Blood Alcohol Levels

Q: I don’t understand the “20-79 mg alcohol per 100 ml blood” part. Please explain?
A: UK law states that it is illegal to drive with a blood alcohol level equal to or greater than 80 mg per 100ml blood (or breath equivalent). However, evidence has shown that blood alcohol concentrations (BAC) below 80 can impair performance and judgement. As a result, many countries in Europe have drink driving limits that are lower than the UK one. Given the nature of our business we want to help ensure that those in safety-sensitive positions are not impaired at work. Therefore workers in safety-sensitive positions who have alcohol in their system (at 20mg/100ml blood or more, i.e. 25% of drink driving limit) will not be permitted to undertake safety-sensitive work.

Q: Under what circumstances might disciplinary action be taken in relation to these alcohol levels?
A: A blood alcohol concentration of 80mg per 100ml blood or more is a policy violation and will result in disciplinary action. A level of 20-79 will not result in any formal disciplinary action.

Q: Why the referral to Phillips 66 Health Services if testing at the 20-79 level?
A: Prior to any return to safety-sensitive work, Phillips 66 wishes to ensure that there is no underlying health issue related to the blood alcohol concentration that could impact on safety performance or fitness for duty. A referral to Phillips 66 Health Services will allow for assessment of any underlying conditions and a determination on fitness to work.

Q: I work in a safety-sensitive position. How much can I drink at for example lunchtime and still be sure that I am below the 20mg alcohol per 100ml blood concentration?
A: We all metabolise alcohol at different rates. One alcoholic drink could potentially give a BAC of 20mg or more so the best advice for those in safety-sensitive positions is not to drink before work or during a lunch break.

Q: I work offshore so will be in a safety-sensitive position. I stay in an airport hotel before a 6am check-in at the heliport the following morning. A few of us meet up for drinks in the bar in the evening. How much can we drink and still be below this 20mg level?
A: As per the notices at the heliport and for the reasons given above, the strong recommendation is not to drink any alcohol in the 24 hours prior to heliport check-in. Drinking alcohol the night before a check-in could certainly put you at the 20mg BAC or more. From a safety perspective you would potentially put you and your colleagues at risk, surely it cannot be worth taking the risk?

Q: What is the meaning of the “breath equivalent” that regularly appears wherever blood alcohol concentration is mentioned?
A: In the UK, a breathalyser is routinely used when measuring alcohol concentrations rather than taking a blood sample. A blood alcohol concentration of 80mg/100ml blood or greater, is over the drink-driving limit in the UK and is also a violation of the policy. The equivalent breath alcohol concentration for the 80mg/100ml blood level is 35mcg alcohol/100ml breath. Therefore the breath equivalent (35mcg alcohol/100ml breath) is also a policy violation.
Testing

Q: How will testing work – who will administer this, and how will the results of the tests be fed back to the company?
A: The Company will conduct substance abuse screening according to country specific laws and Company agreements. Consent to test will be requested and recorded prior to the test taking place. Data relating to the test, including any laboratory reports, will be stored securely and confidentially by the testing Laboratory and the Medical Review Officer. A positive test will be cause for disciplinary action, which may include termination with or without notice.

Q: What happens if I refuse to be tested?
A: Refusal to test will be treated as a positive test result and subject to disciplinary action up to and including dismissal.

Q: Random and Periodic Testing – How frequently will I be tested?
A: All employees in safety-sensitive positions will be tested on an unannounced basis at least once every three years, and will be tested more frequently if selected from the random pool.

Q: Random and Periodic Testing – Who chooses the names to be tested?
A: The Company will supply the third party administrator with an up-to-date employee headcount list. It is the responsibility of the third party administrator to make the selections of those to be tested. For the periodic unannounced testing programme, once selected in a 3-year period an employee will not be reselected for this type of testing. For the random testing programme, donors will be randomly selected on each occasion by the third party administrator and may well be selected on more than one occasion for the random testing because the donors are randomly selected.

Q: Random and Periodic Testing – I am a field based employee, where will I need to go for testing?
A: The Company have arranged with a third party administrator to provide testing, which could either be at an off site location or at a Phillips 66 location.

Q: Random and Periodic Testing – What happens if I already have commitments with customers?
A: The notifying party will in the first instance contact the supervisor/manager of the selected employee. The supervisor/manager is in the best position to know the customer commitments of their staff and should notify the employee to report for testing when they become free (assuming the same day). If not available, the supervisor should respond that they are not available for testing on that day.

Q: Random and Periodic Testing – I am a Marketing employee based at Newton Building/IPC, would I be included within the Refinery testing schedule?
A: Marketing employees will be tested as part of the Marketing organisation (although agreement may be reached to utilise the Refinery facilities). Operations roles involving working at IPC have been deemed to be safety-sensitive roles. This determination was also applicable under the previous policy.
Q: **Random and Periodic Testing** – What if I'm called to be tested but I'm out of the office at a meeting with clients? Will my test be re-scheduled?

A: The notifying party will in the first instance contact the supervisor/manager of the selected employee. The supervisor/manager is in the best position to know the customer commitments of their staff and should notify the employee to report for testing when they become free (assuming the same day). If not available, the supervisor should respond that they are not available for testing on that day.

Q: **Random and Periodic Testing** – What if I am called to be tested and I am attending a management-approved client event where there will be alcohol served? Will my test be re-scheduled?

A: See previous – management should make the appropriate call if it is a management-approved event.

Q: **Random and Periodic Testing** – How does testing work if the testing centre is unable to contact an employee?

A: The third party supplier will randomly select employees for testing. This will be notified to the local Phillips 66 Health Services/HR representative who will work with the third party testing company to arrange times and locations of the testing. On the day of the testing, the employee will be contacted to attend for testing and will be given an appropriate timeframe to attend based on their roles and responsibilities and also the location of the testing. The manager/supervisor will be notified as indicated above.

Q: What is the time frame that the testing will be done?

A: The testing will take place through the year at an optimum time to test those who have been randomly selected.

Q: Will we have to submit to blood tests?

A: A urine test will be required for drugs and breath for alcohol. However, if an individual was unable to provide a breath sample or urine sample (a sufficient length of time is allowed for a urine sample to be provided) then they will be invited to have a blood test. If the applicant or employee does not agree to blood testing, he or she will be required to submit to a medical examination to confirm the existence of a potential “shy lung” and/or “shy bladder” condition. If no underlying medical condition exists to account for the inability to provide a breath or urine sample then the test is treated as a positive and is therefore a policy violation.

Q: Will testing be conducted under medical supervision?

A: The testing will be carried out by a third party approved testing company.
Q: If I have participated in a test, will I be notified that the result is clear? This would help avoid any unnecessary stress or apprehension.
A: If you are onshore based the initial screening test result is immediately available. If it is a non-negative then it is sent to the laboratory for further analysis after which you would be notified if the result is positive. For all testing offshore there will be no instant results and all samples are sent to the laboratory for analysis.

Q: To get clearance from Phillips 66 Health Services on the use of prescription or over-the-counter drugs, who would I contact?
A: Remember, it is your responsibility to check with your doctor that the medication being prescribed will not cause a safety risk in the workplace. If your doctor confirms that there is no risk from side effects then you need not take further action. If however, you still have a concern or your doctor advises there is a risk, then contact your local Phillips 66 Health Services health professional or the Phillips 66 Health Services coordinator in Aberdeen (01224 205 510).

Q: Why do I have to inform Phillips 66 of the medication I am taking? Is this not my private information?
A: Remember, it is your responsibility to check with your doctor that the medication being prescribed will not cause a safety risk in the workplace. If your doctor confirms that there is no risk from side effects then you need not take further action and do not need to inform Phillips 66. You are not required to disclose the names of any medications to your supervisor. Such disclosures, if advised by your doctor due to potential work impact, should be made in confidence to your local Phillips 66 Health Services health professional.

Q: Where do I find information on the detection thresholds as determined by the Company for all substances (primarily over-the-counter medication)?
A: The laboratories used by the Company follow the detection thresholds laid down in the “United Kingdom Laboratory Guidelines for Legally Defensible Workplace Drug Testing”. This guideline is freely available with an internet search or can be provided by Phillips 66 Health Services on request.

Q: Surely if an employee tests at an alcohol test result below 80mg alcohol/100ml blood (or breath equivalent) there should be no disciplinary action, yet the slides and training indicate it can be disciplinary offence. Is this just not lowering policy violation level? If not what’s the difference given they both have same disciplinary outcome?
A: From 1 January 2011, this section of the policy training has been clarified: If an employee receives an alcohol test result of 20–79 mg alcohol/100ml blood (or breath equivalent), this is not a policy violation, but the employee will be:
- removed from performing safety-sensitive work;
- referred to Phillips 66 Health Services.

Legal Application of the Policy

Q: Is the testing required by Phillips 66’s Substance Abuse Policy legal?
A: Substance abuse testing is not prohibited by law and the Phillips 66 Substance Abuse Policy complies with all UK legal requirements. As a UK employer, Phillips 66 has the legal responsibility of ensuring the health, safety and welfare of all workers and visitors to our workplace and a substance abuse testing is a critical component of that assurance.
Q: Does the Phillips 66 Substance Abuse Policy violate my human rights?
A: As stated above, the Phillips 66 Substance Abuse Policy complies with all UK legal requirements, including those laws that protect each individual’s rights.

Q: What is the legal status of random drugs testing in the office and what are the workers rights if they refuse on principle to take the test. Is this valid under European and UK employment law?
A: Following the announcement of the Global Substance Abuse Policy in late 2009, a review was undertaken to ensure compliance with UK legislative requirements. The policy implemented in the UK is consistent with those legal requirements. As a result, a random drug and alcohol testing programme is permitted for safety-sensitive roles in Phillips 66’s UK companies and operations.

A safety-sensitive role is considered by the Company to be any position that supports the operation of our assets or other operational activities, which, if improperly performed, could reasonably be expected to contribute to an event that could substantially and adversely impact safe operations or the environment. For the UK business, safety-sensitive roles include all offshore, refinery, Theddlethorpe gas terminal workers and other terminal workers, and drivers as well as the majority of Aberdeen and Humber based workers supporting our offshore and refinery operations.

If a breach of the policy occurs employees will be subject to disciplinary action. A refusal to undergo testing when required would normally be viewed as a breach of policy in itself. This consistency is necessary so as to avoid employee refusal being used as a mechanism for avoiding testing in cases, for example, where they know or suspect testing will give positive results.

Q: What is the Company proposing to do, if employees are unwilling to agree to a change in their terms and conditions? Will the Company pay for legal advice?
A: The Company has entered into a consultation period with employees to learn of concerns. These have been reviewed and some changes made to the original documentation provided at the start of the consultation period. There has also been a campaign to raise awareness amongst employees through consultative forums, team meetings, etc. In addition, a mandatory computer based module on Substance Abuse has been rolled out to all employees. The Company believes that the contents of this policy are in alignment with our SPIRIT values and hopes that through these endeavours employees are able to accept the terms of the revised Substance Abuse policy. There will be no reimbursement for legal advice; however, employees have access to the services of our Employee Assistance Programme and the confidential helpline.

Q: In the Substance Abuse training, there appears to be no difference in disciplinary consequences between bringing illegal drugs into work (for personal use) and getting a bottle of wine at lunchtime to take for dinner or give/receive as gift. The two would be fundamental ends of the spectrum surely?
A: The primary objectives of the policy are the safety of employees and operations; the policy, amongst other things, prohibits the possession of illegal drugs and alcohol on Company property. You are correct that these two situations are both violations of our policy. However, illegal activities by employees (including the possession of illegal drugs on Company premises) are a violation of many Company policies and could result in a referral to law enforcement authorities. The Company may allow, at its sole discretion, for an employee to keep alcohol on permitted in limited circumstances and for limited periods but it is advised that you check with your supervisor and/or HR before bringing any alcohol onto Company premises.
Policy Implementation

Q: Why has the consultation only been launched after the Global Substance Abuse Policy was implemented in October 2009?
A: The UK Substance Abuse Policy is to be implemented effective 1 February 2011; this followed a UK based review to ensure compliance with the global principles and UK legislative requirements. Once the UK review was complete, consultations were initiated at each location where safety-sensitive roles reside in the fourth quarter of 2010.

Q: Is the policy of testing in the office likely to be enforced? What are the sanctions if an employee is found to have driven to work?
A: The Substance Abuse Policy that is currently in operation includes the provision for “for cause” testing. This remains in the new policy and the consultation is being carried out with all employees to ensure that all are aware of this clause.

Q: Why is the level below the drink driving limit still resulting in disciplinary action?
A: During the initial consultation stages it was stated that it “may result in disciplinary action”. We can now confirm that as a result of a review following feedback from consultation this has been removed.

Q: Why are those on the Emergency Response Duty Manager Roster not included as being safety-sensitive?
A: Each Business Unit has made a determination based on the nature of the responsibilities at their locations.

Q: What about individuals in Marketing who receive an out of hours allowance paid via payroll for being on call to deal with issues out of hours?
A: These roles were not identified as being safety-sensitive during the review.

Q: Does this policy imply that alcohol will no longer be acceptable as an expense claim?
A: It is not anticipated that alcohol will feature as a regular on expense claims. However, with management approval if there is a business reason that has been determined this may be acceptable.

Q: From an ethics perspective is alcohol no longer acceptable as a gift from suppliers or customers?
A: The Ethics Office gives clear guidance on the acceptance of gifts and if there are any concerns, employees or managers should lodge a call with the Ethics Office for guidance.

Q: As a trader, it is implied in my role that I socialise with industry members to gather market information. Does this mean we no long take part in industry functions, meetings, after work functions, etc? Are you changing the requirements of my current role?
A: For any questions relating to impact on your roles and responsibilities, you should consult with your supervisor in the first instance. Attendance to social events should be discussed and agreed with your supervisor in advance.

There is no change to the requirement to be “fit for work”, which under this policy and the former Substance Abuse policy, means that you are not impaired while performing your duties.
Q: Can you please define “reasonable suspicion/cause” for testing, and who has suspicion? In other words, can I request you be tested if I see you at the pub the previous night?
A: The decision to test must be based on a reasonable and articulate belief that the employee is using or has used drugs or alcohol on the basis of specific, contemporaneous physical, behavioural, or performance indicators of probable drug and/or alcohol use.

At least two supervisors, at least one of whom is trained in detection of the possible symptoms of use, shall substantiate and concur in the decision to test an employee.

Q: Who at Portman House is a trained supervisor in detection of possible symptoms?
A: All supervisors at Portman House will be required to take the training in detection of possible symptoms of substance abuse.

Q: The new regulations about alcohol below policy violation level only apply to safety-sensitive positions (i.e. not Portman House). Is it therefore acceptable to have a pint of beer or glass of wine at lunch?
A: We all metabolise alcohol at different rates. One alcoholic drink could potentially give a BAC of 20mg or more so the best advice for those is safety-sensitive positions is not to drink before work or during a lunch break. It is not possible to say what volume of alcohol is safe to drink at lunchtime for the above reason. Regardless of position, a BAC of 80mg or more per 100ml blood is a policy violation.

Q: For employees at Portman House, are they permitted to purchase bottles of wine during the workday to take home unopened that evening?
A: Under the policy, the Company would not endorse the consumption of alcohol or the storage of open alcohol on Company premises. As the current case is that none of the roles at Portman House are currently defined as safety-sensitive, the Company requests that any alcohol purchased during the workday for personal consumption outside office hours is required to be taken home that day.

Q: Do visitors to Phillips 66 Portman House need to be notified of the potential for alcohol and drug testing?
A: None of the roles at Portman House are currently defined as safety-sensitive; therefore testing will not be conducted on visitors. Furthermore, the Company does not intend to search and/or test contract personnel before entering Company property at Portman House, while engaging in Company business or while operating equipment on Company property.

Q: What do we need to inform visitors, contractors and vendors at Portman House about the Substance Abuse Policy?
A: All visitors, contractors, subcontractors, and their respective employees and agents should be advised of this Policy prohibiting the possession or use of alcoholic beverages, illegal drugs and drug paraphernalia on Company property.