

Producing a Smoke Free Workplace Policy

A Guidance document



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Introduction

From **6a.m. on Sunday 1 July 2007**, virtually all workplaces and substantially enclosed public areas in England will become smokefree by law. This will mean that places of work such as factories and offices, shops, public and government buildings, schools, bars, restaurants, clubs, hospitals, public transport and many others will be required to be smoke free. However, there is nothing to stop employers from going smoke free before this deadline, and there are many good reasons to do so.

For example, all workplaces are covered by existing Health and Safety and Employment legislation. This means that every employer has a 'duty of care' to their employees, requiring them to do everything reasonably practicable to protect workers from harm.

The medical and scientific evidence of the risks to health from exposure to secondhand smoke is incontrovertible. The exposure of non smokers to secondhand smoke in the workplace could mean that legal action may be instigated. Employers now have no reason not to know about the hazard of secondhand smoke, given the extensive publicity around the smoke free legislation of the Health Act 2006 and the publication of reports from the Government's Scientific Committee on Tobacco and Health and media coverage of this important topic.

A smoke free workplace policy, though not required by law will provide your workplace, employees, customers and visitors with clarity and demonstrates good practice. It should be based on health and safety principles and following full consultation with employees and their trade union representatives, should meet the following criteria:-

Requirements of a smoke free policy

1. A period of notice to be given to workers and customers of changes to existing policy on smoking in the workplace due to the forthcoming smokefree legislation.
2. Where changes to employees' contracts are made, this will only occur after consultation and negotiations between the employer and the employees.
3. From an agreed date, if earlier than the smokefree legislation date of 6am Sunday 1 July 2007, smoking will not be allowed indoors anywhere in the buildings. If smoking has previously been allowed in shared communal space, canteens or pre-existing smoking rooms then these are now made smokefree.
4. The details of the provisions applying to employees who wish to continue to smoke outside the building (including a policy on work breaks) should be included in the policy document.
5. Where there is provision of outdoor designated smoking areas or shelters these should be located away from entrances, exits or windows that are open whenever possible, to prevent secondhand smoke blowing back into the workplace. Where an outdoor smoking shelter is provided it must comply with the requirements of The Smoke-free (Premises and

Enforcement) Regulations 2006. Visit www.mkweb.co.uk for further information on the Regulations and smoking shelters.

6. All vehicles used as a workplace are required to be smokefree except when used exclusively by a single individual.
7. Consideration of peripatetic workers required to visit premises away from the organisational workplace.
8. Signage must be used to inform workers, customers and visitors of the new smokefree policy. From the 1 July 2007 premises and workplace vehicles will be required to display statutory signs. Register your business with Smokefree England to receive FREE advice and resources as they become available by calling 0800 169 1697 or by logging on to www.smokefreeengland.co.uk/stayinformed
9. A clear complaints and reporting procedure is put in place to deal with any problems arising from the new policy and to record any non-compliance when legislation comes into force.
10. Employees wishing to stop smoking should be given access to Stop Smoking Services for advice and support. Support could include Nicotine Replacement Therapy (NRT) treatment where appropriate.
11. The smoke free policy is reviewed after 6 months and then annually in line with other health and safety policies.

How to implement a smoke free workplace policy

A formal smoke free policy clearly sets out for all employees the situations where smoking is and is not permitted. Properly constructed, it will ensure that both employers' and employees' legal rights and obligations are upheld and benefit the health of all employees. Properly negotiated, it will raise awareness about an important public health issue, and reduce friction in the workplace between smokers and non-smokers. The financial costs of developing and implementing a smokefree policy are one-off or time-limited and may be summarised as follows:

- Time to prepare, implement, monitor and evaluate the policy
- Time to consult and negotiate with the workforce
- Time and other costs associated with informing the workforce about the issues
- Publicise the policy
- Provide help for smokers who want to stop smoking

There are five steps involved in introducing a smoke free policy. A model for these is discussed below, but this will need adapting to suit the circumstances of each workplace.

Step 1 Inform the workforce

It is important that everyone in the workplace is informed about the health hazards and other problems associated with secondhand smoke. The better informed the workforce is the more receptive and understanding they will be to the requirements placed on businesses by the forthcoming legislation and the

benefits of a smokefree policy. Possible ways to raise awareness of the issues are: as part of other work-based health promotion programmes; distribution and display of educational literature; other promotional materials; via in-house publications; or by inviting an outside expert to speak to employees. It is also important that employees understand their own personal responsibility in relation to current and forthcoming legislation, and are made aware of the process which will be used to arrive at the policy.

Step 2 Consult the workforce

Before making the changes required for the introduction of a smokefree policy, it is recommended that employers consult the workforce. This is best practice and also, technically, this could constitute a change in terms and conditions of employment. The process of consultation, which should include unions and safety reps, is also important in identifying the needs of employees, and establishing and resolving difficulties and conflicts of interest, should they arise. One way of allowing employees to express their views is by conducting an in-house questionnaire. Other ways are through meetings, group discussions, interviews, in-house newsletters, or suggestion boxes. An important component of consultation is offering feedback to staff. Consultation is vital, but it should not become a cause of unnecessary delay, nor be used to justify a decision to take no action.

Step 3 Setting up a working party

The formation of a working party is central to the process of developing, implementing and monitoring a smoke free policy. The working party should represent all elements of the workforce including: smokers and non-smokers, management, trade union representatives or equivalent, safety representatives, as well as health and safety staff. The working party must have direct lines of accountability and communication to senior management.

Step 4 Develop the policy

The information collected from consulting with the workforce provides a baseline from which to begin formulating a policy. The areas that a policy could cover are:

- Operating principles that guide the smokefree policy such as compliance with the requirements of the smokefree provisions of the Health Act 2006 that come into force on 1 July 2006.
- Provision of designated smoking areas/ smoking shelters.
- It is up to the employer in consultation to decide on provision for smokers, including a policy regarding smoking outside the workplace and the provision of stubbing out bins and the necessary cleaning arrangements.
- From the 1 July 2006 it will be a requirement of The Smoke-free (Signs) Regulations 2007 to display the appropriate statutory signage. For free signs register with the Smokefree England Information Line on 0800 169 1697 or visit www.smokefreeengland.co.uk/stayinformed . Please note these resources will

become available after Easter. Additional information is available via www.mkweb.co.uk

- Contractual obligations or conditions – such as time allowed for smoking breaks, clocking on/off, additions to the working day to equalise working time with non-smokers.
- Complaints procedure.
- Consequences of failure to comply with the policy.
- Support for smokers that wish to quit such as smoking cessation services, on site counselling and subsidised smoking cessation aids.
- The approach to be adopted for employees with higher health risk – such as people with asthma or pregnant women. This requires a specific response to the relevant EU legislation. This need not involve identifying people at risk, but knowing what to do if an employee identifies their self as at increased risk.
- Put in place procedures for reviewing the policy, ensuring compliance and resolving disputes – including naming the posts responsible.

Step 5 Implement the policy

The final step involves announcing the final policy to the workforce, checking that all necessary arrangements and adjustments have been made, and ensuring that a mechanism is in place to monitor the policy in the months following implementation. Managers, union officials and other key personnel should clearly understand the background to the policy and how it has been developed. Employees should be officially informed of the policy and appropriate notice be given to effect a change in their contract of employment.

Copies of the policy should be displayed in key locations. All new employees should be given a copy of the policy and it should be mentioned in job advertisements and at interviews.

Signs should be erected so that it is readily apparent where smoking is not permitted.

Any adjustments to the policy following introduction should comply with future smoke free legislation in the workplace and must not compromise the goal of protecting non smokers from secondhand smoke.

Example of a Smoke free policy

Smoke free policy for (name of organisation)

Effective from (date)

Introduction

Secondhand smoke is both a public and workplace health hazard. This smoke free workplace policy seeks to guarantee all employees the right to work in air free of tobacco smoke. All premises will be designated smoke free from (date) with adequate signage to inform employees and visitors of the smoke free status of the building.

The Smoke Free Policy

Work areas

Smoking is not permitted inside the building from (date).

Facilities for disposal of smoking litter etc

Smoking may be permitted as appropriate on (organisation) land, but will not be permitted inside (organisation) buildings or near entrances and exits. Where smoking is permitted on land owned by (organisation), receptacles will be provided for the disposal of cigarette ends and other smoking waste materials.

Vehicles

Smoking is not permitted in company vehicles, unless used exclusively by a single individual. (The option of a corporate ban would prove far easier and equitable to apply)

Unions / Health & Safety representative

This policy has been devised in full consultation with all employees. It enjoys the support of the relevant health and safety representatives.

Informing staff of the policy

The employer has provided notice to all staff in advance of the changes to be put in place and will provide all members of staff with a copy of this policy upon their request.

Visitors and temporary staff

Visitors and temporary staff are expected to abide by the terms of this policy. The following arrangements have been made for informing them of its existence:

Adequate signage

The receptionist or person greeting the visitor will inform them of the smoke free policy. This could be reinforced via the invitation letter or email if required.

Recruitment procedures

Job advertisements, job descriptions and interviews will include reference to the smoke free policy. On their appointment, all new staff members will be given a copy of the policy.

Help for those who smoke

This policy recognises that secondhand smoke adversely affects the health of all employees. However, it is recognised that the smoke free policy will impact on smokers' working lives. In an effort to help individuals who smoke to adjust to this change, the following options are available to employees:

- Access may be agreed for up to five hours of work time to attend any course that will help smokers to quit*
- Stop smoking support may be made available to employees who smoke, this is provided by Milton Keynes Stop Smoking Service based at Newport Pagnell – 01908 500096*
- Free consultation with the company's trained occupational health staff*
- Subsidised nicotine replacement therapy*
- Use of the 'Stop Smoking' telephone helplines may be allowed during work time*

Compliance requirements of the policy

Breaches of this policy will be subject to the normal company disciplinary procedures.

Fines

Failure to dispose of cigarette litter properly outside the building can result in the person responsible being fined up to £75 by the local authority. Refusal to pay this fixed penalty can result in a magistrates' court fine of £2,500.

Implementation

Responsibility for implementing and monitoring this policy rests with managers and supervisors.

Monitoring and reviewing

This policy will be reviewed (*state the regularity*) to ensure that it continues to meet the aims and the law. The Co-ordinator in charge of the smoke free policy is s/he can be contacted by

This policy was adopted by the management team at their meeting on

Changes to the policy

Twelve weeks notice will be given of any changes made to the policy. Trade unions and health and safety representatives will be consulted in good time about any proposed changes.

* *Optional*

Frequently Asked Questions (FAQ's)

My workplace has designated or segregated areas for smoking. Is this not enough?

No, the smokefree legislation coming into force on the 1 July 2007 will require virtually all workplaces and enclosed and substantially enclosed public places to be completely smoke free. This is because only a complete ban on smoking in enclosed areas will reduce exposure to secondhand smoke. The provision of smoking rooms inside workplaces will no longer be allowed. By adopting a policy to go smoke free early you will protect employees, customers and visitors from the dangers of secondhand smoke.

My premises are well-ventilated. Does that not provide protection from passive smoking?

No. Tobacco smoke is a potent cocktail of over 4,000 chemicals, including more than 50 known to cause cancer such as benzene and arsenic. The tobacco industry claims that ventilation removes secondhand smoke but all it does is improve the quality of the air and dilute rather than remove pollutants. Ventilation may remove the smell of smoke but not the dangers; there is no safe level of secondhand smoke.

Do my work vehicles need to be smoke free?

Yes. Smokefree legislation coming in to force on 1 July 2007 will require vehicles used as a workplace by more than one person, regardless if they are not in the vehicle at the same time, to be smoke free at all times. This is applicable to any vehicle used for work when it is wholly or partly covered by a roof including heavy goods vehicles, delivery vans or farming vehicles. This protects shift and other workers who use the same vehicle from the health risks associated with secondhand smoke, and provides consistency with other non-mobile workplaces.

- All vehicles need to prominently display the international 'no smoking' symbol of a graphic burning cigarette, enclosed in a red circle with a red bar across it, at least 70mm in diameter.

The regulations propose that the following persons will have a legal duty corresponding to that in section 8(1) of the Health Act 2006 to cause any person who is smoking in a smokefree vehicle to stop smoking:

- a. the driver,
- b. any person with management responsibilities for the vehicle, and
- c. any person in a vehicle who is responsible for order or safety on it.

Free resources are available by registering on the Smoke Free England Helpline on 0800 169 1697 or by visiting www.smokefreeengland.co.uk/stayinformed

What should I do about smokers and cigarette breaks?

Studies of other countries that have already introduced smoke free legislation have found that restrictions at work will increase the incentive for regular smokers to stop smoking. This has many benefits including reduced sick leave, less early retirement on health grounds and of course less staff time spent on smoking breaks.

Some smokers may not want to stop smoking. Smoking breaks may lead to loss of productivity. The Chief Medical Officer, Sir Liam Donaldson commissioned an economic analysis to assess the costs and benefits of England going smokefree and found that production losses due to smoking breaks cost £430 million a year.

Employers and staff should discuss and negotiate sensible arrangements for those staff wishing to smoke and they will need to go outside to do so. These will vary from employer to employer – what works in an office may not work on a production line.

If you would like to find out how much smoking breaks costs your business then visit www.cleanairaward.co.uk/downloads/SmokingCostsCalculator.xls

What about the litter outside my building?

Contact the Keep Britain Tidy Scheme or your local Council about advice on bins to collect the cigarette ends and other smoking litter outside your business. Avoid putting them near entrances and exits as they will encourage smokers to congregate at these points. Littering – including dropping cigarette butts - can be an offence; the Council can fine people up to £75 via a fixed penalty notice.

What help is there to stop smoking?

More than 70% of smokers would like to stop smoking. Often when a smokefree policy is implemented, many decide to use this as a way to quit. Smokers who seek professional help and use effective therapies such as nicotine replacement therapies (NRT) double their chance of success. The NHS now offers excellent quit services for smokers wanting to give up – Milton Keynes Stop Smoking Services can be contacted on 01908 500096.

When organisations introduce smoke free workplace policies it is important to offer help to smokers who wish to stop. This demonstrates a firm commitment to promoting employees' health and well being and reinforces the reasons for restricting smoking in the workplace.

Will I have to build expensive shelters for smokers?

No, you can decide to make your workplace and, at your discretion, the outside of your workplace under your control/ownership, entirely smoke free. Smoking breaks and when employees can take them are some of the things that need to be discussed by your organisation at the consultation stage.

Any outdoor smoking shelter will need to conform to the new legislation. Regulations under the Health Act 2006 will require any structure considered to be “substantially enclosed” to be smoke free. Premises will be considered to be “substantially enclosed” if they have a ceiling or roof but there is an opening or aggregate area of openings which is less than half of the total area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premise. This is known as the “50% rule”. When determining the area of an opening, no account can be taken of openings in which doors, windows or other fittings can be open or shut. A roof includes any fixed or moveable structure or device, such as a retractable canvas awning, capable of covering all or part of the premise.

How do I protect employees who visit clients in their own homes?

Peripatetic working relates to employees who are required to visit premises away from the organisational workplace, whilst undertaking their duties and responsibilities. The following suggestion could be considered as part of the policy to cover such circumstances:-

Managers are required to undertake risk assessments of peripatetic workers required to enter premises where their health may be deemed to be at risk. Where employees are required to enter such premises an operational assessment of the risks involved should be completed by the employee and the level of risk identified.

It will be a matter of judgement for the employee as to whether they consider the risk to them in entering the premises is sufficient to warrant a deferment. However, employees will be expected to make reasonable attempts to undertake their duties by adoption of one or more of the following strategies:

- Ask the person(s) to refrain from smoking whilst the employee is present.
- Request that the premises to be ventilated before/during the visit.
- Where possible inform in advance the intended person(s) to be visited of the requirement to refrain from smoking whilst employee(s) are in attendance.
- Consider whether or not the work could be undertaken in an alternative location away from where secondhand smoke may be present.

It is not anticipated that there should be many instances where employees consider it inappropriate to enter premises because of the presence of secondhand smoke or withdraw from a meeting with a client because of a refusal to refrain from smoking. However, where it is deemed necessary to take this course of action, then the organisation will support the employees’ right and entitlement to work in an environment that does not pose risks to the health of the individual and in such circumstances the employee should discuss the issues with their manager.

Will I need to employ a consultant to help with a smoke free workplace policy?

No, you can find plenty of advice and help for free on how to make your workplace smoke free. Please see page 13 of this document 'There's help if you need it'.

How much will it cost me to implement?

Lots of advice is free, there is no charge to use the policies in this guide. Remember to register with the Smokefree England Information Line to receive FREE advice and resources such as signs as they become available. There may be a small cost in providing additional no smoking signs to supplement the free statutory ones, some management and staff time spent in discussing how no-smoking policies should work in practice and the provision of stubbing out bins. People who smoke outside should be encouraged to dispose of their smoking-related material properly in bins.

However, the cost of going smoke free is relatively small in comparison to the savings made from being smoke free. Your staff will likely to be your greatest asset – look after them.

What happens if we decide NOT to go smoke free early?

Health and safety will apply both before and after the smoke free provisions of the Health Act 2006 come into force. Employers have a duty not to expose their workers to avoidable risks in the workplace and there is no excuse for any employer not to know the health risks that come from breathing in other people's smoke. The Government has brought in legislation to make virtually all workplaces and enclosed public places smoke free because it recognises the risk of secondhand smoke to non smokers, and the scientific evidence has been well publicised. If workers are made ill from smoke in the workplace, they may well have a case against their employer for damages. Going smoke free early will ensure your employees and your business are protected.

Is the age of sale of cigarettes or tobacco products changing?

Yes. Under the Health Act 2006 from the **1st October 2007** the age of sale for cigarettes and other tobacco products will increase to **18 years**.

Is there a 'proof of age' scheme?

Milton Keynes Trading Standards Service actively promotes the issue of Citizen Cards throughout schools in the area. This provides businesses with a consistent and recognised means of asking young people to provide proof of their age when selling any age-restricted product including cigarettes. For information on the Citizen Card visit <http://www.citizencard.net/>

Where can I get help to make my business smoke free?

Smokefree England Information Line Freephone 0800169 1697 available Monday to Friday 8a.m. – 6p.m. Call and register for the latest updates and FREE resources as they become available.

Milton Keynes Council

P.O. Box 105
Civic Offices
1 Saxon Gate East
Central Milton Keynes
MK9 3HH
Telephone 01908 691691

**Milton Keynes Primary Care Trust
Local NHS Stop Smoking Services**

Shipleigh Court
Marsh End Road
Newport Pagnell
MK16 8EA
Telephone 01908 500096

Smoke Free Environments Officer

Telephone 01908 254722

Environmental Health

Telephone 01908 252398

Action on Smoking and Health (ASH)

102 Clifton Street
London
EC2A 4HW
Website www.ash.org.uk
Telephone 020 7739 5902

Health & Safety Executive

AW House
6-8 Stuart Street
Luton
LU1 2SL
Telephone 01582 444200

Log on to www.mkweb.co.uk for local advice.



APPENDIX A - 'SMOKE FREE PREMISES'

Those premises which fall within the scope of the legislation, having been classed as 'smoke free premises', are:

1. Restaurants.
2. Bars and public houses.
3. Shops and shopping centres.
4. Hotels.
5. Libraries, archives, museums and galleries.
6. Cinemas, concert halls, theatres, bingo halls, gaming and amusement arcades, casinos, dance halls, discotheques and other premises used for the entertainment of members of the public.
7. Premises used as a broadcasting studio or film studio or for the recording of a performance with a view to its use in a programmed service or in a film intended for public exhibition.
8. Halls and any other premises used for the assembly of members of the public for social or recreational purposes.
9. Conference centres public halls and exhibition halls.
10. Public toilets.
11. Club premises.
12. Offices, factories and other premises that are non-domestic premises in which one or more persons work.
13. Offshore installations.
14. Educational institution premises.
15. Premises providing care home services, sheltered housing or secure accommodation services and premises that are non-domestic premises which provide offender accommodation services.
16. Hospitals, hospices, psychiatric hospitals, psychiatric units and health care premises.
17. Crèches, day nurseries, day centres and other premises used for the day care of children or adults.
18. Premises used for, or in connection with, public worship or religious instruction, or the social or recreational activities of a religious body.
19. Sports centres.
20. Airport passenger terminals and any other public transportation facilities.
21. Public transportation vehicles.
22. Vehicles which one or more persons use for work.
23. Public telephone kiosks.
24. Any part of a private dwelling that is shared with other premises, including other private dwellings i.e. communal lifts, communal corridors and indoor stairwells, shared kitchens, or laundries in dormitory-style accommodation or common entrance foyers to apartment blocks
25. Any part of a private dwelling if used solely as a place of work by more than one person not living in the dwelling, a person not living in the dwelling and a person, whether they live or not at the dwelling who in the course of their work invites persons who do not live or work in the dwelling to attend that part used solely for work

APPENDIX B - ACCESS TO EXEMPTIONS

These are premises that can access an exemption from the legislation for parts of their premises provided they meet the specified requirements. Please note that there is no obligation for persons in control of these premises to allow smoking within:

- Private accommodation.
- Accommodation for guests (hotels).
- Other residential accommodation (care homes, hospices and prisons for adults).
- Actors.
- Specialist tobacconists.
- Research and testing facilities.
- Offshore installations.
- A temporary exemption can be accessed by “mental health units” until 1st July 2008. A “mental health unit is defined as any establishment (or part of an establishment) maintained wholly or mainly for the reception and treatment of persons suffering from any form of mental disorder as defined in section1(2) of the Mental Health Act 1983(5)



MILTON KEYNES
COUNCIL

Milton Keynes 
Primary Care Trust

