

## INTOXICATION PROBLEM

Intoxication (alcohol and substance abuse) has not only become a social problem but workplaces have to deal with it as well on an on-going basis. It has resulted, in some instances, in misconduct cases and even dismissals. As a result, the problem of intoxication at work has, in certain instances, been submitted to be dealt with by both the CCMA and Labour Courts.

Alcoholism is a primary, chronic disease with genetic, psychological, and environmental factors influencing its development and manifestations. It is characterised by impaired control over drinking despite adverse consequences, and distortion in thinking, most notably denial. The disease is often progressive and fatal (**The National Council on Alcohol and Drug Dependence**).

Workplaces have prescripts that have to be complied with in dealing with the problem of intoxication. An employee with an alcohol and/or substance abuse problem is a risk to themselves, to other employees and to the department or institution of their employment. Furthermore, alcohol and/or substance abuse lead to loss in productivity, higher absenteeism, excessive use of sick leave, staff turnover, additional training costs, workplace accidents, possible damage to property, aggression, poor interpersonal relationships, decline in employee morale, etc. Thus, employers have obligations to put measures in place for dealing with the alcohol and/or substance abuse problem.

A person with an alcohol or substance abuse problem has a tendency of denying that they have a problem and that there is anything wrong. They often become defensive and do not recognise their problem, tend not to seek help or take medical advice. They even become angry when challenged about their problem.

To this end, employers have provided Employee Health and Wellness Programmes for the mutual benefit of employees and the employer. That is why it is imperative that they have approved policies and fully-fledged programmes (i.e. the Standard Procedure for Alcohol and Substance abuse-related behaviour), that spell out clearly what to do should such a problem occur.

Such programmes and policies should run coherently with the disciplinary code and procedure to ensure clarity and unambiguity as and when appropriate proceedings have to be instituted. It is crucial that it is clearly stated in the policy that where an employee fails to co-operate or respond to treatment, the employer may institute disciplinary proceedings in relation to alcohol or substance abuse misconduct.

After all, item 10(3) of the Code of Good Practice in Schedule 8 of the Labour Relations Act 66 of 1995, indicates that in the case of certain incapacity; for example alcoholism or substance abuse, counselling and rehabilitation may be appropriate steps for an employer to consider. This could be based on the fact that alcoholism is

a progressive disease which, if not treated, will continue to get worse and could lead to death or incapacity.

An effective programme/standard procedure should provide humane alternatives aimed at treating what is after all a social problem before implementing disciplinary measures. However, dealing with an occasional drinker justifies a different approach in that he/she should be disciplined for misconduct as there would be no underlying illness in the form of dependency. In short, the occasional drinker is guilty of wilful misconduct whereas the person dependent on alcohol is ill and possibly operationally incapacitated (***Black Mountain v CCMA & Others [2005] 1 BLLR (LC)***).

An employee who is suspected to have an intoxication problem needs to be referred to the Employee Health and Wellness Programme (EHWP) Component for assistance. They (the EHWP Component) will address the problem of alcoholism and/or substance abuse in terms of the Department's Standard Operating Procedure Manual on referrals.

EHWP officials can even refer an employee to a therapist that will be obliged to conduct an assessment with a view to determining dependency and persuading the employee to undergo treatment. If the therapist recommends rehabilitation, the EHWP Component will refer the employee to the Rehabilitation Institution in terms of the Department's referral procedure. The employee then is obliged to cooperate during their rehabilitation period otherwise the service can be stopped and have the matter dealt with in terms of the disciplinary code and procedure. Again, if the employee denies to having an alcohol or substance abuse problem, or refuses to be admitted to the Rehabilitation Institution or experiences any relapses after returning from the Rehabilitation Institution; the matter can be treated as misconduct.

As much as the employer is obligated to assist when alcohol and/or substance abuse problems occur, we are also obligated as employees to always act responsibly and obey the rules and regulations applicable within the workplace.

Owing to the limited space available and the extensiveness of this topic, the second part will be covered at the end of quarter three.

***(2nd quarter 2015/16 employee relations article, an opinion from the Employee Relations desk in consultation with the EHWP Component)***