



# Acid test

The courts, local authorities and employers are driving up the demand for drug and alcohol testing, meaning a pleasant high for test providers, find **Clare Connell** and **Charlotte Bushnell** of Connell Consulting

There is a growing market in the UK for drug and alcohol testing, with the market expected to grow from £167 million in 2016 to £231 million in 2019 (*figure 1*). The use of drug testing in the UK has been boosted by technological advances, which have improved both the range of drugs that can be tested for, and the sensitivity of tests. In addition, with substance misuse a major problem in the UK, there has been significant growth in the number of sectors requesting increasing volumes of drug and alcohol tests, providing drug treatment, family law, workplace, and law enforcement solutions (*figure 2*).

Family law is one such sector that has seen growing demand for drug and alcohol testing, with tests most commonly requested by professional bodies in child custody cases, care proceedings, or child protection cases, where parental substance misuse is expected to be a major contributing factor (*figure 3*). Whilst parental substance misuse currently only affects a minority of children, the number of adults affected by mental health and drug misuse is growing, resulting in more child protection cases and thus pushing up demand for drug and alcohol testing. Stakeholders are keen to request drug and alcohol tests in order to make fact-based decisions regarding a parent's current and historic pattern of substance use/abstinence. Family law solicitors or mediators most commonly request tests during the stage of family law mediation, or the Family Court requests them during court proceedings, with tests most commonly funded by Legal Aid in both cases. In cases relating to child protection, social services may seek drug and alcohol testing if child welfare claims have been made regarding suspected parental substance misuse.

When requesting a drug or alcohol test, it is vital that the right sample type is used in the right testing scenario. Drug and alcohol testing can take a variety of forms, including oral fluid, urine, blood, or hair testing, with each test capable of detecting historical drug or alcohol misuse over differing time frames. Hair strand testing is capable of providing more comprehensive results when compared with a urine or blood test, offering the longest detection window of any test – hair strand drug testing is capable of showing a month-by-month analysis of historical drug use, over a period limited only by the length of the scalp hair sample itself. For example a scalp hair sample of 12cm in length, on average corresponds to approximately the last 12 months. Hair strand alcohol testing is capable of detecting excessive alcohol consumption over a period up to six months. In comparison, blood tests can only detect substances for the previous 24 hours after consumption, and urine and oral fluid tests typically cover less than one week.

## Drivers of demand for hair strand tests

In addition to growth in the number of child protection cases that are drug or alcohol related, with drug or alcohol misuse a contributory factor in c. 35% of cases, the UK is also seeing rising abuse of prescription drugs and legal highs “as the number of drugs on the market that people have access to is increasing” according to a Lincolnshire-based solicitor. Both of these are key factors that have driven a rising demand in the number of hair strand tests that are requested. Another key driver of market growth is the increasing pressure placed on local authorities, family solicitors and local courts to ensure that they obtain accurate, reliable, and

relevant evidence when it comes to testing for drug or alcohol misuse, to avoid the risk of an inconclusive or misleading outcome.

In cases involving children, the accuracy and reliability of test results and reporting is imperative to prevent a miscarriage of justice. Best practice is to use a laboratory which is accredited to ISO 17025 by UKAS (United Kingdom Accreditation Service), and which has qualified reporting scientists able to give legally defensible evidence as expert witnesses in court. This ensures a level of quality that is accepted in court proceedings. In addition, the Society of Hair Testing (SOHT) ensures that hair-testing techniques are standardised and can be easily compared, even between companies. This is helpful when a local authority and a solicitor may choose different providers. The SOHT has also reached a consensus on methods for hair collection, sample washing and cut-off levels for positive results. Good sample collection procedures, including the use of trained sample collectors, are of particular importance to ensure integrity of the chain of custody.

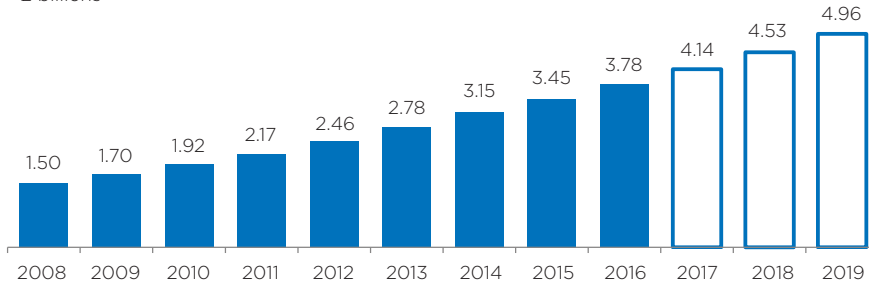
The use of accredited testing methodology, and experience of using tests in court over a number of years, has resulted in hair strand testing being considered the most reliable form of testing to be conducted during court proceedings. Whilst the average cost of hair testing, including collection, is approximately £510 (significantly more expensive than other testing methods), court judges consider the costs associated with hair strand testing, sometimes seen as high by other parties, wholly necessary to ensure reliability of results. Leeds Family Drug & Alcohol Court noted that in addition to accuracy and “consistency of results ... the speed of contact, and the turn-around is really



FIGURE 1: MARKET FOR DRUG AND ALCOHOL TESTING

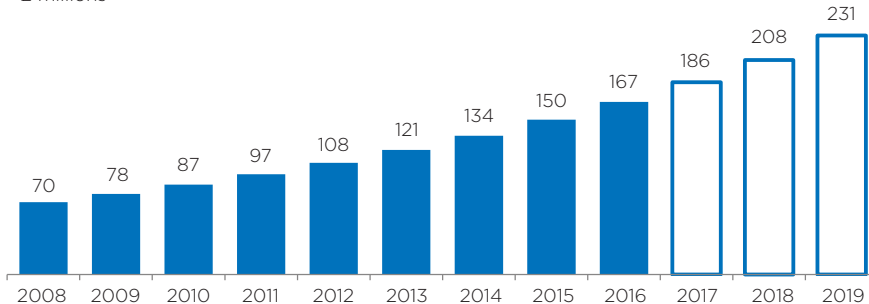
### Global market for drug and alcohol testing

£ billions



### UK market for drug and alcohol testing

£ millions



- The global drug and alcohol testing market is expected to reach £5 billion by 2019, growing at a CAGR of 9.5% from 2014 to 2019
- The market is dominated by North America, followed by Europe, Asia-Pacific, and the rest of the world
- The use of drug testing in the UK has been boosted by technological advances, improving both the range of drugs that can be tested for, and the sensitivity of tests
- Workplace drug testing has been an area of particular growth, with more companies taking a proactive stance to protect their workforce, customers and business reputations
- Drug and alcohol testing is largely relied upon as evidence within child protection cases, being commissioned by both local authorities and family solicitors when the case is nearing court proceedings
- Of the £167 million UK drug and alcohol testing market, hair testing makes up c.£45.6m (27%) of the market.

Sources: Connell Consulting analysis, 2017

important". Particularly in court, with solicitors and local authorities who routinely order drug and alcohol tests looking for providers that can offer this level of service.

The ease of sample testing, particularly versus blood samples, is also noted as a key reason why hair strand tests are chosen by solicitors and local authority stakeholders, with "hair testing less intrusive" than other testing methods, stated a Newcastle-based solicitor.

When are drug and alcohol tests requested in family law cases?

Whilst the majority of testing continues to take place during court proceedings, as requested by the court judge, some local authorities are recognising the benefits of earlier intervention. Earlier testing most commonly takes place at the request of the local authority during 'pre-proceedings', with Gloucestershire County Council explaining that "the ideal time to do tests is in pre-proceedings, so that when we get to court we have all the evidence that we need. Carrying out tests in pre-proceedings also lets you re-do tests to see change or consistency through proceedings". However, some local authorities

will look to test earlier in the child protection pathway, during 'child protection conferences', 'Section 47 enquiries' or even as early as when the child is identified as being a 'child in need'.

Testing is considered on a case-by-case basis, but not all cases will see requests for testing at

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an earlier stage in the child protection pathway. However, with more local authorities, such as Cheshire West & Chester Council required to get more 'front-loaded' evidence ahead of court proceedings, there are opportunities for more

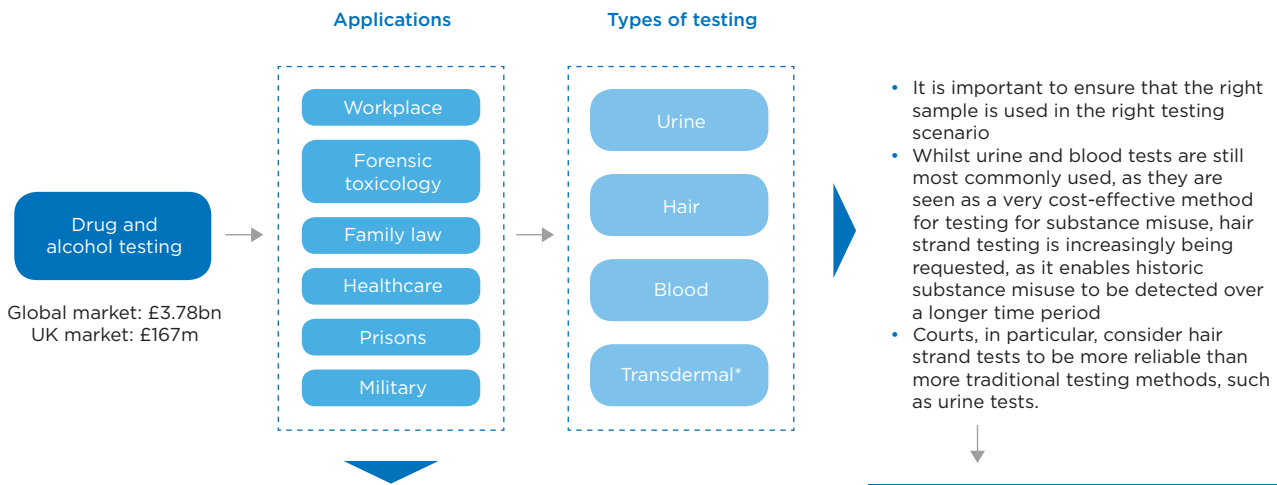
testing to be carried out earlier in the pathway. Examples of cases where earlier testing should have taken place are rife, and earlier intervention should be encouraged in line with the local authorities duty to safeguard and promote the welfare of children. Not only does earlier intervention benefit both children and parents, it also dramatically reduces future costs to society. However, whilst earlier intervention is a step in the right direction in detecting cases involving parental substance misuse, testing on its own cannot solve the problem of parental drug or alcohol misuse.

### The role of the Family Drug and Alcohol Courts

Where parents and children are involved in court proceedings, testing for drugs or alcohol can evidence parental drug or alcohol misuse, however, that does not often correlate with good outcomes for the parents and children involved in proceedings. District Judge Nicholas Crichton saw that the traditional UK model was not always effective at getting to the route of the problem, and in response launched the first Family Drug & Alcohol Court (FDAC) in London in January ►



FIGURE 2: DRUG AND ALCOHOL TESTING



- It is important to ensure that the right sample is used in the right testing scenario
- Whilst urine and blood tests are still most commonly used, as they are seen as a very cost-effective method for testing for substance misuse, hair strand testing is increasingly being requested, as it enables historic substance misuse to be detected over a longer time period
- Courts, in particular, consider hair strand tests to be more reliable than more traditional testing methods, such as urine tests.

- With a rise in the abuse of prescription drugs and legal highs, in addition to the more traditional illicit drugs, there has been rising demand for drug and alcohol testing across a number of sectors
- Workplace testing is becoming increasingly common pre-employment, with some employers also carrying out random employee drug and alcohol tests
- Prisons are using drug testing to both aid the prevention of drug abuse inside prisons and engage drug misusing offenders early in the criminal justice system
- Family law cases also use drug testing where parental substance misuse is thought to be a factor in child custody cases, care proceedings, or child protection cases

“We have seen an increase in the numbers of hair drug and alcohol tests being conducted, because technology has enabled these tests to become more accurate and reliable. The courts want the most reliable evidence, and deem hair drug and alcohol tests to provide this, as do we.”

*Solicitor, Staffordshire*

\*Transdermal testing is carried via a Secure Continuous Remote Alcohol Monitoring (SCRAM) device

Sources: Connell Consulting analysis, 2017

► 2008, which has seen widespread approval. Unlike conventional court proceedings, parents see the same judge throughout the course of proceedings, and meet with them every fortnight. They also receive a range of support including drug and alcohol testing and treatment, psychiatric support and practical assistance with related issues such as housing, domestic violence and financial hardship.

An independent evaluation of the London FDAC showed the court had been successful in improving outcomes for children by tackling the substance misuse of parents at an early stage of care proceedings. For example, in the FDAC 46% of mothers had stopped misusing by the end of proceedings, versus 30% in ordinary court proceedings. Since then more courts have opened in Gloucestershire, Milton Keynes, Buckinghamshire, East Sussex, Coventry, West Yorkshire, the South West Peninsula, and Southampton, with 13 FDAC teams covering 21 local authorities. The expansion of the FDAC across the UK provides greater opportunities for drug and alcohol tests to be conducted, with York Council stating that they “use the FDAC in around 50-60% of cases”.

Use of drug and alcohol testing can also be

used to prove children are at risk of doping by their parents. Such intervention could save the lives of children who are being repeatedly doped by their addict parents to put them to sleep. In the case of Poppy Widdison, a 4 year old girl drugged for up to six months by her addict mother and boyfriend to keep her out of their way, her death in 2003 could have been avoided if social services had taken a hair test at an earlier stage than her post mortem. Whilst testing of child hair samples is not happening at present, a positive recommendation could be that where a parent’s drug or alcohol test result is positive, the child identified as being ‘at risk’ should also be tested as a matter of routine. This would provide key stakeholders, such as the Local Authority and Family Court, with a further piece of evidence based knowledge to support care proceedings.

Currently the market for hair drug and alcohol testing remains highly fragmented, particularly as smaller providers of DNA testing services have more recently entered the market. As a result, there remain opportunities for further market consolidation. For new providers looking to enter the market there are a number of barriers to entry, including capital investment, accreditation

and reputational risk, resulting in limited new entrants into the family law hair strand testing market.

### Other market sectors

In addition to family law, there are opportunities for providers to offer testing services across other sectors. Workplace drug testing has been another area of particular growth in the UK, with more companies taking a proactive stance to protect their workforce, customers and business reputations. Testing is particularly prevalent in jobs where employees are required to drive or operate heavy machinery.

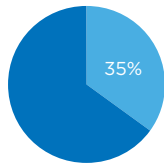
The prison service is another area where testing is carried out, and mandatory drug testing (MDT) has been in place since 1996, aiding the prevention of drug misuse within the prison setting. In the prison system of England and Wales, drug misuse is a major problem, with 70% of offenders reporting drug misuse prior to entering prison. The use of MDT to detect those misusing drugs sends a clear message to prisoners that if they misuse there is a greater risk of being caught and punished. It also helps identify prisoners who may need assistance to combat their drug problems, and provides



FIGURE 3: IMPORTANCE OF DRUG AND ALCOHOL TESTING IN FAMILY LAW CASES

**1. The impact of parental drug and alcohol abuse on children in England and Wales**

Across England and Wales, there are c.413,785 children in need...



...of which 35% are children in need due to parental substance misuse

Parental substance misuse can have significant effect on a child, leading to;

- Emotional distress
- Physical harm, and
- Lifetime issues

In the long run, children who suffer as a result of parental substance misuse are more likely to go on to commit crimes, abscond from school, enter the social care system, suffer mental health problems, misuse substances themselves, and not enter employment.

**2. Local authority and court intervention**

- Drug tests are requested by professional bodies in child custody cases, care proceedings, or child protection cases
- Tests may be requested by family law solicitors, or mediators during the stage of family law mediation, or requested by the family court during court proceedings
- In cases relating to child protection, social services may seek drug and alcohol testing if child welfare claims have been made regarding suspected parental substance misuse.

**2. Why is substance testing important?**

- Drug and alcohol testing is important to ensure child protection from the detrimental effects of parental substance misuse and to ensure they have a quality of life they deserve
- Drug and alcohol testing assists in these efforts, and in such cases abstinence monitoring testing may be required to assess a parent's recovery

- Alcohol abuse is costing the UK over £33 billion per year and is a significant factor in more than 63% of care proceedings
- Early intervention dramatically reduces the costs to society
- Testing for drugs and alcohol should be encouraged as part of that early intervention.

Sources: Connell Consulting analysis, 2017



the prisons with information on the scale and patterns of drug misuse. To date urine sampling is HM Prison Service's chosen sampling method, with the technologies of hair, sweat, and saliva testing still considered 'new' and relatively untested in court.

**Conclusion**

The tremendous growth in the market means that the greatest factor limiting the revenue growth of providers of drug and alcohol testing is their ability to grow their laboratory capacity and still maintain excellent service levels. Whilst there is strong demand from solicitors using drug and alcohol testing in family law cases, there are areas where local authorities are just starting to discover the potential benefits of testing to support decision making within social services. And in addition to family law, there are also a number of other sectors that provide ample opportunity for growth. ■

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