise the employee's unsatisfactory performance/conduct/behaviour with the employee and establish, if possible, if this is related to substance/alcohol misuse.

The Manager is not required to diagnose the existence of an alcohol or substance misuse problem but merely to assess whether such misuse is a possible factor.

If the interview leads to the conclusion that an alcohol or substance misuse problem may exist, the Manager should refer the matter to the Occupational Health Department in order that specialist support can be provided.

If the interview fails to lead to the conclusion that an alcohol or substance misuse problem exists and/or the employee rejects or fails to co-operate in referral then the employee should be advised that the Company considers the problem to be a conduct issue and the Disciplinary Procedure will be applied if necessary.

Irrespective of whether the employee is receiving specialist support through the Alcohol & Substance Misuse Rehabilitation Programme in the event of an accident/incident where there is cause to suspect the presence of alcohol or substances the Manager must ensure that the alcohol and/or substance testing procedure is carried out immediately in line with Appendix A. However, under no circumstances will urgent hospital/first aid treatment be deferred until a 'For Cause' test is carried out.

3.3 Individual

Each employee, contractor or agency worker is responsible for ensuring that they do not report to work under the influence of alcohol or substances. Employees are responsible for understanding and adhering to the Company's Policy.

Any employee who considers that they are in danger of or are developing a dependency problem must seek help and guidance from their Manager or Occupational Health Advisor.

The Company urges employees to be open with their Manager in order that as much support as possible can be given to assist with tackling this problem. This matter will be treated in confidence.

Should an employee contact the Occupational Health Department to seek support, this matter will be treated in confidence. The Occupational Health Advisor will initiate a Rehabilitation Programme and will work closely with the employee to assist with their recovery. The Occupational Health Advisor will be required to carefully consider the job role and working environment of the employee. If the Occupational Health Advisor considers that the employee's alcohol or substance misuse issue may pose a health and safety risk (no matter how slight), they will place the employee on restricted duties. The Occupational Health Advisor will advise the Head of Department about these restrictions but not the reason for them. The Head of Department will inform the appropriate Line Manager/Supervisor as to any restricted duties. However, the responsibility to report to work unimpaired by alcohol or substance misuse is entirely the employee's.

If any employee is prescribed drugs by a medical adviser then it is the responsibility of the employee to ensure that the Pharmacist/Doctor is aware of the requirements of their job. It is the employee's responsibility to ensure that he/she is fully informed of potential effects. If the employee considers the prescription may affect his/her ability to perform their duties or if he/she is unsure about the position then they must discuss this with their Manager or the Occupational Health Department immediately so that an appropriate judgement can be made in respect of any likely impairment to carry out their job. Failure to advise your Manager or Occupational Health Department will be considered a serious breach of discipline (Please see Prescription Medication Policy for further details).

Employees are responsible for ensuring that "over the counter" medications are not taken to the degree where fitness for work could be impaired.

Employees are required to inform the Company if they have been charged or convicted of a criminal offence relating to alcohol or drugs. This requirement also applies to those persons who have received a formal caution in relation to their possession of controlled drugs under the Misuse of Drugs Act 1971.

Employees are required to inform the Company if they lose their driving licence as a consequence of alcohol or substance misuse.

Employees must understand the Alcohol and Substance Testing Procedure as described in Appendix A and submit to this Procedure if required.

3.4 Colleagues

It is the responsibility of all employees to bring to the attention of their Manager or Supervisor, in the strictest confidence, the names of their colleague(s) who they suspect may have a problem with alcohol or substance misuse.

Employees are encouraged to address the issue directly as collusion represents a false sense of loyalty and will, in the longer term, damage those employees and could also endanger the health and safety of others.

Colleagues should encourage the employee to recognise his/her problem and seek advice from the Occupational Health Department, GP or an appropriate specialist agency.

3.5 HR

The Group HR Manager is responsible for ensuring that this Policy is carried out fairly and consistently across the Group.

3.6 Review of Policy

This Policy will be subject to best practice review.

OTHER RELATED POLICIES

- Disciplinary Procedure
- Occupational Health Policy
- Prescription Medication Policy
- Employee Assistance Programme
- Employee Assistance Helpline

APPENDIX A

ADDITIONAL INFORMATION

1. DEFINITIONS

1.1 Fit for Work

All employees have a responsibility to ensure that they are fit for work and are not unacceptably impaired by alcohol or substances.

Unacceptably impaired constitutes:-

- (a) Alcohol - Having an alcohol level above the prescribed limit at the time of testing which is 50 mg per 100 ml of blood. A breath test reading which converts it to an alcohol level of 50 mg per 100 ml of blood.

OR

- (b) Having a positive test for drugs/substance using the tests outlined in this Policy.

The Company reserves the right to modify the levels at which testing for alcohol is to be measured. This could be due to changes in legal requirements and/or industry best practice. All employees would be advised of such changes.

1.2 At Work

This will mean at the relevant person's normal place of work or in any operational area that the person is required to visit as part of their duties or anywhere else where the person is carrying out their duties for the Company.

The Company will consider failed drug and/or alcohol tests carried out by external organisations such as Police or Marine Coastal Agency (MCA) whilst employees are at work to be a breach of the Policy.

2. TESTING

The primary circumstances in which testing outlined in this Policy will be carried out are as follows:-

- 'For Cause' Testing includes post-accident and incident testing and/or if a breach of the Policy raising potential safety issues is suspected by a person who is appropriately designated by the Company. In the event of an accident or incident considered by the appropriate Manager to be sufficiently serious and/or where an accident/incident is likely to be reportable under RIDDOR (2013).
- Random Testing – A sample of staff to be randomly selected and tested as required.

The testing procedures are outlined in Appendices B and C.

If an employee is subject to a random test which is not completed by the end of the shift, the employee will be allowed home at the end of the shift.

However, if an employee is subject to a 'For Cause' test, the employee must remain at his/her place of work for up to 2 hours beyond the end of the normal shift.

3. APPEALS

Any employee who has produced a positive test for drugs in a saliva or urine sample may elect, within 5 working days of the result (this period may be extended at the discretion of Management), to have their 'B' sample analysed by independent analysis. This will be paid for by the employee and costs will only be refunded if the 'B' sample proves to be negative. The employee will have the choice to pay the fee for the testing of the 'B' sample direct to the laboratory or to sign a waiver allowing the Company to deduct the cost of the test from any outstanding monies owed to the employee by the Company. In the event that the employee does not wish their 'B' sample to go for further testing and accepts that their 'A' sample is accurate i.e. a positive test, this will be considered by the Company as an admittance of a breach of the policy. Such an admittance will result in the application of the Company's Disciplinary Procedure.

The testing of the 'B' sample will take place at another accredited laboratory chosen by the employee (please see Page 13 – Expert Result Interpretation).

The Company will initiate a Disciplinary Hearing upon the receipt of a positive i.e. non-negative 'A' sample. However, if previously a 'B' test has been requested by the employee, the disciplinary sanction will be placed in abeyance pending the outcome of a 'B' sample test. During the period from the Disciplinary Hearing to the date the outcome of the 'B' sample test is known, the employee will be placed on unpaid suspension. If the 'B' test is confirmed as positive i.e. non-negative the disciplinary sanction will be effective from the date of the original Disciplinary Hearing. Should the employee decline to have the 'B' sample tested or refuse to share the 'B' sample result with the Company, the Company will consider that the 'A' test result is accurate.

4. CONTRACTORS AND EMPLOYMENT AGENCIES

Contractors and Employment Agencies will be asked to require their workers to voluntarily submit to testing by the nominated external testing practitioner under the provisions of the Policy. Contractors/Employment Agencies who refuse to comply with this request should be advised that this condition is a mandatory requirement and failure to change their position will mean that their contract/relationship will be terminated at the earliest available opportunity. While it is not appropriate for Forth Ports Limited to apply disciplinary sanctions to a worker engaged by a Contractor/Agency, such companies will be expected to deal with problems with their workers in accordance with their own disciplinary procedures. Forth Ports Limited reserves the right to insist that Contractor/Agencies employees are excluded from Forth Ports Limited premises if it is not satisfied that they meet the requirements of this Policy and its Appendices.

APPENDIX B

ALCOHOL TESTING PROCEDURE

INTRODUCTION

The Company uses a breath test device manufactured to Home Office approved standards. Where there is a medical condition that would impair the use of the breath test device or any other reason given why the breath test device cannot be used e.g. the individual cannot produce sufficient saliva, refuses on religious grounds, the test for the presence of alcohol will take place using urine. This will be sent to the laboratory for analysis.

Please note PoTLL employees are subject to this Appendix only after an on-site breath test carried out by a trained manager at Step 3 below is positive (two breath tests are taken 20 minutes apart). If the on-site test is positive then Synlab Laboratory Services Ltd will be contacted immediately and the following will apply. The on-site test will be used in the disciplinary hearing arising from a positive test; the Synlab Laboratory Services Ltd test will provide the timeline of alcohol consumption. If no on-site manager is available then the process reverts to contacting Synlab Laboratory Services Ltd in the first instance.

TESTING PROCEDURE – ‘FOR CAUSE’ & RANDOM

The Company Alcohol Testing Procedure is as follows:-

1. The individual is informed that they have been identified to be breath tested for alcohol.
2. The individual attends a suitable and private room as soundproofed as possible where the breath test is to be administered.
3. The individual will be introduced to the Collecting Agent and formally identified. At this point they may be accompanied by a witness (e.g. a Trade Union Safety Representative or suitable nominated employee, if required) only provided that the presence of a witness will not lead to unacceptable delay in the test.
4. The individual is provided with a Donor Information Sheet, which explains in detail the Testing Procedure.
5. The individual is then required to sign a Consent Form regarding this impending test.
6. The breath test is administered by a trained person according to the instructions.
7. If the first breath test is NEGATIVE i.e. indicating a zero reading, then the individual will be free to return to work, subject to the outcome of the drug test.
8. If the first breath test indicates a reading greater than zero, then the individual is asked to wait 20 minutes when a second breath test is administered.
9. The results of the second breath test are taken to be definitive.

However, where a second evidential breath test may be negative this does not preclude the possibility of further investigation with the employee regarding a positive first test.

10. For employees, if the second test is POSITIVE i.e. indicating a reading at or above the Company level – see Appendix A paragraph 3, then the employee will be suspended with pay.

A positive test will be considered a serious breach of the Policy resulting in disciplinary action being taken up to and including dismissal for gross misconduct. The employee will be escorted off the premises and suitable arrangements made for travel home. Employees will be advised that they should not drive their own vehicle and that alternative travel arrangements can be made. If they choose to drive the vehicle then the Police will be informed.

For agency/contractors, the individual will be removed from site, and subject to a separate process.

11. Where the most senior person on site is considered to be in contravention of the Company's Alcohol and Substance Misuse Policy, either for cause or suspicion, a responsible person on site will refer the matter to the individual's immediate superior who will make the necessary arrangements for the individual to be tested. The individual may then be suspended with pay pending a disciplinary hearing.

If an employee refuses to give a breath test, the employee will be informed that such a refusal is a failure to comply with this Policy and, as such, may invoke the Company Disciplinary Procedure. If a contractor/agency worker refuses to give a breath test they will be removed from site.

APPENDIX C

DRUGS TESTING PROCEDURE

The Company normally applies a non-invasive method of drug screening by testing oral fluid (saliva) or urine (LCT, CPE).

The Company will only move to urine analysis, for those employees covered by oral fluid test, if a sufficient saliva sample cannot be produced by the employee (either at a random or “for cause” test). A urine sample will also be used if there are grounds to suspect that the employee has taken a “legal high” substance. Legal high substances can only be detected through a urine sample.

PoTLL employees are subject to this Appendix only after an on-site oral saliva test carried out by a trained manager is positive, at which point Synlab Laboratory Services Ltd will be contacted immediately and the following will apply:

TESTING PROCEDURE – ‘FOR CAUSE’ & RANDOM

All tests instigated by the Company will require the written consent of the individual (donor) prior to any process being undertaken. However, failure to submit to the full testing process at any stage may result in disciplinary action being taken up to and including dismissal for gross misconduct.

Substance testing is a multi-stage process that includes:-

1. On-site screening;
2. Laboratory confirmation analysis;
3. Expert result interpretation.

All testing will be carried out in suitable conditions giving consideration to the privacy and dignity of the donor.

The individual (donor) will be introduced to the Collecting Agent and formally identified. At this point, they may be accompanied by a witness (e.g. a Trade Union Representative or suitable nominated employee) if required but only if that does not lead to unacceptable delay in the testing procedure.

They will be provided with a Donor Information Sheet outlining ALL the processes involved and asked at this point if they understand.

The donor is then required to sign a relevant Consent Form outlining the fact they understand the process and consent to the sample being taken.

The drugs that will be tested for include:-

1. Amphetamines and related substances e.g. Ecstasy;
2. Cocaine;
3. Cannabis;
4. Benzodiazepines;
5. Opiates e.g. Morphine and Heroin.

This list is not exhaustive.

'For' Cause

The Collecting Agent will check in the donor's mouth for adulterants. If all clear then the Collecting Agent will present the donor with a previously sealed swab and ask the donor to insert this, sponge end, into their mouth and chew to generate saliva excretion. This may take up to 5 minutes. Once the sponge is completely soft indicating full saliva absorption, the Collecting Agent will remove the sponge and insert it into the testing chamber screwing the top down to instigate the test.

The sample will then be analysed in the donor's presence.

If a negative screen is indicated the remaining paperwork is completed and the donor will be provided with a copy of the results and if the test for alcohol is also negative the donor will normally be free to return to work.

Results of laboratory analysis may take up to one week.

Where an on-site screening test is positive the individual will be required to undergo 2 additional swab tests. Until the result of the 'A' sample is confirmed the individual will be suspended with full pay.

Random

In the case of Random Testing, the Collecting Agent will collect 2 saliva samples or urine samples (LCT, CPE). Results of laboratory analysis may take up to one week.

Expert Result Interpretation

At the time of testing for drugs the donor will be asked to provide, in confidence, the details of any medication they may have taken. These include prescription medicines and 'over the counter' products. These details are not made available to the Company. They provide essential information to the laboratory to show if legitimately taken medication may be the reason for the positive screen. If it is thought that the medication may be responsible then the Medical Review Officer at the laboratory will declare the sample confirmation as negative.

If, however, the donor disputes the laboratory findings then they may request, in writing, within 3 calendar days (this period may be extended at the discretion of Management) that the second part of the sample ('B' sample) be tested at their own expense. This will be conducted at an alternative accredited laboratory. The sample will again move under strict 'chain of custody' conditions from laboratory to laboratory.