

Frequently asked questions: Smoke free implementation

1. What is the aim of smokefree legislation?

The new law will protect the people in enclosed public places and workplaces from the harmful effects of secondhand smoke.

2. When is smokefree legislation going to be implemented?

The legislation will be implemented on 1st of July 2007.

3. What does the new law do?

Smokefree legislation will mean that virtually all enclosed public places and workplaces will become smokefree. This means:

- it will be an offence to smoke in smokefree premises
- it will be an offence for managers of smokefree premises to permit others to smoke within the premises
- it will be an offence for managers of smokefree premises to not display necessary no-smoking signs at the premises.

4. Is secondhand smoke really that harmful?

Secondhand smoke kills. The Government's independent Scientific Committee on Tobacco and Health concluded in 2004 that exposure to secondhand smoke contributes to a range of serious medical conditions, including:

- lung cancer
- heart disease
- asthma attacks
- childhood respiratory disease
- sudden infant death syndrome, and
- reduced lung function

5. What sort of smoking will smokefree legislation cover?

The smokefree provisions within the Health Act 2006 relate to smoking of tobacco or anything that contains tobacco, or smoking any other substance, including manufactured cigarettes, hand-rolled cigarettes, pipes and cigars.

This means that anything that is smoked is covered by smokefree legislation, including cigarettes, pipes, cigars, herbal cigarettes and water pipes (including shisha, hookah and hubble-bubble pipes).

6. Will this include cigar loungers and water pipe (shisha, hookah, hubble-bubble) bars and cafes?

Yes, the legislation covers virtually all enclosed workplaces and public places, including cigar loungers and water pipe bars and cafes.

7. Some people say that smoking will be banned outdoors, like in the streets outside of pubs. Is the Government going to ban smoking altogether?

Smokefree legislation covers enclosed and substantially enclosed public places and workplaces.

The Health Act 2006 also includes powers to make non-enclosed places smokefree if there is "significant risk that, without designation, persons present there would be exposed to significant quantities of smoke". At present, the Government does not intend to make any non-enclosed place smokefree.

8. What about a smoking shelter?

There is no requirement to provide smoking shelters. It is common for health-focused employers not to spend money creating places for smokers to congregate. If you do have an outside smoking shelter or area, you will need to be sure that it is not "enclosed" or "substantially enclosed" under the definitions that will be set out in smoke free regulations. The Government's proposed definitions of enclosed and substantially enclosed to be used for smoke free legislation are on page 6 of the draft regulations.

It is likely that planning permission will be required for the introduction of the majority of external smoking facilities. For further information, contact Bolton Council's Planning Department on t: 01204 336000 or e: planning.control@bolton.gov.uk

9. What is the definition of 'enclosed' and 'substantially enclosed'?

Enclosed - Premises will be considered to be enclosed if they have a ceiling or roof and, except for doors, windows or passageways, are wholly enclosed, whether on a permanent or temporary basis. Tents, marquees or similar will also be classified as enclosed premises if they fall within this definition.

Substantially Enclosed - Premises are substantially enclosed if they have a ceiling or roof, but there are permanent openings in the walls which are less than half of the total areas of walls, including other structures which serve the purpose of walls and constitute the perimeter of premises. 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 that can be open or shut. A roof includes any fixed or movable structures, such as canvas awnings.

10. Why couldn't we just have ventilated smoking rooms?

Evidence shows that ventilation does not provide a solution to eliminating the health risks associated with secondhand smoke. Scientists have shown that to remove the risks of secondhand smoke, an enclosed premises would need wind tunnel-like rates of ventilation.

11. Will there be support for business?

Yes. Businesses are encouraged to sign up for the smokefree newsletter and pre-order signage and guidance so they receive information as it becomes available. The guidance will include a booklet about the regulations, a sample smokefree policy, a sample no smoking sign and supporting materials.

Once the regulations have been approved, www.smokefreeengland.co.uk will have downloadable signage and guidance. You can also call the Smokefree England Information Line on 0800 169 169 7 if you have any queries or wish to register to receive information by post or email.

12. What support is available for people deciding to quit smoking?

The NHS provides a wide range of excellent and easily accessible smoking cessation services including; local NHS Stop Smoking Services, The Together Programme, and Nicotine Replacement Therapy (NRT) available on prescription.

Business owners, employers and individuals are encouraged to contact Bolton Primary Care Trust if they would like advice on supporting staff who would like to quit. Call 01204 462345, email stopsmoking@bolton.nhs.uk, or visit www.bolton.nhs.uk/services/stopsmoking.

13. Is this just about smoking in pubs?

No. Virtually all enclosed workplaces and public places, including offices, factories, restaurants, pubs, schools, public transport, membership clubs and shopping malls are covered by smokefree legislation, meaning all enclosed parts of these places will become completely smokefree when the legislation is implemented.

There will be limited exemptions from smokefree legislation, mainly for premises that act as an individual's dwelling space or are clearly private space. These exemptions are set out within *Smokefree Premises and Vehicles: Consultation on proposed regulations to be made under powers in the Health Bill*.

14. What places are exempt under the draft regulations?

The Choosing Health White Paper made a commitment that special arrangements may be needed for certain workplaces when considering the legislation. The Government has proposed making exemptions for some workplaces that are also other people's place of residence, for example adult hospices, prisons, and some other long-stay residential care establishments. However, to have an exemption, an exempt premises must meet strict requirements to reduce exposure to secondhand smoke by others.

15. What is the Government's attitude towards the enforcement of smokefree legislation?

The Government's intention is to create a supportive environment where people are encouraged to comply with the new legislation. Experience in other countries that have implemented smoke-free legislation shows that compliance builds very quickly after implementation.

The approach to enforcement will be non-confrontational, focused on raising awareness and understanding to ensure compliance, and enforcement officers will work closely with local businesses to build compliance through education, advice and support. We expect that enforcement action will be considered only when efforts to encourage compliance have failed.

The Department of Health has committed to fund local authorities for their new enforcement duties.

16. What are the proposed penalty amounts?

The Government has proposed the following penalties and fines for the smokefree offences set out in the Health Act 2006:

- Smoking in a smokefree premises or vehicle: a fixed penalty notice of £50 or a fine not exceeding level 1 on the standard scale (up to £200)
- Failure to display no smoking signs in smokefree premises and vehicles as required by smokefree legislation: a fixed penalty notice of £200 or a fine not exceeding level 3 on the standard scale (up to £1000)
- Failing to prevent smoking in a smokefree premises or vehicle: a fine not exceeding level 4 on the standard scale (up to £2500). No fixed penalty notice option.

17. Fines are very well, but if the publican of my local persistently fails to provide a smokefree environment, shouldn't they lose their licence?

There is no specific provision in smokefree legislation for smokefree offences to result in a review of a pub's licence. We believe the penalties are a sufficient deterrent, and we expect that pubs and other hospitality venues will want to comply with the legislation to make their premises a better and more healthy place to visit and work.

18. Who do I call if I see someone smoking - is there going to be an 0800 number?

Yes a phoneline will be created to support local authorities in their compliance work and further details will be made public in due course.

19. How soon after the smokefree legislation has been implemented will enforcement officers be inspecting workplaces for compliance?

Enforcement officers will be working closely with businesses in the lead up to implementation in order to build understanding of the requirements of the legislation and will be on-duty to ensure compliance is maintained once the legislation comes into force next Summer.

20. Has the introduction of smokefree legislation been successful in other countries?

Across the world, as the evidence of the risks associated with secondhand smoke exposure has accumulated, action has been taken to reduce people's exposure to secondhand smoke.

Ireland (2004), Norway (2004), Scotland (2006), New Zealand (2004), Singapore and various Canadian territories and Australian States are examples of places which have introduced comprehensive smokefree legislation (including smokefree pubs, bars and restaurants).

In America, California has had state-wide smokefree public places since 1998 and New York City passed smokefree legislation in 2003. In total, over nine US states have smokefree legislation that required completely smokefree restaurants and bars.

21. Will there be requirement for signage in smokefree areas?

Yes. All premises and vehicles that are required to be smokefree will have to display no smoking signs that meet the requirements that will be set out in the regulations.

22. What signage will I need to display?

The Government has announced the following proposed signage requirements under smokefree legislation:

Premises and vehicles that are to be smokefree under the law will be required to have 'no smoking' signs in place at each entrance, displayed in a prominent position.

Signage should be a minimum area of any shape that is equal to the size A5 showing the international 'no smoking' symbol at least 70mm in diameter (the most commonly used minimum size currently); and contains in characters that can be easily read the following :

'No smoking. It is against the law to smoke in these premises.'

Substitute words can be used for 'these premises' as long as they refer to the particular smokefree premises in which a sign is displayed eg 'this hotel'.

A 'no smoking' sign which displays only the international no smoking symbol (a minimum of 70mm in diameter) may be displayed in a prominent position at an entrance instead of the above A5 'no smoking' sign with required words when:

- premises are located within other smokefree premises that carry the A5 sign eg a bar within a train station, or a shop within an indoor shopping centre.
- entrances to smokefree premises that are not for public use ie staff entrances, as long as that premises carries at least one A5 sign, with the required wording as above, at one entrance.

23. When will these details about signage be confirmed?

These proposals are currently being considered by Europe under the Technical Standards Directive and will be laid before Parliament after the 3 month consultation process is complete.

24. How will I get the right signage?

The Department of Health will make available signs to businesses free of charge that meet the requirements set out in the regulations. Also, signage will be sold through commercial providers.

25. What do I do checklist

Employers, managers and those in charge of smokefree premises and vehicles will need to:

- display 'no smoking' signs in smokefree premises,
- take reasonable steps to ensure that staff, customers/members and visitors are aware that premises and vehicles are legally required to be smokefree
- ensure that no one smokes in smokefree premises or vehicles

You may also want to take these supportive measures:

- remove ashtrays from smokefree areas
- develop a smokefree policy in consultation with staff
- provide your staff and customers with support to quit smoking
- ensure that your staff and customers know where they can smoke if they choose to

A 'how to' guide and other resources will be available on www.smokefreeengland.co.uk for download in early 2007.

26. How do I develop a smokefree policy?

To ensure employees are aware of smokefree legislation and changes to your workplace you may wish to consider developing a written smokefree policy for your workplace.

Effective smokefree policies:

- acknowledge the right of employees to work in a smokefree environment;
- are concise and simple to understand;
- identify the members of management and staff who have responsibility for the implementation of the policy;
- identify the outside areas where people can smoke;
- provide information on how to obtain help to quit smoking;
- include a consultation with members of staff;
- are communicated to all members of staff (including new members of staff before they start work).

You will need to decide how to deal with non-compliance with your smokefree policy and how the policy fits within your existing health and safety as well as discipline policies.

Smoke Free Bolton - Planning Permission

Under the rules smoking will be banned in virtually all enclosed public places in England from July this summer. The ban covers all local businesses such as factories, pubs, clubs and bars, regardless of size and number of employees. Should businesses wish to make provision for outdoor smoking facilities it is likely that planning permission will be required. However, as there is likely to be an increase of applications to obtain the relevant permissions, businesses are advised to plan ahead well in advance.

The new legislation will directly affect us all; from small businesses to large multi-national corporations, everyone will be required to comply. The health benefits are obvious and we're keen to ensure that local employers and employees have a smooth transition to this new law and that the appropriate facilities are available if necessary.

Planning permission will be required for the introduction of the majority of external smoking facilities, this includes the installation of canopies which materially affect the external appearance of a building, the introduction of free-standing structures and the use of retractable canopies. The Council will assess any planning application against its adopted policies relating to good design. Applicants should ensure that the planned installation is compatible with its surroundings, complements the existing building, creates a safe and secure environment and avoids adverse effects on neighbouring uses. Buildings that are sited in Conservation Areas or affect Listed Buildings will need to demonstrate that regard has been given to preserving or enhancing the character and appearance of the Conservation Area, and that the development does not adversely affect the character, appearance, setting or historic fabric of a Listed Building. In the case of Listed Buildings, it is likely that Listed Building Consent will also be required.

Further guidance will appear on this site as soon as it is ready, so please keep checking back. In the meantime for further information or advice on planning permission related to the new Smoke Free legislation people are advised to contact us.