Lothian NHS Board

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Your Ref
Our Ref 12032

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Dear

FREEDOM OF INFORMATION – WORKPLACE DRUG AND ALCOHOL TESTING

I write in response to your request for information in relation to workplace drug and alcohol testing.

Question:
1. Does your health board operate a workplace drug and alcohol testing policy for staff (including staff working in substance misuse and addiction services)? If so, please provide a copy of the current policy, or confirm the date it was last reviewed.

Answer:

NHS Lothian operates under the national NHS Scotland Once for Scotland Alcohol and Other Substances Policy - https://workforce.nhs.scot/policies/alcohol-and-other-substances-policy-overview/alcohol-and-other-substances-misuse-policy/

This information is exempt under Section 25 of the Freedom of Information (Scotland) Act 2002 - Information otherwise accessible

(1) Information which the applicant can reasonably obtain other than by requesting it under section 1(1) is exempt information.

NHS Lothian does not operate a routine, random, or blanket workplace drug and alcohol testing policy for any staff groups, including those in substance misuse and addiction services. NHS Scotland workforce policies approach substance misuse primarily from a health, support, and rehabilitation perspective. Managers do not conduct testing; biological testing is only ever considered in exceptional clinical circumstances via Occupational Health Services (OHS) with the employee's explicit, informed consent (e.g., as part of an agreed health monitoring or return-to-work support plan).

Question:
2. Does the policy include the following safeguards:
   - (a) Engagement of an independent Medical Review Officer (MRO) or equivalent qualified professional to review positive drug test results before any disciplinary action is taken:

- (b) Obtaining an independent toxicological opinion when a positive result may be attributable to legal substances (such as over-the-counter CBD products, prescription medication, or dietary sources):
- (c) Offering confirmatory re-testing or independent analysis following a disputed positive result:
- (d) Referral to Occupational Health before disciplinary proceedings are initiated on the basis of a drug test result:

- (e) Maintenance of a written drug and alcohol testing policy that meets the standards recommended by the ACAS guidance on managing drug and alcohol misuse at work:

Answer:

a.	No. Because routine workplace testing is not conducted, an external MRO is not routinely engaged. Where clinical screening is undertaken as part of an agreed OHS intervention, results are interpreted by qualified Occupational Health clinical professionals.
b.	No independent toxicologist is routinely commissioned. In cases managed through Occupational Health Services, clinical staff evaluate declared prescription medications, over-the-counter remedies, medical histories, and potential interactions.
c.	No. The policy does not contain a specific mechanism for confirmatory re-testing or independent analysis, as disciplinary action within NHS Lothian is not initiated on the basis of standalone workplace screening devices.
d.	Yes. In line with Once for Scotland workforce policy, the priority pathway is health-led, requiring referral to Occupational Health Services for clinical evaluation and support.
e.	Yes. The Once for Scotland Alcohol and Other Substances Policy aligns with ACAS guidance, focusing on employee health and wellbeing, confidentiality, early intervention, and clear workplace conduct and safety standards.

Question:

3. What type of drug screening devices or methods are used for initial testing (e.g. oral fluid point-of-care immunoassay, urine immunoassay, laboratory analysis)?

Answer:

NHS Lothian does not deploy point-of-care screening devices (such as oral fluid swabs or rapid urine immunoassay test kits) in the workplace. Any testing undertaken is handled strictly within clinical Occupational Health.

Question:

4. Are all positive screening results confirmed by a second, independent analytical method (specifically GC-MS or LC-MS/MS) before any disciplinary, welfare or employment decision is made?

Answer:

Not applicable. NHS Lothian does not make employment, welfare, or disciplinary decisions based on point-of-care screening devices. Where clinical testing is carried out via OHS, testing adheres to accredited NHS laboratory diagnostic standards.

Question:

5. Is your health board aware that peer-reviewed literature confirms that lawful, everyday substances can produce false positive results on immunoassay-based screening devices? Documented sources of cross-reactivity include poppy seeds, over-the-counter CBD products, prescribed medications (including codeine, tramadol, gabapentin and certain antidepressants), tonic water, bananas, passive or environmental exposure to cannabis smoke, and certain antihistamines, among others.

Answer:

Yes. Occupational Health clinicians are aware of potential pharmacological and physiological cross-reactivities. As managers do not administer rapid screening kits, workplace assessments rely on observable behaviour, impairment, and clinical OHS evaluation rather than rapid immunoassay readouts.

Question:

6. Has your health board received any complaints, grievances or representations from staff who attributed a positive drug test result to any lawful source in the last five years? If so, how many and what was the outcome?

Answer:

Because NHS Lothian does not carry out routine workplace drug screening, there is no record of complaints, grievances, or formal representations arising from contested drug screen results or false positives from lawful substances in the last five years.

Question:

7. What guidance, if any, has been issued to staff involved in drug testing about the possibility of false positives from lawful substances, and the appropriate steps to take before acting on a screening result?

Answer:

No guidance on screening kits has been issued to operational managers because line managers do not conduct testing or administer screening devices. Managerial guidance focuses on recognising observable signs of impairment, taking immediate steps to safeguard patient and staff safety, and initiating a supportive referral to Occupational Health.

Question:

8. If your health board does not drug test staff: what procedure applies if a member of staff is reasonably suspected of being under the influence of drugs or alcohol at work (for example

removal from duty, Occupational Health referral or the disciplinary process), and where is this written down?

Answer:

The procedure is set out in the NHS Scotland Once for Scotland Alcohol and Other Substances Policy (attached):

1. The manager holds a private discussion to assess the situation. If the employee is assessed as unfit for work, they are removed from duty and safe transport home is arranged.
2. The manager will meet with the employee as soon as practical to review observed concerns, reiterate expected standards, and discuss potential underlying issues.
3. If necessary, a referral to Occupational Health is initiated to assess health and support needs.
4. Where the employee engages with support and treatment, supportive pathways (recovery plans, adjustments) are prioritised. Formal action under the Conduct Policy is only considered in cases of gross misconduct, critical safety breaches, or refusal to engage.

I hope the information provided helps with your request.

If you are unhappy with our response to your request, you do have the right to request us to review it. Your request should be made within 40 working days of receipt of this letter, and we will reply within 20 working days of receipt. If our decision is unchanged following a review and you remain dissatisfied with this, you then have the right to make a formal complaint to the Scottish Information Commissioner within 6 months of receipt of our review response. You can do this by using the Scottish Information Commissioner's Office online appeals service at www.itspublicknowledge.info/Appeal. If you remain dissatisfied with the Commissioner's response you then have the option to appeal to the Court of Session on a point of law.

If you require a review of our decision to be carried out, please write to the FOI Reviewer at the email address at the head of this letter. The review will be undertaken by a Reviewer who was not involved in the original decision-making process.

FOI responses (subject to redaction of personal information) may appear on NHS Lothian's Freedom of Information website at: https://org.nhslothian.scot/FOI/Pages/default.aspx

Yours sincerely

ALISON MACDONALD
Executive Director, Nursing
Cc: Chief Executive