



## **SMOKE FREE POLICY**

|                                    |                                       |
|------------------------------------|---------------------------------------|
| <b>Title</b>                       | Smoke Free Policy                     |
| <b>Who should use this</b>         | All Staff                             |
| <b>Author</b>                      | SAC Corporate Safety/Adapted for AVJB |
| <b>Approved by Management Team</b> |                                       |
| <b>Approved by Joint Board</b>     | March 2006                            |
| <b>Reviewer</b>                    | <b>PA &amp; Office Manager</b>        |
| <b>Review Date</b>                 | <b>2019</b>                           |

### Review History

| REVIEW NO. | DETAILS  | RELEASE DATE |
|------------|--|--------------|
| 1          | Reviewed against SAC Policy. No changes to SAC policy. | MARCH 2016   |
| 2          | Updated to reflect reference to e-cigarettes.          | AUGUST 2017  |
| 3          |  |              |
| 4          |  |              |
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## Introduction

The Scottish Parliament has passed legislation to protect the people in Scotland from the harmful effects of passive smoking. The Scientific Committee on Tobacco and Health reviewed the evidence on passive smoking in 2004 and found it to be a serious public health hazard – increasing the risk of lung cancer, heart disease and respiratory illness in adults, and causing a variety of conditions in children. Ventilation or separating smokers and non-smokers within the same airspace does not stop potentially dangerous exposure.

Following the introduction of the Smoking, Health and Social Care (Scotland) Act 2005 it became a legal requirement for Scottish employers to ban smoking in public places from 26 March 2006. Similar changes took effect for workplaces in England on 1 July 2007. Workplaces in Northern Ireland were covered by a smoking ban from 30 April 2007.

## Definition of Smoking

This policy covers all cigarette smoking including e-cigarettes<sup>1</sup>, non-tobacco cigarettes and loose non-tobacco smoking materials or indeed any substance that is capable of being smoked which results in the emission of smoke and fumes into the atmosphere. A person is considered to be smoking when they are using an e-cigarette, holding or are otherwise in possession or control of lit tobacco, or any lit substance or mixture which includes tobacco or of any other lit substance or mixture which is in a form or in a receptacle in which it can be smoked.

This policy sets out to protect the individual from the harmful effects of smoking. It is the dangers of smoking to health rather than a problem with smokers that is the issue.

### **‘No-Smoking’ premises are defined as:**

*‘those which are wholly or substantially enclosed and to which the public or a section of the public has access; which are being used wholly or mainly as a place of work by persons who are employees; which are being used by and for the purpose of a club or other unincorporated association; or which are being used wholly or mainly for the provision of education, health or care services.’*

### **Wholly or substantially enclosed means:**

*if it has a ceiling or roof and, except for doors, windows or passageways is wholly enclosed, whether permanently or temporarily, or if it has an opening which is less than half the area of its walls.*

### **There are three different types of smoke:**

|   |  |
|---|--|
| <i>Mainstream smoke</i>                                       | <i>smoke inhaled and exhaled by the smoker.</i>                          |
| <i>Side stream smoke</i>                                      | <i>the smoke that comes from the lit end of a cigarette.</i>             |
| <i>Second-hand smoke or Environmental Tobacco Smoke (ETS)</i> | <i>this is made up of exhaled mainstream smoke and sidestream smoke.</i> |

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<sup>1</sup> Electronic cigarettes (‘e-cigarettes’) are battery-powered products that release a vapour that contains liquid nicotine that is inhaled by the user. E-cigarettes fall outside the scope of the smoke-free legislation. Section 1 of the Health Act 2006 defines “smoking” as “smoking tobacco or anything which contains tobacco, or smoking any other substance”, and states that “smoking includes being in possession of lit tobacco or of anything lit which contains tobacco, or being in possession of any other lit substance in a form in which it could be smoked”. The British Medical Association believes that existing smoke-free legislation should be extended to e-cigarettes since there is a lack of evidence on the health risks they pose to the user and to those in close proximity.

In addition to the Legislation everyone has a right to breathe fresh air and no one should be exposed involuntarily to the dangers of Environmental Tobacco Smoke (ETS). More than 13,000 people die in Scotland each year as a result of tobacco smoking. That is the equivalent of 250 each week or 35 people per day. Smoking causes 9 out of 10 lung cancers. In addition nearly 1,000 people die in Scotland each year as a result of passive smoking. Long-term exposure to passive smoking increases the risk of lung cancer by 20% - 30%. There is no safe level of exposure to second hand smoke. Ventilation systems may improve an individual's comfort but they do not eliminate the health risk associated with second hand smoke.

**Four new offences were created under this Act.**

1. It is an offence to smoke in 'No-Smoking' premises
2. It is an offence to permit others to smoke in 'No-Smoking' premises.
3. It is an offence not to display appropriate signage.
4. It is an offence not to co-operate with the Enforcing Officers, such as not giving name and address or failing to pay the fine.

In addition to the new Act the Health & Safety at Work Act 1974 still applies along with other relevant Legislation relating to health, safety and welfare of employees.

## **Policy**

Ayrshire Valuation Joint Board is committed to a 'Smoke-Free' policy in order to comply with the law and protect individuals from tobacco-induced ill health and consequently smoking is prohibited throughout the entire workplace. The Board recognises that such a policy could cause significant problems for those employees who smoke, and has accordingly introduced additional support to those who wish to stop smoking.

The Board recognises the health issues connected with smoking not only for the smokers themselves but also for non-smokers who are exposed to the smoke.

This policy will be monitored by a designated person to ensure fair and equitable treatment irrespective of age, ethnic origin, race or gender.

## **Who the Policy Covers**

All employees of Ayrshire Valuation Joint Board and associated personnel are covered by this Policy:

- full time employees
- visitors to Board premises
- members of the public
- part time employees
- contractors
- delivery personnel
- temporary staff anyone undertaking work experience/work placement

## What the Policy Covers

Under the new legislation on wholly or substantially enclosed premises this policy will be applied to Board premises. This includes private vehicles when used on Board business. If an employee feels that they are exposed to environmental tobacco smoke in the course of their duties then they may report this to their line manager.

## Details of Policy

- Persons are not permitted to smoke in Board premises.
- Persons should refrain from smoking near doorways and public entrances of the Board. This means that smoking is prohibited within the curtilage of Board buildings including the land immediately surrounding the building and including the pavement areas.
- Certain external areas will also be considered to be smoke free where they are recognised as areas of Council property frequented and used by children and young people such as school playgrounds as this detracts from the ethos of a 'No-Smoking' environment.
- All visitors, contractors or delivery personnel are not permitted to smoke in Board premises. This fact should also be made clear in any terms of contract set up by the Board with contractors.

It remains the duty of Ayrshire Valuation Joint Board to protect individuals against the harmful effects of smoking in the workplace. The Board is not obliged to provide smoking shelters or other designated smoking areas and consequently no provision has been made for such.

## Implementation of Policy

The Smoking Policy became operational on 26 March 2006 when the new Smoking, Health and Social Care (Scotland) Act 2005 came into force. All employees are made aware of the terms of the Policy by various means including SAC ReWired, SharePoint and signage. In order for managers to be fully aware of their responsibilities in the enforcement of the Policy guidance and training is available from SAC Organisational Development to assist them with Policy implementation. Awareness raising can be provided in the form of informal briefing sessions, guidelines in induction packs and informal training. A Smoke Free Policy slideshow is also available on SAC Re-Wired in PowerPoint format to provide employees with the essential points of the Policy.

## Private Vehicles on Board Business

The Regulations include in the list of 'No-Smoking' premises, 'vehicles which one or more persons use for work' and therefore it should also be noted that it is Board policy that private vehicles used on Board business should also be considered as smoke-free areas.

## Schools and Playgrounds

Although school playgrounds do not come into the category of '*wholly or substantially enclosed spaces*' it is nevertheless within the spirit of the legislation to ensure that any Council facility used by children and young people be given a smoke free status to encourage the benefits of a healthy environment and to demonstrate a responsible health leadership role towards the young.

Consequently all school buildings and their associated outdoor play areas are considered as 'No-Smoking' areas and Board employees should be aware of the three Councils Policies in addition to the Board Policy when visiting such locations in the course of their work.

## Board Employees in Public Places

Board employees are only permitted to smoke in designated, approved breaks, and should not smoke outdoors whilst engaged in what is identifiable as Board business, or whilst working in a public area and wearing a Board badged outfit that would identify them as Board employees.

## Smoking Cessation

The Board is committed to providing education and information for all employees on smoking issues including assistance for those who wish to stop smoking. The benefits of stopping smoking include a direct benefit to the overall health of the individual as their risk of developing tobacco related diseases reduces. Occupational Health can provide additional information and advice in support of this.

Staff are encouraged to pursue the various organisations and facilities that are widely available to provide cessation services.

**Further help for those who wish to stop smoking can be obtained from:**

| Organisation        | Address   | Telephone / Web   |
|---------------------|---|---|
| Occupational Health | 12 Bath Place<br>Ayr                                    | Tel: 01292 612139   |
| Fresh Air-Shire     |   | Tel: 0800 783 9132<br>Email: <a href="mailto:FreshAir-shire@aapct.scot.nhs.uk">FreshAir-shire@aapct.scot.nhs.uk</a>   |
| Smokeline Scotland  |   | Tel: 0800 84 84 84<br>(between 8am and 10pm, 7 days a week)<br>Email: <a href="mailto:smokeline@nhs24.scot.nhs.uk">smokeline@nhs24.scot.nhs.uk</a>  |
| ASH                 | ASH Scotland<br>8 Frederick Street<br>Edinburgh EH2 2HB | Tel: 0131 225 4725<br>Fax: 0131 225 4759<br><br><a href="http://www.ashscotland.org.uk">www.ashscotland.org.uk</a><br>Email: <a href="mailto:ashscotland@ashscotland.org.uk">ashscotland@ashscotland.org.uk</a> |
| Asthma UK           | Asthma UK<br>18 Mansell Street<br>London E1 8AA         | Asthma UK Advice line: 0300 222 5800<br><br><a href="http://www.asthma.org.uk">www.asthma.org.uk</a><br>Email: <a href="mailto:info@asthma.org.uk">info@asthma.org.uk</a>                                       |

## Breaches of the Policy

The Board's disciplinary procedures should be followed if a member of staff does not comply with this Policy.

- Any member of staff found breaching the Legislation or the Board's Smoke Free Policy will be subject to disciplinary action in accordance with the Board's existing disciplinary procedures.
- Staff should be advised that breaching the policy is effectively breaking the law and makes not only themselves liable for prosecution but also the Board as their employer.
- In the first instance draw the person's attention to the 'No-Smoking' signs and remind them that they are committing an offence.
- Advise the offender that by continuing to smoke they are causing the owner/ manager to commit an offence by allowing them to continue smoking.
- Failure to comply with the law is a criminal offence. Individuals may be fined a fixed penalty of £50 imposed by the South Ayrshire Council's Environmental Health Officers for smoking in 'No-Smoking' premises. The manager or person in control of any 'No-Smoking' premises could be fined a fixed penalty of £200 for either:
  - Allowing others to smoke in 'No-Smoking' premises
  - Failing to display warning notices in 'No-Smoking' premises
- Refusal to pay or failure to pay may result in prosecution and a fine of up to £2,500.

## Duty Holders

The Assessor is ultimately responsible for the effective implementation of this policy.

Line Managers are responsible for ensuring that the Policy operates effectively within their area of responsibility and any disciplinary action that may be required is carried out appropriately. The Assessor should appear on the No-Smoking notice as the responsible contact person in the event of a complaint. The Assessor must also ensure that a log is maintained of all incidents of non-compliance and the measures that were taken to deal with the matter and the outcome. See sample Incident Log sheet at the end of this Policy.

Managers should ensure that appropriate signage is prominently displayed at the main entrances of the premises and in any additional areas where they deem it appropriate.

Employees are all required to comply fully with the terms of the Policy in a responsible manner.

## Requirements within Premises

In order to comply with the requirements of the legislation the following requirements are recommended as minimum requirements:

- Display the required 'No-Smoking' signs in such a way that staff, customers and all visitors are fully aware that they must comply with the new smoking law. The signs should be at least 230 mm by 160 mm in size and should display the international 'No-Smoking' symbol at least 85 mm in diameter. They should also state that the premises are no-smoking premises and that it is an offence to smoke or permit smoking there. In addition they should also display the job title of the person to whom a complaint may be made by anyone who observes someone smoking.
- Remove all ashtrays.
- Ensure that all personnel are fully aware of the terms of the Board's Smoke Free Policy and that any infringements are dealt with under the agreed procedures.
- Inform anyone smoking on Board premises that they are committing an offence and that in so doing they are causing the premises manager to commit an offence.
- Request that they extinguish their smoking material immediately or else leave the premises.
- Refuse South Ayrshire Council services where appropriate to individuals who are smoking against the law whilst on Board premises.



A supply of appropriate signage is obtainable from Environmental Health, Burns House, Ayr.



# Smoke Free Policy Non Compliance Record

Property: \_\_\_\_\_

Person Responsible: \_\_\_\_\_

| Date | Name of offender | Details of Incident | Action Taken & Outcome |
|------|------------------|---------------------|------------------------|
|      |                  |                     |                        |
|      |                  |                     |                        |
|      |                  |                     |                        |
|      |                  |                     |                        |
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## References

1. Smoke Free Scotland, Guidance on smoking policies for the NHS, local authorities and care service providers. Dec-2005
2. Smoking, Health and Social Care (Scotland) Act 2005
3. The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006-01-18
4. Smoking in the Workplace (Nov 2001) ASH
5. Passive Smoking: A summary of the evidence (Nov 2002)
6. Smoking in Workplaces and public places, Fact sheet No: 14, ASH March 2005
7. Second-hand Smoke, Fact Sheet No: 8 ASH, March 2005
8. British Medical Association – [e-Cigarettes in Public Places and Workplaces](#)