

## Guide to Developing a Fit for Work Policy

Construction work can be dangerous on its own, and the risk of serious injury increases significantly when workers are impaired on the job. Being fully present and aware of one's surroundings when performing safety-sensitive tasks is critical to one's own safety and the safety of others. There is no safe place on a construction site for anyone who is impaired by alcohol or drugs.

Control measures such as having and implementing a Fit for Work policy to prevent impairment on construction projects can decrease the health and safety risks to construction workers as well as to the general public.

The purpose of this guide is to provide assistance to employers and labour organizations in developing their own Fit for Work policy. The end goal of having an effective policy is to protect workers and the general public by eliminating workplace injuries that could be caused by impairment.

Although this guide provides considerations for policy development, it is up to workplace parties to tailor their policies and programs to the specific needs of their organization.

### What is an effective Fit for Work policy?

An effective policy allows employers and workers to have a clear understanding about unacceptable behaviour in the workplace as it relates to impairment. An effective policy should provide a framework for the prevention, early intervention, treatment, and corrective action to be taken.

Similar to health and safety policies, an effective Fit for Work policy should provide a way that ensures all parties in the workplace are aware of and clear on expectations.

It is also recommended that health and safety representatives and members of trade unions (if applicable) be included at the development stage of the Fit for Work policy.

### References used in developing this guide

This guide includes a general overview of information that is normally included in a Fit for Work policy. It is a good starting point; however, depending on the organization and the work being performed, additional information may be required.

These additional resources can provide further information and guidance on developing your company's policy:

- To help employers and workers understand their legal responsibilities, the Ministry of Labour has developed a webpage dedicated to [Impairment and Workplace Health and Safety](#).
- The Ontario Human Rights Commission has the following [Policy on Drug and Alcohol Testing](#) for HR professionals.
- The Ontario Public Health Association has this practical guide for employers: [Let's Take Action on Alcohol Problems in the Workplace](#). It includes how to develop and implement an alcohol and drug policy as well as a sample policy, resource list, and checklists.

## What to Include in Your Fit for Work Policy

A policy that is well laid out allows the user to easily reference it, either in its entirety or in its various sections.

An effective policy should (at least) include:

- 1) A table of contents page
- 2) The policy scope and purpose (outlining its intent and rationale)
- 3) Definitions of terms and phrases
- 4) Responsibilities and obligations of all workplace parties
- 5) Assistance and supports available to workers

### 1) Table of contents

This part of the policy should make it easy for anyone to locate specific sections of your organization's policy. It should be well laid out and clearly list all sections and subsections of your policy with corresponding page numbers.

### 2) The policy scope and purpose

This section of the policy outlines to whom the policy applies (workers, subcontractors, delivery drivers), and those (if any) who may be exempt from the policy. Make sure your exemption statement(s) outline the time and place of such exemptions.

Be sure to include the intent for which the policy was developed in the first place. The purpose (intent and rationale) of the policy should be to support the safety of workers in the workplace and general public, and how the employer intends (based on implementation of the policy) to ensure that workplace safety is achieved and sustained.

When developing this section of the policy, it is important to consider individuals' roles within the organization (as it relates to their job description), and whether such roles are considered safety-sensitive or high-risk work.

It is also important to include any project-related factors that might change the expectations set out in the policy (e.g., if working for alternative constructors) and, specifically, how those policies need to be adapted.

This section should also include any other occasions where the sections of the policy do not apply, such as company holidays, parties, and other events.

Ensure that you indicate how the policy would relate to areas of workplace accommodation for disabilities (addiction and dependency), and what measures your organization is prepared to take to provide such required assistance to employees.

### 3) Definitions of terms and phrases

This section should include clear definitions of terms and phrases as they relate to the contents and context of the policy, the workplace, and the implementation of the policy.

**Examples:**

- Fit for work
- Overly tired
- Use of drugs or alcohol
- Presence of drugs or alcohol in the workplace
- Impairment
- Suspicion of impairment
- Testing and limitations of testing

### 4) Responsibilities and obligations of all workplace parties

This section typically includes:

- A. Rules
- B. Training and Education
- C. Procedures
- D. Discipline

#### **A) Rules**

Rules should set out a clear and easy-to-understand standard of expectation. This section should include what is and what is not permitted, as outlined in the policy. Words and phrases related to fit for work could include variations of the following examples as they pertain to individual workplaces.

**Examples of rules:**

- All workplace parties are expected to maintain a safe work environment.
- All workplace parties are expected to remain free of impairment while at work.
- All workplace parties shall not be permitted to ... followed by a comprehensive bulleted list indicating all prohibited activities as they pertain to alcohol and drug use at your workplace.
- All workplace parties are to report the use of a prescribed medication (which may affect their ability to safely perform work) to their employers or supervisors.
- Supervisors are expected to maintain a safe work environment that is free from the effects of drugs, alcohol, or impairment.
- How impairment testing (if any) may be used to validate a worker's level of impairment (if suspected).

#### **B) Training and Education**

Training and education should outline how parties are expected to become familiar with and understand the policy. It can also include training requirements for third-party contractors.

**Example of training and education requirements:**

All workplace parties should have an understanding of:

- The policy
- Testing procedures (if any)
- Consequences for non-compliance
- Recognizing symptoms of impairment
- Recognizing the presence of drugs or alcohol in the workplace
- Their obligation to report the related hazards for the hazard to be corrected
- Available resources, such as helps and supports
- An acknowledgement of understanding by the employer and subcontractors

### C) Procedures

Procedures should explain in detail how the policy is expected to be met and enforced. When developing this section of the policy, ensure that the following examples are considered and consistent.

#### **Example of procedures to address in your policy:**

##### 1) Reporting structure and methods

- How does a worker self-disclose their impairment or drug/alcohol use?
- How/when does a worker make access to any of the supports available to him/her prior to the problem?
- How does the report of impairment or presence of drugs or alcohol in the workplace remain objective?
- Who needs to be involved in an investigation (based on the report). Strongly consider involving worker health and safety representatives or representatives of the trade union (if any).

##### 2) Expectations for investigation following a report

- How far should the investigation go? For example, are you only confirming impairment or seeking to determine whether or not an addiction exists?
- What actions should be taken during an investigation to ensure a safe workplace? Examples of this might be a list of immediate or interim actions that will be taken.

##### 3) Immediate and interim actions

Immediate:

- Remove the affected worker (or personnel) to a safe area, away from the hazardous work that could pose a risk of injury (while impaired).
- Allow the worker the opportunity to explain their behaviour and/or confirm impairment.
- If removing the individual from the project (for their safety) do not let them drive their vehicle. (Strongly consider making transport arrangements.)
- Consider whether law enforcement should be involved.
- Consider whether drug/alcohol impairment testing needs to happen.

Interim:

- Ensure that the issue is addressed directly with the affected worker upon their report back to the workplace; not to resume work but to review the investigation.

- Ensure that the results of the investigation are not made public. Only those directly affected by the breach should be involved in the review (the affected worker, his/her supervisor, his/her health and safety representative, union representative [if applicable], and employer).

#### **D) Discipline**

This section of the policy should explicitly list all possible disciplinary actions that can be taken against parties who violate the provisions of the policy.

**Example:**

Employees who violate the provisions of this policy are subject to disciplinary action up to and including:

- Termination
- Drug testing as per the rules (if any)
- Enrolment into an Employee Assistance Program (EAP)
- The company reserves the right to temporarily remove, reassign or suspend an employee pending a determination of the employee's fitness for work

#### **5) Assistance and support available to workers**

This section of the policy should include information on employee assistance programs and other measures employers may utilize to help their workers with disabilities (addiction to drugs and/or alcohol).

**Examples of commonly-used language:**

- Employees who have drug or alcohol problems are encouraged to seek assistance before performance problems (whether or not in violation of this policy).
- An employer may put the employee in contact with a medical practitioner who, if necessary, will make a referral to the appropriate agency. This includes help for personal, mental health and addiction issues.
- Understanding that addiction is deemed a disability under the Ontario Human Rights Code, an employee may be offered reasonable accommodations in accordance with applicable law based on their individual circumstances and capabilities to the point of undue hardship.