

**Guidelines on Developing a Comprehensive
Approach to Workplace Intoxicants
(Defined as Drugs and Alcohol)**

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Directors and Managers Responsibilities

It is Director's and Manager's responsibility, under Section 8(1) of the Safety Health and Welfare at Work Act 2005, to protect the occupational safety and health of all workers. This duty also applies to problems of work – related stress when there is a risk to health and safety. The 1989 EU Framework Directive on safety and health at work has been implemented in Irish law in the 1989 and 2005 Acts. Under framework directive 89/391/EEC, all employers have a legal obligation to protect the occupational safety and health of workers. This duty also applies to problems of work-related stress that poses risks to health and safety.

The 2004 Framework Agreement on Work-Related Stress, agreed by the social partners at European level, recognises that work-related stress must be risk-assessed under the 1989 EU Framework Directive on safety and health at work. Employers are required to identify all workplace behavioural risks within the workplace and to assist their employees through risk management assessments in finding and implementing the control measures.

Under the Safety Health and Welfare at Work Act 2005 responsibility for safety and health is placed directly on those in charge in the workplace. In other words, directors and managers who control the work being done must take on this responsibility, all directors and officers of undertakings who authorize or direct any work activities must understand their legal responsibilities and their roles in governing safety and health, upholding core safety and health values and setting good safety and health standards for their business.

The most senior management in the organization must ensure that all board members have a clear understanding of the key safety and health issues for the business and are continually appraised of the risks likely to arise. Whatever role directors play in the running of the undertaking, they must have, or ensure the availability to the undertaking of the basic knowledge and safety and health competence that their role requires.

Employers must also have a safety statement which demonstrates how safety is secured and managed and there are new provisions on safety consultation and dispute resolution. Penalties for failure to comply with the Act carries penalties of up to six months imprisonment and/or a €3,000 fine on conviction in the District Court or up to two years imprisonment and/or a fine of €3 million on conviction of indictment in the Circuit Criminal Court.

Managers Exposed to Personal Liability

Many directors and managers are unaware that they may be liable if their company is convicted of an offence relating to workplace intoxicants (defined as drugs and alcohol), under section 80(1) of the Safety, Health & Welfare at Work Act 2005. The widely held view is that no action is required on workplace intoxicants until such time as regulations, code of practice or guidance on intoxicants are published by the Health and Safety Authority.

Section 13(1) b of the Safety, Health and Welfare at Work Act 2005 states that an employee, while at work will –

“ensure that he or she is not under the influence of and intoxicant to the extent that he or she is in such a state as to endanger his or her own safety, health or welfare at work or that of any other person”

and Section 13(1)c states that –

“if reasonably required by his or her employer, submit to any appropriate, reasonable and proportionate tests for intoxicants by, or under the supervision of, a registered medical practitioner who is a competent person, as may be prescribed”.

It is the intention of the HSA to publish an information leaflet on intoxicants and post information on the HSA website early in 2011. No legally binding regulations, guidance or code of practice on intoxicants will be issued by the HSA.

All Directors and Managers should be aware that if an employee, in contravention of Section 13(1)b of the Act, causes a serious or fatal accident under the influence of an intoxicant and if it is found that directors or managers authorised, consented to or neglected to take action to prevent the offence then, under Section 80 of the Act directors and managers may have personal liability.

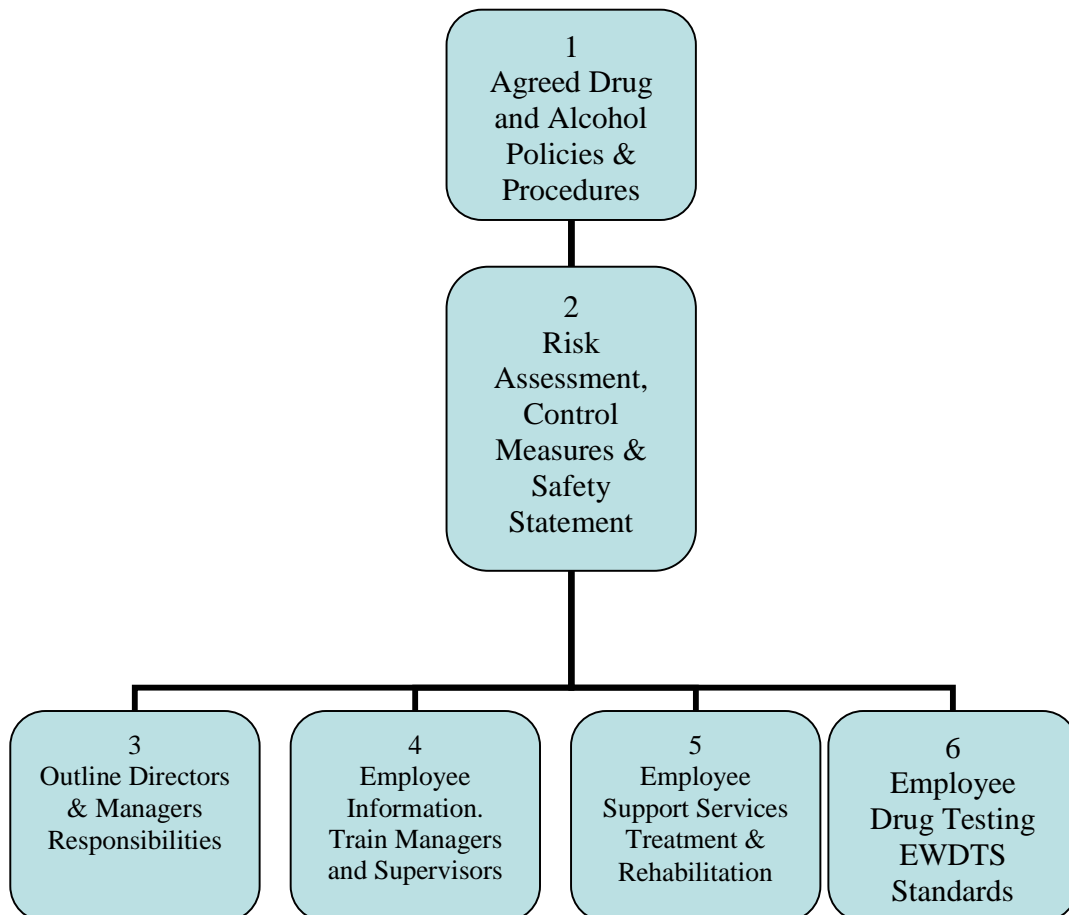
Case Law - Labour Court – Alcoholism classed as disability

In March 2006, the Labour Court upheld the principle that alcoholism is a disability under the Employment Equality Acts 1998–2004. The decision in *A Government Department –v- An Employee* crystallizes the principle that alcoholics cannot be treated less favourably at work. Section 16 (a) of the 1998 Equality Act provides that an employer shall do “all that is reasonable to accommodate the needs of a person who has a disability by providing special treatment or facilities and that a refusal or failure to provide special treatment or facilities shall not be deemed reasonable unless such provision would give rise to a cost, other than a nominal cost to the employer.

Action Checklist – Workplace Intoxicants

	Date
Draw up agreed drug and alcohol policies and procedures with employee representatives.	[]
Conduct drug and alcohol risk assessment and identify control measures which are reflected in the safety statement.	[]
Outline Directors and Managers responsibilities.	[]
Advise Employees of their personal responsibilities in relation to Section 13(1)b of The Safety, Health and Welfare at Work Act 2005. Train Supervisors and Managers.	[]
Provide employee support services and reasonable accommodation for treatment and rehabilitation of identified employees.	[]
Provide employee drug testing to The European Workplace Drug Testing Society (EWDTS) standards.	[]
<p><i>No Regulations /Codes of Practice/Guidance on intoxicants have been published by the Health and Safety Authority.</i></p>	

Comprehensive Approach to Workplace Drugs and Alcohol



Professional Biography



Maurice Quinlan

2010 - 10

Maurice Quinlan's interest in Employee Assistance Programmes (EAPs) developed when he worked with an Irish semi-state company. Following a short period studying EAPs in the U.S., he introduced the Occupational Alcoholism Programme (OAPs) concept to Europe and hosted the first seminar on this topic in the Clarence Hotel, Dublin, in September 1980. He introduced one of the first external EAPs in Europe at Guinness in Kilkenny, Ireland in 1985. He founded the EAP Institute to provide EAP services, training and consulting to a variety of companies, public and private, ranging from shipping, retail, hospitality industry, construction, manufacturing and the public service. On the 2nd of April 2008 he introduced the first customized compliance based employee support service for an International company in the hospitality sector.

The Institute has provided training in Scotland, London, Switzerland, Italy and Greece. The Institute also acted as consultants to the International Labour Organization (ILO) on prevention and assistance training on alcohol and drug problems for the countries of India, Sri Lanka, Thailand and the Philippines. He holds a diploma in Social Science from University College Cork and is a fully accredited member of the Employee Assistance Professional Association (EAPA) Irish Branch and a Professional member of EAPA Arlington Virginia USA. He also holds membership of the American Chamber of Commerce (Amcham) in Ireland, The European Workplace Drug Testing Society (EWDTS), and the Irish Association of Addiction Counselors (IAAAC).

In November 2004 he received a special recognition award by EAPA at the 33rd Annual Conference in San Francisco, California in recognition for his commitment and contribution to the Employee Assistance Profession and The Employee Assistance Professional Association.

Maurice is a frequent contributor to many national and international publications including a report on EAP's in Ireland published in the 3rd Edition of the International Employee Assistance Compendium. He was also one of the selected scholar practitioners to contribute to the publication on the Integration of Employee Assistance, Work Life and Wellness Services by the Hayworth Press. His most recent contributions include "Weathering the Storm" Published in the Winter 2009/10 edition of *Counseling at Work* and "Stressing the importance of Employee Assistance Programmes" published in the *Health and Safety Times*, Issue 27, 2010.

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