

If you've spotted a **contractual drug testing** clause in your employment contract or staff handbook, it's natural to have questions. What rights do you have? What can your employer ask? And how does this fit alongside other important workplace issues like stress and health requirements for your role?

This article will guide you through what to look out for, your employer's legal duties relating to health and safety (including stress as a recognised hazard), and how the Equality Act 2010 protects disabled workers who may have substance-related conditions.

Why does my contract have a drug test clause?

Employers may include a *workplace drug policy* with provisions for drug testing to:

- Ensure safety, especially if your role involves operating machinery, driving, or other safety-critical tasks
- Meet legal or industry regulations (e.g., transport, healthcare, construction)
- Maintain productivity and workplace standards
- Support early identification of substance dependency to offer help or reasonable adjustments

However, any drug testing must be reasonable, proportionate, and transparent to comply with employment law and data protection rules.

What should you check in the contract or policy about drug testing?

When scrutinising that clause, make sure you find clear answers to these key questions:

1. **When and how will the testing be done?** Is testing random, post-incident, or for cause? Is it during working hours or only under specific circumstances? Check if the sample method (urine, saliva, hair) is specified and whether it aligns with privacy guidelines.
2. **What substances are tested for?** Is there a list of banned substances? Does it consider prescribed medications? Verify whether alcohol testing is included and under what circumstances.
3. **What happens if you test positive?** Look for detailed consequences: disciplinary actions, requirement to seek treatment, or dismissal. Ensure there is a clear appeals or retesting procedure.
4. **Confidentiality and data protection safeguards** A good clause specifies who sees the results and how your data is stored, in line with the UK GDPR.
5. **Support offered to employees** Is there a mention of occupational health referrals, counselling, or reasonable adjustments? Employers have duties beyond just policing drug use.

Example checklist question: What role-specific health requirements justify this drug testing?

Particularly for safety-critical jobs, check whether drug testing ties into your *health requirements for the role*. Your employer should consider:

- Which tasks pose safety risks
- Whether you've been informed that drug testing relates to those tasks
- How results relate to medical fitness assessments

If drug testing seems arbitrary or not linked to your role's health and safety needs, this could be contested.

Stress as a workplace health and safety hazard

Drug testing can't be seen in isolation from broader health and safety duties. Stress, for example, is a recognised workplace hazard. The UK's Health and Safety Executive (**HSE**) offers detailed guidance on how employers must manage stress risks.

HSE Stress Risk Assessments

Under the HSE Management Standards for Work-Related Stress, employers must:



- Identify stressors like workload, role clarity, relationships, and change
- Assess and measure stress levels and risk factors in the workplace
- Implement controls to reduce risks, such as reasonable adjustments or workflow changes
- Review and monitor the effectiveness of these measures

This can be particularly important where drug or alcohol use is linked to stress or mental health – a holistic approach is essential.

Why is this relevant to contractual drug testing?

Drug use might sometimes be a symptom of unmanaged stress or mental health issues, rather than purely a conduct problem. Simply policing drug use without stress risk assessments risks overlooking core causes and breaches the employer's duties.

Here's what kills me: therefore, if your employer requires drug tests, you have the right to expect them to have also addressed stress and mental health proactively.

The Equality Act 2010 and drug testing

Under the Equality Act 2010, people are protected from discrimination if they have a disability. This includes some conditions involving substance dependency, such as former drug addiction if you're in recovery.

Key points to check regarding drug testing in this context:

- **Discrimination protection:** Refusing to employ or unfairly disciplining disabled workers due to their condition can be unlawful.
- **Reasonable adjustments:** Employers must consider changes to policies, including drug testing, to avoid disadvantaging disabled workers.
- **Current addiction:** Note the Act does not protect illegal drug use, but legitimate medical treatment involving controlled substances may be protected.

Ask if your employer's policy addresses these protections clearly. If not, you may want to raise this.



Practical tips: How to approach your employer about drug testing concerns

If you're worried about the drug testing clause or how it's applied, here's a short, specific checklist for how to communicate clearly:

- Set out your questions in writing (email or letter) referencing the exact clause name and section
- Ask for the company's risk assessment around drug testing and stress
- Request information on support available, such as occupational health or counselling
- If you believe you might have a disability under the Equality Act, explain this and ask about reasonable adjustments
- Keep a record of all correspondence

Remember, your employer must have a lawful basis to impose drug tests, and pressing for clarity is within your rights.

Summary: Key things to check in a workplace drug policy and contract clause

Aspect What to Check Scope and procedure When & how tests are done, substances covered, and sample methods Consequences of positive results Disciplinary process, appeals, and treatment support Data protection & confidentiality Who views test results; how data is stored and shared Health & safety justifications Connection to

role risks and safety-critical tasks Stress risk & wellbeing Evidence of employer's stress risk assessments and support measures Equality Act and disability Protections for disabled workers and availability of reasonable adjustments

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Final thoughts

Contractual drug testing is a serious workplace issue that touches on privacy, health and safety, and equality law. By carefully checking <https://brightonjournal.co.uk/health-at-work-what-brighton-employees-should-know-about-their-rights-and-wellbeing/> your contract's drug test clause and understanding your employer's duties—including stress risk assessments and disability protections—you can better protect your rights and wellbeing at work.

If in doubt, consider getting advice from a workplace wellbeing expert, trade union, or legal adviser specialising in employment rights.