

Article Information

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Employment Relations Podcast - Safety in the workplace: drug and alcohol testing and policies

January is a time where organisations often review their policies and procedures for best practice compliance. One policy that might need a review, following recent case law developments, is your organisation's drug and alcohol policy.

In this episode of *Employment Law for the Time Poor*, Emily Haar, Partner, and Maida Mujkic, Associate, consider the implications for organisations arising from a string of 2024 and 2025 decisions in the Fair Work Commission.

In these cases, the issue of whether a dismissal following a positive substance test was "unfair" turned on how testing policies were worded, whether the organisation tested for "impairment" or a mere positive result, and how the relevant policy was communicated to staff. Having a very clear policy that sets out the rules is important, but if no one in the organisation understands what is expected of them, or how the employer will deal with a positive result, the organisation is placed at significant risk.

The situation becomes even more complicated because prescription medications, including medicinal cannabis, can also create potential safety risks in the workplace. Taking the time to get your safety framework right, including regular reviews to address changes, will be time well spent.

The following cases are discussed in this episode:

- *Gauci v DP World Brisbane Pty Limited* [2024] FWC 2351
- *Woodgate v Queensland Rail* [2024] FWC 3165
- *Sydney Trains v Goodsell* [2024] FWCFB 401
- *Mills v Glamorgan Spring Bay Council* [2025] FWC 116
- *Sydney International Container Terminals Pty Ltd v Hancock* [2025] FWCFB 106
- *DP World Sydney Limited v Witherden* [2025] FWCFB 133

For more on these issues, including relating to consultation, see our earlier Insight here:

<https://piperalderman.com.au/insight/lessons-for-employers-how-failure-to-consult-on-workplace-policy-led-to-reinstatement-of-intoxicated-worker/>

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