

**SMOKING POLICY**  
**Creating a Smoke Free Environment**  
**NOVEMBER 2015**

## **1. Introduction**

- 1.1** East Dunbartonshire Council recognises its responsibilities for the health, safety and welfare of its employees, and acknowledges its duty of care. It also recognises the health risks associated with tobacco use, not only for smokers but also the effects of second hand smoking on non-smokers. Second hand smoking – inhaling other people’s tobacco smoke is a particular issue for the workplace and the Council has a duty of care under the Health and Safety at Work Act, 1974 and the Safety & Health of Pregnant Workers Act (Directive 92/85/EEC) to:
- maintain a safe and healthy working environment;
  - protect the health of employees, and not to subject them to hazardous environments and materials;
  - ensure that employees understand their responsibilities to take reasonable care of the health and safety of other people.
- 1.2** The Council will ensure that good equal opportunities practice underpins the operation of this policy and will apply it to all employees irrespective of age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 1.3** The Council’s No Smoking Policy has been in place since 1999 and this revised policy has arisen from our legislative obligations imposed upon the Council in terms of the Smoking, Health and Social Care (Scotland) Act 2005 (The Act) and also taking recognition of the Scottish Government’s Strategy on “Creating a Tobacco-Free Generation: A Tobacco Control Strategy for Scotland” published in March 2013. The Act banned the smoking of tobacco and tobacco related products in enclosed public places from 26 March 2006. The Scottish Government’s Tobacco Control Strategy aims to reduce the number of people in Scotland who smoke by 2035.
- 1.4** The Council has also sought to reduce the risk posed from second hand smoking when entering Council premises and has prohibited smoking at all entranceways to Council premises and where no smoking signs are present.
- 1.5** In addition, the Scottish Government published their Strategy paper in March 2013 - “Creating Tobacco-Free Generation: A Tobacco Control Strategy for Scotland”, which all Local Authorities are encouraged to support and states that:
- “All Local Authorities should implement fully smoke free policies across their properties and surrounding grounds”. (Scotland.Gov.Uk Creating a Tobacco-Free Generation: A Tobacco Control Strategy for Scotland)
- 1.6** Provisions will apply under the Council’s Disciplinary Procedures for Employees. All elected members and employees have a duty to comply with this policy. Anyone can notify the enforcing authority that a smoking ban is being ignored. The person smoking will be asked to leave the premises. Managers also have a duty to ensure their employees/clients/visitors comply.

1.7 Employees are required, as part of the Council's Code of Conduct to support the Council in implementing this policy. Where an employee ignores this policy the Council will view this as an act of misconduct to be further considered through the agreed Disciplinary Procedures.

## **2. Purpose**

2.1 This policy has been developed to protect all employees, elected members, members of the public, visitors, temporary employees, clients, pupils/students and contractors hereinafter referred to as "employee's etc" from exposure to second-hand smoke and to assist compliance with the Smoking, Health and Social Care (Scotland) Act 2005.

2.2 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.

## **3. Policy Objectives**

3.1 The Council is committed to promoting healthy living and non-smoking as its normal culture by establishing a smoke-free environment for all employees, and being sensitive to the needs of those who smoke by offering support to those wishing to give up smoking.

3.2 Procedures will be put in place to achieve the following policy objectives:

- Provide all employees with a safe and healthy working environment
- Support employees who smoke, to help them cope with increased restrictions or to stop smoking
- Inform employees and managers of their responsibilities in respect of the policy
- Promote the culture of a Smoke Free Council
- Comply with the law.

## **4. Key Principles**

4.1 The aim of the Policy is to ensure a smoke free environment in compliance with The Smoking, Health and Social Care (Scotland) Act 2005 and the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 which came into effect on 26 March 2006 and to comply with the Scottish Government's National Strategy on "Creating a Tobacco-Free Generation: A Tobacco Control Strategy for Scotland".

4.2 The law and the National Strategy have been introduced to save lives and prevent diseases caused by second hand smoking.

4.3 Smoking is prohibited within all Council premises, at or near the main entranceways to Council premises; in Council vehicles and within the surrounding grounds of all Local Authority buildings. Employees will also not be permitted to smoke in their cars if their car is parked in a Council car park. Where an employee is using their own vehicle for business purposes and is carrying other employees/clients as passengers, they should not smoke. This prohibition also includes all previously designated smoking areas and shelters.

**4.4** All public buildings including surrounding grounds will be smoke free, including schools, community centres, libraries, leisure facilities, public halls and theatres – this is also applicable to public lets. Managers in these areas will have a duty to ensure that this policy is being applied by anyone entering our premises e.g. contractors, visitors and members of the public.

## **5. Statutory Exemptions**

**5.1** Exemptions to the Act can apply in the following circumstances:

- Council Care Homes - The regulations allow for the provision of designated smoking rooms for residents. Smoke-free Scotland Guidance, December 2005, views that smoking rooms are for residents only not staff or visitors. However, the law does not oblige the Council to create such rooms and this will be an operational matter for the Director of Community Health and Care Partnership (CHCP)
- Outdoor work locations - Smoking will only be permitted during recognised breaks. Whilst the Council would encourage employees not to smoke for health reasons, it recognises that this is a matter of personal choice. Employees must not smoke where this affects their ability to carry out their duties in a safe manner. Where an employee requires to smoke during a break (i.e. lunch time or other statutory break/s) they must ensure they smoke out with the surrounding grounds of all Council buildings
- Client Homes - The Council will adopt the Smoke-free Scotland, national guidance on smoking policies for the NHS, Local Authorities and Care Service providers (Dec 2005). This can be found [www.clearingtheairscotland.com](http://www.clearingtheairscotland.com). Employees concerned about working in the homes of clients who smoke will always be handled in a sensitive manner. The Manager will take appropriate action to eliminate/minimise any risk identified. Employees will be expected to work in partnership with their manager to identify a suitable solution.

## **6. E Cigarettes**

**6.1** E-Cigarettes are not currently endorsed by the NHS as being a supportive method for smoking cessation unlike patches and other supports which can be offered by GP's. This is as a result of e-cigarettes currently being unregulated and without appropriate research having been carried out into the effects of the product.

**6.2** The same restrictions apply to e-cigarettes as with normal cigarettes in that employees are not permitted to use e-cigarettes within Council premises, at or near the main entranceways to Council premises, Council vehicles or within the grounds of any Local Authority Buildings. In addition, where an employee is using their own vehicle for business purposes and is carrying other employees/clients as passengers, they should not use e-cigarettes. This prohibition includes all previously designated smoking areas and shelters.

**6.3** The prohibition of the use of e-cigarettes also applies to all public buildings including schools, community centres, libraries, leisure facilities, public halls and theatres – this is also applicable to public lets. Managers in these areas will have a duty to ensure that this policy is being applied by anyone entering our premises e.g. contractors, visitors and members of the public.

## **7. Support to Stop Smoking**

**7.1** The Council recognises that many smokers want to quit smoking, and that employees may use the policy to enhance their motivation to stop. Equally, it is recognised that many smokers do not wish to stop and they must be helped to cope with the restrictions imposed by this policy.

**7.2** The Council will:

- Provide a safe environment for employees and customers, whilst ensuring compliance with Legislation in that the Council will ensure there is a Council wide ban on smoking within all Council premises, including the surrounding grounds of Council Buildings, at or near all entranceways to council premises and in all Council vehicles.
- Display notices indicating that the location is smoke free and notices will be displayed in public spaces within Council premises and vehicles.
- Promote and offer a comprehensive range of support and assistance to employees who wish to stop smoking. In partnership with NHS Greater Glasgow and Clyde and East Dunbartonshire Community Health and Care Partnership (CHCP), EDC provides access to smoking cessation groups or one-to-one support with a dedicated specialist.
- Allow employees paid leave to attend Council recognised smoking cessation support groups. Employees can contact the local Smokefree Service at [www.nhsggcsmokefree.org.uk](http://www.nhsggcsmokefree.org.uk) or telephone 0141 355 2327 if they are interested in attending a support session or obtaining further information. Employees may also contact Smokeline on 0800 84 84 84 (8am - 10pm, 7 days a week) or use the online webchat at <http://www.canstopsmoking.com>
- In partnership with NHS Glasgow and the Community Health and Care Partnership (CHCP), introduce health promotions which encourage employees to adopt a balanced lifestyle and identify and address personal health problems through awareness leaflets and information on the internet/intranet site.

**7.3** Employee Action:

- Employees should be aware of and comply with their obligations under the Smoking, Health and Social Care (Scotland) Act 2005 and the Council's Smoking Policy.
- Consider utilising the support services available that will assist them to stop smoking, when they are ready to do so
- Participate in activities and promotions to improve their own health

## **8. Policy Implementation**

**8.1** Directors will ensure appropriate plans are in place to address operational matters arising from the Smoking, Health and Social Care (Scotland) Act 2005 (The Act) and

from Scottish Government Strategy on “Creating A Tobacco-Free Generation: A Tobacco Control Strategy for Scotland”

- 8.2 Managers will be responsible for ensuring the policy is implemented within their area.
- 8.3 New and potential employees will be made aware of the policy at recruitment interviews with contracts and at induction. Support and guidance regarding the tobacco policy will be provided by the Employee Relations and Wellbeing Team.
- 8.4 The revised Policy will be communicated to all employees and will be made available on the HUB.

## 9. Enforcement

- 9.1 Failure to comply with the law will be a criminal offence. The fines payable for those breaking the law Smoking, Health and Social Care (Scotland) Act 2005 are

Employers: £200 for permitting others to smoke in no-smoking premises

Employers: £200 for not conspicuously displaying warning notices in no-smoking premises

Employees or others: £50 for smoking in no-smoking premises.

- 9.2 Refusal to pay or failure to pay may result in prosecution and a fine of up to £2,500. Community Protection Officers will enforce the law, have the power to levy fines, and offer support. The fines are not part of the Disciplinary Procedures for Employees. Separate provisions will apply under the Council’s Disciplinary Procedures for Employees.

## 10. Risk Assessment

- 10.1 Employees have a responsibility to identify to their line manager/supervisor that they are experiencing adverse effects of passive or second-hand smoke encountered as part of their work, reasonable steps must be taken to reduce the risk and immediate referral through Employee Relations and Wellbeing to Occupational Health should be considered.

## 11. Compliance

### 11.1

- Contractors and Service providers will be informed of the policy during the contracting process.
- The main policy provisions will be clearly displayed at all entrances to the premises, (appendix 1 ).
- Visible and legible ‘No Smoking’ signs, complying with the legislation, must be displayed in or on any premises affected by the ban, so that they can be seen and read by people approaching the premises.

- Visible and Legible 'No Smoking' signs, complying with the legislation, must be displayed in or on any vehicles affected by the ban, in such a way that they can be seen and read by persons approaching the vehicle in question.
- The signs must display details of a responsible person and telephone number to whom a complaint may be made by anyone who observes someone smoking in a 'No Smoking' area.
- Visitors Badges will contain information regarding the policy.

**11.2** In the unlikely event of an employee etc. not respecting the policy, it's important that you know what to do:

- Draw the person's attention to the 'No Smoking' signs and remind them that they could be committing an offence or could be subject to disciplinary action. Politely ask them to stop smoking. Explain to them that the Council has a smoke-free policy to ensure a safe working environment for all staff and customers. If the person smoking is an employee:
- If your warning has been ignored, immediately ask them to leave the premises (and where relevant inform them where they can smoke).
- If the person refuses, they should be advised that the disciplinary procedures for EDC employees will be invoked.
- The incident should be reported to the appropriate manager.

**11.3** If the person smoking is a customer/service user, etc:

- If your warning has been ignored, immediately ask them to leave the premises (and where relevant inform them where they can smoke).
- If he/she refuses, implement the normal procedure for anti-social/illegal behaviour in the premises.

**11.4** If the person smoking is a customer/service user in their own home or Council rented accommodation:

- Politely ask them to stop smoking and explain that the Council has a Smoke Free policy to ensure a safe working environment for all employees.
- If the customer carries on smoking explain employees are at liberty to refuse service if they continue to smoke.

**In all cases where physical violence or intimidation is threatened or encountered, seek the assistance of the the line manager.**

**The National Compliance Line can be contacted on 0845 130 7250. This will be charged at local rates and allow the public to report anyone smoking in enclosed public places.**

## Appendix 1

### POLICY ON TOBACCO AND CONTROL OF SMOKING AT WORK

East Dunbartonshire Council operates a policy on tobacco and control of smoking at work to protect the health of all employees, service users, customers and visitors from exposure to second-hand smoke and to assist compliance with the Smoking, Health and Social Care (Scotland) Act 2005.

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.

#### **SMOKING IS NOT PERMITTED UNDER ANY CIRCUMSTANCES IN EAST DUNBARTONSHIRE COUNCIL PREMISES**

'Work locations' include the main entrance/exits to the buildings including the areas within boundary fences or curtilage, vehicles owned or leased by the Council and the **campus areas of the authority's schools / early years centres**.

Officers of the Council's Environmental Health Department will enforce the legislation and have the power to levy the following fines:

Employers:	£200 for permitting others to smoke in no-smoking premises:
Employers:	£200 for not conspicuously displaying warning notices in no-smoking premises:
Employees or others:	£50 for smoking in no-smoking premises.

Refusal to pay or failure to pay may result in prosecution and a fine of up to £2,500.

The fines are not part of the Disciplinary Procedures for employees. Separate provisions will apply under the Council's Disciplinary Procedures for Employees.

Support is provided by the Council to those smokers experiencing difficulty adapting to the terms of the policy, or who wish to quit smoking.

For more details and information please refer to the full Tobacco Policy available from your line manager/supervisor or the HUB Intranet.