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# Smoke Free

## Policy and Procedure

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# Policy

## 1 AIM

- 1.1 The Council recognises its responsibility under the Management of Health and Safety at Work Regulations 1999 to identify people particularly at risk from workplace hazards. This responsibility includes tobacco smoke in the workplace and the health risk created from exposure to second hand smoke. In addition, Section 2(2) (e) of the Health and Safety at Work Act 1974 places a duty on all employers to provide a working environment that is *'safe, without risk to health, and adequate as regards facilities and arrangements for their welfare at work.'*
- 1.2 Passive smoking causes cancer, coronary heart disease and respiratory disease, as well as a number of conditions including asthma, middle ear infections and migraine. Smoking poses a fire hazard to Council premises, and also has cost implications in relation to the cleaning up of cigarette butts and other related litter.
- 1.3 Electronic cigarettes, which are designed to simulate the act of smoking, release nicotine but do not contain tobacco. The Council's position on the use of electronic cigarettes is that given *their* likeness to cigarettes, the use of e-cigarettes can cause concern amongst other staff members and residents and for the purposes of this policy they will be treated like cigarettes e.g. they must not be used on council sites and property.
- 1.4 The Council's Smoke-Free Procedure aims to protect non-smokers from second hand smoke and is not designed to punish smokers, as such. However, breaches of the procedure will be dealt with under the Council's Discipline Procedure. While it is hoped that the procedure will assist smokers to quit, the focus is not on whether people smoke, but where and when people smoke and the effect of second hand smoke.

### Scope

- 1.5 This policy applies to all staff without exception, including employees, managers, Senior Management, contractors, apprentices, homeworkers, part-time and fixed-term employees, and agency staff. It also applies to third parties who have access to the Council's premises (such as consultants, contractors, customers and visitors).
- 1.6 This policy does not form part of any employee's contract of employment and may be amended at any time.

## 2. IMPLEMENTATION AND MONITORING

- 2.1 Human Resources have overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework.
- 2.2 The manager has a specific responsibility to ensure the fair application of this policy.
- 2.3 The Council will offer reasonable support to enable employees to quit smoking.

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# Procedure

## 3. AIM

- 3.1 The Council is committed to protecting the health, safety and welfare of its employees, and that of all those who work for it or are provided with a service by it, by providing a safe place of work and protecting all workers, service users, customers and visitors from exposure to smoke.

### Scope

- 3.2 This procedure applies to all staff without exception, including employees, Managers, Senior Management, contractors, apprentices, homeworkers, part-time and fixed-term employees, and agency staff. It also applies to third parties who have access to the Council's premises (such as consultants, contractors, customers and visitors).
- 3.3 This procedure does not form part of any employee's contract of employment and may be amended at any time.

## 4. WHERE SMOKING IS BANNED

### Premises and Grounds

- 4.1 Smoking is not permitted anywhere on Council premises or grounds. The ban applies to anything that can be smoked and includes, but is not limited to, cigarettes, electronic cigarettes\*, pipes (including water pipes such as shisha and hookah pipes), cigars and herbal cigarettes.

\*Given their likeness to cigarettes, the use of e-cigarettes can cause concern amongst other staff members and residents and for the purposes of this policy they will be treated like cigarettes e.g. they must not be used on council sites and property.

- 4.2 Further, employees must not smoke anywhere in public view whilst in a uniform that displays the Council identification logo, or whilst wearing Council identity badges whereby they could be identified as a Council worker, other than when the employee is travelling to, or from work.
- 4.3 No-smoking signs are displayed at the entrances to Council premises.

### Council Vehicles

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- 4.4 Anyone using Council vehicles, whether as a driver or passenger, must ensure the vehicles remain smoke-free. A pool vehicle that is available for general use is required to be smoke free at all times.

Note: Any private vehicle that is used primarily for private purposes is excluded from the smoking ban (except as outlined in this procedure). However employees are reminded that drivers of private cars in England are banned from smoking in them if they are carrying children under 18 as passengers.

## Homeworkers

- 4.5 In relation to homeworkers, if more than one person (who does not live at that dwelling) uses any part of a private dwelling solely as a place of work, then that part must be smoke-free.

## 5. WHERE AND WHEN SMOKING IS PERMITTED

- 5.1 Smoking is only permitted outside during breaks (see paragraphs 3.2, 3.3 and 3.4 below). Cigarette butts must be disposed of and other litter placed in the receptacles provided. Smoking must not take place in close proximity to any Council building (insert link to Smoke Free Zone maps).
- 5.2 Employees may smoke during a lunch break or in their own private vehicles whilst not on duty, providing they are not identifiable as Council employees and they do not do so on Council premises or grounds or within close proximity to a Council building.
- 5.3 The Council wants to ensure that employees do have normal working breaks away from their work area for a rest or refreshment. However, any breaks other than a lunch break should normally not entail leaving the place of work.
- 5.4 Smoking breaks are not permitted. Employees may not leave the buildings in which they work for the purpose of smoking during working hours other than during an authorised lunch break.

## 6. HOME VISITS

- 6.1 Employees making home visits should be provided a smoke-free environment to work in. All clients will be encouraged to refrain from smoking until the visit is over. Employees are able to refuse to enter a home while a client is smoking. They should report it to their manager at the earliest opportunity.
- 6.2 Employees visiting clients' premises in the event of an emergency are not, in such exceptional circumstances, expected to refuse to enter a home if someone is smoking. It is anticipated that these circumstances will be rare and need to be reported back to the manager.

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## 7. CLIENT EXCEPTIONS

7.1 Groups of clients will not be exempt from this procedure except in exceptional circumstances. In certain circumstances clients may be granted an exception from the procedure. Exceptions will only be made on a case-by-case basis, taking account of circumstances, and is likely to include clients who are:

- In a dangerously heightened state.
- Unable to understand the procedure (e.g. cognitively impaired).

## 8. DIFFICULT CLIENTS, VISITORS OR CONTRACTORS

8.1 A zero tolerance approach will be applied to any clients, visitors or contractors (including agency temps) who become abusive when informed or reminded of the procedure.

## 9. RESPONSIBILITIES

### Managers

9.1 Managers will:

- Be responsible for ensuring the Council meets its legal obligations and duties in relation to maintaining a smoke-free working environment.
- Undertake appropriate and necessary action to protect non-smokers from breathing second hand smoke.
- Advise employees of smoking cessation options and ensure that they are aware and comply with the Council's Smoke-Free Procedure.
- Include monitoring of the procedure in health and safety inspections and management assessments.

### Employees

9.2 Employees will:

- Take reasonable care for the health and safety of themselves and of others who may be affected by their acts or omissions at work.
- Co-operate and comply with the Smoke-Free Procedure and with any arrangements introduced/actions taken to protect non-smokers in the workplace.

9.3 Signs and/or notices shall be posted in relevant areas in Council premises advising employees and the public of the Smoke-Free Policy and Smoke-Free Procedure. Managers responsible for letting premises will encourage users to refrain from

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smoking by erecting signs on these premises requesting users not to smoke and explain the Council's policy and procedure.

## **10. BREACHES OF THIS PROCEDURE**

- 10.1 NHS Stop Smoking service is available to employees to give opportunities for smokers to quit. Any smoker on Council premises and/or in breach of this policy/procedure will receive an informal warning or, if they agree, as an alternative a referral to the local stop smoking service in the first instance which they will be expected to attend at the earliest opportunity. If, after they have agreed to attend, they do not participate in the programme without good reason, the informal warning may be reinstated.

A further breach of this procedure by an employee will be dealt with under the Council's formal Discipline Procedure and, in serious cases of further breaches, may be treated as gross misconduct leading to summary dismissal.

- 10.2 Smoking in smoke-free premises or vehicles is also a criminal offence and may result in a fixed penalty fine and/or prosecution.

## **11. ASSISTANCE TO QUIT SMOKING**

The Council will support employees who require help in giving up smoking. Employees who wish to give up smoking will be able to attend stop smoking sessions. If access to stop smoking sessions is required during working time, time off (up to six sessions) should be supported by their manager.

## **12. IMPLEMENTATION**

- 12.1 Employees are encouraged to make any clients, contractors (including agency temps) or visitors aware of the Smoke-Free Policy and Smoke-Free Procedure. However, they should not put themselves at risk of physical or verbal abuse in doing so. Employees will not be disciplined for failing to inform contractors (including agency workers) or visitors of the policy and/or procedure, though they should report any incident or breach to their manager at the earliest opportunity.
- 12.2 Employees must be supported if they report any breaches of the procedure to the manager, who will be responsible for dealing with the breach.

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## Additional Guidance

### 13. AIM

- 13.1 This guidance is designed to aid managers, employees, staff and third parties and should be read in conjunction with the Council's Smoke-Free Policy and Smoke-Free Procedure.

#### Scope

- 13.2 This guidance applies to all staff without exception, including employees, managers, Senior Management, contractors, apprentices, homeworkers, part-time and fixed-term employees, and agency staff. It also applies to third parties who have access to the Council's premises (such as consultants, contractors, customers and visitors).
- 13.3 This guidance does not form part of any employee's contract of employment and may be amended at any time.

### 14. SCOPE OF THE SMOKING BAN UNDER THE HEALTH ACT 2006

- 14.1 Smoking in enclosed or substantially enclosed public places and workplaces in England has been prohibited since 1 July 2007
- 14.2 The ban on smoking applies to all substances which a person can smoke, including manufactured and hand-rolled cigarettes, pipes (including water pipes such as shisha and hookah pipes), cigars and herbal cigarettes. A person in possession of a lit cigarette (or other such substance) is deemed to be "smoking" whether or not they inhale. Smoking is banned in premises:
- Used as a place of work (including voluntary work) by more than one person, even if those who work there do so at different times, or only intermittently. The smoking ban applies at all times.
  - Used as a place of work (including voluntary work) where members of the public, or a section of the public, might attend for the purpose of seeking or receiving goods or services from those working there, even if members of the public are not always present. These premises must be smoke-free at all times.
  - Open to the public, whether by invitation or not, and whether upon payment or not. The smoking ban applies only while the premises are open to the public, unless they are also a workplace.

#### Electronic Cigarettes

- 14.3 Electronic cigarettes, which are designed to simulate the act of smoking, release nicotine but do not contain tobacco. The Council's position on the use of electronic cigarettes is that due to the likeness cigarettes is that given *their* likeness to



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cigarettes, the use of e-cigarettes can cause concern amongst other staff members and residents and for the purposes of this policy they will be treated like cigarettes e.g. they must not be used on council sites and property.

## **15. WHERE SMOKING IS BANNED**

15.1 Smoking is banned on Council premises and grounds. An illustrative list is shown below (this is not exhaustive):

- Any office or workplace;
- Any temporary structures, whether sited on or off Council premises provided for work;
- Any common areas, including corridors, stairs, lifts, storage areas, toilets and wash/changing rooms;
- Any meeting/conference rooms;
- Any reception/waiting areas;
- Any rest areas and rest rooms provided for employee breaks/comfort;
- Any entrances, exits or within the close proximity of Council premises, (in public view or in the open air);
- Any car parks;
- Any parks;
- Any Council vehicles;
- In public view whilst wearing Council identity badges or uniform displaying the Council logo.

15.2 The aim of the smoke free zones outside Council premises is to create a reasonable smoke-free environment around Council buildings in order that:

- The Council can lead by example in encouraging smoking cessation;
- The Council's reputation is protected; and
- Users of buildings are not forced to walk through second hand smoke to work or gain access to LBS services.

15.3 Managers need to ensure that employees or groups of staff are not congregating in close proximity to Council buildings thereby undermining the Council's reputation and inconveniencing users of those buildings with the effect of second hand smoke and tobacco related litter.

## **16. LEGAL PENALTIES AND ENFORCEMENT**

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- 16.1 An employer that is found guilty of failing to prevent smoking in smoke-free premises or vehicles will be liable to a fine of up to £2,500. An employer that fails to display no-smoking signs could be liable to a fixed penalty of up to £200, discounted to £150 if paid within 15 days, or a fine not exceeding £1,000. An individual found guilty of smoking in smoke-free premises or a smoke-free vehicle will be liable to a fixed penalty of £50 (discounted to £30 if paid within 15 days) or a fine of up to £200.

Note, however, that in future (commencement date not yet known) such fines will be uncapped.

#### **DATE OF IMPLEMENTATION**

With effect from: April 2016