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# **Managing the Risk! Drugs and Alcohol in the Workplace**

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[www.tdda.com](http://www.tdda.com)



# Goals for Today

- Employers and workers have a WHS obligation to manage workplace risk
- Safety critical industry. Protection of Workers; and particularly vulnerable, frail Residents and Consumers
- Deter and modify people's behaviour, not just catch people
- What is a "fit for purpose" policy?
- Key issues for consideration



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# Quakers Hill Aftermath



[www.smh.com.au](http://www.smh.com.au)





# Quakers Hill Facts

- Nursing home fire - 5am, 18 November 2011
- 81 residents
- 14 deaths
- Roger Dean RN, drug addict deliberately lit fires in two areas of the nursing home to hide his theft of S8 medication.



# Coroner's Recommendations

- Education - Identify signs of dependency – Nurses and other Health Professionals (p325)
- Reference checking - gaps in employment
- Mandatory reporting to AHPRA
- BUT - focus only on Registered Nurses and Health Professionals
- MISSING - a recommendation for an effective, robust Drug and Alcohol Policy



# Why Conduct Drug and Alcohol Testing in the Workplace?

Substance abusers are:

- 4 times more likely to be involved in workplace accidents
- Are responsible for 15% of workplace fatalities
- Cost an estimated 6 billion annually in accidents, absenteeism and lost productivity.
- 70% of regular drug users are employed

Australian Bureau of Statistics 6324.0 - Work-Related Injuries, Australia, 2009-10





# Why Conduct Drug and Alcohol Testing in the Workplace?

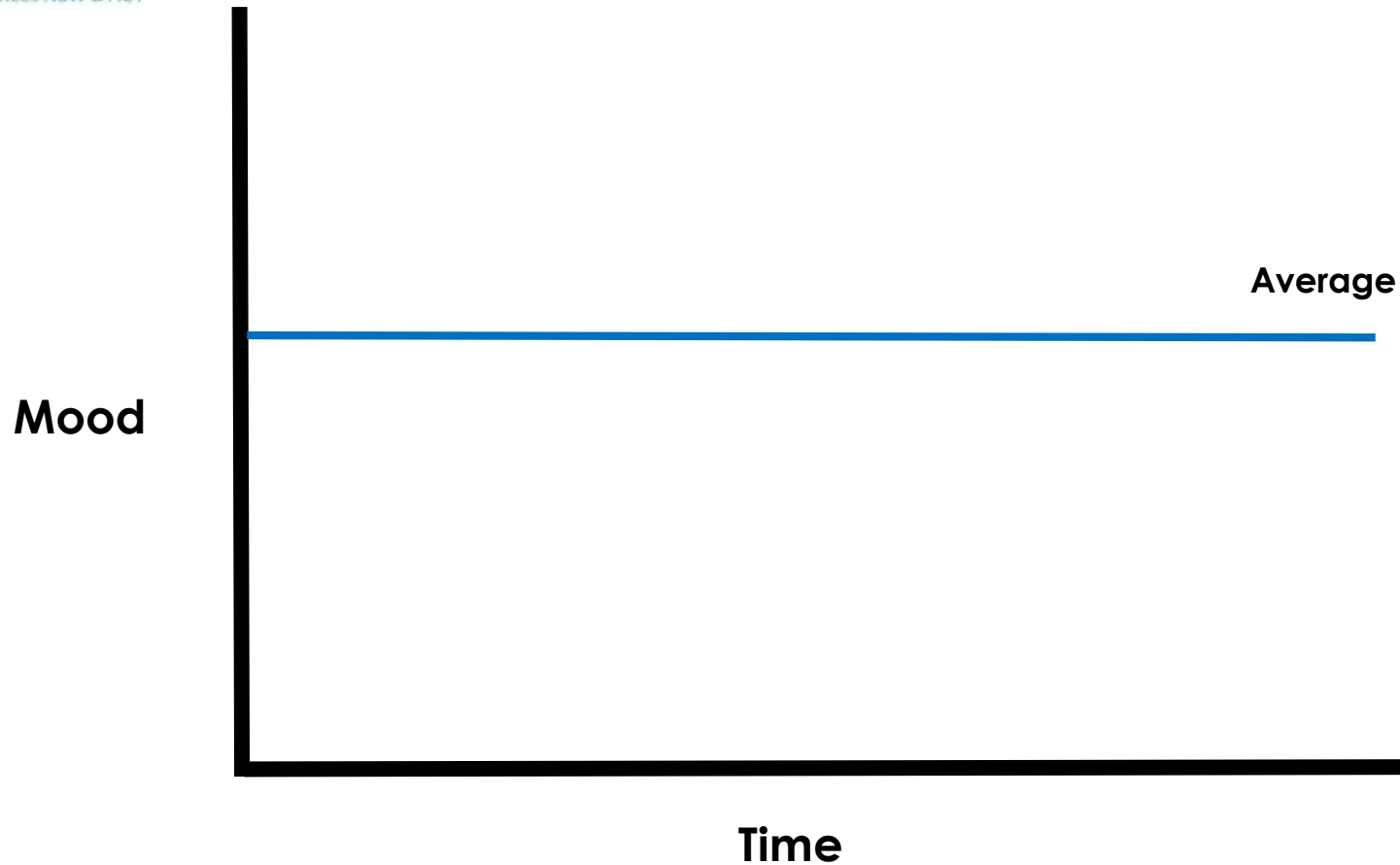
**A survey commissioned by DATIA, conducted by SHRM (2011):**

- Composed of 1058 randomly selected HR Professionals
- 20% response rate
- 19% reported increased productivity
- Approximately a 50% decrease in absenteeism rates
- 50% decrease in workers' compensation rates (accidents)
- Employee turnover rates decreased by 16%

Source: [www.datia.org](http://www.datia.org)



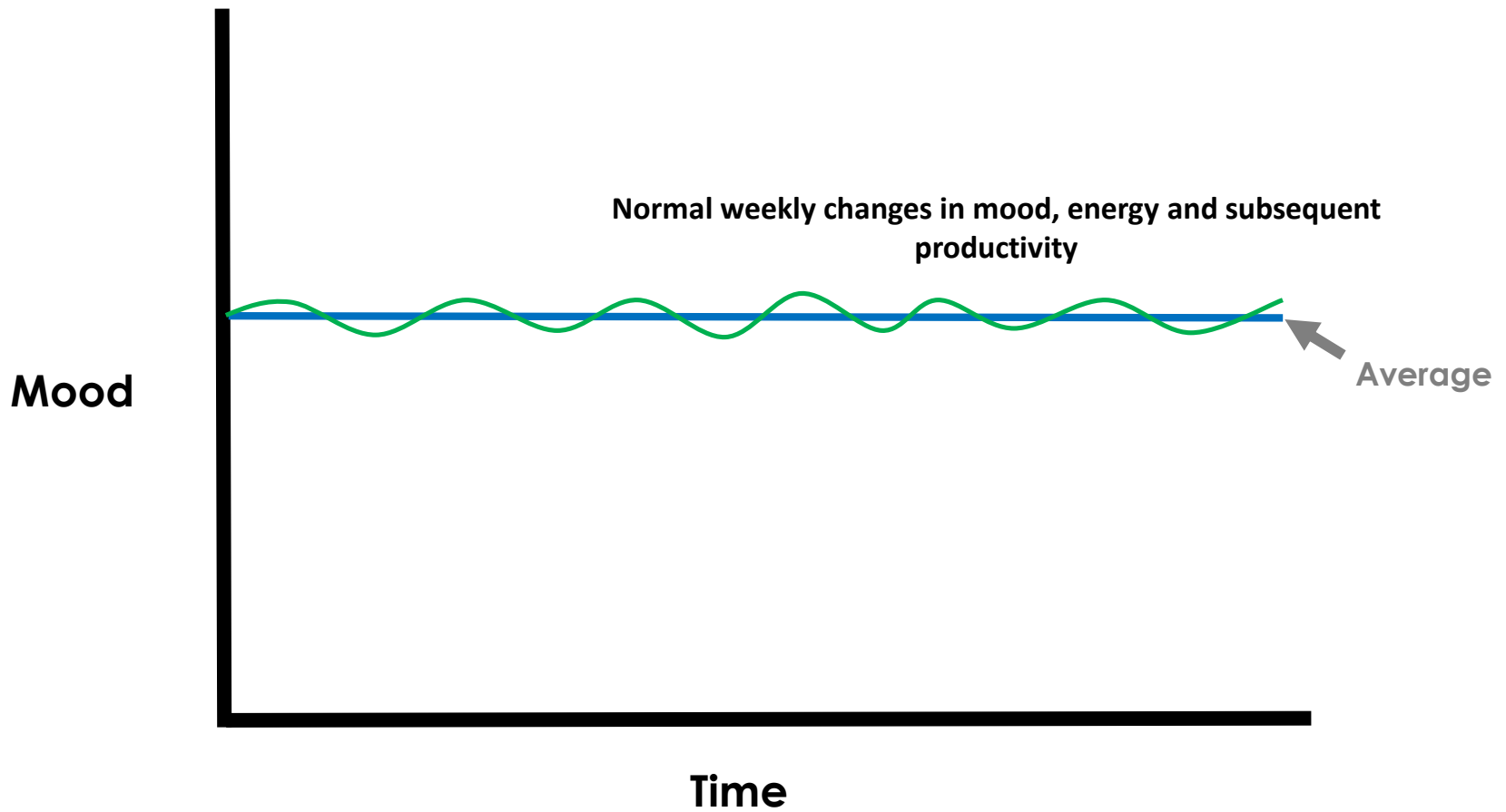
# Testing for the “Risk of Impairment”







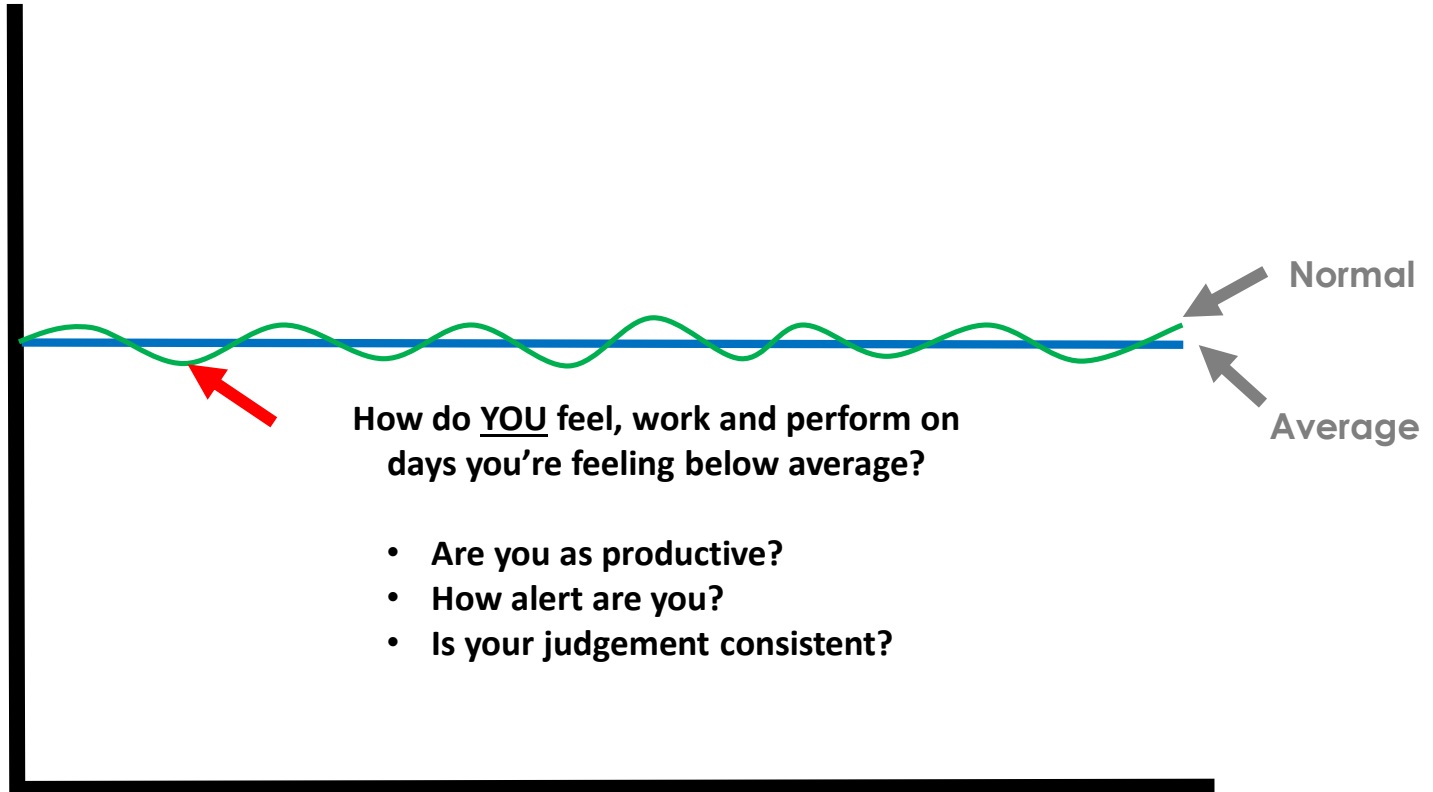
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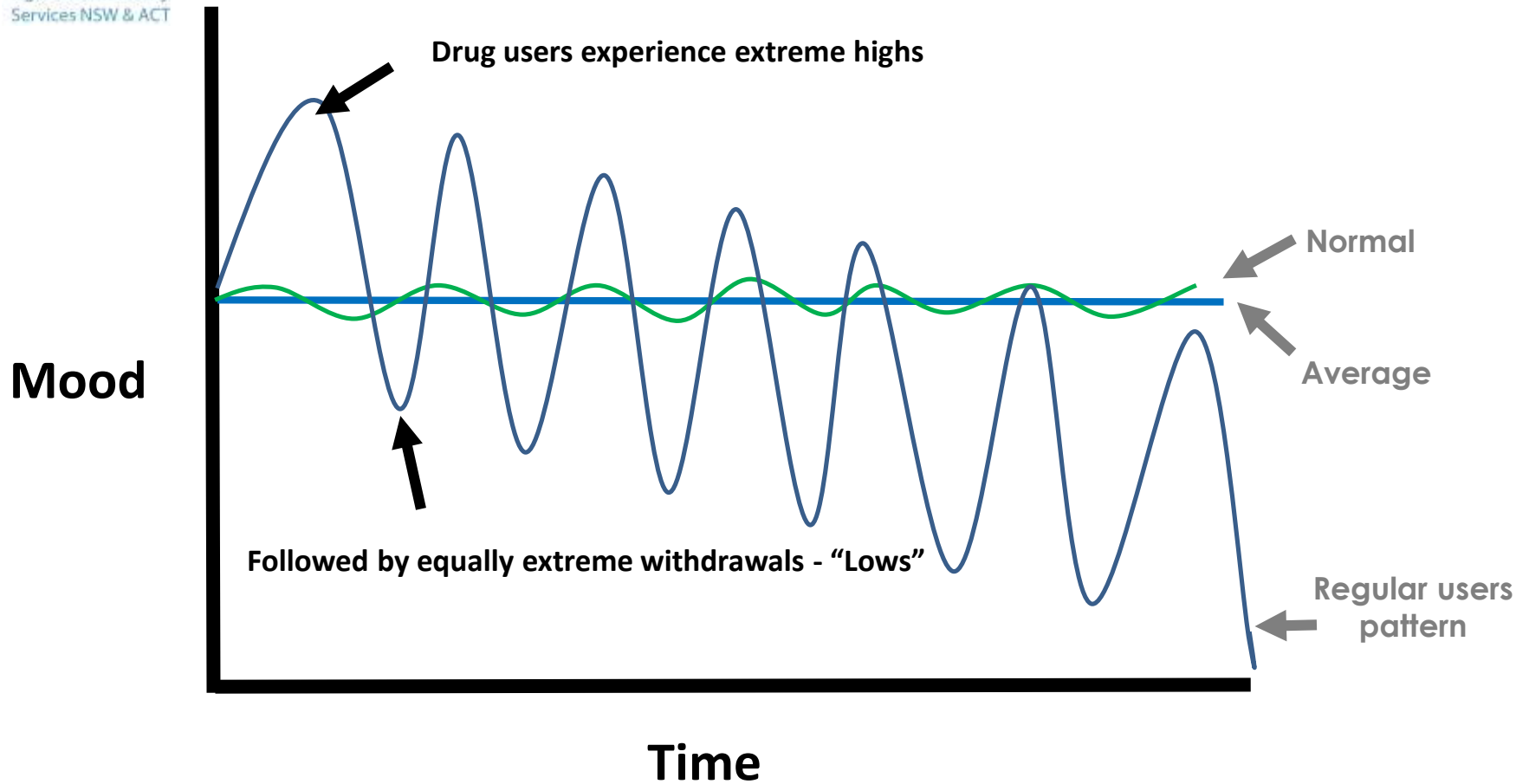
**Mood**



**Time**



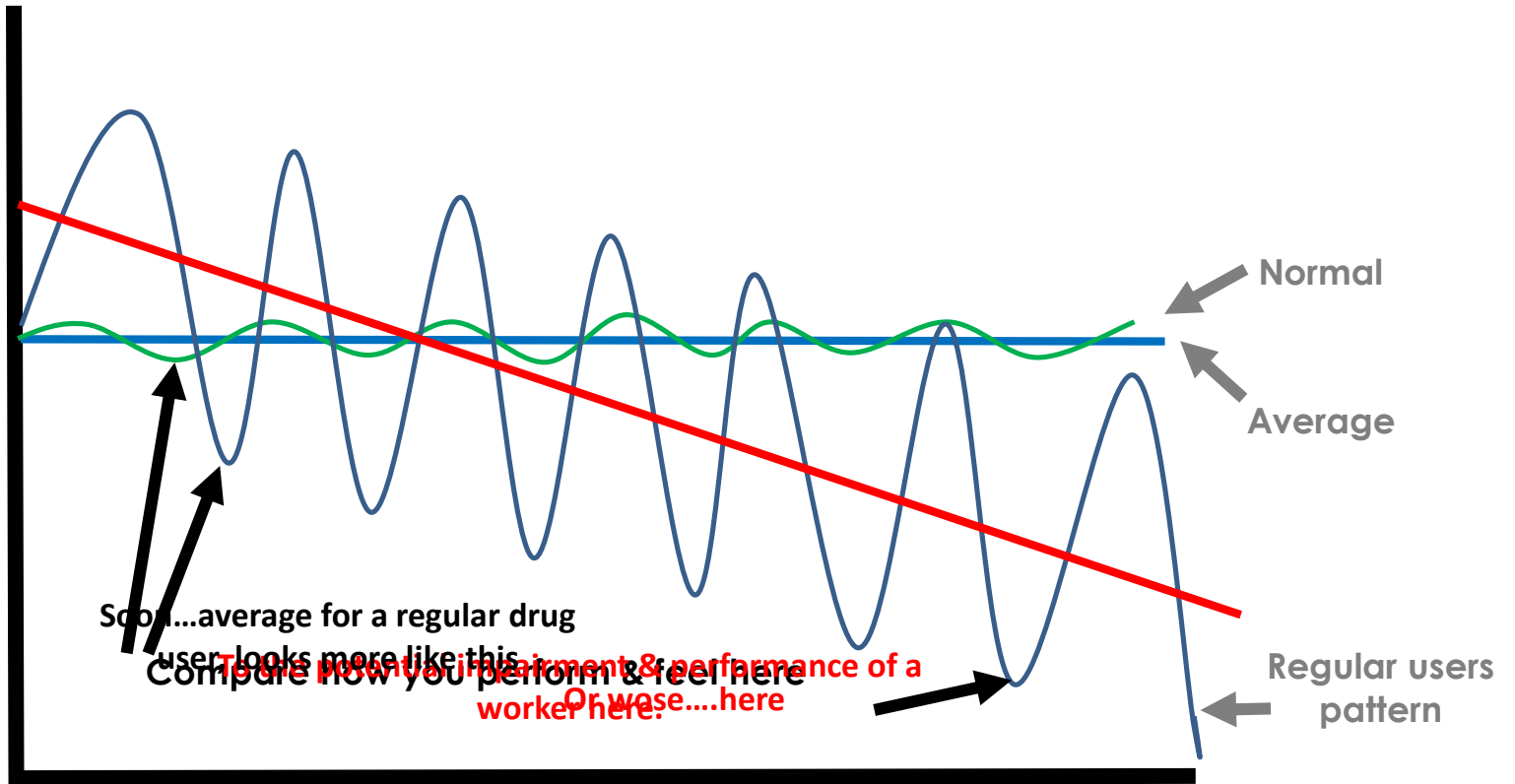
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Mood



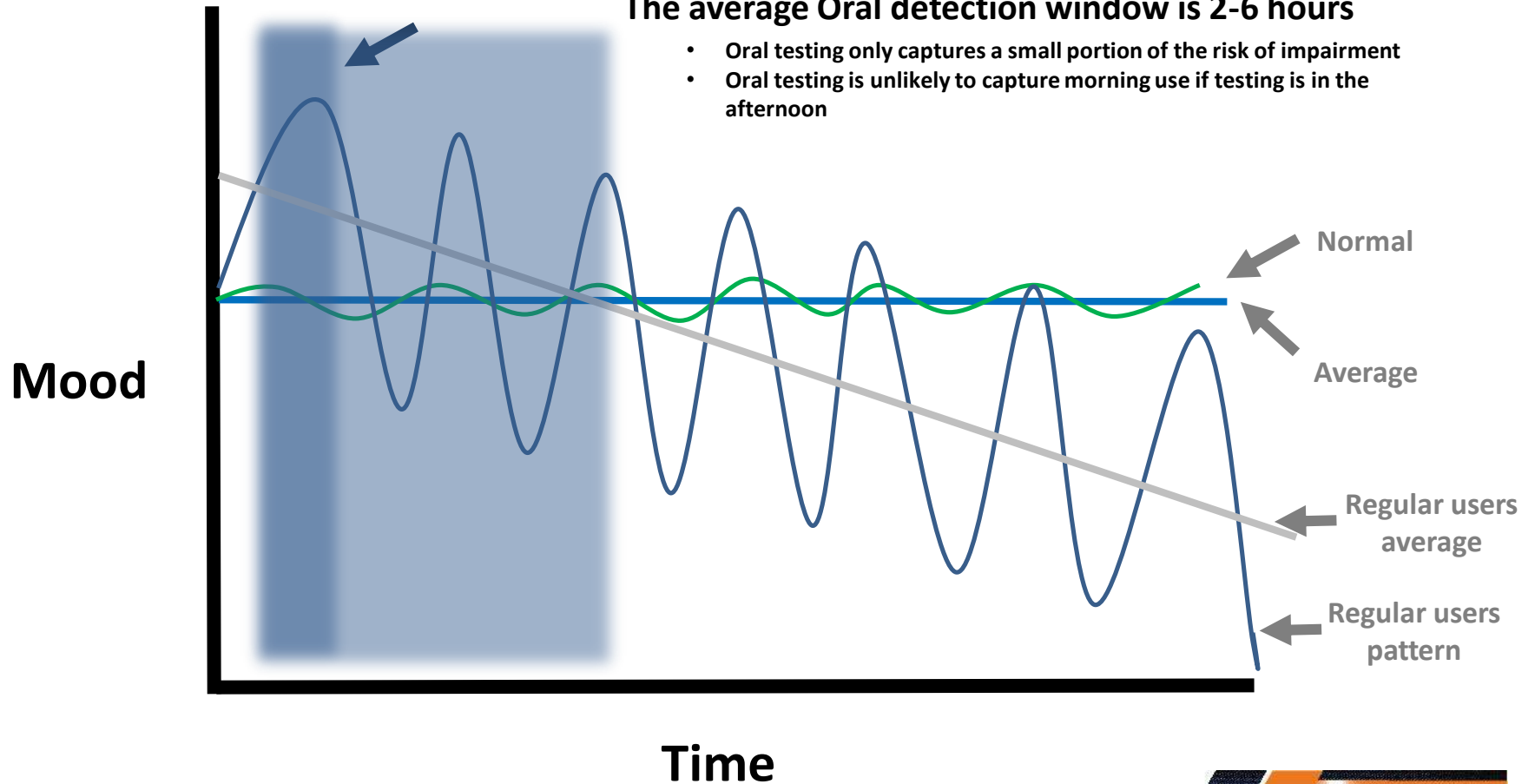
Time

## The average Urine detection window is 2-6 days

- Urine testing is more likely to detect a greater period & types of potential impairment in the workplace
- Urine testing provides employers with a greater ability to manage the risks of impairment

## The average Oral detection window is 2-6 hours

- Oral testing only captures a small portion of the risk of impairment
- Oral testing is unlikely to capture morning use if testing is in the afternoon



# Important Cases

## Toms v Harbour City Ferries Pty Limited

- Ferry Master, Accident, Mandatory Drug Test
- Failed Drug Test (marijuana previous night)
- Impairment not relevant
- Terminated for breaching strict Drug Policy
- Federal Court (Full Bench) held on appeal that if a policy prescribes termination for detection of drugs and alcohol, the termination will be upheld.

# Important Cases

## CFMEU v Port Kembla Coal Terminal Limited

- Employer wanted to introduce urine testing in addition to established random oral testing
- CFMEU argued oral testing more effective in detecting recent drug use
- CFMEU argued that oral testing was directly relevant for fitness to work without interfering with right to privacy



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# Held

- It is not unreasonable *in this workplace* to include both methods in the testing regime to provide:
  - Long term drug monitoring benefits
  - Identification of immediate acute drug use causing impairment
  - A superior deterrent against drug use
- ***“...a choice between private lives or saving lives and I have opted for saving lives”***





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# Lessons

- Drugs are a workplace safety issue. Mines and heavy industry are not the only safety-critical industries.
- A test cannot determine the level of impairment but can strongly indicate a risk of impairment. Under WHS/OHS laws the employer and the employee must act to eliminate risks.
- Industrial tribunals accept the validity of dismissals or other disciplinary action where drugs are involved if:
  - the policies and standards are clear, in place and organisations act assertively and fairly to implement those policies.
- Policies: Reasonable. Consultation is key



# Testing Methods

- **Urine Testing (AS/NZS 4308 - 2008)**
  - Most popular
  - Looks back days/weeks
  - Industry standards exist
  - Used for all testing circumstances
  - Privacy?





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# Testing Methods

- **Oral Fluid Testing (AS 4760 - 2006)**
  - Small window of detection
  - Looks back hours/days
  - Limited industrial standards
  - Deficient in detecting some drugs (synthetic cannabis)
  - Two options exist



# Testing Methods

## ➤ Alcohol Testing

- Breath alcohol tested in accordance with your company approved level:
  - Zero tolerance
  - Standard drink drive levels
  - Learner drivers
- Standards compliant device
- Self testing/BAC levels



# When to Test

- Pre-employment
- Post-accident
- Reasonable cause
- Random
- Return to work
- Follow-up

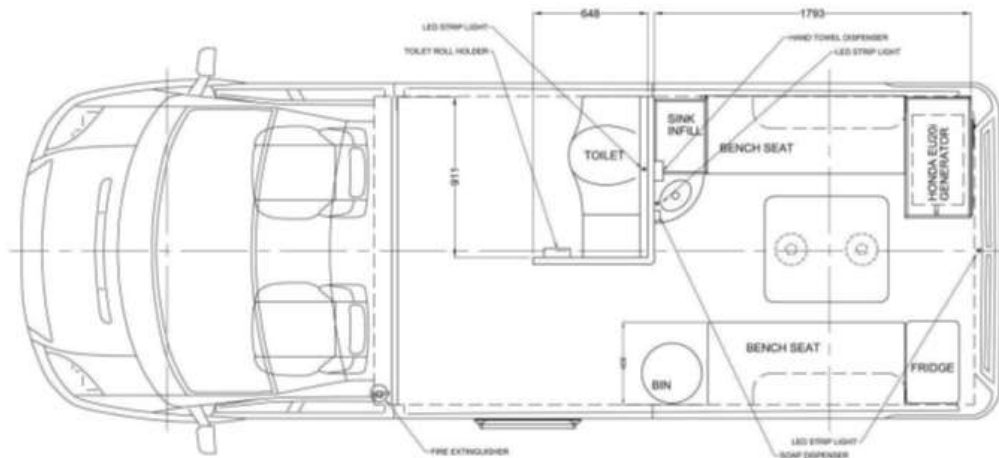
# Drugs tested for:

- Amphetamine type stimulants
  - Methamphetamine (ice)
  - Amphetamine
  - Cocaine
- Cannabis
- Opiates
- Benzodiazepines
- Synthetic cannabis



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# Privacy & Confidentiality





# What Happens to the Employee While Waiting for the Confirmation Result?







# What Happens to the Employee Following a Positive Result?



# Rehabilitation

- Strong emphasis on self-referral
- Provide Rehabilitation Service information to all employees
- Provide EAP where possible



# Education - should cover:

- Why we do drug and alcohol testing
- The effects of alcohol and drug use on health, safety and work performance
- General statistics on workplace drug and alcohol use and related injuries and incidents
- Reasons for testing and the testing processes
- The consequences for employees who fail to comply with company drug and alcohol guidelines
- Help and assistance opportunities



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# Summary

- Consultation is Key
- Education - Workers, Managers/Supervisors
- Moratorium prior to implementation
- Testing Policy - When
- Testing methods - Drugs & Alcohol
- Urine v Oral
- Alcohol BAC - 0.0, 0.02, 0.05
- Self Testing - Alcohol
- Rehabilitation
- EAP
- Stand down - payment



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# Questions

