

Take a look at the very root of the problem

A non-invasive method with a large detection window, tricho-testing is becoming a preferred option to detect possible drug and alcohol abuse, says Avi Lasarow

SUBSTANCE MISUSE, THAT is drugs and alcohol, is not a new problem but it is an escalating one, both within the UK and on a global scale. Not only is each individual affected by their own usage but also family members – particularly young children – and even their employers, so the numbers involved are significantly multiplied.

Recent figures estimate that over half a million people in the UK have a serious drug problem and over 1.8m adults consume alcohol at a harmful rate (that is more than 50 units a week for men and 35 for women). If we were to use a conservative assumption that every substance misuser will negatively affect at least two family members, then seven million people in the UK are living with the problem.

This leads to a huge financial cost – about £40bn per annum – due mainly to expenditure on health and social care, absence from work, criminal activity and costs to criminal justice system.

It has long been acknowledged by the medical profession that a reliable test to detect alcohol and drug consumption is required. Historically there have existed a number of tests (for example, liver function test) but each one has severe limitations: even when accurate, they only relate to recent consumption. Although relatively new, hair testing – or tricho-testing as you might hear a judge refer to – is fast-becoming the preferred method of determining someone's alcohol and drug consumption. Samples can be collected non-invasively and will provide an accurate record of

any alcohol or drugs dependency over a three to 12-month period.

How it works

Since hair growth is fed by the bloodstream, the ingestion of drugs or excess alcohol in the blood is revealed by analysing chemical markers absorbed by the hair. As the hair grows, it absorbs these markers into its structure, which remain in the hair indefinitely. These patented markers are only produced when there is alcohol or drugs in the bloodstream. The more markers there are, the more has been consumed. A tuft of hair about the diameter of a pencil is required (the standard for the industry is to test a length of 1.5 inches, which provides a 90-day history). If no head hair is available, body hair can be used instead. Bleaches, shampoos and external contaminants have no known impact on the results. Hair samples must be taken by a trained collector or by a national nursing service to collect samples on behalf of clients. Results are generally available in seven to 10 working days from receipt of the sample and can be provided in a standard Section 9 legal statement. The courts will now usually accept testing values without question but it may be necessary in some circumstances to provide expert witness evidence to support the results.

One quarter of users among those fighting for child custody

To date, hair tests have largely been requested by social services (80 per cent) for the parents of children whose welfare is being considered, and by family

courts (20 per cent) in circumstances such as divorce proceedings. Trimega, which carries out about a fifth of these tests in the UK, has recorded a 50/50 split between men and women and an average age of 33 among its sample donors. The most publicised of recent cases has been that of former Atomic Kitten singer, Kerry Katona, in the battle for custody of her two daughters, being fought-out with ex-husband, Brian McFadden.

A Trimega survey into substance abuse by over 1,000 parents involved in child-custody battles shows the extent to which cocaine has become the drug of choice for unfit parents. It found that almost one in three (31 per cent) test positively for illegal drugs with cocaine being the most common substance recorded by far with over half of positive samples showing its use. Here is how cocaine compared proportionally to the other types of drugs found in positive samples:

- Cocaine = 52%
- Cannabis = 33%
- Opiates = 30%
- Amphetamine = 10%

Parents in denial

In a separate study the company found that over half of heavy drinking parents underestimate, or lie about, their consumption of alcohol. Hair samples were collected from 200 parents of young children from across the UK and analysed their true drinking habits over

a six-month period. These amounts were then compared to estimates of how much the donors had said they had drunk. The results showed:

- 81 per cent claimed to be drinking below the alcohol misuse limit (7.5 units of alcohol or 60g of pure alcohol per day).
- However 43 per cent of samples tested positive to be above this level.
- Of these, 44 per cent admitted to being heavy drinkers.
- The remaining 56 per cent were in denial.

Hair testing can also be used for positive purposes. Wallasey-based firm Burd Ward Solicitors has used hair-alcohol testing in a successful bid to reunite children with their parents. In early January, hair samples were collected from both parents who had admitted excessive use of alcohol. Both adults reported abstinence in the four day period prior to hair samples being collected, but it was too short a timeframe for the hair alcohol test to yield a negative result. Further testing one month later did however give a negative result, showing that the donors had significantly reduced their alcohol intake. A third and final hair-alcohol test carried out one month after that yielded a negative result of less than 4ng/mg, which is typical of teetotalers. This clearly showed that the parents had abstained from drinking in the three month period covered by all three tests.

Whether hair tests are chosen by a legal team to support a case for a client's underlying responsibility or, conversely to demonstrate an individual's irresponsibility, the various applications are opening up. Probation, parenting, driving and employment are all within its scope.

Hair testing in the workplace

Because the results obtained have proved so reliable and, with technical advances making it now much more commercially viable, the practice is rap-

idly being adopted in corporate situations. For example, regulatory bodies are using hair tests where they require clear-cut evidence of substance abuse to make a disciplinary decision. The Council of Nursing and Midwifery (a body set up by Parliament to regulate the UK's 682,000 nurses and midwives) uses such testing in misconduct cases where drug or alcohol dependency is thought to be an issue.

Other examples include international sports bodies screening athletes for banned substances and safety-centric corporates (for example passenger transport companies) screening staff. This expansion of the practice has had repercussion in many related areas: civil liberties, trade unions and, of course, employment law. Some forward-thinking organisations with alcohol and drugs policies now conduct screening tests for misuse, either on a random basis for all staff, as part of recruitment or if there is a reason to suspect a particular individual may have a problem.

What is becoming clear is that screening is only likely to be effective if developed in careful consultation with staff and their representatives and makes a demonstrable contribution to reducing risks. It should lead to help being provided for anyone with a problem, and be seen as a deterrent rather than a

method of 'catching employees'. It is important to ensure that staff are aware that screening may take place and consent to it. As such, this should be written into contracts of employment.

Ireland's National Bus and Rail Union (NBRU) walked out of negotiations earlier this year after raising suspicions that staff of Dublin Bus were already being secretly tested when samples taken during medical check-ups on return from sick leave were subjected to unauthorised drug and alcohol screening. The NBRU said that, while there was no objection in principle to random testing, the way it was being implemented and the level of consultation engaged was

not acceptable – that is there has been a breach of trust. The dispute means talks with the union have now stalled on plans to bring in testing – first proposed by the government in 2003.

Employment law

With regards to the testing of employees suspected of alcohol-dependency, employment law requires employers to treat dependence as a form of sickness, giving the individual the opportunity to overcome the problem.

Many employing organisations now operate workplace alcohol policies designed to ensure that employees are sober during working hours and also to identify and help employees with a drink problem.

A survey carried out by YouGov for PruHealth found that each day around 200,000 British workers turn up to work hungover from the night before. High proportions of hungover workers report problems such as lack of concentration, inability to work at normal pace.

Furthermore, a recent Alcohol Concern survey showed that almost two-thirds of employers (60 per cent) were experiencing problems as a result of staff drinking. However, a separate Chartered Institute of Personnel Development survey found that a large number of employers (43 per cent) did not have alcohol policies and most (84 per cent) did not run health awareness programmes for their staff.

Examples of employing organisations which do have alcohol policies include: British Rail, Ford Motor Company, Royal Bank of Scotland, Marks and Spencer, Whitbread, Manchester City Council, Shell and Nuclear Electric. Many company policies now also encompass drugs other than alcohol.

Pilots take part in pilot

An international airline has recently started using hair-alcohol testing to demonstrate to its insurer that, if key members of staff reflect non-alcohol dependency over a long period of time,

they represent a lower risk to the airline and should therefore contribute to a better premium. Core to its argument is the ability to determine an individual's historical alcohol patterns as this is a significant step forward from the standard blood or breath tests which only cover a much narrower window of detection. The pilot study has collected samples from a large number of staff and the findings have already produced some interesting evidence. Some individuals, who were previously screened as negative using blood testing might actually have a historical drinking problem. By addressing these problems, it is believed the company will not only get a better premium but that safety will be improved as well.



Conclusion

Hair testing for drug, alcohol and other substances is an increasingly important issue for lawyers, employers and the public. Now referred to as the 'Gold Standard' by the Parliamentary Office of Science and Technology, it is establishing itself as the default for future testing programmes. In helping to paint a picture of society's dependence issues, the associated problems can be tackled more efficiently.

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