

EMPLOYMENT POLICY

Drugs & Alcohol

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1. Scope & Purpose

- 1.1. The Lothian Group is committed to providing a safe and productive working environment and promoting the health, safety and wellbeing of its employees. Employers have a duty under the Health and Safety at Work Act 1974 to ensure, as far as is reasonably practicable, the health, safety and welfare of its employees. Similarly, employees are also required to take reasonable care of themselves and others who could be affected by what they do.
- 1.2. The inappropriate use of drugs or alcohol can damage the health and wellbeing of employees and can have far-reaching effects on their personal and working lives.
- 1.3. The purpose of this policy is to inform Lothian employees of the rules on alcohol, drugs and substance abuse, to ensure that the use of substances by any individual does not impair the safe and efficient running of the organisation or put at risk the health, safety, or welfare of its employees, customers, suppliers or members of the public.
- 1.4. This policy covers the use and misuse of intoxicating substances to include alcohol, solvents, legal and illegal drugs, prescription medication and over the counter medication and other substances that could adversely affect work performance and/or health and safety.
- 1.5. Health information is sensitive 'personal data' under the General Data Protection Act 2018 (GDPR). As a result all information about drug and alcohol abuse will be kept secure and confidential.
- 1.6. This policy applies to all employees of the Lothian Group. It also applies to all contractors, agency staff, volunteers and others working on behalf of the Company although they will not be subject to the Company's Disciplinary Policy.

2. Definitions

- 2.1. **Intoxicating Substances** are a substance that changes the way the user feels mentally or physically. It includes alcohol, illegal drugs, legal drugs, prescription medication (for example tranquillisers, anti-depressants), over the counter medication, solvents, glue, lighter fuel etc.

- 2.2. **Alcohol** is a colourless volatile flammable liquid which is produced by the natural fermentation of sugars and is the intoxicating constituent of wine, beer, spirits, and other drinks, and is also used as an industrial solvent and as fuel.
- 2.3. **Drugs** are a medicine or other substance which have a psychological and/or physiological effect when ingested or otherwise introduced into the body.
- 2.4. **Medication** is defined as those prescribed to an individual by a medical practitioner (such as a Doctor, Pharmacist or Dentist) or bought over the counter.
- 2.5. **Possession** is defined as anyone who is found in possession of illegal drugs, or consuming an illegal drug or substance on the premises in contravention of the Misuse of Drugs Act 1971, Psychoactive Substances Act 2016, Road Traffic Act 1988 or Health and Safety at Work Act 1974.

3. Key Principles

- 3.1. All employees are responsible for ensuring that they are aware of and comply with the requirements of this policy.
- 3.2. Lothian operates a zero tolerance to intoxicating substances and alcohol misuse/abuse at work. As such, employees should not:
 - Present themselves at work with any alcohol in their system that would give a positive test reading on or above 8 micrograms of alcohol in 100 millilitres of breath.
 - Present themselves at work in an impaired state due to illegal drugs or any intoxicating substances such as Novel Psychoactive Substances (previously known as legal highs).
 - Present themselves at work in an impaired state due to prescribed medication or over the counter medication.
 - Be in the possession of alcohol at work without reasonable explanation of its purpose.
 - Be in the possession of illegal drugs or Novel Psychoactive Substances at work.
 - Distribute or sell any alcohol or drugs at work.

- Consume alcohol (except with Lothian's express permission) during working hours (including breaks), whether on or off company premises or whilst in company uniform.
- Take illegal drugs or Novel Psychoactive Substances during working hours (including breaks), whether on or off company premises.
- Be convicted for an offence relating to drugs or alcohol which may affect Lothian's reputation or an employee's suitability for work.
- Refuse, without reasonable cause, to follow a reasonable management instruction, including but not limited to the following:
 - To co-operate with alcohol and/or drug testing under Section 8 of this policy
 - To undergo a referral to Occupational Health

3.3 Employees must report for work in a fit state to undertake their role and not under the influence of any intoxicating substances from having consumed drugs or alcohol before work or on the premises.

3.4 Intoxicating substances such as alcohol may remain in the system for some time and even small amounts can impair performance and jeopardise safety. Employees are personally responsible for allowing sufficient time for any intoxicating substance to leave their system before reporting for work.

3.5 Failure to comply with the terms of the Drugs and Alcohol policy may be considered gross misconduct and may therefore result in disciplinary action, leading to action up to and including dismissal.

4. Rules relating to Drugs and Alcohol

4.1 For the purposes of this policy, drugs will include any illegal drugs (and any illegal or legal psychoactive substances), prescription drugs being consumed other than in line with a valid prescription, and other medicines being taken other than in line with dosage instructions. Solvents or other substances being used for drug-like effects are also included.

4.2 If an employee has been prescribed medication, it is the employee's responsibility to inform their prescribing Medical Practitioner (as defined in 2.4) of the nature of their job before the

medication is issued. In addition, if an employee is regularly using over the counter medication, they should inform their GP in the event that there is a possibility of adverse side effects.

- 4.3 All medicines prescribed by a Medical Practitioner that have the possibility of affecting or impairing someone, carry warnings in the Patient Information Leaflet (PIL). Examples of this include loss of concentration, dizziness, drowsiness and even temporary loss of consciousness. Any employee who is prescribed such medication must report it to their manager so that they can discuss the potential side effects and whether it is safe for them to be at work or continue performing a particular type of work.

5. Identifying a problem

- 5.1. Any employee who seeks help and guidance in overcoming a drugs or alcohol problem will be treated positively and confidentially by the organisation. Should an employee believe that they are developing or have developed a problem with drugs and/or alcohol, they should advise their supervisor or line manager or speak to a member of the HR Team or their Trade Union Representative.
- 5.2. Employees should not cover up or collude with a colleague who has a drug or alcohol related problem but instead they should encourage their colleague to seek help.
- 5.3. In the event that an employee informs their supervisor or line manager that they think they are developing or have developed a problem with drugs and/or alcohol, the line manager will investigate whether Lothian can assist the recovery of the employee and ensure that the problem does not present a health and safety risk.
- 5.4. Whilst each case will be taken on its own merits, it would be in the best interest of an employee to disclose that they are or have developed a dependency to drugs and / or alcohol on an occasion separate to the time of being tested / selected for testing.
- 5.5. It may occasionally be necessary to request that an employee refrains from work temporarily (which may be either paid or unpaid) or undertakes restricted duties to ensure their own safety and that of others.
- 5.6. An employee may be referred to the Company's Occupational Health provider who will assess the employee's dependency. This will be subject to the employee's co-operation and consent.

- 5.7. Where medical advice deems it necessary for an employee to undergo a treatment programme to address a drugs or alcohol problem, they will be asked to agree in writing to undergo and complete the recommended treatment programme.
- 5.8. An employee should co-operate with any specialist support that is offered to them or any support that Lothian offers.
- 5.9. Where a treatment programme has been agreed and the company receives medical advice that a period of absence from work is appropriate to allow an employee to undergo the programme, a temporary absence from work will be authorised. If the employee qualifies for contractual sick pay under their terms and conditions of employment then, provided they have agreed in writing to undergo and complete the treatment programme, they will be paid contractual sick pay during this period of absence.
- 5.10. If an employee later relapses and requires further treatment and/or a further period of absence from work, any further absence may be unpaid.
- 5.11. Whilst relapses are not uncommon, the company reserves the right to bring the employee's employment to an end if it is considered that all reasonable steps have been taken to support them.
- 5.12. Any employee who comes forward to ask for support with a drugs or alcohol problem has the complete assurance of confidentiality.

6. Help for Employees

- 6.1 Employees with concerns about their alcohol or drug use are encouraged to consult their GP in the first instance.
- 6.2 Employees can also contact Lothian's employee assistance programme, CRISIS, directly for support on 0141 812 8474. This line operates 24 hours a day, 7 days a week and provides confidential advice and support to employees and their dependants.

There are also other services in Edinburgh and Scotland:

- Alcohol Focus Scotland - <https://www.alcohol-focus-scotland.org.uk/alcohol-information/find-an-alcohol-service/>

- Edinburgh Alcohol and Drug Partnership: Waverley Court, 4 East Market Street, Edinburgh EH8 8BG - <https://www.edinburghadp.co.uk/information-advice-support/>
- Addiction Helpline - <https://www.addiction.org.uk/>
- The Scottish Drug Services - <http://www.scottishdrugservices.com/>

The NHS -

- <https://www.nhs.uk/live-well/alcohol-support/>
- <https://www.nhs.uk/live-well/healthy-body/drug-addiction-getting-help/>

7. Driving

- 7.1 Under The Transport and Works Act 1992, it is a criminal offence for employees to be unfit through drugs and/or alcohol while working within the business.
- 7.2 Employees who drive to work, drive on Company business or drive Company vehicles outside of their usual working hours must comply with the drink-driving laws at all times. The current limits in Scotland are:
- 22 micrograms of alcohol in 100 millilitres of breath (the 'breath limit')
 - 50 milligrams of alcohol in 100 millilitres of blood (the 'blood limit')
 - 67 milligrams of alcohol in 100 millilitres of urine (the 'urine limit')
- 7.3 A conviction for drink-driving or drug-driving offences may harm the company's reputation and, if being able to drive is key to an employee's role, this may mean that an employee is unable to perform their duties.
- 7.4 Any employee who commits a drink-driving or drug-driving offence must notify the company of any charge/ pending court case and they may be subject to disciplinary action, up to and including dismissal without notice.

- 7.5 Given the nature of the business, in order to protect employees and customers, Lothian have set the alcohol limit lower than the legal limit, to 8 micrograms of alcohol in 100 millilitres of breath.
- 7.6 If an employee is tested and they are above the legal limits of 22 micrograms in 100 millilitres of breath, or they provide a positive drugs test, and they have driven to work that day, they should be advised against driving and asked to hand over the keys to their vehicle for at least 12 hours. If they refuse the local police force will be informed.
- 7.7 The company is required to report any drug or alcohol related dismissals to the Traffic Commissioner. This will also apply in cases where the colleague resigns prior to disciplinary.

8. Drug and Alcohol Testing

- 8.1 Lothian are required to ensure a safe place of work and safe systems of work for all employees. A programme of random drug and alcohol testing for all employees is in place. In addition to this any employee can be required to submit to a test where there is reason to believe they may be under the influence perhaps as a result of an incident at work or they are exhibiting signs of intoxication. This is known as a 'with cause' test.
- 8.2 At least 10% of employees will be tested each month, having been selected at random.
- 8.3 If selected for an alcohol or drugs test, employees will be tested sensitively and discreetly using Company approved breath-testing equipment or DrugWipe Dual drug detection kit equipment. The test will be undertaken by a manager, supervisor or member of the HR team who has been trained in its use. An up-to-date list of all employees trained to undertake the testing is available from the HR Team.
- 8.4 If an employee refuses to participate or hinders/abuses the system when undertaking a drugs or alcohol test, this may be considered gross misconduct and could result in the employee being suspended with pay pending an investigation hearing in line with the Disciplinary Policy.

9. Alcohol Testing Procedure

- 9.1. Alcohol testing at Lothian will be administered:

- at random,
- “with cause” or with suspicion

- 9.2. At Random - Any employee may be selected for a random breath test, determined electronically by using an algorithm so that the selection process remains independent.
- 9.3. With Cause or Suspicion - If an employee is considered unfit for work due to alcohol consumption their line manager or supervisor should speak with them privately to inform them of their suspicion. Arrangements should then be made for them to be tested immediately. In certain circumstances it may be necessary to arrange for the employee to be relieved from their duty prior to this. An employee may be subject to a ‘with cause’ test at any time whilst at work if they have been involved in a dangerous incident or accident. The employee will be requested to remain at work until the test has been completed even if this requires paid overtime.
- 9.4. As part of agreed guidelines and script, the principles of the operation of the breath test unit must be explained to the employee i.e. that the employee must blow into the mouth tube until the machine indicates that they should stop and that the analysis figure will then be read from the display panel.
- 9.5. The result of the test will be recorded on the consent form along with the printer receipt (if applicable). The form will be signed by the manager/supervisor carrying out the test, the witness (if applicable) and the employee. A record of the test will be held by the Company.
- 9.6. The process for being tested for the detection of alcohol will initially involve the use of a breathalyser test. If the reading detects a reading below 8 micrograms of alcohol in 100 millilitres of breath, the consent form will be finalised and the employee will resume work as normal. If the reading detects an alcohol level above 8 micrograms of alcohol in 100 millilitres of breath, the test will be repeated. Please refer to Appendix 1 for the full process and outcomes resulting from the testing.
- 9.7. As outlined in Section 7, in all instances of a failed test reading of over 22 micrograms of alcohol in 100 millilitres of breath, and where the employee has driven to work, they should be advised against driving and asked to hand over their vehicle keys. If they refuse then the local police force will be informed.
- 9.8. The breath-testing equipment is calibrated every 6 months by a fully trained external technician as per the manufacturer’s guidelines.

9.9. Employees may be accompanied by a colleague or a Trade Union Representative however they will only be present as a witness and not as a representative. If the employee requests a Trade Union Representative to act as a witness and no such representative is available at the time, the procedure will not be delayed.

9.10. Should a contractor be under suspicion of being under the influence of alcohol, they will be required to leave the site. The matter must be reported to the person within Lothian responsible for employing the contractor, and the findings reported to the contractor's employer/company as soon as is reasonably practicable.

10. Drugs Testing Procedure

10.1. Drug testing at Lothian will be administered:

- at Random,
- "with cause" or with suspicion.

10.2. At Random – If an employee is subject to random drug testing it will be determined electronically by using an algorithm so that the selection process remains independent.

10.3. With Cause or Suspicion - If an employee is considered unfit for work due to drug/substance consumption their line manager or supervisor should speak with them privately. Arrangements should then be made for them to be tested immediately. An employee may be subject to a 'with cause' test at any time whilst at work if they have been involved in a dangerous incident or accident. The employee will be requested to remain at work until the test has been completed even if this requires paid overtime.

10.4. The operation of the drugs screening test must be explained to the employee i.e. that the employee will be swabbed from different, easily accessible skin locations on their body (i.e. hairline, behind the ear or their neck) and a saliva swab will be taken from the tongue

10.5. During the testing process, employees may be accompanied by a colleague or a Trade Union Representative, however, the individual present will only be present as a witness and not as a representative. If the employee requests a Trade Union Representative to act as a witness and no such representative is available at the time, the procedure will not be delayed.

10.6. The drugs screening test analyses for drugs covered under the Misuse of Drugs Act 1971,

including but not limited to Cannabis, Cocaine and Opiates.

- 10.7. The result of the drugs screening test will be recorded on the consent form and will be signed by the line manager or supervisor carrying out the test, the witness (if applicable) and the employee. A record of the test will be held by the Company.
- 10.8. If the drugs screening test shows a positive (referred to as a non-negative) reading, a second confirmatory test requiring a urine sample will be necessary (except in the case of pre-employment where the result of the first test is final). This will be carried out by an approved independent Collection Technician from an accredited company using secure methods and a strict chain of custody system will apply under these circumstances. The collected urine sample will be sent to an independent UKAS accredited laboratory to undergo confirmation analysis to ascertain the final, legally defensible result.
- 10.9. The outcomes resulting from the test are as follows:
 - 10.9.1 If the initial sample provided by the employee is negative this will count as a **first test pass** and the employee will resume work immediately.
 - 10.9.2 If the initial sample provided by the employee is positive/non-negative this will count as a **first test fail**.
 - 10.9.3 As noted above, following a first test fail (i.e. a positive/non-negative initial drugs test), a secondary test will be carried out by a collection technician. Until that person arrives on site, the employee will be asked to remain supervised in a private room. Any food and/or drink consumed by the employee during this time is to be controlled by the company to ensure that it is not contaminated.
 - 10.9.4 Once the secondary test has been carried out the employee will be suspended on full pay until the results are received from the laboratory.
 - 10.9.5 The second test requires that the employee provides a urine sample. The appropriate chain of custody will be followed and the urine sample will be split into an A and B sample, sealed, bar coded and signed in front of the employee and sent to the UKAS accredited laboratory for confirmatory testing.
 - 10.9.6 All results received from the laboratory are interpreted in light of the medical history provided by the employee on the consent form to eliminate the use of prescribed or over the counter medication.

10.9.7 If the second test is negative the employee will be able to resume work as normal. This would be classed as a pass.

10.9.8 If the second test is positive, this is deemed a fail and the employee will remain suspended with pay pending an Investigation Hearing being held in line with the Disciplinary Policy.

10.10. Following the outcome of the urine confirmation test, the employee can request that an independent re-test be carried out. A sample (Sample B) will then be sent directly from the laboratory via courier to the employees chosen referral laboratory (which must be of the same UKAS accreditation standards as the original confirmation laboratory) for the purpose of independent analysis. The cost of this is to be borne by the employee.

10.11. Should it be suspected that a contractor is under the influence of drugs, they will be required to leave the site. The matter must be reported to the person within Lothian responsible for employing the contractor, and the findings reported to the contractor's employer/company as soon as is reasonably practicable.

11. Confidentiality

As this policy is a confidential procedure, if anyone involved in the process discloses the details or result of any tests to a third party they will be dealt with through the company Disciplinary Policy.

12. Linked Policies

- Disciplinary Policy
- Attendance at Work Policy
- Probationary Policy

13. Version Control

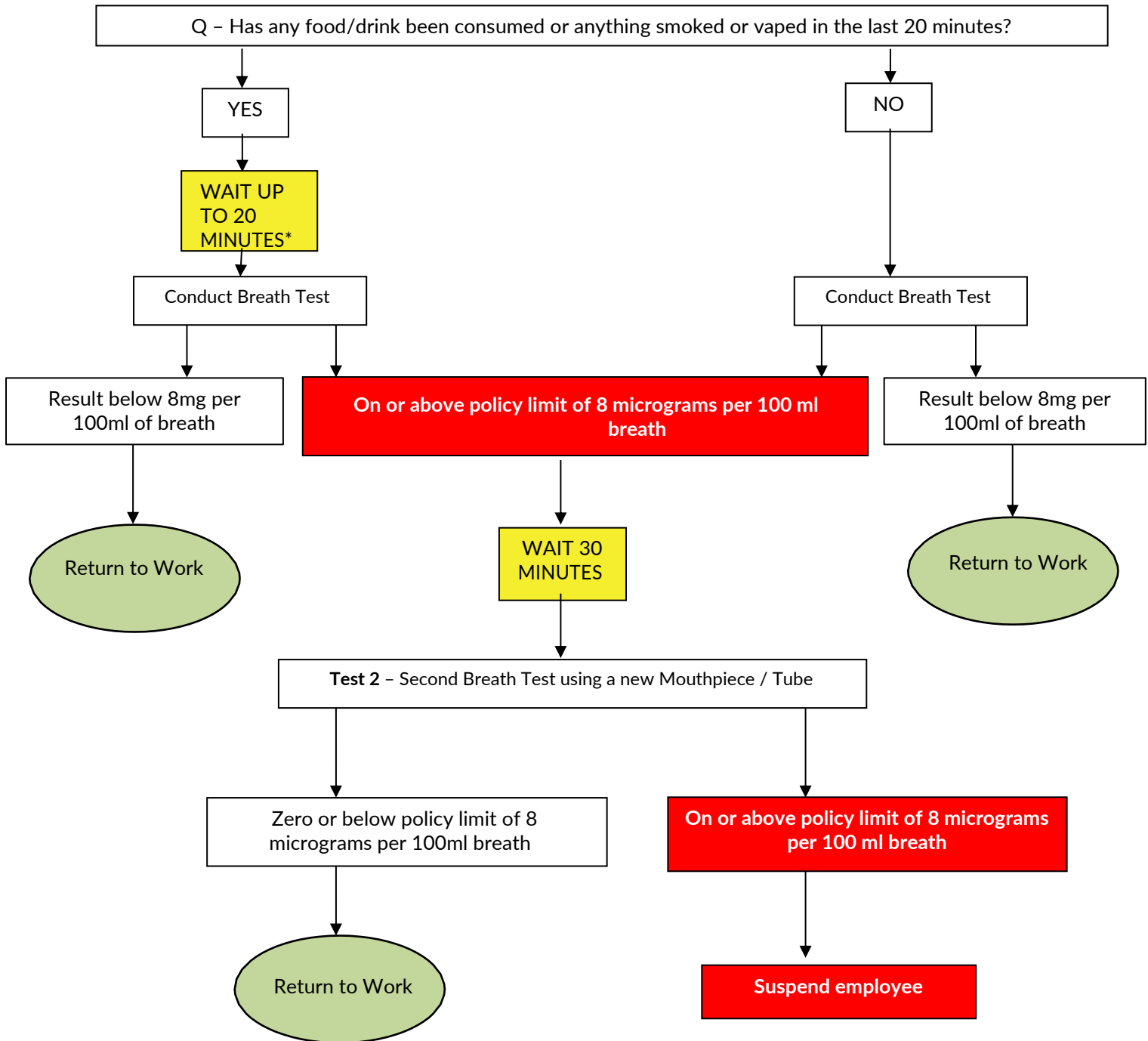
Version No.	Date of Change	Change made by:	Key Amendments

V1.0	04/08/2020	S Murphy	Final Draft
V2.0	21/7/2022	P Butler	Addition of saliva testing
V3.0	05/12/2023	P Butler	Removal of reference to safety critical and high-risk roles. Updated People Team to HR Team
V4.0	22/03/2024	P Butler	Change to alcohol testing procedure - removal of passive test
V5.0	April 2026	H Devereux	Update to 7.7: resignation prior to disciplinary in relation to drug or alcohol is also reportable to Traffic Commissioner

This policy does not form part of employees' terms and conditions of employment and may be varied from time to time in accordance with business and legislative requirements.

Appendix 1

Alcohol Testing Process



*if yes, the total wait time is based on when the employee last ate/drank/vaped/smoked. For example, you would only need to wait 10 minutes to test if an employee ate 10 minutes ago.

Appendix 2

Drug Testing Process

