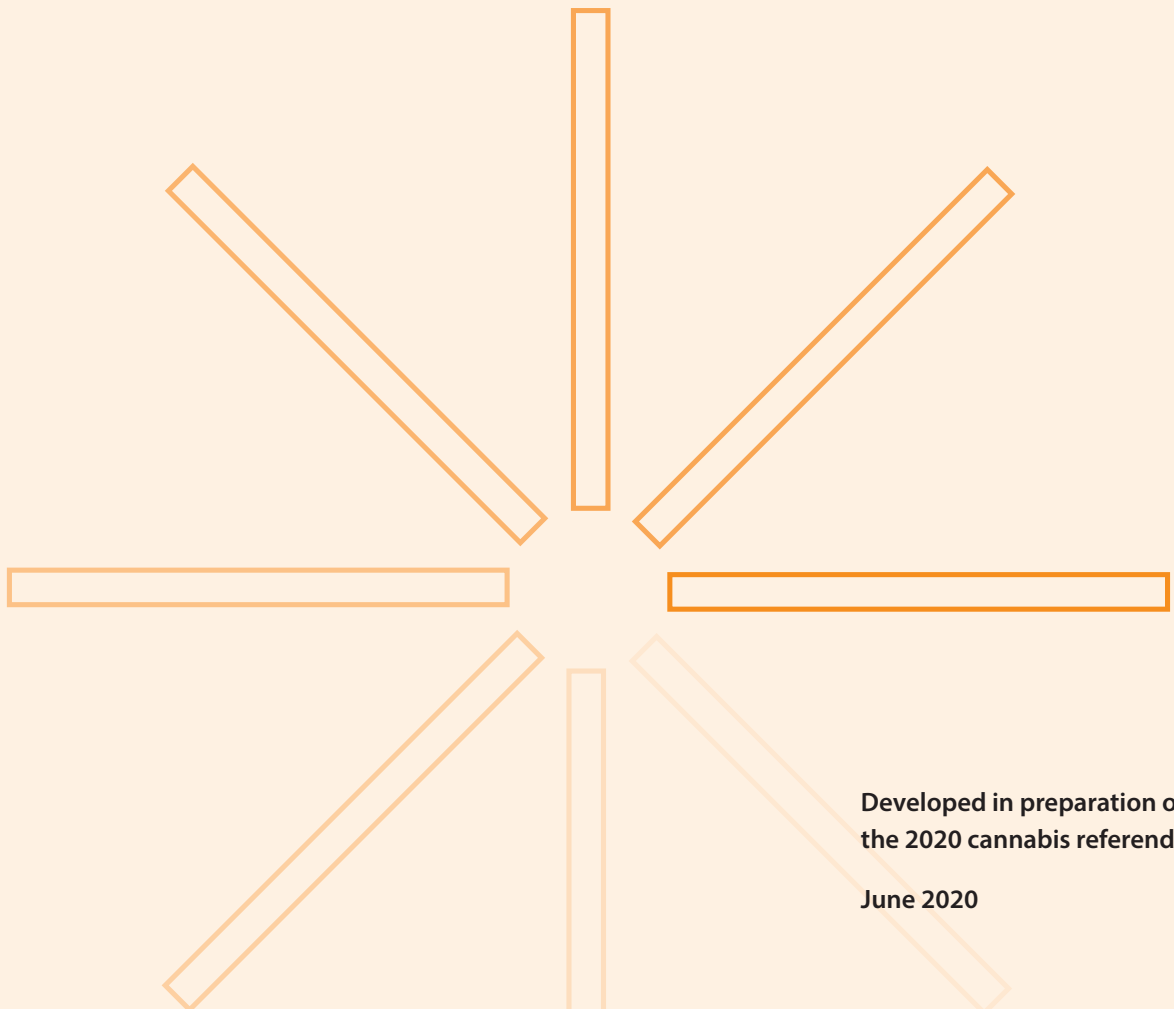


Reflective Guide

Focusing on what matters

Managing cannabis impairment risks at work



Developed in preparation of
the 2020 cannabis referendum

June 2020

Focusing on what matters

Managing cannabis impairment risks at work

With a referendum on the legalisation of cannabis in September 2020 now is a timely opportunity for Forum members to proactively review and assess the sufficiency of their approach to managing the risk of impairment caused by drugs and alcohol.

Impairment is a significant workplace risk. The Forum is not taking a formal position on the referendum question itself – our priority is supporting you to manage the risk of impairment, not simply one substance.

We encourage all businesses to use the cannabis debate as an opportunity to reflect, refine and refocus their current approaches to managing impairment risks at work – from cannabis, as well as other drugs and fatigue.



How to use this guide

This Guide seeks to support Forum members to focus on what matters around managing the risk of impairment, for a safer and healthier workplace. It:

- outlines some core principles when considering impairment
- summarises experiences out of Canada which recently legalised cannabis
- provides questions leaders can use to assess their current approach.

Executive summary

Cannabis is an impairment risk – regardless of its legal status. The substantive issue for work is its potential to impair people while on the job. It's important to realise that cannabis use and the related risk of impairment at work is not a new issue for New Zealand workplaces.

The issue of a substance's legality is secondary to its impact on impairment. Alcohol and prescription medicines are legal substances, and like cannabis, some have the potential to create impairment risks at work. Their legality does not diminish their impairment potential and commensurate need to manage that potential impact on health and safety at work.

As a result of that long-standing situation, most New Zealand organisations have some type of approach for managing impairment risks from cannabis, alcohol and other substances including prescription medicines. If well-developed and effective, they will almost certainly be fit-for-purpose if cannabis is legalised. This means for those businesses with comprehensive impairment policies that are clear and aim to educate employees, the potential legalisation of cannabis is likely to have minimal impact.

Experiences from Canada, which legalised recreational use of cannabis in 2018 and shares a similar legislative approach for health and safety, strongly affirm a sensible and balanced call for businesses to continue to focus their efforts on managing the risk of impairment from drugs and alcohol.

Put simply – manage the risk, not the substance. Take the timely nature of the cannabis referendum to proactively assess and review your approach for managing drugs and alcohol at work.

Towards the end of this Guide we've put together a series of questions for you and your organisation to answer to help you with this assessment.

Canadian experience

Non-medicinal cannabis use was regulated and legalised in Canada in 2018. The vast bulk of guidance issued at that time in Canada stressed the importance of viewing cannabis as a health and impairment risk and to manage it accordingly.

There was a strong sentiment that if an organisation had robust approaches to impairment then those efforts remained fit-for-purpose post legalisation. For those employers with people in safety-sensitive positions such as police officers or pilots, many developed strict standards regarding cannabis and impairment.

Research from Canada also shows that those organisations that had a strong and supportive work culture prior to legalisation were more likely to have success in implementing their impairment policy.

Canadian Centre for Substance Use and Addiction

Eighteen months on – what's the verdict?

There is emerging research in Canada about cannabis use and the perceptions about workplace use prior to, and in the periods after legalisation. Canada's Institute of Work and Health in Toronto has carried out research prior to legalisation as a baseline, and in the first 6-9 months post legalisation to determine what effect the change in law had on worker behaviour.

While this research is continuing as part of a three-year study, results already show:

- Prior to legalisation 7% of workers surveyed used cannabis before and at work
- Six to nine months after legalisation 8% of workers surveyed used cannabis before and at work

- While there was little change in before and at work use, there was an increase in cannabis use generally (outside of work hours or before work) from 29% to 38% in the same period above
- The number of workers reporting their organisation had a formal policy on substance use in the workplace rose from 63% prior to legalisation to 79% in the 6-9 months after.

Detection

Like New Zealand, testing and detection of drugs and alcohol remains a complex issue in Canada. Human rights legislation there prevents overly invasive measures to investigate employees unless there is a justifiable reason, such as working in a safety-sensitive role.

It's important to remember that a test will result in whether a substance is present, not necessarily an indication of impairment.

The Canadian Centre for Substance Use and Addiction points out that *"each time testing is used it's almost always based on an observation (of impairment) first. There are usually certain things people can look for on a basic level to identify potential impairment... an observation of some sort of behavioural, or physical, or social or productivity change in the employee."*

There are three main bodily fluid tests used by organisations (internationally as well as in Canada) to detect cannabis, these are:

- oral fluid test
- urine test
- blood analysis.

These types of tests can be carried out at various times, such as pre-employment, random testing, or unannounced.

In Canada, law enforcement personnel do carry out *Standardised Field Sobriety Tests (SFSTs)* which are based on observation initially. There is significant and specific training involved, which is why these tests are not used in the workplace in Canada, or where the outcome would not lead to criminal charges.

Canadian regulators and specialist health and safety organisations encouraged businesses to review their drug and alcohol and impairment policies and programmes – and included a summary of these key components to consider:

Canadian advice – What makes a robust drug and alcohol approach in a legalised world?

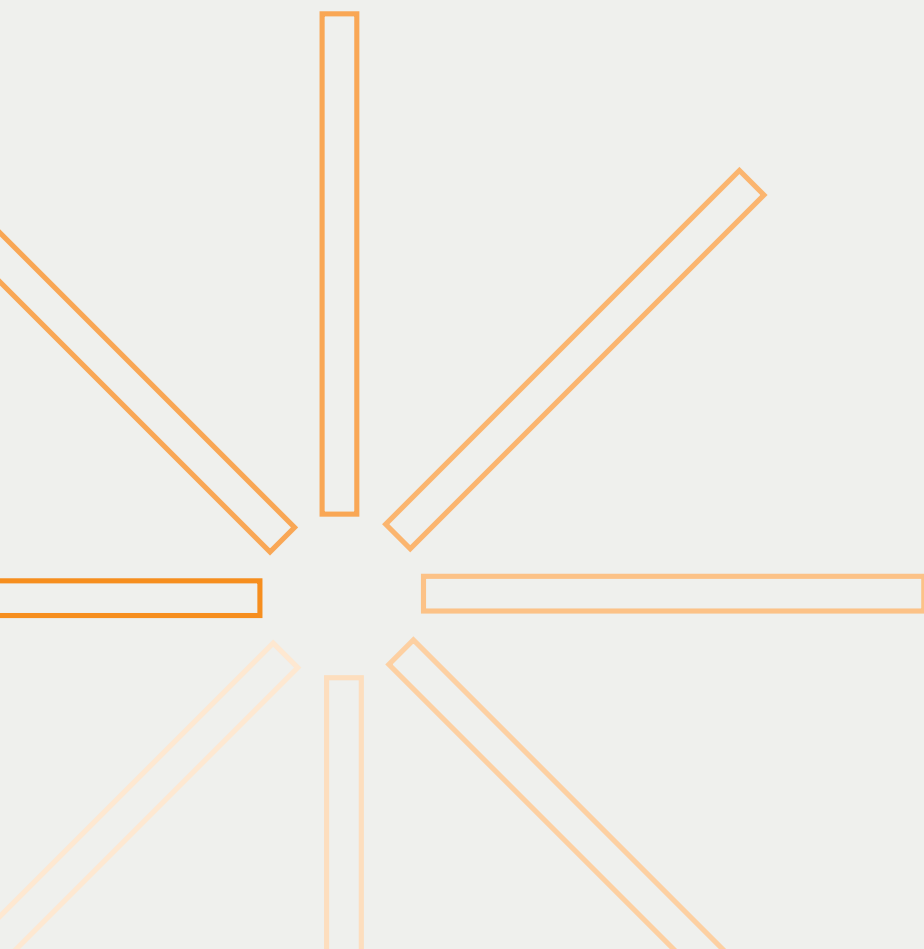
What to include	What that could look like
Purpose	<ul style="list-style-type: none"> Statement of the purpose and objectives and scope of the programme or policy.
Definitions	<ul style="list-style-type: none"> Definition of impairment. Definition of what the employer considers to be impairment, e.g. fatigue, alcohol, drugs, stress etc.
Coverage and confidentiality	<ul style="list-style-type: none"> Statement of who is covered by the policy and/or programme. Statement of the employee's rights to confidentiality.
Medicinal usage	<ul style="list-style-type: none"> A mechanism for employees' to confidentially report when they have been prescribed a medication that may cause impairment. Statement regarding if either medical/therapeutic or non-medical substances are allowed on the premises, or under what situations they would be allowed.
Prevention and education	<ul style="list-style-type: none"> That arrangements have been made for employee education (e.g., a general awareness regarding disability due to substance dependence). That arrangements have been made for educating and training employees, supervisors, and others in identifying impaired behaviour and what steps will be taken. Research shows education and prevention has a stronger impact on reducing substance use at work than any other means.
Observation and investigation	<ul style="list-style-type: none"> Managers and supervisors have the tools they need to observe for possible impairment. Procedures for how to address impairment if it's observed.
Support for substance use disorders and return to work	<ul style="list-style-type: none"> Provisions for assisting those with disability due to substance dependence. Processes for return to work/remain at work planning.
Testing	<ul style="list-style-type: none"> Statement of under what circumstances substance testing will be conducted, as well as the criteria for testing and interpretation of test results.
Justice and culture	<ul style="list-style-type: none"> Provision for a hierarchy of disciplinary actions. Be clear about what constitutes non-compliance with the policy in the workplace. Ensure the policy meets all legal requirements.
Review and evaluation	<ul style="list-style-type: none"> Make sure the policy is reviewed, makes sense for your organisation and is meeting the needs of employees and employers.

Managing impairment at your organisation

Given the emerging international research and examples of how organisations in Canada are managing the legalisation of cannabis, we've put together two sets of questions to support you to review and assess the sufficiency and appropriateness of your approach to managing the impairment risks from drugs and alcohol:

- Is our approach fit-for-purpose?
- Are we on the right track?

These are intended to prompt an engaged discussion within your organisation. They are not a set of binary questions to ascertain compliance. We recommend you work through your responses with your teams, involving people across all levels of your organisation.



Is our approach to drugs and alcohol fit-for-purpose?

Key characteristics	Key questions	Your organisation
<p>Accessible</p>	<ul style="list-style-type: none"> • Is our policy and practice clear, understandable and well communicated? • Do all of our people understand our approach and what it means for them? • Do we have adequate education on the policy and practices? 	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>Coherent</p>	<ul style="list-style-type: none"> • Does our approach tell a clear story clear about “the why”? • Is it clear <i>why</i> managing impairment from drugs and alcohol matters to us as a company, our customers, the public and why it should matter to our workers? • Does the policy clearly explain the expectations of employees, management, and the company? 	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>Engaged</p>	<ul style="list-style-type: none"> • Have our people (including unions where applicable) been constructively part of developing and applying our approach to drug and alcohol induced impairment? • Have other important stakeholders (workplace policy experts, addiction medicine physicians, etc.) been involved in development or revision of the approach? 	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

Key characteristics	Key questions	Your organisation
Rational	<ul style="list-style-type: none"> • Is our approach risk-based or based on judgement? • Does the policy stigmatise employees who use substances, or does it focus on reducing risk? • Do our policies and practices make sense for our context and type of work? 	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
Fair and resilient	<ul style="list-style-type: none"> • Does our approach have a just and fair range of options for responding to the presence of drugs and alcohol beyond punitive sanctions? • Does the policy balance employee and employer needs? • Is there sufficient capacity in safety critical tasks (especially) for workers to <i>fail</i> safely? – i.e. what is the safety margin for failure as a result of impairment? 	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
Empathetic	<ul style="list-style-type: none"> • Does our approach provide support options for people with addiction or health issues to reclaim their wellbeing and contribute to our business? • Does the policy include return-to-work guidance for those diagnosed with a substance use disorder? 	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
Prevention and education	<ul style="list-style-type: none"> • Does the policy set out what it is meant to do – i.e. risk reduction? • Does the policy set out how it will educate employees on substances that can cause impairment? 	<p>.....</p> <p>.....</p>

Are we on the right track?

Smoke detectors	Reading the signals	Your organisation
How well are your people (and unions if relevant) engaging with you on the application of your drug and alcohol approach?	<ul style="list-style-type: none">• If it's adversarial, then it's a good sign the current policy is targeting the wrong thing, is being misused by leaders, or too complex to follow procedurally.• Most unions should support this sort of policy if it's managed well, and fit for purpose.	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
What level of engagement do your people have with the rehabilitation aspects of your policy?	<ul style="list-style-type: none">• If it's working well it will be perceived as being 'value adding' and wellbeing focused as much as it is a safety control.	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
What is your positive test result ratio?	<ul style="list-style-type: none">• Lower should be a good indicator of the policy working.	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

Appendix

Links to useful resources

New Zealand

- [Managing fatigue risk with Dr Drew Dawson](#)
 - www.zeroharm.org.nz/resources/risk/fatigue-risk-management/
- [Cannabis Legalisation and Control Bill \(exposure draft for referendum\)](#)
 - www.referendums.govt.nz/materials/Cannabis-Legalisation-and-Control-Bill-Exposure-Draft-for-Referendum.pdf
- [Business Leaders' Health and Safety Forum podcasts:](#)
 - [Preparing for legalisation in Canada and what NZ businesses could learn: Canadian Centre for Substance Use and Addiction](#)
 - [Cannabis use and perceptions about workplace use in Canada: Institute of Work and Health in Canada](#)
- [Employment advice from government on Drugs and alcohol at work – policies, testing and rehabilitation](#)
- [Eliminating alcohol and other drugs from the workplace – Plantation forestry code of practice](#)

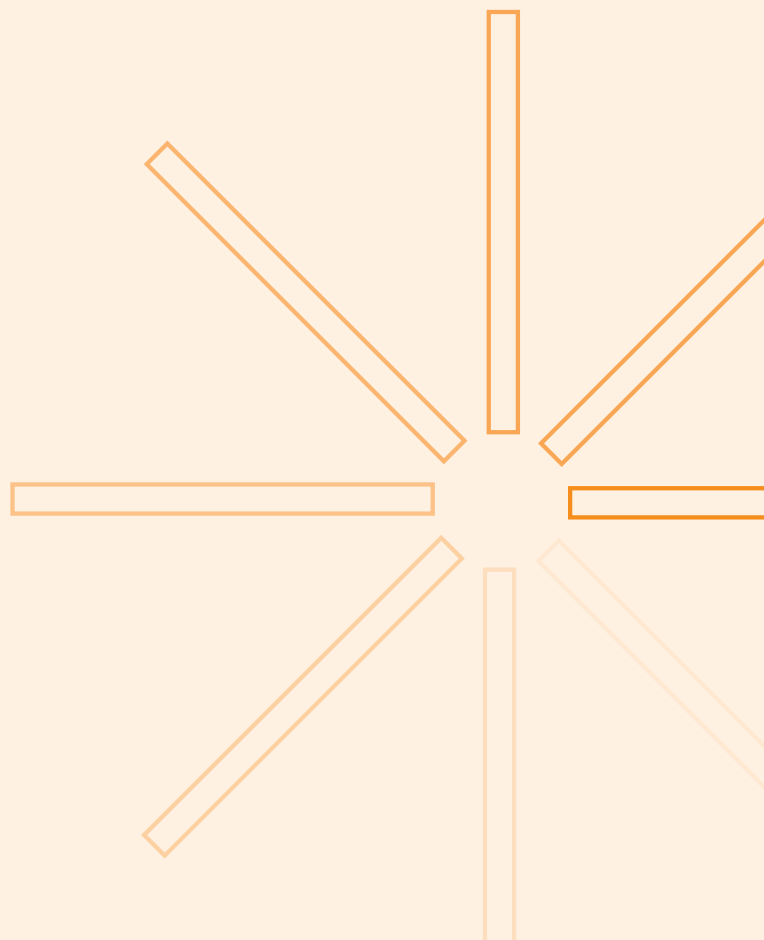
Canada

- [Workplace Strategies: Risk of Impairment from Cannabis](#)
- [Guide to Managing Workplace Impairment and Developing an Impairment Policy](#)
- [Workplace impairment: A primer on preparing for cannabis legalization](#)
- [Have cannabis use and perceptions about workplace use changed since legalization?](#)

Bibliography

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Business Leaders' Health & Safety Forum

ZERO HARM WORKPLACES

About the Forum

The Business Leaders' Health and Safety Forum inspires and supports its members to become more effective leaders on health and safety.

The Forum has more than 370 members, who are Chief Executives or Managing Directors of significant New Zealand companies.

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