

**SECTION S1****SMOKING AT WORK**

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# SMOKING AT WORK

## References:

- A. Health and Safety at Work Act 1974 (HASAWA74)
- B. The Management of Health and Safety at Work Regulations 1999 (Management Regs 99)
- C. The Workplace (Health Safety and Welfare) Regulations 1992 (Workplace Regs 92)

## 1. GENERAL INTRODUCTION

### 1.1 Legislation

1.1.1 Section 2 of Reference A (HASAWA74) outlines the general duties of Employers to their Employees, the effect of which is to make criminally enforceable, the common law duty to take reasonable care for the safety of those employees.

1.1.2 Sub-Sections of Section 2 have particular relevance to managers when related to smoking at work i.e. Provision of a safe working environment (S2 (2e)) – elimination of contaminated air.

1.1.3 Regulation 3 of Reference B (Management Regs 99) outlines the duty of managers to carry out a suitable and sufficient risk assessment to ensure that (AFARP) non-smokers are protected from the discomfort caused by tobacco smoke.

1.1.4 In a similar fashion the Workplace Regs 92 (Reference C) require the employer to make suitable arrangements to protect the aforementioned workers in their employ.

### 1.2 Purpose

1.1 To introduce a revised Smoking Policy for Gedling Borough Council. This takes all possible steps to protect employees from second hand smoke exposure and from the effects of smoking.

## 2. Background

2.1 The Smoking Policy reflects a commitment to raising employee awareness of the dangers of smoking and second hand smoke exposure. We know that 70% of smokers want to quit and we recognise the difficulties associated with this. Nicotine is a highly addictive substance and the Council recognises that staff will need support to stop smoking. Therefore the Council will provide a comprehensive package of support for smokers to support them to quit. As an employer the best way that we can encourage staff to stop smoking is to introduce restrictions on smoking during working hours. The Council recognises that employees who smoke may initially have difficulty with the new Policy. A lead-in time will be adopted to give smokers time to adjust and plan ahead to how they will comply with the Policy and its restrictions as they come into effect.

2.2 Second hand smoke is a known health hazard. In 2004 the Government's Scientific Committee on Tobacco and Health (SCOTH) reported that the increase risk to non-smokers of lung cancer from exposure to second hand smoke was 24% and the increased risk of heart disease 25%.

2.3 'Choosing Health', the Public Health White Paper published in 2004, outlines that Local Authorities must be smoke free by the end of 2007.

2.4 Gedling Borough Council recognises and fully accepts those responsibilities placed upon it by health and safety legislation to provide a working environment where employees' safety and health is of great importance.

2.5 The purpose of the Smoking Policy is to protect and improve the health, safety and well being of all elected members and employees at work and people who visit Council Premises. To underpin the policy the Authority will develop additional guidance, which addresses the effects of smoking in more detail and also the issues likely to arise in implementation. The guidance also contains information on where to get support for people who wish to quit.

2.6 The Council recognises that both smoking and environmental tobacco smoke have harmful consequences and should be prohibited except in areas that have been designated exempt. For those, suitable control measures should be applied.

2.7 This proposed policy fully replaces the existing policy agreed in 1990.

2.8 Policy Statement - Paragraphs 3.1 – 3.5 below set out the normal Policy position. Specific variations to the General Policy are described in paragraphs 4 to 6

### **3. General Policy**

3.1 Smoking will be prohibited in the following areas:

All Council owned and controlled buildings and their grounds.

All vehicles owned, leased or hired by the Council.

Employees' own vehicles when other employees are present

3.2 This applies to Council Employees and Elected Members whether employed directly by the authority or seconded to other organisations. The Policy also applies to staff employed through an agency, by a contractor or by other organisations and visitors.

3.3 Council employees will be unable to smoke during working hours.

3.4 No facilities e.g. smoking shelters or designated smoking spaces will be provided for smokers either inside or outside Council premises; however, specific arrangements will be put into place to address the issue of service users living in council residential facilities. Employees living in Council provided housing may smoke in their own homes outside working hours.

3.5 Where the Council rents a building, this policy will apply to employees working there and to all the areas listed in paragraph 5.1. Where such a building is shared, the Council will request that the policy is adopted by other organisations and that the policy is applied to communal areas.

### **4. Policy for Warden Aided Homes**

4.1 The Council aims for the prohibition of smoking in all its premises. But it is acknowledged that some service users who are living in warden-aided homes may choose to continue to smoke in their own home. Consultation will be undertaken in each complex to implement no smoking within all communal areas with the aim of introducing this by April 2007.

4.2 No smoking is allowed elsewhere in the building.

4.3 Smoking might be permitted, depending on the outcome of site-specific consultation, in the outside areas of a complex, e.g. garden area. However the provisions of paragraph 3.1 apply to employees who may not smoke in the grounds.

## **5. Policy For Leisure Centre Bars**

5.1 There is anticipated legislation, which will prohibit smoking in enclosed public places from the summer of 2007. At the present time, smoking is permitted in the bar areas of Arnold Leisure Centre and Richard Herrod Bar and Millennium Suite. The ban when implemented will impact on these locations, however, to be consistent with the approach to smoking elsewhere across the Council, these areas will become smoke-free from 1<sup>st</sup> April 2007.

5.2 This will ensure that the Council meets its obligations to employees to work in a safe environment as soon as practically possible.

5.3 Although members of the public may be permitted to smoke outside the building, depending on the arrangements put in place at each site, the provisions of paragraph 3.1 will apply to employees, who may not smoke in the grounds.

## **6. Policy for Third Party Premises**

6.1 Employees required to visit other premises, both commercial and domestic, as part of their duties should advise the people responsible for the premises of Gedling Borough Council's Smoking Policy when arranging a visit. Although Gedling Borough Council has a duty of care to protect its employees it cannot control the Smoking Policy on these premises. Employees and/or managers should aim for the people visited to arrange for a non-smoking area to be provided for the duration of the visit. Where this is not possible, the visited should be requested to refrain from smoking inside the premises or in the meeting area for one hour before the visit and be asked not to smoke for the duration of the visit.

6.2 In circumstances where it is not possible to arrange a visit beforehand, employees should seek advice from their line manager, who should take all reasonable steps to protect them from exposure to second hand smoke.

6.3 It is recognised that there will be circumstances, particularly in visiting some domestic premises, where it will not prove possible to establish such arrangements as described in 5.1 and 5.2, therefore a risk assessment should be undertaken. In such circumstances the risk of entering the premises where smoking is taking place need to be weighed against the risk of not undertaking the visit.

6.4 The general principles in 3.4 above also apply to third party premises.

## **7. Implementation and Enforcement of the Policy**

7.1 Each Head of Service will be responsible for the promotion and maintenance of a smoke free working environment in their area of responsibility. Managers should refer to the guidance document regarding their responsibilities in relation to the policy and the implementation of it.

- 7.2 Visitors not adhering to the Policy should be asked to comply or leave the premises.
- 7.3 All job applicants shall be made aware of the Policy at the point of application.
- 7.4 A copy of the Policy will form part of the Employee Handbook.

## **8. Information and Training**

8.1 The council recognises that smoking is an addiction and aims to provide a supportive environment for those wishing to overcome it and in doing so to promote the health and well being of all employees. Details of support will be available in the guidance document.

## **9. Review of the Policy**

9.1 The Policy will be reviewed by the Senior Management Team no later than twelve months after the date of implementation.