

POLICY FOR HEALTH, SAFETY & WELFARE

PART C - ARRANGEMENTS

Section 29

SMOKING AT WORK

2015

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1. LEGISLATION

Regulations passed under the Health Act 2006, make it illegal to smoke in almost all enclosed workplaces which cover premises, vehicles and other structures, such as smoking shelters provided by employers.

This arrangement is part of the council's Corporate Health and Safety Policy. Its aim is to set the policy on smoking of Barnet Council, and explain the duties of employers and employees.

* Although "Vaping" is not included in the regulations, council policy is to prohibit it in council premises and vehicles in the same way as tobacco smoking.

2. DUTIES

Directors carry overall responsibility for making sure that all premises and vehicles under their control are maintained in such a way as to comply with the law. Directors are also responsible for monitoring compliance with the smoking policy.

Managers have day-to-day responsibility for ensuring that the rules are followed. This will include providing and maintaining signs and monitoring and enforcing the rules. Managers have a vital communication role in disseminating information and guidance to staff.

Where services require employees to enter premises that are not covered by the Smoke-free Regulations (such as private houses and exempted workplaces) managers must ensure that a risk assessment is carried out and that staff are given guidance on reasonable measures to reduce the risk of exposure to smoke, and any other hazards that may exist.

Employees are under a general duty to follow the rules and policies set by the council at all times. This means that employees must not smoke in areas, premises and vehicles that are designated as smoke-free. We intend to provide support for employees who smoke. This is explained in section 7 of this policy.

As ambassadors for the council, employees should also set an example, by following the rules for non-smoking when they are working in or visiting non-council premises.

Visitors and contractors have similar duties to employees, in that the council expects them all to comply fully with this policy. This includes the use of premises and vehicles.

Partner organisations and the voluntary sector will be expected to clarify to the council that they have robust policies to manage smoking effectively. Procurement guidelines will be amended to include this question in the future.

3. SMOKE FREE PREMISES

Premises where smoking is not allowed are defined in the new law as 'Smokefree' which are areas that are enclosed or substantially enclosed in places that are;

- open to the public
- used as a place of work by more than one person or
- where members of the public might attend to receive or provide goods or services

All premises occupied by the council must be smokefree, including;

- offices
- schools (separate information and advice will be issued to Governing Bodies)
- libraries
- day centres
- youth centres

The meaning of "enclosed" and "substantially enclosed" is explained in Appendix A.

4. SMOKE FREE VEHICLES

The regulations require enclosed vehicles to be smokefree at all times, if used by members of the public or a section of the public (whether or not for reward or hire), or in the course of paid or voluntary work by more than one person, even if those people use the vehicle at different times, or only intermittently.

Although employees' own vehicles are not covered by the regulations, any employees who carry service users or other employees in their vehicles must refrain from smoking while they have a passenger, and should refrain from smoking in the time before carrying a passenger. This will reduce the passenger's risk of exposure to smoke.

NO-SMOKING SIGNS

Section 6 of the Health Act places a legal duty on persons who occupy or manage smokefree premises to display no-smoking signs that meet certain requirements. Regulations also make similar legal duties for the display of no-smoking signs that meet requirements set out in regulations in smokefree vehicles. It is against the law to not display required no-smoking signs.

For premises, these must be located in a prominent position at each entrance. The signs must;

- be size A5 in area,
- display the international no-smoking symbol in colour, a minimum of 70mm in diameter

- carry the words in characters that can be easily read, “No smoking. It is against the law to smoke in these premises”.

For vehicles, it will be the duty of any person with management responsibilities for each smokefree vehicle to display a no-smoking sign in each enclosed compartment that can accommodate people. These no-smoking signs must display the international no-smoking symbol in colour, a minimum of 70mm in diameter.

The signs that must be provided can be found at Appendix B

5. EMPLOYEES VISITING DOMESTIC PREMISES OR PREMISES AND VEHICLES WHERE SMOKING IS ALLOWED

Many council employees visit domestic and other premises on a regular basis as part of their job. As domestic and some other premises are not covered by the regulations, there is still a risk that employees could be exposed to smoke during their work. We have a general duty to tell employees of the potential risk and measures they can take to reduce it.

Any service that employs staff to visit domestic premises must carry out an assessment and identify suitable control measures that reduce exposure to smoke, whilst continuing to provide a service. In some circumstances it may be necessary to discontinue a service if it is at the cost of the officer's health. In any case, the following measures should be considered:

- Where possible, providing the service in a council workplace, where smoking is banned
- Asking service users to refrain from smoking at home before and during visits (this can be a written or verbal request)
- Providing information to service users about the risks and the help available
- Empowering staff to refuse to continue the activity in an enclosed smoky environment and move to another area, where this is appropriate
- If employees are exposed to smoke in a place covered by Smoke free regulations (such as a workplace or other public place), inform the smoker that they may be committing an offence and that action can be taken by the enforcing authority
- Informing staff of the risks and of measures they can take to reduce exposure

In all cases, the importance of service delivery will have to be considered. For example, some of the council's work activities involve performing statutory functions, while others impact directly and immediately on people's safety and welfare. In these cases, a balance will need to be found between the needs of the service and precautions to avoid smoke. For this reason, individual services will be responsible for establishing and implementing precautions that are reasonable to their service. Advice will be available from the Health and Safety Unit in this process.

6. HEALTHY PROMOTION AND SUPPORT FOR EMPLOYEES

Barnet council is committed to helping and encouraging our employees to lead healthier lives. As part of this commitment we will continue to advertise the dangers of smoking in order to discourage it and will continue to promote cessation and facilitate smoking cessation workshops and support sessions for employees who wish to stop smoking.

The council also takes its health promotion and protection role in the community seriously and is keen to ensure that our clients, pupils and members of the public are not exposed to persons smoking on or in the vicinity of its premises.

The council's aim is to phase out smoking areas in the immediate vicinity of council premises and schools. In the meantime the council encourages services and schools to locate these in outside areas that are not clearly visible to the public, clients or young persons.

7. REFERENCES AND FURTHER INFORMATION

For further information, please visit the Smokefree England website at www.smokefreeengland.co.uk or call the Smokefree England Information Line on 0800 1691697.

DEFINITIONS AND EXEMPTIONS

1. ENCLOSED OR SUBSTANTIALLY ENCLOSED

Premises will be considered to be enclosed if they have a ceiling or roof and, except for doors, windows or passageways, are wholly enclosed, whether on a permanent or temporary basis. Premises will be considered to be substantially enclosed if they have a ceiling or roof, but there are permanent openings in the walls which are less than half of the total areas of walls, including other structures which serve the purpose of walls and constitute the perimeter of premises. When determining the area of an opening, no account can be taken of openings in which doors, windows or other fittings that can be open or shut. This is known as the 50% rule.

A roof includes any fixed or movable structures, such as canvas awnings. Tents, marquees or similar will also be classified as enclosed premises if they fall within the definition.

Exemptions

Applying to premises managed by the council. For a full list of exemptions, see the guidance on www.smokefreeengland.co.uk

2. VEHICLES

Vehicles required to be smokefree will not need to be smokefree when they are conveying persons if they have a removable or stowable roof during the time the roof is completely removed or stowed.

Vehicles will not be required to be smokefree if they are used primarily for the private purposes of a person who owns it, or has a right to use it which is not restricted to a particular journey.

3. RESIDENTIAL MENTAL HEALTH UNITS.

The regulations allow either for designated bedrooms to be not smokefree, or for designated rooms used only for smoking in mental health units that provide residential accommodation if they meet conditions set out in the regulations, including being designated in writing by the person in charge of the premises. Designated rooms are only for persons over the age of 18 years. This exemption is temporary, and will cease on 1 July 2008. After this date, all residential mental health units will be required to be smokefree in any enclosed parts.

4. PERFORMERS

Where the artistic integrity of a performance makes it appropriate for a person who is taking part in that performance to smoke, the regulations allow for parts of premises in which a person performs to be not smokefree in relation to that person only during the time of the performance.

NO SMOKING SIGNS

This is the sign that **must** be provided at every entrance to smokefree premises:



This is the sign that **must** be displayed in smokefree vehicles:



These and other signs are available to order or for download at www.smokefreeengland.co.uk.