

***CAERPHILLY COUNTY  
BOROUGH COUNCIL***

***NO SMOKING POLICY***

***APRIL 2007***

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## 1. INTRODUCTION

- 1.1. The policy has been developed to protect all Council employees, agency staff, Elected Members, volunteers, contractors, service users, clients, customers, visitors and members of the public from exposure to second-hand smoke.

The policy also ensures compliance with the smoke-free provisions of the Health Act 2006 and the Smoke-free Premises (Wales) Regulations 2007 effective from 2 April 2007.

Exposure to second-hand smoke, also known as passive smoking, increases the risk of lung cancer, heart disease and other illnesses. Ventilation or separating smokers and non-smokers within the same airspace does not stop potentially dangerous exposure. Ventilation systems only eliminate the smell and visibility of smoke – not the toxic carcinogens (cancer causing agents). As there is no safe level of exposure to second-hand smoke, ventilation is not an option.

- 1.2 The policy should be cross-referenced with the following core policies/strategies of the Council: -

- Occupational Health Policy;
- Employee Health Strategy;
- Health and Safety Policies.

- 1.3 The policy aims to: -

- Provide a healthy smoke-free environment for all its employees, agency staff, Elected Members, volunteers, contractors, service users, clients, tenants, customers, visitors and members of the public.
- Safeguard the health of the non-smoker by eliminating "second-hand smoking".
- Help safeguard the health of the smoker by offering support and advice for those employees who wish to stop smoking.

- 1.4 This policy will be available on the Council's intranet for employees to access. For those employees who do not have intranet access, Managers must ensure a paper copy is available on a notice board or at an accessible location for all employees, agency staff and volunteers.

## **2. SCOPE OF THE POLICY**

- 2.1 This policy has been agreed with the Trade Unions. The policy applies to all Council employees, agency staff, volunteers, Elected Members, contractors, service users, clients, Council tenants, customers, visitors, members of the public; except those school based support/teaching staff for whom the Governing Body sets the local terms and conditions of employment. For these staff, the LEA will develop a policy based on the principles contained within the corporate policy, which will then be recommended to Governing Bodies for adoption. Support in managing issues in relation to the subject matter of this policy can only be offered to schools where LEA recommended policies have been adopted.
- 2.2 Wherever the designation Manager is used throughout this policy, it is taken to mean Head of Service, Line Manager, Supervisor, Officer in Charge or anyone who has a responsibility for Council employees, agency staff, volunteers, contractors, service users, clients, tenants, customers and visitors through their work.
- 2.3 The effective date of the policy is 2 April 2007.

### 3. PROVISIONS OF THE POLICY

3.1 It is against the law for anyone to smoke in public places, which are enclosed or substantially enclosed.

3.1.1 Premises are **enclosed** if they have a ceiling or roof (either a fixed or moveable structure or device), and except for doors, windows or passageways, are wholly enclosed, whether on a permanent or temporary basis.

3.1.2 Premises are considered **substantially enclosed** if they have a ceiling or roof (either a fixed or moveable structure or device), but there are openings in the walls, which are less than half of the total area of walls. This definition includes other structures that serve the purpose of walls and constitute the perimeter of the premises. When determining the area of an opening, no account should be taken of openings in which doors, windows or other fittings can be opened or shut.

3.2 The smoking ban includes:

3.2.1 All public places, including workplaces and premises where voluntary work is carried out.

For example: All Council premises, Day Centres, Leisure Centres, Adult Education Centres, Blackwood Miners' Institute, All Council premises hired or leased to members of the public on a short term basis, including the Staff Club at the Civic Offices, Pontllanfraith and Llancaiach Fawr. This list is not exhaustive.

3.2.2 Vehicles, which are used to transport the public or which are used by more than one employee in carrying out work duties - even if this use is at different times or only intermittently.

For example: All Council vehicles including leased vehicles.

3.3 It is Council policy that employees' own vehicles must be smoke-free when on Council business and carrying other employees, agency staff, Elected Members, volunteers, contractors, service users and clients.

An employee may smoke in their own vehicle whilst travelling on Council business if they are unaccompanied. If an employee does decide to exercise their choice to smoke, they should be mindful that it is safe and legal for them to do so.

3.4 It is Council policy that smoking is not allowed in access roads to Council premises and adjacent car parks/land.

3.5 In general, private dwellings are not covered by the Smoke-free Regulations. However, any part of a private dwelling that is shared with other premises will be required to be smoke-free if these premises are open to the public. This means that shared facilities such as communal lifts and stairways in blocks of flats and shared kitchens or laundries in dormitory-style accommodation will be required to be smoke-free.

3.6 Employees cannot smoke when they are at work in the homes of service users, clients, tenants, volunteers or members of the public.

- 3.7 Effective from 1 January 2006, smoking breaks have not been available for those employees on the flexi system. However, outside of the flexi core times or during breaks agreed with their Manager, employees who are permitted to leave the work place may smoke provided this is not in a place covered by Section 3.4.
- 3.8 Employees who work outside either as part of a group or a lone worker are not permitted to smoke while on duty. Employees who are permitted to leave the work place by their Manager may smoke provided this is not in a place covered by Section 3.4.

3.9 **Council Parks, Touring Caravan/Campsites, Surrounding Countryside Areas and Other Country Parks**

Any enclosed or substantially enclosed areas must be smoke free. For example, visitor centres, cafes, toilets, shower areas.

In the outdoor areas of the campsite and surrounding countryside areas smoking is allowed by visitors, but not Council employees, agency staff, Elected Members or contractors). Outdoor areas are not included in the current legislation and are exempted from the Council policy with regard to visitors only.

- 3.10 There are exemptions to the Smoke-free Regulations, which allow some defined premises to have a designated smoking room for residents and their visitors; these are detailed further on in the policy.

Where a designated smoking room is provided, the room cannot be used as a smoking room by Council employees, volunteers, agency workers, Elected Members or contractors.

It is Council policy that designated smoking rooms should be closed 2 hours before the room is to be cleaned and the area well ventilated to clear the air of smoke. The manager may be required to complete a risk assessment.

3.11 **Employees Working in Private Homes (Dwellings)**

Private dwellings are exempted from the Regulations and are not required to be smoke-free. Most types of work carried out by Council employees within private dwellings would also be exempted from the smoke-free regulations. Therefore in normal circumstances, it would not be reasonable for an employee to refuse to carry out a visit to the home of a service user, client or tenant. The Authority has a duty of care to employees and reasonable steps should be taken to facilitate a smoke-free workplace wherever possible.

The line manager may be required to carry out a risk assessment, particularly if an employee has health concerns or a health issue which may be affected by a smoky environment. The line manager should consider the time period of the exposure to second-hand smoke etc and may take advice from Occupational Health Unit. The line manager should also consider if for instance the employee is asthmatic, whether a reasonable adjustment may be that someone else carries out the home visit. It will depend on all the circumstances at the time.

Each Directorate should consider appropriate opportunities to communicate and liaise with their service users, clients or tenants to gain their support and commitment for a smoke-free environment during a visit by a Caerphilly CBC employee. Communication could be via a user group or in literature issued to service users, clients or tenants prior to a visit.

Wherever possible service users, clients or tenants should be requested not to smoke for up to 1 hour before a visit by a Caerphilly CBC employee. This may not be possible where the visit is a cold call and the service user, client or tenant is not aware of the visit.

It is recognised that not all situations will be covered in this policy and local arrangements will be required.

### **3.12 Visiting Non-Caerphilly County Borough Council Buildings etc**

All Council employees, agency staff and Elected Members must respect the non-smoking policies of others when they are on Council business. This includes: -

- Visiting other Council buildings.
- Visiting other business premises.
- When on training courses etc.
- Visiting any other smoke-free premises.

## 4. EXEMPTIONS

- 4.1 The Smoke-free Regulations do not apply to private dwellings, for example a service user's home or the home of a Council tenant.
- 4.2 The Regulations exclude all work that is undertaken solely: -
- To provide personal or health care for a person living in the dwelling,
  - To assist with the domestic work of the household in the dwelling;
  - To maintain the structure or fabric of the dwelling;
  - To install, inspect, maintain or remove any service provided to the dwelling for the benefit of persons living in it.
- 4.3 The Regulations allow a "designated room" to be used as a smoking room for use by those aged 18 years or more in the following premises: -
- A care home;
  - A mental health unit, which provides residential accommodation for patients;
  - An adult hospice;
  - Designated rooms in a research or testing facility;
  - Designated bedrooms in a hotel, guesthouse, inn, hostel or members' club.
- "care home" is to be construed in accordance with section 3 of the Care Standards Act 2000;
- "designated" means designated in writing by the person in charge of premises;
- "mental health unit" means an establishment or part of an establishment the main purpose of which is the provision of treatment or nursing (or both) for persons suffering from mental disorder as defined in section 1(2) of the Mental Health Act 1983.
- 4.4 If a Directorate were to approve the provision of a designated room for smoking in any of the above establishments it must fully comply with legislation, the room must: -
- Have been designated (in writing) by the person in charge of the establishment concerned as a room in which smoking is permitted;
  - Have a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor to ceiling walls;
  - Not have a ventilation system that ventilates into any other part of the premises (except any other designated rooms or designated bedrooms, as the case may be);
  - Not have any door which opens on to smoke-free premises that is not mechanically closed immediately after use;
  - Be clearly marked as a room in which smoking is permitted.
- 4.5 Day Centre facilities provided within Caerphilly CBC have been exempted from the Council's No Smoking Policy. From 2 April 2007 there can be no exemption for Day Centres. Smoking is not allowed and there is no exemption to allow a smoking room within the confines of the building.

A Directorate may, subject to approval by the HR Strategy Group, agree the provision of an external "smoking shelter" located in the grounds of the Day Centre, providing it is not an enclosed or substantially enclosed area. Any smoking shelter must be located well away from any doors or windows of the Day Centre. The smoking shelter would be for use by service users only, Caerphilly CBC employees would not be able to use the shelter for smoking although they may be asked to accompany service users.

## 5. NO SMOKING SIGNAGE

- 5.1 In order to comply with the law, no smoking signage must be displayed in smoke-free premises and vehicles. Signage requirements are set out in the regulations and are different for premises and vehicles.

Council employees with responsibility for smoke-free premises and vehicles must ensure that appropriate signs are displayed.

### 5.1.1 Signage for Premises

Signs must be displayed flat, in a prominent position at or near each entrance to smoke-free premises, so that people entering the premises can see them.

If premises have more than one entrance more than one notice must be displayed.

For the avoidance of confusion, it is recommended that any additional no smoking signs already displayed within the premises are replaced by the new standard signage.

### 5.1.2 Signage for Vehicles

Signs must be displayed in all Council vehicles.

A no smoking sign must be displayed in a prominent position in each compartment of the vehicle, which is wholly or partly covered by a roof, including the driver's compartment.

- 5.2 No smoking signs, which comply with the legislation, can be ordered from the following Directorate contacts:

Corporate Premises  
(including Civic Centre, Ystrad Fawr,  
Tredomen House, Woodfieldside)

Property Division

Environment

Support Services

Education & Leisure

Steve Lawrence for Ystrad Mynach  
Offices and contact for Schools

Diane Probert, Marketing Department

Social Services

Facilities Management

## **6. SMOKING CESSATION**

6.1 Employees can access two, free phone helplines:

- The Smokers Helpline Wales: 0800 169 0 169 or
- The All Wales Smoking Cessation Service: 0800 085 2219.

### **6.1.1 Smokers Helpline Wales - 0800 169 0 169**

This helpline offers:

- One to one confidential advice from specially trained counsellors;
- Guidance on stopping smoking and help with associated problems;
- Information leaflets on how to get started, planning and preparing to quit smoking;
- Guidance on accessing support from local smoking cessation services.

### **6.1.2 All Wales Smoking Cessation Service - 0800 085 2219**

The All Wales Smoking Cessation Service is a national service available to smokers who would like help to quit smoking. The service is easy to access, just phone the number to find out where your local stop smoking service is based and information on how to join your local support group to help you give-up smoking. Specially trained staff are on hand to offer guidance, advice on how to quit, information on nicotine replacement therapy as well as free access to one to one counselling and group therapy.

6.2 Advice and assistance are also available from the Council's Occupational Health Unit.

## **7. BREACHES OF THE LEGISLATION AND POLICY**

7.1 Failure to comply with the law is a criminal offence, as set out in the Health Act 2006.

- Individuals may be liable to a fixed penalty of £50 for smoking in smoke-free premises. In cases of prosecution and conviction, the maximum fine is £200.
- The manager or person in control of any smoke-free premises could be fined a fixed penalty of £200 for failing to display no smoking signs. In cases of prosecution and conviction, the maximum fine is £1,000.
- The manager or person in control of any smoke-free premises could be fined up to £2,500 for failing to prevent others from smoking in those premises.

7.2 All Council employees, volunteers, agency staff and Elected Members are required to ensure that this policy is complied with.

Breaches of the policy by employees may result in disciplinary action being taken.

Elected Members are bound by this policy. The Council's Standards Committee may enforce the terms of this Policy.

7.3 Employees who are finding difficulty with complying with this policy should discuss their issues with their line manager who will provide appropriate support and advice regarding smoking cessation services.

**8. REVIEW AND MONITORING OF THE POLICY**

- 8.1 This policy will be reviewed in 6 and 12 months or earlier in the event of changes in the Regulations or the issuing of any Guidance by the Welsh Assembly Government.
- 8.2 Directors are responsible for ensuring appropriate arrangements are in place for the effective implementation, management and ongoing monitoring of this policy.

**APRIL 2007**