

# Smoke Free Policy

Human Resources

**APPROVED BY**

Personnel  
Committee

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## 1. INTRODUCTION

This policy has been developed to protect all employees, service users, customers and visitors from exposure to second hand smoke. This ensures compliance with the Health Act 2006 which states that all enclosed and substantially enclosed workplaces and public places are legally required to be smoke free. In Wales, The Smoke Free Premises etc. (Wales) Regulations 2007 also makes provision concerning the prohibition of smoking in certain wholly or substantially enclosed public spaces.

Exposure to second hand smoke, also known as passive smoking, increases the risk of lung cancer, heart disease and other illnesses. Ventilation or separating smokers and non-smokers within the same airspace does not completely stop potentially dangerous exposure.

This policy has been amended to address e-cigarettes in the workplace. E-cigarette use does not meet the legal or clinical definitions of smoking. Furthermore, international peer-reviewed evidence suggests that e-cigarettes carry a fraction of the risk of cigarettes.

Some concerns have been expressed about the safety of e-cigarettes and there is evidence to show that they are a fire risk particularly when being re-charged. The Chief Fire Officers Association includes e-cigarettes in its wider advice on rechargeable devices.

In addition to concerns about safety, there is also continuing controversy about the potential for the widespread use of vaping to normalise other smoking behaviours, reversing public health gains achieved as a result of banning tobacco smoking in public places.

**Whilst acknowledging the above, this Policy applies to employees who smoke cigarettes and to those who use e-cigarettes.**

## 2. AIMS OF THE POLICY

It is the policy of Neath Port Talbot County Borough Council (NPTCBC) that all of the workplaces owned or managed by the Council and other enclosed places owned or managed by the Council to which employees and the public have access are smoke free and that all employees have a right to work in a smoke free environment.

## 3. DEFINITIONS

**Smoking:** is defined as smoking or being in possession of a lit substance such as

tobacco or any other substance that may be smoked

**Electronic Cigarettes:** E-cigarettes, personal vaporizers (PV's) and electronic nicotine delivery systems (ENDS) are battery operated devices that mimic tobacco smoking and are often used as a replacement for cigarettes

**Enclosed premises:** premises will be considered to be enclosed if they have a ceiling and a roof and, except for door and windows, are wholly enclosed, whether on a permanent or temporary basis.

**Substantially enclosed premises:** premises will be considered to be substantially enclosed if they have a ceiling and a roof, but there are openings in the walls which are less than half of the total area of walls, including other structures which serve the purpose of walls and constitute the perimeter of the premises. When determining the area of an opening, no account can be taken of openings in which doors, windows, or other fittings can be opened or shut. The term 'roof' includes any fixed or movable structure or device which is capable of covering all or part of the premises as a roof.

#### 4. ROLES AND RESPONSIBILITY

##### **Chief Executive/ Corporate Directors**

Overall responsibility for the implementation of the policy rests with the Chief Executive and Corporate Directors.

##### **Heads of Service**

Heads of Service will be responsible for ensuring that the health and safety arrangements are developed and implemented to satisfy the requirements of this policy. It is a key responsibility of Heads of Service to ensure that where officers have specific responsibilities for securing compliance with the legislation and this policy, that these duties are clearly notified to the officers concerned.

##### **Governing Bodies of Schools Maintained by NPTCBC**

There is a shared responsibility for health, safety and welfare between the Council, Governing Body and Head teacher.

##### **Managers / Team Leaders / Head teachers**

Each Manager, Team Leader and Head teacher will ensure that procedures/instructions relating to this Policy are implemented within their section.

##### **Corporate Health and Safety Section/ Occupational Health Unit**

The Corporate Health and Safety Section and the Occupational Health Unit will provide advice and guidance in relation to this policy.

### **Human Resources**

Human Resources Officers will provide advice and guidance in relation to employment issues resulting from this policy.

### **Environmental Health Section**

Responsibility for enforcement of the legislation will rest with the Council's Environmental Health Section.

### **Employees**

Employees are responsible for compliance with this policy.

## **5. LEGAL IMPLICATIONS**

### **5.1 Premises covered by this policy**

Smoking is prohibited throughout the premises owned, occupied or managed by the Council, including schools. Smoking by employees, agency workers and contractors is also prohibited at, and in the vicinity of, the entrances to buildings owned, occupied or managed by the Council, and also **within a ten metre radius of any such building.**

### **5.2 Local Authority owned/run schools sites**

Smoking / using e-cigarettes is not permitted in school premises or on school grounds, including playing fields and car parks under the control of the school, or is managed as part of the school.

### **5.3 Other areas frequented by young people or families**

Employees of NPTCBC who work with, or near, children and young persons as part of their employment, must refrain from smoking/using e-cigarettes in sight of and in the vicinity of such individuals whilst engaging in work related activities. Smoking in these circumstances can have the potential to "normalise" smoking / use of e-cigarettes, which may have a subsequent negative influence on the behaviour of these young people with a greater likelihood of them trying tobacco products.

### **5.4 Exemptions**

#### **Private Accommodation**

Private dwellings are exempt from the regulations. However, smoking is NOT

permitted in any part of a private dwelling that is shared with other premises (including other private dwellings) if they are open to the public or are used as places of work.

Smoking is NOT permitted in parts of a private dwelling used as a place of work UNLESS only the occupier works there and no-one visits them in connection with work.

Where smoking is subject to a ban, its effect is permanent and not just for the period of any visit.

The regulations do not apply to work that is undertaken in any part of a private dwelling if it is undertaken for the following purposes:

- To provide personal or health care for a person living in a dwelling;
- To assist with the domestic work of the household of the dwelling;
- To maintain the structure or fabric of the dwelling;
- To install, inspect, maintain or remove any service provided to the dwelling for the benefit of persons living in it.

This means that the householder can smoke in their house and therefore expose the visiting worker to smoke. It is widespread knowledge that second hand smoke is harmful, and whilst there is a consensus that e-cigarettes are safer than normal cigarettes, as an employer, we must consider the long-term effects that are yet to be determined.

It is the policy of NPTCBC to support any employee who requests that a householder provides a smoke free environment (including the use of e-cigarettes) for the duration of their visit.

### **Residential Accommodation**

Under the regulations, designated rooms that are used for accommodation for persons 18 years and over will be permitted to be not smoke free in care homes as defined in the Care Standards Act 2000. Designated rooms must comply with certain conditions and should be used solely for smoking:

- Rooms that are smoking permitted must be designated in writing and signed by the person in charge of the premises.
- Rooms designated for smoking must be clearly marked as a room where smoking is permitted.
- Rooms designated for smoking must not have any door which opens on to smoke-free parts that is not mechanically closed immediately after use.
- Residents and their guests will be permitted to smoke in designated rooms.

Employees will not be permitted to smoke in the premises.

- The designated smoking room in residential accommodation must be used solely for smoking and not used as a communal recreation area or television room.

## **5.5 Vehicles**

All Council owned vehicles are to be smoke free. Smoking (and the use of electronic cigarettes) is prohibited in all Council vehicles, whether owned or “hired”. Vehicles required to be smoke free must display no smoking signs in accordance with the regulations. Relevant persons are responsible for ensuring compliance. The regulations define a relevant person as the vehicle operator, driver and any person on a vehicle who is responsible for order or safety on it.

This policy does not apply to private vehicles. However, employees should not smoke (or use an electronic cigarette whilst driving) in a private car on a business journey, when accompanied by other employees or clients.

## **5.6 Signage at premises**

No smoking signs will be clearly displayed in prominent positions at the entrance to each smoke free building and in all Council vehicles. Officers with responsibility for signage will be informed of this by the appropriate Head of Service. A ‘No Smoking’ sign in premises must:

- Be flat and rectangular and at least 160mm by 230mm in size.
- Display the international ‘No Smoking’ symbol in red, at least 85mm in diameter.
- Contain the following bilingual statement: ‘Mae ysmygu yn y fangre hon yn erbyn y gyfraith/It is against the law to smoke in these premises.’

Free premises signage can be obtained from Environmental Health on 01639 685678.

## **5.4 Signage in vehicles**

No smoking signs in vehicles must be placed in a prominent position in each compartment of the vehicle which is wholly or partly covered by a roof, including the driver’s compartment.

A ‘No Smoking’ sign in a vehicle must display the international ‘No Smoking’ symbol in red, at least 75mm in diameter. There are no requirements relating to the overall size or wording of the notice.

Free vehicle signage can be obtained from Environmental Health on 01639 685678.

## **5.5 Non compliance**

The Disciplinary Policy and Procedure will be initiated if an employee does not comply with this policy and/or is in breach of the legislation during the course of their duties.

The Environmental Health department is responsible for the enforcement of the provisions of the Smoke Free Legislation under the Health Act 2006 and the Smoke free Premises etc. (Wales) Regulations 2007. Summary of offences are:

- Person who occupies or is concerned in the management of smoke-free premises or (or the relevant person in relation to a smoke-free vehicle) fails to ensure that no-smoking signs are displayed in accordance with the requirements of the 2007 Regulations (**Fixed penalty notice £200 or £3,000 maximum fine**).
- Person smokes in smoke free place or vehicle (**Fixed penalty notice £50 or £200 maximum fine**).
- Person in control or concerned in the management of smoke free premises (or the relevant person in relation to a smoke-free vehicle) fails to cause a person smoking there to stop smoking (**£2,500 maximum fine**).

## 6. E-CIGARETTES

E-cigarettes fall outside the scope of smoke free legislation as the act requires a substance to be burned, while there is a consensus that e-cigarettes are safer, as an employer however we must consider the long-term effects which are yet to be determined.

NPTCBC takes a positive view on the use of e-cigarettes as an effective harm minimisation strategy for people who smoke: e-cigarettes may help them to move away from using harmful burnt tobacco products towards a cleaner form of nicotine delivery, and can help support cutting down and quitting altogether.

We understand that the vapours created by e-cigarettes may also create an unpleasant environment for non-smokers. Whilst smoking is prohibited throughout the premises owned, occupied or managed by the Council, including schools, the use of e-cigarettes will be permitted in the vicinity of, the entrances to buildings owned, occupied or managed by the Council, except for schools (see 5.2 & 5.3). However e-cigarette users in such areas must have consideration for others who may not wish to be exposed to such vapours, and ensure that there is a thoroughfare free from vapour particularly at access and egress points to buildings. E-cigarette users must also be mindful of nearby openings to buildings, such as doors, windows and ventilation vents, which may provide a route for the vapour to enter the building.

The charging of e-cigarettes and related products will not be permitted within the workplace.

As new evidence emerges about e-cigarettes NPTCBC will review this position



## **7. HELP TO STOP SMOKING**

In the interests of promoting better health and well-being, the Council's Occupational Health Unit is available to provide advice and guidance for those employees who wish to stop smoking or alternatively employees can contact Stop Smoking Wales on 0800 085 2219. The Stop Smoking Wales service is easy to access, and trained staffs are available to offer guidance, advice on how to quit, information on nicotine replacement therapy as well as free access to regular support.

The use of electronic cigarettes may be reviewed pending definitive guidance from Stop Smoking Wales and/or regulation.

Additionally, the Council will provide smoking cessation classes/support from time to time. Such attendance, subject to approval by the employee's manager, will be with pay.

## **8. SMOKING/ E-CIGARETTE BREAKS**

The Council wishes to encourage and support all employees who are smokers to stop smoking. However, it is recognised that this will not be achieved overnight. Consequently, smoking / e-cigarette breaks will be permitted, but only where this has no adverse impact upon service delivery and also conditional upon smoking / e-cigarette breaks taking place in an employee's own time.

Participants in the Council's flexitime scheme must always "clock out". Core time "clocking out" is not permitted.

Line managers are responsible for regulating the frequency and duration of any smoking / e-cigarette breaks taken.

## **9. REVIEW**

The implementation of this policy will be the subject of periodic review or as new evidence emerges about e-cigarettes.