

## Smokefree England 1 July 2007 - what it means for residential homes and hospices

A law requiring smokefree environments in workplaces comes into effect on 1 July 2007. The legislation ensures that workers are protected from the risks to health from tobacco smoke and are guaranteed their right to a smokefree environment. Final regulations have yet to be cleared by Parliament and the guidance is therefore subject to final parliamentary clearance.

### What residential homes and hospices covered by the legislation?

Yes. It covers the *public areas* of residential care homes and hospices. This means that sitting rooms, dining areas, reception areas, corridors and all other communal areas which are enclosed places and structures which are 'substantially enclosed' are legally required to be smokefree. In addition work vehicles used by more than one person will also have to be smokefree.

### What do 'enclosed' and 'substantially enclosed' mean?

Enclosed: the premises has a roof and is wholly enclosed by walls. It includes temporary structures such as tents and marquees.

Substantially enclosed: the structure has a roof and openings in the walls represent 50% or less of total wall area. This is called the '50% rule'. For more detailed information click onto [www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk)

### Can residents smoke in their bedrooms?

Yes if it is the management's policy to allow smoking in bedrooms **and** if the following conditions are met:

- The person in charge of the premises designates a bedroom as one in which smoking is permitted
- A list of rooms designated for smoking is available if requested by an enforcement officer.
- The room is clearly signposted as a room where smoking is permitted
- The bedroom's ventilation system does not link into the smoke-free areas of the premises
- If the premises open onto a smokefree public areas, the door can be mechanically closed to prevent smoke drift

### What if the owner's policy does not allow smoking in bedrooms?

The management can designate a smoking room for residents (but not staff) if it wishes. A designated smoking room has to be fully enclosed by solid, floor to ceiling walls and meet the conditions outlined above. Staff are not allowed to smoke in a smoking room.

## Do residential homes and hospices have to provide smoking breaks or outside smoking areas?

No on both counts. By law, employers must give staff an uninterrupted rest break of 20 minutes when their daily working time is more than six hours (staff under 18 are entitled to 30 minutes break after 4½ work). Staff can, of course, smoke during their rest period, if they choose, but they must not smoke in an enclosed or substantially enclosed area. As an employer you must decide whether or not to permit smoking elsewhere eg in open car parks, grounds, or shelters and you should indicate where smoking is allowed in your smoking policy.

## What about staff who have to go into 'smoking' bedrooms or designated smoking rooms?

The legislation does not cover people providing personal care or domestic work in a person's home or personal accommodation. Since employers have a duty of care to take reasonable precautions to protect the health of their employees, management need to undertake a risk assessment to reduce level of exposure to tobacco smoke that is as far as is reasonably practicable. See The Royal College of Nurses document, Protecting Community Staff from Exposure to Secondhand Smoke, [www.rcn.org.uk](http://www.rcn.org.uk) for suggestions, e.g. asking residents not to smoke when a staff member is in the room and opening windows to fully ventilate the room during and after smoking.

## What will the legislation mean in practice?

It requires the management to:

- Ensure all enclosed and substantially enclosed premises and work vehicles used by more than one person are smokefree
- Display 'No-smoking' signage at the public entrances to the premises and in work vehicles. Signage will be available free by registering at [www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk)
- Ensure that rooms in which smoking is allowed meet the conditions described overleaf
- Undertake a risk assessment to reduce the risk of tobacco smoke to staff and non-smoking residents
- Take reasonable steps to ensure that staff, visitors and residents are aware that smoking is allowed only in designated rooms

## What are the penalties for non-compliance?

Responsibility for compliance rest with school personnel accountable for complying with legislation:

- Failure to display required no smoking signs: up to £1000 or £200 fixed penalty notice
- Smoking in a no-smoking place: up to £200 or a penalty notice of £50
- Failure to prevent smoking in an enclosed or substantially enclosed place: up to £2500.

## What help is there for staff to stop smoking?

The NHS offers a wide range of excellent, free and easily accessible support for smokers including local NHS Stop Smoking Services, the Together Programme, the NHS Smoking Helpline - 0800 169 0169, and nicotine replacement therapy (NRT) on prescription. For details of stop smoking services in the East of England, visit [www.smokefreeeast.co.uk](http://www.smokefreeeast.co.uk)

## Where can I get signage and resources?

Log onto [www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk) or phone the Smokefree England Information Line 0800 169 1697 and register for the latest updates, free signage and resources.