

# FORTH PORTS LIMITED

## ALCOHOL & SUBSTANCE MISUSE POLICY



**ISSUE 12**  
April 2023

**PREPARED BY**  
HR Department

**NEXT SCHEDULED REVIEW**  
April 2024

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## **1. AIM**

This Policy outlines the Company's approach to dealing effectively and consistently with problems relating to alcohol and substance misuse at work, to ensure the safety of employees.

Substances are defined as drugs, both prescribed and non-prescribed, and solvents.

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.

Employees, Contractors and Agency workers must comply with this Policy.

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

As part of its Health & Safety Management System, the Company tests for alcohol and substances as standard procedure for the following:

- Pre-employment
- Random testing
- For-cause testing, which includes 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.

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

### **2.1 Dependency**

This constitutes a dependency on alcohol and/or substances which interferes with the employee's work, and where this has been brought to the Company's attention and the employee has sought or undergone treatment. The Occupational Health Advisor will be the sole arbiter as to whether an employee is considered to have a dependency on alcohol and/or substances and is complying with the Rehabilitation Programme.

The Company also seeks to identify if a problem related to alcohol and/or substances is 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 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 mitigation at any disciplinary process.

A dependency problem will be considered by the Company as an ill-health issue and treated as such. The Occupational Health Advisor will decide on the treatment required as part of the Rehabilitation Programme.

Employees on a Rehabilitation Programme will be subject to a for-cause, personal random testing regime. This will be discussed with the employee in advance in order that they fully understand the reason for the additional testing and the timescale that will apply.

## **2.2 Substance Misuse – Legal Framework**

UK legislation stipulates that it is an offence to knowingly allow controlled substances to be used, kept or supplied on a company's premises. Controlled substances are those defined in the Misuse of Drugs Act 1971 (Amendment) Order 2018. Substance misuse constitutes the possession, use, supply or distribution of these substances or being under their influence. Company policy is that it is strictly forbidden for employees to possess, use, distribute or supply controlled or prescribed substances for which the employee is not the prescription holder on any of the Company's premises or assets. Employees are allowed to possess and use but not distribute or supply substances that have been prescribed to them personally.

The Psychoactive Substances Act 2016 bans all psychoactive substances (i.e. legal highs).

### Note

An employee is not 'at work' when they attend 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 they should not return to work thereafter, and 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 or education for all employees.

The Company will also ensure, through the Occupational Health Advisor and HR, 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.

### **3.2 Management**

All Managers are required to support the Policy.

Managers are responsible for 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 related to alcohol or substance misuse 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 alcohol or substance 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 concludes with acceptance by the employee that they have an alcohol or substance misuse problem, the Manager should refer the matter to the Occupational Health Advisor in order that specialist support can be provided.

If the employee does not accept that they have a problem, and this position is supported by the Occupational Health Advisor, the matter will be considered closed.

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

### **3.3 Individual**

All employees have a contractual obligation to comply with this Policy. All employees are issued with this Policy as part of onboarding and are expected to read, understand and be aware of its content. In addition, there are regular awareness briefings and toolbox talks to remind employees of the importance of this Policy.

Any employee who considers that they may have a dependency problem must seek help from their Manager and/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 Advisor to seek support, the matter will be treated in confidence. The Occupational Health Advisor will initiate a Rehabilitation Programme and will work closely with the employee to assist their recovery. The Occupational Health Advisor is 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 Manager about these restrictions but not the reason for them. However, the responsibility to report to work unimpaired by alcohol or substance misuse is entirely the employee's.

If an employee is prescribed medication, it is the employee's responsibility to discuss any potential side effects with the Pharmacist or Doctor. As part of this discussion, the employee must make their Pharmacist/Doctor aware of their job/role, particularly if they work in an operational area.

If the employee considers that this prescription may affect their ability to perform their duties safely then they must discuss this with their Manager and the Occupational Health Advisor immediately. The Occupational Health Advisor will decide if the employee is able to work safely when taking this medication. Employees should understand that failure to advise their Manager and the Occupational Health Department will be considered to be a breach of the Prescription Medication Policy and this matter will be subject to the Disciplinary Procedure.

Employees must inform their Manager if they have been charged with or convicted of a criminal offence relating to alcohol or substances. This requirement also applies to a formal caution in relation to the possession of controlled substances under the Misuse of Drugs Act 1971 (Amendment) 2018.

Employees must inform the Company if they lose their driving licence as a consequence of alcohol or substance misuse (see Driving for Work Policy).

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

### **3.4 Colleagues**

It is the responsibility of all employees to raise with their Manager any concerns about a colleague who they suspect may have a problem with alcohol or substance misuse. This will be treated in the strictest confidence.

Failing to address the issue directly is potentially a health and safety risk.

### **3.5 Contractors and Employment Agencies**

Contractors and Employment Agencies must ensure that their workers voluntarily submit to testing by the nominated external testing practitioner under the provisions of the Policy. Contractors/workers from Employment Agencies who refuse to comply with this request should be advised that this condition is a mandatory requirement and failure to undergo testing will mean that their contract/relationship will be terminated at the earliest available opportunity. Whilst 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/Agency workers are excluded from Forth Ports Limited premises if the Company is not satisfied that they meet the requirements of this Policy and its Appendices.

### **3.6 HR**

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

### **3.8 Collecting Agent**

The company contracted to implement alcohol and substance misuse testing is SYNLAB. The Collecting Agents that carry out the testing process are trained by SYNLAB. Most Collecting Agents are employed by SYNLAB however in the Port of Tilbury and Targe Towing Limited (towage crews only), employees have been trained to administer the testing process for alcohol and substance misuse using SYNLAB testing equipment. Targe Towing Limited employees have also been trained to manage the change of custody process as instructed by SYNLAB's accredited laboratory.

### **3.7 Review of Policy**

This Policy will be subject to best practice review.

## **OTHER RELATED POLICIES**

- Disciplinary Procedure
- Occupational Health Policy
- Prescription Medication Policy
- Driving for Work Policy
- Employee Assistance Programme

**LEGAL**

- Misuse of Drugs Act 1971 (Amendment) Order 2018 – effective 01/04/19
- Psychoactive Substances Act 2016
- Health & Safety at Work Act 1974
- Transport & Works Act 1992
- Management of Health & Safety at Work Regulations 1999
- Road Traffic Act 1988

## **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 impaired by alcohol or substances.

Impairment constitutes:

(a) Having an alcohol level above the prescribed limit at the time of testing, which is 50 mg per 100 ml of blood, which equates to a breath test reading of 22 mcg of alcohol per 100ml of breath.

OR

(b) Having a positive result for illegal substance(s) 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, in line with changes in legal requirements or industry best practice. All employees would be advised of these changes.

#### **1.2 At Work**

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

Employees failing a substance and/or alcohol test carried out by external organisations such as the police or Marine Coastal Agency whilst the employee is at work will be considered in breach of the Policy.

### **2. TESTING**

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

- For-cause testing includes post-accident and incident testing. If it is suspected that an employee is under the influence of alcohol or substances, a for-cause test will also be carried out.
- Random testing – a sample of employees will be randomly selected and tested on a regular basis.

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 their place of work for up to 2 hours beyond the end of their normal shift until the Collecting Agent has arrived.



## **APPENDIX B(i)**

### **ALCOHOL TESTING PROCEDURE – GROUP/SCOTTISH OPERATION**

#### **INTRODUCTION**

The Company uses a breath test device manufactured to Home Office-approved standards. Should an employee have a medical condition that would prevent the use of the breath test device, the employee would be required to submit to a urine sample test. This sample will be sent, with appropriate chain of custody documentation, to the laboratory for analysis.

#### **TESTING PROCEDURE – FOR-CAUSE & RANDOM**

All tests instigated by the Company will require the written consent of the individual (donor) prior to testing. Failure to submit to the full testing process will result in a referral to the Disciplinary Procedure.

Alcohol testing is a multi-stage process:

1. The individual is informed that they are required to undergo a breath test for alcohol.
2. All testing will be carried out in suitable conditions giving consideration to the privacy and dignity of the individual.
3. The Collecting Agent will introduce themselves and request employee ID. Collecting Agents are instructed to carry current ID. The employee may choose to be accompanied by a witness (e.g. a Trade Union Safety Representative or suitable nominated employee). However, the test will not be unduly delayed pending the arrival of the witness.
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 for the test.
6. The breath test is administered by the Collecting Agent.
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 illegal substance test.
8. If the first breath test is in excess of the cut-off level of 50 mg per 100 ml of blood, which equates to a breath test reading of 22 mcg of alcohol per 100ml of breath then this constitutes a fail and the employee is suspended. A positive test will be considered a serious breach of the Policy, resulting in the Disciplinary Procedure applying. The employee will be escorted off the premises and 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 Contractors/Agency workers, the individual will be removed from site, and subject to a separate process.
9. If the first breath test indicates a reading greater than zero, but less than the cut-off level of 50 mg per 100 ml of blood, which equates to a breath test reading of 22 mcg of alcohol per 100ml of breath, then the individual will be required to undergo a second breath test 20 minutes after the first test.

10. If the second test is in excess of the cut-off level of 50 mg per 100 ml of blood, which equates to a breath test reading of 22 mcg of alcohol per 100ml of breath, then this constitutes a fail and the employee is suspended. The same arrangements as in Point 8 will apply.
11. A positive test irrespective of whether it is the first or the second test that is in excess of the cut-off level of 50 mg per 100ml of blood, which equates to a breath reading of 22 mcg of alcohol per 100 ml of breath, will always be considered a fail.

However should an employee's test indicate the presence of alcohol **below** the cut-off level, a further investigation will be carried out to establish the reason for this. A key part of the investigation will be to establish how long the employee was at work prior to the test. Depending on the findings of the investigation, disciplinary action may apply.

12. 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 the Disciplinary Procedure.

If an employee refuses to undergo a breath test, the employee will be informed that this refusal is a failure to comply with this Policy and, as such, the Company's Disciplinary Procedure will be invoked.

## **APPENDIX B(ii)**

### **ALCOHOL TESTING PROCEDURE – PoTLL and TARGE TOWING LIMITED (TOWAGE CREWS ONLY)**

#### **INTRODUCTION**

The Company uses a breath test device manufactured to Home Office-approved standards. Should an employee have a medical condition that would prevent the use of the breath test device, or if any other reason is given why the breath test device cannot be used, the employee would be required to submit to a urine sample test. This sample will be sent, with appropriate chain of custody documentation, to the laboratory for analysis.

- This procedure applies to all on-site tests.
- Synlab will be called out when either test is above the cut-off level.
- Synlab will provide verification of the on-site tests.
- The advice and information Synlab will provide, including a count-back alcohol reading assessment, may be used in any subsequent disciplinary investigation.
- If no on-site Manager is available then the process reverts to contacting Synlab in the first instance.

#### **TESTING PROCEDURE – FOR-CAUSE & RANDOM**

All tests instigated by the Company will require the written consent of the individual (donor) prior to testing. Failure to submit to the full testing process will result in a referral to the Disciplinary Procedure.

Alcohol testing is a multi-stage process:

1. The individual is informed that they are required to undergo a breath test for alcohol.
2. All testing will be carried out in suitable conditions giving consideration to the privacy and dignity of the individual.
3. The trained employee/Collecting Agent will introduce themselves and request employee ID. External Collecting Agents are instructed to carry current ID. The employee may choose to be accompanied by a witness (e.g. a Trade Union Safety Representative or suitable nominated employee). However, the test will not be unduly delayed pending the arrival of the witness.
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 for the test.
6. The breath test is administered by a Trained Employee/Collecting Agent 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 illegal substance test.
8. If the first breath test is in excess of the cut-off level of 50 mg per 100 ml of blood, which equates to a breath test reading of 22 mcg of alcohol per 100ml of breath, then this constitutes a fail and the employee is suspended. A positive test will be considered a serious breach of the Policy, resulting in the Disciplinary Procedure applying. The employee will be escorted off the premises and 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 Contractors/Agency workers, the individual will be removed from site, and subject to a separate process.

9. If the first breath test indicates a reading greater than zero, but less than the cut-off level of 50 mg per 100 ml of blood, which equates to a breath test reading of 22 mcg of alcohol per 100ml of breath, then the individual will be required to undergo a second breath test 20 minutes after the first test.
10. If the second test is in excess of the cut-off level of 50 mg per 100 ml of blood, which equates to a breath test reading of 22 mcg of alcohol per 100ml of breath, then this constitutes a fail and the employee is suspended. The same arrangements as in Point 8 will apply.
11. A positive test irrespective of whether it is the first or the second test that is in excess of the cut-off level of 50 mg per 100ml of blood, which equates to a breath reading of 22 mcg of alcohol per 100 ml of breath will always be considered a fail.

However should an employee's test indicate the presence of alcohol **below** the cut-off level, a further investigation will be carried out to establish the reason for this. A key part of the investigation will be to establish how long the employee was at work prior to the test. Depending on the findings of the investigation, disciplinary action may apply.

12. 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 undergo a breath test, the employee will be informed that this refusal is a failure to comply with this Policy and, as such, the Company's Disciplinary Procedure will be invoked.

## **APPENDIX C(i)** **ILLEGAL SUBSTANCES TESTING PROCEDURE – GROUP/SCOTTISH OPERATION**

The Company normally applies a non-invasive method of screening for illegal substances by testing oral fluid (saliva).

The Company will only move to urine analysis if a sufficient saliva sample cannot be produced by the employee (in either 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.

### **TESTING PROCEDURE – FOR-CAUSE & RANDOM**

All tests instigated by the Company will require the written consent of the individual (donor) prior to testing. Failure to submit to the full testing process will result in a referral to the Disciplinary Procedure.

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 Collecting Agent will introduce themselves and request employee ID. The employee may choose to be accompanied by a witness (e.g. a Trade Union Safety Representative or suitable nominated employee). However, the test will not be unduly delayed pending the arrival of the witness.

The individual will be provided with a Donor Information Sheet outlining all the processes involved and will be asked to confirm their understanding of the processes. The donor is then required to sign the relevant Digital Consent Form.

The substances 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 inside the donor's mouth for adulterants. If the mouth is clear then the Collecting Agent will present the donor with a sealed swab. The sample will then be analysed in the donor's presence.

If the result is negative, the test is completed and the donor is provided with a copy of the results via email. If the test for alcohol is also negative the donor will be free to return to work.

Where an on-site screening test is positive, the individual will be required to undergo two additional swab tests. Which are the 'A' and 'B' samples. The 'A' sample is analysed at the laboratory. Until the result of the first 'A' sample is confirmed, the individual will be suspended with full pay. The 'B' sample is retained, but not analysed (see Appeal Process page 16).

Results of laboratory analysis may take up to one week.

### **Random**

In the case of random testing, the Collecting Agent will collect two saliva samples. Results of laboratory analysis may take up to one week.

### **Expert Result Interpretation (For-Cause and Random)**

At the time of testing for illegal substances, the donor will be asked to provide, in confidence, the details of any medication they may have taken. This includes prescription medicines and 'over the counter' products. These details are not made available to the Company, but provide essential information to the laboratory to show if legitimately taken medication may be the reason for the positive screen. The Medical Review Officer will confirm if the test result is consistent with declared medication.

## **APPENDIX C(ii)**

### **ILLEGAL SUBSTANCES TESTING PROCEDURE – PoTLL and TARGE TOWING LIMITED (TOWING CREWS ONLY)**

The Company normally applies a non-invasive method of screening for illegal substances by testing oral fluid (saliva). Should the saliva test show as non-negative, employees are subject to a urine test, which is conducted by Synlab Laboratory Services Ltd.

#### **TESTING PROCEDURE – FOR-CAUSE & RANDOM**

All tests instigated by the Company will require the written consent of the individual (donor) prior to testing. Failure to submit to the full testing process will result in a referral to the Disciplinary Procedure.

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 Trained Employee/Collecting Agent will introduce themselves and request employee ID. The employee may choose to be accompanied by a witness (e.g. a Trade Union Safety Representative or suitable nominated employee). However, the test will not be unduly delayed pending the arrival of the witness.

The individual will be provided with a Donor Information Sheet outlining all the processes involved and will be asked to confirm their understanding of the processes. The donor is then required to sign the relevant Consent Form (digital or paper).

The substances that will be tested for include:

4. Amphetamines and related substances, e.g. Ecstasy
5. Cocaine
6. Cannabis
7. Benzodiazepines
8. Opiates, e.g. morphine and heroin.

This list is not exhaustive.

### **For-Cause**

The trained employee/Collecting Agent will check inside the donor's mouth for adulterants. If the mouth is clear then the trained employee/Collecting Agent will present the donor with a sealed swab. The sample will then be analysed in the donor's presence.

If the result is negative, the remaining paperwork is completed and the donor is provided with a copy of the results. If the test for alcohol is also negative, the donor will be free to return to work. Where the test is carried out by a Collecting Agent, the individual's data may be either collected digitally or recorded manually on paper forms.

Where an on-site screening test is positive, the individual will be required to undergo two additional swab tests. Which are the 'A' and 'B' samples. The 'A' sample is analysed at the laboratory. Until the result of the first 'A' sample is confirmed, the individual will be suspended with full pay. The 'B' sample is retained, but not analysed (see Appeal Process page 16).

Results of laboratory analysis may take up to one week.

### **Random**

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

### **Expert Result Interpretation (For-Cause and Random)**

At the time of testing for substances, the donor will be asked to provide, in confidence, the details of any medication they may have taken. This includes prescription medicines and 'over the counter' products. These details are not made available to the Company, but provide essential information to the laboratory to show if legitimately taken medication may be the reason for the positive screen. The Medical Review Officer will confirm if the test result is consistent with declared medication.



## **APPENDIX D APPEALS PROCESS**

Any employee who has tested positive for substances 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 an independent laboratory. This will be paid for by the employee and costs will only be refunded if the B sample is negative. The employee will pay the fee for the testing of the B sample direct to the laboratory. In the event that the employee does not wish their B sample to go for further testing and accepts that a positive result from testing their A sample is accurate, this will be considered by the Company as an admittance of a breach of the Policy. This 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 pages 14 & 16 – Expert Result Interpretation).

The Company will initiate the Disciplinary Procedure upon the receipt of a positive, i.e. non-negative, A sample. However, if testing of a B sample has been requested by the employee, the disciplinary outcome will be suspended, pending the result of the B sample test. During the period from the Disciplinary Hearing to the date the result of the B sample test is known, the employee will be placed on unpaid suspension. If the B sample is confirmed as positive, i.e. non-negative, the disciplinary sanction will be effective from the date of the original Disciplinary Hearing.