

Smoking at Work

Even passive smoking can kill

Expert knowledge means success

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Note: This publication has not been updated since it was last published. Some of the hyperlinks may have changed and may need updating. In addition, some of the information in this publication may be out of date.

Introduction

Employers came under renewed pressure to protect workers from passive smoking when the Health and Safety Executive approved a code of practice in September 2000. The code set out a number of steps that employers could take to ensure non-smokers breathe clean air in offices, shops and factories, ranging from improving ventilation to setting aside smoking rooms.

Nowadays fewer people are smokers and attitudes to smoking are changing. Smokers are a minority in many workplaces. People have become more aware of the serious health risks faced by smokers themselves. There is increasing concern over the possible health effects of breathing other people's tobacco smoke (passive smoking). Work is one of a few situations where non-smokers may have to spend long periods in close contact with smokers.

In November 2004, the Government published a White Paper "*Choosing Health: Making healthy choices easier*" which proposed to end smoking in the great majority of workplaces and public places except for private clubs and for pubs which do not serve food. Despite a public consultation which revealed overwhelming support for a comprehensive smoking ban, the Government retained the proposed exemptions for pubs and clubs when it published the Health Bill in late 2005. However on 14 February 2006, MPs voted with a large majority to remove the exemptions for pubs and clubs. The Bill received Royal Assent in July 2006 and includes provisions to make enclosed public places and workplaces smoke-free from 1 July 2007.

The impact of the ban will be monitored closely and a review will be carried out at the end of three years.

How are you affected?

The ban makes smoking in virtually all enclosed public spaces in England punishable by a £50 fixed penalty, with fines of up to £2,500 for landlords and employers who allow illegal smoking.

Private members' clubs are covered, but among the exempt areas are hotel and care home bedrooms, specialist tobacconists, oil rigs and prison cells.

If you work from home, your house may be covered by the ban. The area you use for business must be smoke-free if someone else also works there and does not live with you, or if visitors provide goods or services in the rooms where you work. If your home is covered, you must put up No Smoking signs in affected parts of your house.

Employers who didn't already have a total smoking ban in place should have consulted with their employees and where appropriate, trade union and employee representatives about the changes.

Employee policies should:

- State clearly whether smoking is banned on all company property and in all company vehicles;
- Acknowledge the reason for the policy and the fact that it has been agreed following consultation with the workforce;
- Identify any disciplinary action an employee may face for breaching the policy;
- State clearly the scope of the policy and how it applies to visitors and customers;
- Be strictly enforced across the organisation at all levels to ensure it is taken seriously.

Most workforces contain a minority of smokers; and many of those will want to give up smoking. Employers should consider providing support and advice on how to stop-smoking in the prelude to the smoking ban for a smoother transition.

Smoke Free England has published a guide to help employers prepare for the smoking ban in England, entitled: '*Everything you need to prepare for the new smoke free law on 1 July 2007*'. The publication explains the reasons behind the legislation offers guidance on what employers need to do to comply with the law and explains how it will be enforced. It also explains how to get the free no-smoking signs which will become law on 1 July 2007. It can be viewed at: www.smokefreeengland.co.uk/files/everything_u_need_new_sf_law.pdf

A Threat to the Nation's Health

The harmful effects of smoking have long been recognised and passive smoking in particular is increasingly seen as a threat to people's health.

Government statistics show that the prevalence of cigarette smoking among adults has dropped substantially since 1980 when it was 39%, but it levelled off in the 1990s: in 2001 27% of adults were regular smokers.

Passive Smoking At Work Can Damage Your Health

When smokers and non-smokers share the same room, non-smokers cannot avoid inhaling some of the smokers' tobacco smoke. This is 'passive smoking'.

The smoke is mainly 'sidestream' smoke from the burning tip of cigarettes, cigars or pipe tobacco but there is also some 'mainstream' smoke exhaled by smokers. Both mainstream and sidestream smoke contain small droplets of tar together with nicotine and a wide range of vapours and gases such as carbon monoxide, ammonia, hydrogen cyanide and acrolein. They also contain small amounts of some substances, which have been shown in laboratory tests to induce cancer in animals.

What are the health risks of passive smoking?

Smoking is the single most important cause of disease and premature death. Independent scientific bodies throughout the world have also concluded that passive smoking can cause lung cancer in non-smokers.

In 1988, an advisory body to Government, the Independent Scientific Committee on Smoking and Health, reviewed all the available scientific evidence and concluded that long term exposure to environmental tobacco smoke (ETS) caused an increased risk of lung cancer, which in those living with smokers was in the region of 30 - 40%. Exposure to ETS was also cited as a cause of ischaemic heart disease. The Committee estimated that passive smoking may be causing several hundred lung cancer deaths a year in the United Kingdom. The Government has accepted these findings.

Passive smoking also has acute irritant effects on the eyes, throat and respiratory tract, and can aggravate asthma. Recent research also suggests a possible connection with heart disease, and a possible association between heavy exposure to tobacco smoke of women during pregnancy and smaller babies.

Why should employers take action?

The Independent Scientific Committee has advised that:

- Non-smoking should be regarded as the norm in enclosed workplaces. Special provision should be made for smoking, rather than vice-versa;
- Smokers should be segregated from non-smokers.

The Government and the Health and Safety Executive agree with this advice.

Public attitudes to smoking have changed. People have become more aware of the serious health risks faced by smokers themselves and are increasingly concerned about the health effects and discomfort of breathing other people's tobacco smoke. Only about 30% of the adult population smokes and the trend is downwards. As a result:

- In hospitals, on most forms of public transport and in many places of public entertainment smoking has been restricted or banned;
- The Government has recently published a code of practice on smoking in public places, aimed at owners and managers of buildings open to the public, setting out the best means of achieving the goal of a smoke-free environment;
- In the workplace more and more employers have introduced policies on smoking with the acceptance and agreement of their workforce.

But workplaces where there is not a policy on smoking in operation are now some of the few places where non-smokers may have to spend long periods in close contact with tobacco smoke day after day. Surveys show that most workers would prefer not to breathe air polluted by tobacco smoke when at work.

Passive Smoking Kills

Statistics produced in 2003 by Action on Smoking and Health claim that every year in the UK 1,200 people (three a day) die due to passive smoking.

HSE Advice

Even with new smoke-free legislation, HSE's advice on protecting employees from passive smoking remains unchanged in that:

- Employers should have a specific policy on smoking in the workplace.
- Employers should take action to reduce the risk to the health and safety of their employees from second hand smoke to as low a level as is reasonably practicable.
- Smoking policy should give priority to the needs of non-smokers who do not wish to breathe tobacco smoke.
- Employers should consult their employees and their representatives on the appropriate smoking policy to suit their particular workplace.

The Law in this Country

The law in this Country changed on 1 July 2007, by regulations introduced under the Health Act 2006.

Prior to the ban is coming into force, employers had duties to protect employees from the effects of smoke:

- The Health and Safety at Work Act 1974 - employers have a duty to ensure the health, safety and welfare at work of all their employees. This means, for example, that if a worker with a respiratory condition is forced to work in a smoky atmosphere, the employer is under a duty to manage that risk. Health and Safety Executive inspectors can take enforcement action in such circumstances but it would be for the courts to judge on the particular circumstances the extent to which the risk to health was significant. Employers also have a common law responsibility to provide a safe place and system of work. They should act to resolve complaints from employees that their health may be at risk from a smoky environment.
- The Workplace (Health, Safety and Welfare) Regulations 1992 - employers have a duty to ensure that non-smokers are not affected by tobacco in rest rooms or rest areas.

Although the above legislation specifically lay down employer responsibilities with regards to smoking; other legislation needs to be taken into consideration:

- The Management of Health and Safety at Work Regulations (1999) - covers the health and safety at work of pregnant workers and workers who have recently given birth or are breastfeeding. Passive smoking could be regarded as a hazard to this group of workers.
- The Sex Discrimination Act 1975 - if an employer fails to protect the health and safety of their pregnant workers, it is automatically considered sex discrimination.
- Employment Rights Act (1996) - If exposure to second hand smoke causes an employee distress or forces them to leave their job, you may be in breach of this Act.

As a result of these obligations, many employers already had a policy on smoking at work. However, unless they had in place a complete ban on smoking, they will have to make changes to their policies to meet their new obligations.

HSE guidance

The Health and Safety Executive's (HSE) guidance for employers "Passive Smoking At Work" provides guidance to employers on action to prevent passive smoking at work. The booklet was first introduced in 1988 and has now been substantially revised in that it:

- sets out more strongly the benefits of a policy and describes the changes in public attitudes;
- recommends that employers should give priority to the needs of non-smokers;
- suggests how employers can achieve a smoke-free environment. It recognises the need for general ventilation but does not consider it a key control measure for ETS; and
- summarises the legal position.

The booklet can be downloaded from:
www.hse.gov.uk/pubns/indg63.pdf

The Public Places Charter

The Public Places Charter was a voluntary code agreed between the Department of Health and the Association of Licensed Multiple Retailers (ALMR), the Brewers and Licensed Retailers Association (BLRA), the British Institute of Innkeeping, the British Hospitality Association, and the Restaurant Association.

The charter applied in places like hotels, restaurants and pubs. It includes a written policy on smoking, implementation of non-smoking areas, cleaning and ventilation, training and supervision.

Despite extensive publicity within the hospitality trade to promote the Public Places Charter, compliance with the initiative was low. In discussion with the Department of Health, trade leaders agreed that 50% of all pubs and half of the members of the Restaurant Association should be Charter Compliant by January 2003, with 35% of that 50% restricting smoking to designated and enforced areas and/or have ventilation that meets agreed industry standards. In its progress report published in April 2003, the Charter Group revealed that 46% of restaurants and pubs surveyed still allowed smoking throughout, with 22% having separate smoking and non-smoking areas. Less than 1% banned smoking completely.

The tobacco industry and its supporters have argued that improved ventilation is the answer to the problem of passive smoking. The best air-cleaning systems, if properly

The Law

New regulations brought a smoking ban into force in England at 6am on 1 July 2007. Almost all enclosed and substantially enclosed public places and workplaces are included, as are public transport and most work vehicles and company cars. There are a few limited exemptions to the ban where smoking may take place in designated rooms providing certain requirements are met, including: overnight sleeping accommodation in hotels, hostels and **private members' clubs**; prison cells; hospices; long stay care settings; specialist tobacconist shops and tobacco research facilities.

Whilst the places where tobacco and other substances can be smoked is heavily restricted, smoking itself is not banned, and may still take place outdoors (subject to other restrictions or local by-laws) and in the home, provided the area is not used as a workplace by more than one person. All common parts of flats and communal accommodation must be smoke-free. Where smoking shelters are provided, these must comply with the requirements to be less than fifty per cent enclosed otherwise they will be deemed substantially enclosed under the regulations.

The Regulations reflect the *minimum requirements* to comply with the ban. Some employers and premises owners may choose to go further and impose a smoking ban in all areas under their control, including outside grounds and car parks.

operated and maintained, can remove some of the toxic components found in tobacco smoke; however, air-conditioning systems merely circulate the air and do not adequately remove tobacco smoke from the atmosphere.

What are the benefits to employers of taking action?

A policy on smoking should result in:

- A better, cleaner corporate image;
- A healthier workforce with less time lost through sickness;
- Reduced conflict between smokers and non-smokers, provided the policy is introduced correctly;
- A reduction in staff turnover. It should be easier to retain and recruit workers if they have the opportunity of working in a smoke-free environment;
- Lower cleaning costs and less need for redecoration. Tobacco smoke pervades clothes and furnishings.

An effective policy on smoking at the workplace will not only protect the non-smoker but should also encourage smokers to reduce their consumption of tobacco or give up their habit.

Advice to Employers

If you have access to an occupational health service it will give you information on smoking and health, including the best policies to adopt to control smoking in your particular workplace and to encourage smokers to give up the habit.

The Health and Safety Executive gives advice to employers on action to prevent passive smoking at work. It recommends that all employers should introduce a policy to control smoking in the workplace following full consultation with their employees, and gives guidance on what the policy should achieve.

HSE's Employment Medical Advisory Service advises on all aspects of occupational health. (See local telephone directory under HSE).

The Advisory Conciliation and Arbitration Service (ACAS) can advise on the employment and industrial relations implications of policies on smoking at work. It has published a free booklet, which

includes advice on the development and implementation of policies on smoking. The Health Education Authority (HEA) has published a booklet giving detailed guidance on devising and implementing smoking policies at work.

Information or advice is also available from district health authorities, from the environmental health unit or local health education unit of the local authority, from trade unions, and from consultancy services.

The following organisations can also be approached for further information:

- **Action on Smoking and Health (ASH)** 102 Clifton Street
London EC2A 4HW
Tel: 020 7739 5902
www.ash.org.uk
- **ASH Wales**
374 Cowbridge Road East,
Canton
Cardiff CF5 1GY
Tel: 029 2064 1101
www.ash.org.uk
- **ASH Scotland**
8 Frederick Street
Edinburgh EH2 2HB
Tel: 0131 225 4725
www.ashscotland.org.uk
- **Department of Health – Tobacco Guidance**
The Department of Health
Richmond House
79 Whitehall
London SW1A 2NS
Tel: 020 7210 4850
www.dh.gov.uk/PolicyAndGuidance/HealthAndSocialCareTopics/Tobacco/fs/en
- **Health and Safety Executive**
HSE Information Services
Caerphilly Business Park
Caerphilly
CF83 3GG
HSE Infoline: 08701 545500
www.hse.gov.uk
- **Health Promotion Wales**
Ffynnon – Las
Ty Glas Avenue
Llanishen
Cardiff CF4 5DZ
Tel: 029 2075 2222
www.hpw.org.uk
- **Health Education Board for Scotland**
Woodburn House
Canaan Lane
Edinburgh EH10 4SG
Tel: 0131 536 5500
www.hebs.org.uk
- **Smoke at Work**
A pan-European website project on protecting workers from passive smoking
www.smokeatwork.org/handwork.htm

- **Smoke Free England**
Smoke Free England provides guidance on the smoking ban in England.
Tel: 0800 169 169 7
www.smokefreeengland.co.uk
- **The UK Public Health Association**
Suites 3 & 4, Lion Court
25 Procter Street
London
WC1V 6NY
Tel: 020 7269 7964
www.ukpha.org.uk

Further Reading

- Fourth report of the Independent Scientific Committee on Smoking and Health, March 1988 ISBN 0 11 321131 7 HMSO £5.70. Out of print but available through libraries.
- Report of the Scientific Committee on Tobacco and Health (SCOTH) March 1998. www.official-documents.co.uk.
- Health and employment ACAS Advisory Booklet 2000 ISBN 0 906073 45 6 Free from ACAS regional offices (see telephone directory)
- Smoking policies in the workplace. An update 1999. Available from the Health Development Agency. www.hdg-online.org.uk
- Smoking in public places: guidance for owners and managers of places visited by the public Code of Practice December 1991 Free from the Department of the Environment, PO Box 135, Bradford, West Yorkshire BD9 4HU
- Everything you need to prepare for the new smoke free law on 1 July 2007: guidance on what employers need to do to comply with the law and how the law will be enforced. It also explains how to get the free no-smoking signs which will become law on July 1.
www.smokefreeengland.co.uk/files/everything_u_need_new_sf_law.pdf



- HSE priced and free publications are available by mail order from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 6FS. Tel: 01787 881165 www.hsebooks.co.uk. HSE priced publications are also available from good booksellers.

Further Information

The Citizens Advice Bureau has useful information, including details of the law and the penalties for contravention, on its website at: <http://tinyurl.com/cncfoaa>

This publication is for general interest - it is always essential to take advice on specific issues.

We believe that the facts are correct as at the date of publication, but there may be certain errors and omissions for which we cannot be responsible.

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