



***Guidance on the Management
of Drugs and Alcohol***


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THIS DOCUMENT PROVIDES GUIDANCE ON THE MANAGEMENT OF DRUGS AND ALCOHOL				
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SOURCE / RELATED DOCUMENTS:				
LRG 1.0 Tramway Principles and Guidance (TPG) (LRSSB) LRG 9.0 Driver Selection and Recruitment Guidance (LRSSB) LRG 10.0 Medical Fitness Guidance (LRSSB) LRG 12.0 Guidance for the Statutory Reporting of Incidents (RIDDOR) (LRSSB) LRG 27.0 Confidential Reporting Guidance (LRSSB) GE/GN8570 Guidance on the Management of Drugs and Alcohol Issue Two December 2012 (RSSB) ISO/IEC 17025:2005: General requirements for the competence of testing and calibration laboratories HSE Research Report Series RR193 (The scale and impact of illegal drug use by workers) 2004 HSE HSE Research Report Series RR282 (The scale and impact of psychotropic medication use by workers) 2004 HSE 'Fitness for Work Guidance' Dec 2017 ORR				
RELATED TRAINING COURSES:			RELATED LEGISLATION:	
Drugs and Alcohol awareness training			Health and Safety at Work Act etc. 1974 Management of Health and Safety at Work Regulations 1999 (ROGS) 2006 Railway Group Standard GE/RT8070 Guidance on the Management of Drugs and Alcohol Railway Group Standard GE/GN3655 Guidance on Medical Fitness for Railway Safety Critical Workers Data Protection Act 1998 Misuse of Drugs Act 1971 Construction (Design and Management) Regulations 2015 (CDM) Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) Transport and Works Act (TWA) 1992	

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TERMS AND ABBREVIATIONS

Table A – Terms

Term	Definition
Chain of Custody	The chronological documentation of the history of a drugs and / or alcohol sample that guarantees the identity and integrity of the sample from time of collection through to reporting of the test results to ensure it is legally defensible.
Drug	For the purpose of this document, a drug means a ‘controlled drug’ as defined in the Misuse of Drugs Act 1971 (including ‘prohibited’, ‘illicit’ drugs or ‘drugs of abuse’) and its subsequent modification orders, or other substance that could affect a person’s ability to carry out safety critical tasks safely and adequately. For this document, this includes medication, either prescribed by a medical practitioner or purchased over the counter, which can have similar effects.
Drugs and Alcohol Testing	Testing with the purpose of identifying whether drugs or alcohol are present in a person.
Duty Holder	Person in charge of operational activities at a particular time.
Fitness for Work	The ability of a person to undertake their role safely and competently.
‘For Cause’ Drugs and Alcohol Testing	Drugs and alcohol testing to identify whether or not drugs or alcohol are present in a person where: Their behaviour gives cause to suspect that they are unfit for work due to the effects of drugs and / or alcohol; or There are reasonable grounds to suspect that a person carrying out safety critical tasks may have contributed to an accident or incident because their performance was affected by drugs and / or alcohol.
Line of Sight	Operating mode where a tram should be able to stop before a reasonably visible stationary obstruction ahead, from the intended speed of operation using the service brake.
Medical Authority	A person with expert medical knowledge of drugs and alcohol in particular the effects of these substances on performance and the ability for a worker to undertake critical safety tasks.
Medical Review Officer (MRO)	A physician who can issue a negative report for a positive analytical result based on consultation with the donor in question, the donor’s GP, the laboratory toxicologist and information supplied by the donor at the time of sampling (for example, prior medication).
Over the Counter Drug / Medicine	A drug or medicine that is available for purchase without a prescription.
Person in Charge	The person with the responsibility for the location for testing at the time when unannounced random testing is taking place.

Positive Test	The detection of any amount of a drug that is being tested for in an appropriate laboratory test.
Term	Definition
Positive Result	The confirmation of a positive test after discussion with the employee tested and the accredited laboratory to establish that there is no legitimate medical explanation for the use of the drug or the quantity of the drug that has been detected.
Psychotropic Medicine / Drug	Any drug or medicine that is capable of affecting the mind, emotions or behaviour.
Responsible Person	The manager, supervisor or nominated person with the responsibility for taking decisions about whether to initiate 'for cause' testing following an accident or incident.
Safety Critical Task	As defined in Regulation 23 of the Railways and other Guided Transport Systems (Safety) Regulations 2006 [ROGS] in relation to a vehicle used on a transport system and a transport system.
Safety Critical Worker	A competent person that carries out safety critical tasks.
Safety Management System	A formal management system or framework to manage health and safety.
Staff	For the purpose of this document this includes any employee of a Light Rail system including a contractor to the Light Rail system or the employee of a contractor.
Unannounced Testing	The testing of a person without them having had a prior notice.

Table B – Abbreviations

Abbreviation	Definition
ARIOPS	Association of Rail Industry Occupational Physicians
HSE	Health and Safety Executive
IEC	International Electrotechnical Commission
ISO	International Organisation for Standardisation
LRSSB	Light Rail Safety and Standards Board
MRO	Medical Review Officer
OCC	Operations Control Centre
ORR	Office of Road and Rail
ROGS	Railways and Other Guided Transport Systems (Safety) Regulations 2006
RSSB	Rail Safety and Standards Board
SMS	Safety Management System
TPG	Tramway Principles and Guidance
TWA	Transport and Works Act 1992
UKAS	The United Kingdom Accreditation Service

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1. Introduction

- 1.1. This guidance supports the high level principles set out in LRG 1.0 Tramway Principles and Guidance (TPG) published by the Light Rail Safety and Standards Board (LRSSB).
- 1.2. This document provides high level guidance on the management of drugs and alcohol for those delegated this responsibility in relation to the operation of Light Rail systems based on 'line-of-sight' operations only. As with all guidance, this document is not prescriptive and is intended to give advice, not to set a mandatory industry standard and it is based upon goal setting principles as best practice.
- 1.3. This guidance is based on the experience gained from existing UK Light Rail systems (tramways) and requirements set out in the Transport and Works Act 1992. Light Rail systems may choose to impose stricter limits and standards than those mandated.
- 1.4. It does not prescribe particular arrangements adopted by any existing UK Light Rail system and is intended to give guidance and advice to those involved in the management of meeting the requirements of drugs and alcohol management applicable to the operation of Light Rail systems in the UK.
- 1.5. This document sets out guidance for Duty Holders in relation to the management of drugs and alcohol however, it is to be borne in mind that this is everybody's responsibility both morally and legally.

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2. Scope

2.1. The Transport and Works Act 1992 (TWA 1992)¹ sets requirements for individuals and Light Rail systems with regard to fitness for work in relation to drink and drugs (including prescribed or medicines that are available for over the counter purchase). In relation to being fit to undertake work, TWA 1992 states:

“a person shall be taken to be unfit to carry out any work if his ability to carry out that work properly is for the time being impaired.”

2.2. TWA 1992 also defines the staff to whom the legislation applies², though existing UK Light Rail systems may choose to apply this more widely to apply their Drugs and Alcohol Policy to additional or all staff.

2.3. If a person commits an offense under TWA 1992, the Light Rail system will also be guilty of the offense, unless it has applied all due diligence to prevent an offence being committed. A demonstration of such diligence includes the existence of a Drugs and Alcohol Policy.

2.4. Light Rail systems also have requirements under ROGS 2006 in relation to fitness of safety critical workers for the tasks as defined in Regulation 23 of this Act³ including a requirement that staff are assessed as fit to carry out safety critical tasks⁴.

2.5. The Health and Safety Executive (HSE) has undertaken research on the scale of illegal drug use by workers that showed that recreational use may reduce performance, efficiency and safety at work, even for lower classified drugs when used infrequently or with a time of abstinence⁵. In addition, the HSE has undertaken research into the effects of psychotropic medication in relation to performance efficiency and human error⁶.

2.6. There are also prescribed and ‘over the counter’ medicines that may reduce performance, efficiency and safety at work, and which may be misused and therefore may require their inclusion in drug testing. These may include strong pain killers, benzodiazepines and other psychotropic medication.

2.7. The relevant safety critical tasks will be identified in the Light Rail system’s risk assessments and contained within its Safety Management System (SMS).

2.8. Issues with alcohol and drug misuse varies according to age, gender, geographical area and a range of other social factors that Duty Holders and Light Rail systems need to be aware of.

1 Transport and Works Act 1992 (legislation.gov.uk)

2 Regulation 27: Transport and Works Act 1992 (legislation.gov.uk)

3 Regulation 23: The Railways and Other Guided Transport Systems (Safety) Regulations 2006 (legislation.gov.uk).

4 Regulation 24: The Railways and Other Guided Transport Systems (Safety) Regulations 2006 (legislation.gov.uk)

5 HSE Research Report Series RR193 (The scale and impact of illegal drug use by workers) RR193 - The scale and impact of illegal drug use by workers (hse.gov.uk)

6 HSE Research Report Series RR282 (The scale and impact of psychotropic medication use by workers) RR282.pdf (hse.gov.uk)

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2.9. In order to demonstrate due diligence in meeting the requirements of the above legislation, all Light Rail systems should have a structured Drugs and Alcohol Policy that is clearly set out, readily accessible and applied to all staff who carry out safety critical tasks. This policy should include a testing regime. For further information, see Section 4 below.

2.10. Further information is available from the HSE relating to alcohol and drugs at work⁷. The ORR has published 'Fitness for Work Guidance'⁸ and there is other information and resources available in relation to drugs and alcohol for the railway industry⁹.

⁷ Managing drug and alcohol misuse at work - Overview - HSE

⁸ Fitness for work guidance - December 2017 (orr.gov.uk)

⁹ For example www.rail-reg.gov.uk

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3. Application of Drugs and Alcohol Policy

- 3.1. All staff undertaking roles and / or tasks that are defined as 'safety critical' under ROGS 2006 (i.e. 'safety critical staff') are to be included within a Drugs and Alcohol Policy and must be tested. However, many existing UK Light Rail systems have extended their Drugs and Alcohol Policy to include all staff, regardless of whether they are safety critical workers. As such, the following applies to the staff that are included within any Drugs and Alcohol Policy whether this is restricted to critical safety workers or more widely in the organisation.
- 3.2. Any Drugs and Alcohol Policy must be clearly structured and easily understandable and accessible by all applicable staff.
- 3.3. The policy should be included in a Light Rail system's induction for all for safety critical staff (or for all staff it applies to if this is wider), and training provided as and when considered necessary.
- 3.4. In general, Light Rail systems should encourage a positive culture towards safety which includes drugs and alcohol.
- 3.5. Information provided to staff should make them aware of the Light Rail system's limits / measures of alcohol for a positive result whether they are as mandated in TWA 1992 or those specific to the Light Rail system if stricter limits are imposed, refer to Sections 8.18 to 8.22.
- 3.6. Light Rail systems should provide adequate and clear information on the following to staff to ensure their awareness of:
 - How drugs and alcohol affect performance;
 - Known factors that could lead to becoming dependent on drugs or alcohol; and
 - Sufficient information to avoid staff from inadvertently breaching the Light Rail system's Drugs and Alcohol Policy.
- 3.7. Staff should be made aware of the effects of alcohol and also average times taken for the effects of ingested alcohol to reduce to the point where it will not affect or impact their work and fitness for duty. This should include advising staff not to consume alcohol in the period 12 hours preceding work. However, only an individual can control their personal intake of alcohol and it is therefore a personal responsibility to ensure compliance with the Drugs and Alcohol Policy.
- 3.8. In relation to the use of drugs, staff should be made aware of the potential for some drugs to impair performance for several days after being consumed. However, only an individual can control the drugs (whether prescribed or otherwise) that they take and it is therefore that person's responsibility to ensure compliance with the Drugs and Alcohol Policy.
- 3.9. Staff must also be made aware that when a doctor or pharmacist is prescribing drugs to them, they must inform the prescriber of the nature of their work and thus request details of any potential side effects of consuming the drug(s). Further information can be found in LRG 11.0 Medical Fitness Guidance.

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- 3.10. Staff who are taking prescribed and / or using over the counter drugs should be made aware that they have a duty to inform their supervisor, manager or nominated person, and must be informed by the organisation of the ways to do this. When notifying they should include any information provided by their doctor or a pharmacist on any likely effects on work performance as a result of the drugs.
- 3.11. Staff should be made aware that information on any drugs they are taking should be disclosed before any testing to avoid the likelihood of it contributing to a positive result (refer to Section 5.14 and Section 8 below). They should inform their manager, supervisor, nominated person, or person collecting the sample (as appropriate) and details of them.
- 3.12. Staff should be made aware when the Light Rail system’s Drugs and Alcohol Policy is updated.

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4. Drugs and Alcohol Policy Overview

- 4.1. A Light Rail system's Drugs and Alcohol Policy that is clearly structured helps to provide its staff with clear procedures and policies and their responsibilities, and also demonstrates due diligence to meet the requirements of ROGS 2006 and TWA 1992.
- 4.2. The implementation of the policy needs to be robust and clearly documented as well as clearly made available and publicised to all staff as aligned to the Drugs and Alcohol Policy (whether this is solely those who undertake safety critical tasks, or wider), including notifying all staff when it is updated.
- 4.3. Further to Section 3.3, the Light Rail system has a duty to inform staff supervisors, managers and nominated persons for staff carrying out safety critical tasks of their responsibilities under the Drugs and Alcohol Policy. This would include recognising impairment of performance, likely effects of medication on the staff undertaking safety critical tasks and to encourage staff to seek help and / or advice with respect to problems caused by drugs or alcohol.
- 4.4. The following items should be contained within the policy and also clearly communicated through it; however, it is not limited to these factors.
- Definition of the scope of the policy and its application;
 - Responsibilities for implementing and maintaining the policy;
 - Explanation and information of what constitutes misuse of drugs or alcohol;
 - Implications of, and relationship with, the TWA 1992;
 - Arrangements for reporting prescribed and / or over the counter drugs and medication;
 - Clear information on the restriction and prohibition of the consumption of alcohol;
 - Clear information on restrictions in relation to the use of drugs including prescribed or those available over the counter (refer to Section 4.5 below);
 - Situations where disciplinary action will be considered;
 - Provision of information signposting to what help and support is available to any staff with drugs or alcohol problems;
 - Information on staff safeguards, rights of appeal and confidentiality;
 - Provisions for undertaking drugs and alcohol testing;
 - Situations where drugs and alcohol testing will be undertaken;
 - Arrangements for the communicating of the results of drugs and alcohol testing; and
 - Arrangements for remotely managed staff (as appropriate if different).
- 4.5. In defining 'drugs' within the policy, this should comprise of controlled drugs or 'prohibited' or 'illicit' drugs or 'drugs of abuse' as defined by the Misuse of Drugs Act 1971¹⁰ and / or any substance that impacts the performance of those undertaking their critical safety duties. This includes drugs that are prescribed as well as those that are purchased over the counter.

¹⁰ Misuse of Drugs Act 1971 (legislation.gov.uk)

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- 4.6. Further to the above, and as outlined in Sections 3.9 – 3.11, the policy must provide for the scenario where staff make a declaration of drugs or medication. It should include the process of making the declaration and must stress that any declaration must be made at the earliest opportunity after any medication is prescribed or purchased, and certainly before any test is undertaken including potential ramifications if staff have not done so until after testing has been undertaken (refer to Section 5.14 and Section 8).
- 4.7. The Light Rail system should provide the ability for managers, supervisors and nominated persons to access a competent medical authority with regard to any potential effects of medication on an individual’s ability to undertake safety critical tasks.
- 4.8. Although alcohol is generally recognised to impact performance, specific limits need to be stipulated beyond which they will form the basis of a positive test. Section 8.18 references the mandated limits in TWA 1992. However, a Light Rail system may choose to adopt more restrictive levels for their staff; refer to Sections 8.18 to 8.22 for further information.
- 4.9. The policy should also include requirements to undertake ‘for cause’ testing of staff who may have contributed to an accident or incident where there is a probability, due to the nature and / or severity of an accident, that a public inquiry may be called. For further information see Section 7.
- 4.10. A key activity assisting in the success of a Drugs and Alcohol Policy is effective communication and follow up actions in order to reinforce the message.
- 4.11. The Light Rail system should review their Drugs and Alcohol Policy at least once every three years and in accordance with this, notify staff.

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5. Testing Regime and Process

- 5.1. When determining which drugs should be contained in the policy, Light Rail systems must take into account the practicalities of testing for the drug (for example, does a reasonably practicable test exist) and the likelihood that the drug will be taken by staff, as well as the ability of the drug to affect performance. Consideration is not limited to these factors and should be appropriate to the Light Rail system.
- 5.2. The person undergoing testing for drugs and alcohol should be given the results of the testing as soon as possible.

Tests and Testing

- 5.3. Accredited drug testing laboratories (see Section 5.17) can provide advice and assistance on what tests are available as well as what tests are appropriate for the drugs the Light Rail system seeks to include in its testing, in addition to those which may be appropriate for the purpose of a Drugs and Alcohol Policy. In most instances, there are tests available that will meet rail industry requirements and are suitable for use in a Light Rail system's testing regime.
- 5.4. Based on their particular operational requirements, a Light Rail system should determine the most appropriate method of testing for alcohol and drugs.
- 5.5. Urine testing is currently widely used across the many industries and is believed to be both accurate as well as reliable, and can be used for both instant and laboratory testing.
- 5.6. Where a Light Rail system uses laboratory urine testing, in parallel they should also use 'instant results' urine tests to provide an immediate result. A selection of proprietary 'instant results' urine tests are available, and advice can be sought from a professional occupational health adviser in the selection of a suitable test. Conversely, when an 'instant results' urine test is used, it should be used in conjunction with laboratory urine testing, as this confirms the reliability and validity of the 'instant results' testing.
- 5.7. A breath based alcoholmeter can be used for alcohol testing and as above for urine test kits; advice can be sought from a professional occupational health adviser in the selection of a suitable test. However, for those who may find this difficult, for example those with severe asthma, urine testing is a suitable alternative.

Testing Process and Facilities

- 5.8. Light Rail systems need to have either an in-house arrangement for testing or hold a contract for the use of an appropriate external testing agency. With either method, tests should be completed as soon as reasonably practicable with due consideration given to timescales that would allow for a test subject's levels of intoxication to subside.
- 5.9. For in-house testing, there should be suitable facilities available including, for example, toilet, wash hand basin and office etc. These provide both privacy for the person being tested and security for the tests. In addition, suitable electric lighting is essential for instances where there is testing without daylight.

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- 5.10. There must be a designated Person in Charge of testing who is the person responsible for the location and for testing at the time when unannounced random testing is taking place.
- 5.11. When it has been determined that a test is to be undertaken, the candidate should be escorted to a suitable waiting area and be unceasingly supervised until the samples for testing have been collected. This ensures that the integrity of the chain of custody has not been compromised.
- 5.12. Prior to a sample being taken, the person being tested should provide a form of identification or a form of substantive confirmation of identity to the Person in Charge of testing, along with a signature to confirm their identity when the sample is obtained.
- 5.13. Light Rail systems should use a documented chain of custody for the collection of drugs and alcohol samples. Suitably trained collection officers should be used in the collection of samples and there should be safeguards to ensure that the reported results can be related back to the correct person.
- 5.14. The collection of the sample should be undertaken so that the following is ensured:
- The protection of the safety, health and dignity of both those carrying out the sample collection and the person who is giving the sample;
 - The time of collection of samples are such that they do not affect the safety duties of the person being tested; and
 - Those being tested are given adequate opportunity to disclose any medication they are on or have been taking.
- 5.15. As part of the chain of custody, specific procedures will need to be put in place to ensure the following in relation to the sample:
- It is tamper proof;
 - Labelled correctly;
 - Secure transportation to the laboratory; and
 - Securely stored before the analysis is undertaken.
- 5.16. To comply with TWA 1992, the specimen given by the person is divided into two. The first sample is used for immediate testing. The second sample is retained by the contract laboratory and will be made available for independent testing, if this is later requested.

Laboratory Testing

- 5.17. Light Rail systems must only use laboratories for drugs and alcohol analysis where they are UKAS (or European equivalent) accredited to ISO/IEC 17025:2017¹¹, or where they are subject to blind analysis testing under an external quality assurance scheme. The accreditation of laboratories is also based on ISO 15189:2003¹².

¹¹ ISO/IEC 17025:2017 General requirements for the competence of testing and calibration laboratories

¹² Medical laboratories — Particular requirements for quality and competence

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6. Testing Frequency

6.1. Testing should be undertaken at various times including:

- Pre-appointment testing;
- Periodic testing including both pre-planned medical assessment tests and random unannounced testing; and
- 'For cause' testing.

Pre-Appointment Testing

- 6.2. Those applying to Light Rail systems for roles involving safety critical tasks who are likely to be offered employment should be informed of the details of the organisation's Drugs and Alcohol Policy.
- 6.3. Tests should be carried out on all those being appointed to posts that include safety critical tasks. This includes any person who has received a promotion from within the organisation into a role that includes safety critical tasks. Refer also to Section 8.15 for guidance in the event of a positive result in these circumstances.
- 6.4. Any drugs and alcohol tests that are undertaken before a person is appointed to a role are usually as part of a medical assessment and are usually through a pre-arranged appointment which also includes a medical assessment. Further pre appointment guidance is available in LRG 9.0 Driver Selection and Recruitment Guidance.

Periodic Tests

- 6.5. Periodic testing of those who undertake safety critical tasks must be carried out. This includes pre-planned medical assessment testing as part of a periodic age related medical or random and unannounced testing. For further information regarding periodic age related fitness and testing, refer to LRG 11.0 Medical Fitness Guidance.
- 6.6. Each calendar year, Light Rail systems should test a minimum of 5% of those undertaking safety critical tasks, this includes pre-planned medical assessment tests and random and /or unannounced testing.
- 6.7. Unannounced testing is defined as the testing of a person without them having had a prior notice and those selected should be done so by using a computer programme. Due to its nature, these tests usually take place in the workplace.
- 6.8. When making arrangements for testing in the workplace, the nature of the tests should be taken into account as well as making sure suitable facilities are available including adequate privacy, hygiene, and any potential for contamination (see Section 5 for further information).
- 6.9. Where it is not possible to undertake testing at the workplace, it is probable that the person will be informed through receiving notice of a change to rostered duties and they will be asked to attend a testing site outside of the workplace. In these circumstances, the length of the warning period should be as short as is achievable, with the time as close to the unannounced procedure as possible to maximise the effectiveness of the test.

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- 6.10. There must be safeguards in place to ensure the Light Rail system’s operational safety is not compromised by the testing.
- 6.11. The Light Rail system should prevent staff from avoiding undertaking tests, without a valid reason.
- 6.12. At the time of testing, unless there are reasonable grounds to suspect that the person who has undertaken a test is unfit for duty, Light Rail systems are allowed to permit those subjected to periodic testing to continue their duties whilst awaiting the results of tests. See Section 8 for additional information.

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7. 'For Cause' Testing

Overview

- 7.1. Employees carrying out safety critical tasks may on occasion be requested to undertake a 'for cause' drugs and alcohol test and in these circumstances should immediately cease work on safety critical tasks.
- 7.2. In order to comply with ROGS 2006, a Light Rail system should immediately undertake 'for cause' drugs and alcohol testing on any staff whose role includes safety critical tasks including where a reasonable request has been made from a business partner, contractor, or third party contractor and where there are reasonable grounds to suspect one or both of the following:
 - That the person is under the influence of drugs or alcohol; and / or
 - That the safety of the operational Light Rail system is at risk.
- 7.3. In the above instances, the person should not be allowed to continue work / working on safety critical tasks until drugs and alcohol testing has been undertaken and the results are known.
- 7.4. Light Rail systems are required to apply their Drugs and Alcohol Policy not only to their staff but also a person from outside their organisation who is performing safety critical tasks on behalf of the Duty Holder when they have cause to suspect they may be under the influence of drugs or alcohol.
- 7.5. Light Rail systems should also consider carrying out 'for cause' testing on staff who have contributed to or been involved in an accident or incident where there could be a public inquiry due to its nature or severity.
- 7.6. If testing is pursued without sufficient justification, this could result in a discriminatory decision being substantiated.
- 7.7. For cause testing can also be carried out at the request of the employee themselves, even if the circumstances do not require it.

Accidents and Incidents

- 7.8. Responsible persons should undertake 'for cause' drugs and alcohol testing when they have reasonable cause to suspect a person carrying out safety critical tasks may have contributed to an accident or incident AND is under the influence of drugs and / or alcohol.
- 7.9. The decision to initiate a 'for cause' test will be based upon a number of factors, including the following circumstances (not exclusively):
 - An employee's acts or omissions could have promoted an accident or incident;
 - An employee's conduct, behaviour and physical signs before, during and after the accident / incident (where this is known); or
 - An examination of a person's employment records following an accident / incident suggest the person is on an increased testing regime due to a previous drugs and alcohol related offence.

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7.10. Where 'for cause' drugs and alcohol testing is justified, responsible persons are mandated to co-operate under ROGS 2006 Regulations 22¹³ and 26¹⁴ where an accident or incident has occurred involving staff employed by more than one transport system.

7.11. In these circumstances, further to Section 7.3 above, the person who is being tested / has been tested for drugs and alcohol should not be allowed to continue to undertake safety critical tasks unless a negative test result has been obtained, or it can be validated that the person did not contribute, through their action or in-action to the accident or incident.

7.12. If there are reasonable grounds for suspecting that the person's actions were influenced by drugs or alcohol, no attempt should be made to estimate the degree of any intoxication as this will be provided by the test.

Site Visit

7.13. It is important for the responsible person(s) to attend the scene of an accident / incident as part of the decision as to undertake 'for cause' testing and they should make every effort to do so in order to detect any signs (as listed below in Sections 7.19 and 7.20) that could indicate whether a person may be under the influence of drugs or alcohol.

7.14. It is however acknowledged that there are occasions where the responsible person is not able to attend the site of the accident / incident. In these circumstances, their decision may need to rely on information that is 'second hand' including reports from staff at the scene, eyewitness accounts and third party reports and the OCC (see also Section 7.23 – 7.27 below). This information may be supplemented by the person's records where available.

7.15. Where information and reports from third parties such as OCC staff are considered as part of the decision as to whether a person may have contributed to an accident or incident, this needs to be measured in the context of the work the person was or was supposed to be undertaking. In these circumstances, particular attention needs to be given if considering whether the person had the competence to carry out the work that led to the accident or incident and therefore may have acted outside their level of authority.

7.16. Where the individual is demonstrating any signs listed in Sections 7.19 and 7.20, or there has not been any opportunity to establish this as face to face or telephone discussions have not been possible or there is no reliable evidence available from a third party, 'for cause' testing should usually be initiated.

Assertion of Reasonable Grounds

7.17. When considering whether to implement a 'for cause' test there must be reasonable grounds for testing including sufficient facts available to demonstrate the justification for suspecting the person is being influenced by drugs or alcohol. Facts should be

13 Regulation 22: The Railways and Other Guided Transport Systems (Safety) Regulations 2006 (legislation.gov.uk)

14 Regulation 26: The Railways and Other Guided Transport Systems (Safety) Regulations 2006 (legislation.gov.uk)

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ascertained as far as possible including the person's job role, and if there has been an accident / incident, their involvement in this event, etc.

7.18. As part of establishing whether for cause testing is justified, it is necessary to consider the conduct, behaviour and physical signs of the person to provide reason to suppose they may be under the influence of drugs and / or alcohol.

7.19. Where the following behavioural signs are evident before, during and following the accident / incident (where known), this may indicate that the person is under the influence of alcohol or drugs:

- Moodiness;
- Aggressiveness;
- Memory confusion;
- Poor attention levels;
- Inappropriate responses to questions;
- Irritability; and / or
- Sudden temper tantrums resentful behaviour.

7.20. In addition, if the following physical signs are evident before, during and following the accident / incident (where known), this may also suggest an individual is under the influence of alcohol or drugs.

- Cold, sweaty palms; shaking hands;
- Slurred speech;
- Puffy face, blushing or paleness;
- Red, watery eyes; pupils larger or smaller than usual; blank stare;
- Smell of substance on breath, body or clothes;
- Sucking on mints, using mouth wash, spraying aftershave / perfume or drinking large quantities of water or other liquids;
- Extreme hyperactivity; excessive talkativeness;
- Nausea, vomiting or excessive sweating;
- Tremors; and
- Slowed or staggering walk; poor physical co-ordination.

7.21. As there are specific symptoms to suggest evidence of certain drugs, for example, cannabis, alcohol, depressants, stimulants, inhalants, hallucinogens and heroin etc., it is recommended that Light Rail systems provide appropriate drugs and alcohol awareness training for supervisors, managers and nominated persons.

7.22. For cause testing should be initiated where there is defensible suspicion of drug and alcohol use, this includes a report relating to a person, a group of workers or a work location, or if there is an indication of drugs or alcohol consumption found whether on a site of work, tram or other Light Rail system premises.

Third Party Reports

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7.23. Reports from third parties may be considered when deciding whether to initiate 'for cause' testing as they may provide evidence or information relating to the conduct or behaviour of the individual concerned and / or physical signs shown by the person that indicate they may be under the influence of alcohol or drugs.

7.24. When considering third party reports including those of eye witnesses, it is important to consider them in context of the circumstances to which they relate and in addition, the competence of the reporter in interpreting the conduct or behaviour of a person.

7.25. In addition, consideration needs to be given to any possibility that the third party could be acting vindictively or if they are victimising the person, or whether the report or anything contained within it is unreliable.

7.26. Thought also needs to be given to the likelihood of whether any signs of shock were present.

7.27. Although reports of possible drugs or alcohol use may be given in confidence, without the identification of the person who is suspected of being under the influence of drugs and alcohol at work, it is not possible to be actioned under this guidance.

Recording 'For Cause' Testing

7.28. A full and adequate record should be made by the responsible person including all information and reports provided that led to the decision whether to carry out 'for cause' testing. See Section 9 for further guidance.

Other Guidance

7.29. Where a person who would normally be tested in accordance with these procedures has been admitted as a hospital patient, drugs and alcohol testing should still be undertaken by the Light Rail system with the permission of the doctor in charge of their treatment.

7.30. Where a person has been tested by police, the Light Rail system should still test the person for alcohol and drugs in accordance with their requirements, as the maximum permitted limits for alcohol applied by the rail industry are lower than those set out in the TWA 1992. In addition, the police may not be permitted to provide a written confirmation of their test results.

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8. Test Results

Pending Results

- 8.1. Further to Section 6.12, Light Rail systems are permitted to allow those who are subject to periodic testing to continue their duties whilst the results of tests are awaited, unless there are reasonable grounds to suspect they are not fit for duty at the time they were tested (refer to Section 7.2).
- 8.2. A person should not be allowed to carry out safety critical tasks if the Light Rail system has been advised this is necessary by the medical authority.
- 8.3. Where, on the advice of the medical authority, a Light Rail system has decided not to allow a person to carry out safety critical tasks, they may suggest that the person considers the use of alternative medication that will not affect performance. Where this is relating to a prescribed medication, the person should consult their prescriber before making any changes and it may be helpful if the prescriber discusses the person's work requirements directly with the employer's health service provider. An alternative course of action is to implement special measures to permit the person to carry out their normal safety critical duties, for example limiting the amount of time the person undertakes a safety critical role.

Positive Tests and Positive Results

- 8.4. There are differences between a positive test and a positive result. A positive test is the detection of any amount of a drug that is being tested for in an appropriate laboratory test. A positive result is only confirmed after discussion with the person tested as well as the accredited laboratory to verify there is no legitimate medical explanation for the use or the quantity of the drug that has been detected in the test.
- 8.5. The process of deciding whether a positive test signifies a positive result is managed by a doctor who has specific competence in this field, who are often referred to as a Medical Review Officer (MRO). Guidance on the appropriate level of training and competence for MROs is provided by the Association of Rail Industry Occupational Physicians (ARIOPS)¹⁵.
- 8.6. In the event of a positive test, the MRO works closely with the testing laboratory and the person being tested to determine whether a positive laboratory test represents a positive result. The MRO is responsible for ensuring the result is communicated to the employer in a manner that is appropriate.
- 8.7. Light Rail systems can still employ a person who provides a positive result for a pre-appointment drugs testing but they should not be permitted to carry out safety critical tasks.

Declared Medicines

- 8.8. Persons undertaking safety critical tasks should declare when they are using prescribed or over the counter medicines. The process of making this notification should be included within the Drugs and Alcohol Policy.

¹⁵ www.ariops.org.uk

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- 8.9. A person being tested must make this notification either before being tested or when the test is being undertaken. Staff should be made aware of the potential consequences of failing to declare any such substances.
- 8.10. Providing the use of declared medicines and the quantity are legitimate, the detection of them need not necessarily be considered to constitute a positive result. However, if a person makes a declaration after a test gives a positive result could find it very difficult to prove its use was legitimate and as such it would be necessary for this positive result to be reported to their employer.
- 8.11. A person's dietary intake should be considered as this can affect the results of an alcohol and drugs test. Some foods in particular, for example, the ingesting of poppy seeds in foods could lead to a positive result for opiates in urine.¹⁶
- 8.12. It should be noted that the illness or condition itself, for which drugs may be prescribed may also possibly affect work performance. For further guidance on this matter, refer to LRG 11.0 Medical Fitness Guidance.

Further Guidance

- 8.13. Any refusal to be tested for drugs and alcohol that is made from a reasonable request should be considered the same as if the person had tested positive for drugs or alcohol.
- 8.14. Providing it was disclosed before the test sample was collected Light Rail systems should not consider medication disclosed by any person as a positive result where there is appropriate evidence that the medication disclosed was being used appropriately.
- 8.15. Further to Section 8.7 above, any person who returns a positive result in a pre-appointment test may be permitted to retake the test at a subsequent date if they can sufficiently satisfy the Light Rail system that the previous positive result was not evidence of any habitual and / or continuing abuse of drugs or alcohol. A test of hair samples would need to be undertaken to detect or confirm habitual and / or continuing use.
- 8.16. No person should be permitted to undertake any safety critical task if they have returned a positive result unless the guidance given above in Sections 8.5 and 8.6 has been met.
- 8.17. In circumstances where a person has previously returned a positive result for drugs or alcohol testing, Light Rail systems should only re-employ them under the following conditions:
- There has been a period of three years since they returned a positive test result;
 - They undertake a drugs and alcohol test and return a negative result, before resuming safety critical tasks; and / or
 - They have an individually tailored regime of unannounced testing, for a prescribed period as determined by the Light Rail system.

Positive Results of Drugs and Alcohol Testing

¹⁶ Thebaine is a natural part of poppy seeds and although it can be regarded as evidence of poppy seed consumption, as it is destroyed in the manufacture of street heroin it is not an indicator of the taking of street heroin.

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8.18. TWA 1992¹⁷ considers a positive test to be:

- The presence of any “drug” that includes any intoxicant other than alcohol; and
- Alcohol at the following limits:
 - 35 microgrammes of alcohol in 100 millilitres of breath, or
 - 80 milligrammes of alcohol in 100 millilitres of blood, or
 - 107 milligrammes of alcohol in 100 millilitres of urine.

8.19. One similar industry standard benchmark is Railway Group Standard GE/RT8070. This Standard considers a positive test to be the following limits:

- The presence of drugs for which there is no legitimate medical need for either their use or the quantity of their use; or
- More than 29 milligrams of alcohol in 100 millilitres of blood; or
- More than 13 micrograms of alcohol in 100 millilitres of breath; or
- More than 39 milligrams of alcohol in 100 millilitres of urine.

8.20. LRSSB’s guidance is that Light Rail systems adopt at least the levels adopted by Railway Group Standard GE/RT8070 as set out in Section 8.19 above or stricter limits. However, these stricter limits must be defined and written into the Drugs and Alcohol Policy. It must be noted that whilst ‘Zero Tolerance’ is a simple way to communicate limits, it can lead to ambiguity in laboratory interpretation.

8.21. The above limits are based on medical advice that alcohol in excess of these alcohol limits could impair performance of safety critical tasks and increase the possibility of errors in these tasks where sustained concentration and alertness is required for safe performance of the task in the rail and other industries. These limits are below those defined in TWA 1992.

8.22. In relation to drugs, the test result is deemed positive if drugs are present in the person where there is no legitimate medical need for their use or quantity. For some controlled drugs, there is no legitimate medical use in any quantity.

¹⁷ Regulation 38: Transport and Works Act 1992 (legislation.gov.uk)

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9. Recording, Monitoring and Review of Drugs and Alcohol Policy

- 9.1. All records of all testing for drugs and alcohol should be retained for at least three years from the date the testing was undertaken.
- 9.2. Light Rail systems should document their Drugs and Alcohol Policy. In relation to staff, the following needs to be retained:
- Consumption of drugs;
 - Use or abuse of:
 - prescribed medication,
 - over the counter medication, and
 - other substances that could affect performance at work; and
 - The consequences of the consumption of alcohol before and / or during working hours.
- 9.3. The results of testing should be monitored to identify any trends or patterns in the context of changes in risk to the operation of their Light Rail system. Any trends or patterns can feed into the periodic review of the Drugs and Alcohol Policy.
- 9.4. A periodic review of the policy is required where its relevance and effectiveness can be considered. As well as the data in Section 9.3 above, it will also be informed by data from other sources, for example, government information or the results of relevant researched that has been published. Any deficiencies discovered in the policy should be rectified to maintain an acceptable level of risk.
- 9.5. As part of the review, the Light Rail system should consult with the accredited laboratory that undertakes their testing service to ascertain information on changing trends of drugs and alcohol use generally in the population. This should include seeking advice on any new drugs or variants that have an impact on their testing processes.
- 9.6. Statistical analysis of the results of drugs and alcohol testing will also inform policies and procedures by assisting in determining if any drugs account for a significant proportion of positive results. This can then lead to improvements in the testing protocol or the policy itself.