



**COEDFFRANC
PRIMARY**

Giving our children the roots to grow
and the wings to fly

Smoke Free Policy

Date approved by Governors:

Signed by Chair of Governors:



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

Smoke Free Policy

Polisi Dim Smygu
Smoke Free Policy

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Version	Date	Action
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1	November 2017	New Document
2	November 2018	Review & Amendment
2	July 2018	Review
3	January 2023	Review & Amendment

1. Introduction

This policy has been developed to protect all employees, service users, members of the public and visitors from exposure to second hand smoke. This ensures compliance with the Health Act 2006 which states that all enclosed and substantially enclosed workplaces and public places are legally required to be smoke free. In Wales, The Smoke Free Premises and Vehicles (Wales) Regulations 2020 prohibit smoking in certain premises, places, and vehicles.

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 completely stop potentially dangerous exposure.

E-cigarette use does not meet the legal or clinical definitions of smoking. Furthermore, international peer-reviewed evidence suggests that e-cigarettes carry a fraction of the risk of cigarettes.

Some concerns have been expressed about the safety of e-cigarettes and there is evidence to show that they are a fire risk particularly when being re-charged. The Chief Fire Officers Association includes e-cigarettes in its wider advice on rechargeable devices.

In addition to concerns about safety, there is also continuing controversy about the potential for the widespread use of vaping to normalise other smoking behaviours, reversing public health gains achieved as a result of banning tobacco smoking in public places.

Whilst acknowledging the above, this Policy applies to employees who smoke cigarettes and to those who use e-cigarettes.

2. Policy Aims

It is the policy of Neath Port Talbot County Borough Council (NPTCBC) that all of the workplaces owned or managed by the Council and other enclosed places owned or managed by the Council to which employees and the public have access are smoke free and that all employees have a right to work in a smoke free environment.

3. Definitions

Smoking: is defined as smoking or being in possession of a lit substance such as tobacco or any other substance that may be smoked

Electronic Cigarettes: E-cigarettes, personal vaporizers (PV's) and electronic nicotine delivery systems (ENDS) are battery operated devices that mimic tobacco smoking and are often used as a replacement for cigarettes

Enclosed premises: premises will be considered to be enclosed if they have a ceiling and a roof and, except for door and windows, are wholly enclosed, whether on a permanent or temporary basis.

Substantially enclosed premises: premises will be considered to be substantially enclosed if they have a ceiling and a roof, but there are openings in the walls which are less than half of the total area of walls, including other structures which serve the purpose of walls and constitute the perimeter of the premises. When determining the area of an opening, no account can be taken of openings in which doors, windows, or other fittings can be opened or shut. The term 'roof' includes any fixed or movable structure or device which is capable of covering all or part of the premises as a roof.

4. Roles and Responsibility

Chief Executive/ Corporate Directors

Overall responsibility for the implementation of the policy rests with the Chief Executive and Corporate Directors.

Heads of Service

Heads of Service will be responsible for ensuring that the health and safety arrangements are developed and implemented to satisfy the requirements of this policy. It is a key responsibility of Heads of Service to ensure that where officers have specific responsibilities for securing compliance with the legislation and this policy, that these duties are clearly notified to the officers concerned.

Governing Bodies of Schools Maintained by NPTCBC

There is a shared responsibility for health, safety, and welfare between the Council, Governing Body, and Head teacher. As this is now law, individuals can be fined for not imposing these regulations as responsible persons.

Managers / Team Leaders / Head teachers

Each Manager, Team Leader, and Head teacher will ensure that procedures/instructions relating to this Policy are implemented within their section. As this is now law, individuals can be fined for not imposing these regulations as responsible persons.

Corporate Health and Safety Section/ Occupational Health Unit

The Corporate Health and Safety Section and the Occupational Health Unit will provide advice and guidance in relation to this policy.

Human Resources

Human Resources Officers will provide advice and guidance in relation to employment issues resulting from this policy.

Environmental Health Section

Responsibility for enforcement of the legislation will rest with the Council's Environmental Health Section.

Employees

Employees are responsible for compliance with this policy. Employees can be fined for breaking the law (the points of which are outlined within this policy)

5.0 Legal Implications

Premises covered by this policy

It is an offense to smoke in premises owned, occupied, or managed by the Council, including schools. Smoking by employees, agency workers and contractors is also prohibited at, and in the vicinity of, the entrances to buildings owned, occupied, or managed by the Council, and also **within a ten metre radius of any such building.**

Local Authority Schools

Smoking / using e-cigarettes is not permitted in school premises or on school grounds, including playing fields and car parks under the control of the school, or is managed as part of the school. All schools in Wales with school grounds are included in the legislation – community, community special, foundation, voluntary aided, voluntary controlled and maintained nursery schools. Pupil Referral Units are also captured and therefore the grounds of these units will be required to be smoke-free. The legislation does not cover further or higher education settings such as Further Education or sixth-form colleges.

School grounds that are next to or adjoin the school are required to be smoke-free when either the school or the grounds are being used for

education or childcare, for example school sports field. In this case, the school sports field is required to be smoke-free during school hours.

School grounds that do not adjoin the school, are required to be smoke-free when the grounds are being used for education or childcare. For example, if a school has a sports field that is for its sole use, but which is across the road from the school, the sports field will be smoke-free only when being used by the school.

Signs should contain a legible graphic representation of a burning cigarette enclosed in a circle with a bar across the circle which crosses the cigarette symbol.

Signs should be displayed within clearly marked boundaries in a prominent position at or near the main entrance of if there is more than one main entrance at each entrance. 'No Smoking' signs should be on displayed and display the "appropriate warning text"

- It is against the law to smoke in these school grounds/Mae ysmegu yn nhir ysgol hon yn erbyn y gyfraith.

For more guidance on signage you can visit the Welsh Government website at:

<https://gov.wales/smoking-ban-no-smoking-sign-school-grounds>

Or contact Environmental Health on 01639 685678

Designated Smoking Areas (Schools)

Those schools that provide residential accommodation to pupils may, if they wish to, designate an area in the school grounds where smoking is permitted. The school may choose not to designate an area if that is their local policy. If it is decided that a designated smoking area is put in place, the location within the school grounds needs to be carefully considered.

If a designated area is provided, it has to fulfil the following conditions:

- The person in charge of the school grounds must specify who can use the designated smoking area. These are known as 'permitted persons'. Permitted persons have to be over the age of 18 and could include staff who also live at the school or visitors

- The size of the designated area cannot be more than 8.25 square metres
- The designated area has to be at least 10 metres away from any smoke-free buildings
- The designated smoking area must be clearly marked as an area in which a permitted person may smoke.
- The person in charge of the school grounds must also keep a record of all the areas which have been designated and who are the permitted persons. The designated area may be changed or withdrawn at any time. The legislation does not specify how the designated smoking area is clearly marked so this can be at the discretion of the person in charge of the school grounds.

Dwellings in the school grounds

The smoke-free requirements do not apply to a dwelling that is within a school grounds. For example the garden of a caretaker's house within the school grounds would not be required to be smoke-free.

Other areas frequented by young people or families

Employees of NPTCBC who work with, or near, children and young persons as part of their employment, must refrain from smoking/using e-cigarettes in sight of and in the vicinity of such individuals whilst engaging in work related activities. Smoking in these circumstances can have the potential to "normalise" smoking / use of e-cigarettes, which may have a subsequent negative influence on the behaviour of these young people with a greater likelihood of them trying tobacco products.

Public Playgrounds

All public playgrounds in Wales are required to be smoke-free, the manager or person responsible for the public playground must take reasonable steps to stop smoking there. 'No Smoking' signs should be on displayed and display the "appropriate warning text"

- For playgrounds within clearly marked boundaries "It is against the law to smoke in this playground/Mae ysmegu yn y maes chwarae hwn yn erbyn y gyfraith"
- For public playgrounds not within clearly marked boundaries "it is against the law to smoke within 5 metres of this play equipment/Mae ysmegu o fewn 5 metr l'r cyfarpar chwarae hwn yn erbyn y gyfraith".

For more guidance on signage you can visit the Welsh Government website at:

<https://gov.wales/smoking-ban-no-smoking-sign-playground>

Or contact Environmental Health on 01639 685678

Dwellings

To be classed as a workplace, dwellings must fall within one of two categories

- Used as a place of work by more than one person
 - At least one of those workers does not live there or
 - All workers live there, but members of the public might attend the premises to seek or receive good or services from a person working there.
- Used as a place of work by no more than one person but members of the public might attend to seek or receive good or services from the person working there.

Dwellings that are used as places of work, are required to be smoke-free in the parts of the dwellings which are being used and only during that period of time. 'No Smoking' signs are not required.

- Home Working – The smoke-free requirements do not apply to people who work from home, unless they fall within one of the categories listed above. The only time the home would have to be smoke-free is if another worker who does not live there was present or if a member of the public might visit to receive goods or services from the person working there.

There are no requirements to display 'No Smoking' signs in dwellings even if the dwelling is considered to be a permanent workplace.

Vehicles

It is against the law to smoke in a vehicle that is used wholly or mainly for work purposes or that carries members of the public. This means that all Council owned vehicles are to be smoke free. Smoking (and the use of electronic cigarettes) is prohibited in all Council vehicles, whether owned or "hired." Vehicles required to be smoke free must display no smoking signs in accordance with the regulations. Relevant persons are responsible for ensuring compliance. The regulations define a relevant person as the

vehicle operator, driver, and any person on a vehicle who is responsible for order or safety on it.

It is against the law to smoke in a private vehicle carrying a child (person under 18 years old). No Smoking signs are not required in these vehicles

This policy does not apply to private vehicles. However, employees should not smoke (or use an electronic cigarette whilst driving) in a private car on a business journey, when accompanied by other employees or clients.

Exemptions

Adult Care Homes and Adult Hospices

The law provides an exception to the smoking ban for adult care homes and adult hospices. This enables the person in charge of the adult care home/adult hospices to designate a smoking room. Other areas of the home hospice are smoke-free and 'No Smoking' signs are required at the entrances

- Rooms that are smoking permitted must be designated in writing and signed by the person in charge of the premises.
- Rooms designated for smoking must be clearly marked as a room where smoking is permitted.
- Rooms designated for smoking must not have any door which opens on to smoke-free parts that is not mechanically closed immediately after use.
- Residents will be permitted to smoke in designated rooms. Employees and visitors will not be permitted to smoke in the premises.
- The designated smoking room in residential accommodation must be used solely for smoking and not used as a communal recreation area or television room.

Signage at premises

No smoking signs will be clearly displayed in prominent positions at all the entrance to each smoke free building and in all Council vehicles. Officers with responsibility for signage will be informed of this by the appropriate Head of Service.

With the introduction of the legislation on 1 March 2021, there are now two groups of "No Smoking Signs" These are:

- The sign which show a graphic of a burning cigarette enclosed in a circle which crosses the cigarette symbol,
- The sign which show a graphic of a burning cigarette enclosed in a circle which crosses the cigarette symbol and the bilingual “appropriate warning text”

‘No Smoking’ signs are no longer required to be a certain size or colour or to have specified warning text. The only requirement is that the sign contains a legible graphic representation of a burning cigarette enclosed in a circle which crosses the cigarette symbol

For more helpful guidance on signage you can visit the Welsh Government website at:

<https://gov.wales/smoke-free-law-guidance-changes-march-2021-html#section-58233>

Or contact Environmental Health on 01639 685678

Signage in vehicles

No smoking signs in vehicles must be placed in a prominent position in each compartment of the vehicle which is wholly or partly covered by a roof, including the driver’s compartment.

For more helpful guidance on signage you can visit the Welsh Government website at:

<https://gov.wales/smoke-free-law-guidance-changes-march-2021-html#section-58233>

Or contact Environmental Health on 01639 685678

Non-compliance

The Disciplinary Policy and Procedure will be initiated if an employee does not comply with this policy and/or is in breach of the legislation during the course of their duties. Fine may also be issued by the Local Authority enforcing officer.

Managers seek guidance and use the relevant stages of the policy, including the informal stage depending on the severity of the non-compliance.

The Environmental Health department is responsible for the enforcement of the provisions of the Smoke Free Legislation under the Health Act 2006 and

the Smoke free Premises etc. (Wales) Regulations 2007. Summary of offences are:

- Person who occupies or is concerned in the management of smoke-free premises or (or the relevant person in relation to a smoke-free vehicle) fails to ensure that no-smoking signs are displayed in accordance with the requirements of the 2007 Regulations **(Fixed penalty notice £200).**
- Person smokes in smoke free place or vehicle **(Fixed penalty notice £100).**
- Person in control or concerned in the management of smoke free premises (or the relevant person in relation to a smoke-free vehicle) fails to cause a person smoking there to stop smoking **if found guilty of an offence, a person is liable on summary conviction to a fine not exceeding level 4 on the standard scale.**

6. E-Cigarettes

E-cigarettes fall outside the scope of smoke free legislation as the act requires a substance to be burned, while there is a consensus that e-cigarettes are safer, as an employer however we must consider the long-term effects which are yet to be determined.

NPTCBC takes a positive view on the use of e-cigarettes as an effective harm minimisation strategy for people who smoke: e-cigarettes may help them to move away from using harmful burnt tobacco products towards a cleaner form of nicotine delivery, and can help support cutting down and quitting altogether.

We understand that the vapours created by e-cigarettes may also create an unpleasant environment for non-smokers. Whilst smoking is prohibited throughout the premises owned, occupied, or managed by the Council, including schools, the use of e-cigarettes will be permitted in the vicinity of, the entrances to buildings owned, occupied, or managed by the Council, except for schools. However, e-cigarette users in such areas must have consideration for others who may not wish to be exposed to such vapours, and ensure that there is a thoroughfare free from vapour particularly at access and egress points to buildings. E-cigarette users must also be mindful of nearby openings to buildings, such as doors, windows and ventilation vents, which may provide a route for the vapour to enter the building.

The charging of e-cigarettes and related products will not be permitted within the workplace.

As new evidence emerges about e-cigarettes NPTCBC will review this position.

7. Help to Stop Smoking

In the interests of promoting better health and well-being, the Council's Occupational Health Unit is available to provide advice and guidance for those employees who wish to stop smoking or alternatively employees can contact Help me Quit on 0800 085 2219 or <https://www.helpmequit.wales/>

The Help me Quit service is easy to access, and trained staffs are available to offer guidance, advice on how to quit, information on nicotine replacement therapy as well as free access to regular support.

Additionally, the Council will provide smoking cessation classes/support from time to time. Such attendance, subject to approval by the employee's manager, will be with pay.

8. Smoking/E-Cigarette Breaks

The Council wishes to encourage and support all employees who are smokers to stop smoking. However, it is recognised that this will not be achieved overnight. Consequently, smoking / e-cigarette breaks will be permitted, but only where this has no adverse impact upon service delivery and also conditional upon smoking / e-cigarette breaks taking place in an employee's own time.

Participants in the Council's flexitime scheme must always "clock out." Core time "clocking out" is not permitted.

Line managers are responsible for regulating the frequency and duration of any smoking / e-cigarette breaks taken.

9. Review

The implementation of this policy will be the subject of periodic review or as new evidence emerges about e-cigarettes.