

SMOKING AT WORK

# GUIDANCE FOR SCHOOLS



## LEGISLATION

* Health Act 2006
* The Smoke-free (Penalties and Discounted Amounts) Regulations 2007
* The Smoke-free (Exemptions and Vehicles) Regulations 2007
* The Smoke-free (Premises and Enforcement) Regulations 2006
* The Smoke-free (Signs) Regulations 2007
* The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007

## WHAT YOU NEED TO DO

* Have in place a clear policy on smoking at work
* Display appropriate no smoking signs at entrances to the workplace
* Display appropriate no smoking signs in any vehicles owned by the school/Council

## INTRODUCTION

It is often assumed that proper ventilation can eliminate the health risks associated with passive smoking. However, substantial evidence shows that ventilation systems only eliminate the smell and visibility of smoke, not the toxic carcinogens. As there is no safe level of exposure to second-hand smoke, ventilation is not an option.

It is now against the law to smoke in virtually all ‘enclosed’ and ‘substantially enclosed’ public places and workplaces. This includes both permanent structures and temporary ones such as tents and marquees.

Premises used as a place of work must be smoke-free all the time if they are used:

* by more than one person (even if the persons who work there do so at different times, or only intermittently); or
* where members of the public might attend for the purpose of seeking or receiving goods or services from the person or persons working there (even if members of the public are not always present).

Premises open to the public that are not used as a place of work are required to be smoke-free only during those times when they are open to the public (for example, stately homes which are open to the public for one day a year and are not a person’s workplace).

If only part of the premises is open to the public or used as a place of work only that part of the premises is required to be smoke-free.

Premises will be considered *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.

Premises will be considered *substantially enclosed* if they have a ceiling or roof, but have an opening in the walls, which is *less* than half the total area of the walls. The area of the opening does not include doors, windows or any other fittings that can be opened or shut.

A few exemptions to the prohibition have been granted, mainly to cover workplaces that are also a person’s place of residence such as care homes, hotels, prisons etc. These exemptions are provided to allow managers to designate specific rooms for smoking.

## DOMESTIC PREMISES

In general, the new law does not cover private dwellings. However, any enclosed or substantially enclosed part of premises shared with other premises, such as a communal stairwell or lift in a block of flats, will be required to be smoke free if:

* it is open to the public
* it is used as a place of work, for example, by a cleaner, postman or security guard

Legislation does not apply to work undertaken in a private dwelling on behalf of a person living in the dwelling:

* that is carried out solely to provide personal care
* to assist with domestic work
* to maintain the structure or fabric of the dwelling
* to install, maintain, or remove any service provided for the inhabitants.

This means that, for example, there will be no legal requirement for an individual not to smoke in their own home if a tradesman, nanny, cleaner, or carer is present. In such circumstances it is recommended that the householder and the person providing the service come to an agreement, in advance of the visit, about whether, when, and where smoking may take place.

## SMOKE FREE VEHICLES

The law requires vehicles to be smoke-free at all times if they are used to transport members of the public in the course of paid or voluntary work by more than one person regardless of whether they are in the vehicle at the same time.

Smoke-free vehicles will need to display a no-smoking sign in each compartment of the vehicle in which people can be carried. This must show the international no-smoking symbol no smaller than 70mm in diameter.

Smoke-free vehicles with a roof that can be stowed or removed will not be required to be smoke-free when the roof is completely removed or stowed.

Vehicles that are used primarily for private purposes will not be required to be smoke-free. However, Council Policy requires these vehicles to be smoke free when used for work purposes.

## SIGNAGE

No-smoking signs will need to be displayed in a prominent position at every entrance to smoke-free premises. Signs must meet the following minimum requirements:

* be a minimum of A5 in area (210mm x 148mm)
* display the international no-smoking symbol at least 70mm in diameter
* carry the following words in characters that can be easily read ‘No smoking. It is against the law to smoke in these premises’.

Signs can be personalised by changing the words ‘these premises’ to refer to the name or type of premises.

A smaller sign consisting of the international no-smoking symbol at least 70mm in diameter may instead be displayed at entrances to smoke-free premises that:

* are only used by members of staff – providing the premises displays at least one A5 area sign
* are located within larger smoke-free premises, such as a shop within an indoor shopping centre.

To help comply with the law signs can be downloaded and printed or ordered from [smokefreeengland.co.uk/resources](https/www.smokefreeengland.co.uk/resources).

Signs can also be ordered from the Smokefree England information line on telephone number: 0800 169 169 7.

Alternatively, it is possible to design and print your own no-smoking signs as long as they meet the minimum requirements.

## SMOKING SHELTERS

There is no requirement for outdoor smoking shelters to be provided for employees or members of the public. If it is decided to build a shelter, official guidance suggests that any plans should be discussed with the local council, as there may be a range of issues that need consideration.

These might include planning permission, licensing, building control, noise and litter. In designing any such outdoor smoking area, thought should be given to the legal definition of a ‘wholly or substantially enclosed area’.

## ENFORCEMENT

Local councils will be responsible for enforcing the new law. Enforcement officers will have the power to enter any premises (other than premises used only as a private dwelling house not open to the public) to determine whether the law is being upheld. It will be the legal responsibility of anyone who controls or manages smoke-free premises and vehicles to prevent people from smoking in them. It will be such person’s responsibility to demonstrate that they have taken reasonable steps to meet the requirements of the new law.

Anyone who does not comply with the new legislation will be committing a criminal offence.

## REFUSAL TO STOP SMOKING

It may be necessary to take action if someone smokes in any smoke-free premises or vehicles. Official advice is to:

* draw the person’s attention to the no-smoking signs and ask them to stop smoking
* point out that they are committing a criminal offence by smoking in a smoke-free premises or vehicle
* remind the person that under the law others have responsibilities to prevent smoking and that they could both receive a fine.

Consideration can be given to not serving or providing services to a person who is breaking the law. If a customer or visitor continues to smoke, they can be asked to leave the premises.

If an employee ignores a warning, they should be asked to leave the premises (and, where relevant, informed of where and when they can smoke). If they continue to smoke, the employer may wish to consider taking disciplinary action. All action should be recorded.

If physical violence is threatened by a person smoking, it is suggested that police assistance is sought.