

**TO: EMPLOYMENT COMMITTEE**  
**15 FEBRUARY 2017**

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**AMENDMENT TO NO SMOKING POLICY**  
**(Director of Corporate Services - HR)**

**1 PURPOSE OF REPORT**

- 1.1 To update the existing no smoking policy to reflect Public Health England's recommendation that staff using electronic vaporisers (e-cigarettes) should not be required to take breaks in the designated smoking areas. The Council supports staff who wish to give up smoking and use electronic vaporisers as an aid to achieving this, and recognises it may be difficult for those giving up smoking to stand with people who are smoking.

**2 RECOMMENDATIONS**

- 2.1 To agree the changes to the no smoking policy, which is attached as Appendix A.

**3 REASONS FOR RECOMMENDATIONS**

- 3.1 To give managers clear guidance on how to treat smokers and staff who use electronic vaporisers. To comply with Public Health England's recommendations to support staff trying to give up smoking.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Keep the policy as is. This runs the risk that some individuals who are actively trying to give up smoking are treated as if they are smokers and the Council is not viewed as supporting staff. This may give rise to complaints or grievances on this matter from staff using electronic vaporisers.

**5 SUPPORTING INFORMATION**

- 5.1 The no smoking policy has been in place for some years and the fundamental principles of it have remained much the same. When electronic vaporisers became popular, the policy was amended to clarify that use of electronic vaporisers was not allowed indoors on Council premises. There is now a need to distinguish between staff who smoke cigarettes and those that use electronic vaporisers.
- 5.2 Over recent years it has become more common for some employees to use electronic vaporisers as an aid to giving up smoking. The Council is keen to support employees in their healthy lifestyle choices and are mindful that employees who are giving up smoking may not wish to stand next to people smoking cigarettes. However, restrictions which do not allow them to use electronic vaporisers indoors remain in place.
- 5.3 It is Public Health England's recommendation that employers should allow employees who use electronic vaporisers to take their breaks outside the building, but that they should be allowed to do so away from the designated smoking areas.

- 5.4 Advice from Public Health England states that "Smoking is defined clinically and in law, and e-cigarette use does not meet the definition in either context. Based on the international peer-reviewed evidence, ecigarettes carry a fraction of the risk of cigarettes and have the potential to help drive down smoking rates and improve public health"
- 5.5 In relation to workplaces, PHE Guidance is clear that "It is never acceptable to require vapers to share the same outdoor space with smokers. Where a designated outdoor smoking area has been provided in a public place or workplace, vapers should be allowed to vape elsewhere."
- 5.6 Members are reminded that all employees wishing to take a break from work to smoke or use electronic vaporisers will do so in their own time.
- 5.7 The amended policy is attached at Appendix A.
- 5.8 It is intended to develop a new policy on smoking in the future alongside development of an employee health and wellbeing strategy.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Treasurer

6.1

### Borough Solicitor

6.2 There are no specific legal implications arising from the recommendation in this report.

### Equalities Impact Assessment

6.3 Not applicable

### Strategic Risk Management

6.4 Not applicable

## **7 CONSULTATION**

### Principal Groups Consulted

7.1 None

### Method of Consultation

7.2 Not applicable

Representations Received

7.3 Not applicable

Background Papers

None

Contact for further information

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# **BRACKNELL FOREST COUNCIL'S NO SMOKING POLICY**

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## **BRACKNELL FOREST COUNCIL'S NO SMOKING POLICY**

### **INTRODUCTION**

The law in relation to smoking in workplaces and public places came into force as of 1 July 2007. The law introduced new offences in relation to smoking in enclosed public spaces, which apply both to the smoker and to those in control of such premises. The primary objective of the legislation is to protect individuals from second hand smoke.

The Council has adopted a Policy that seeks to ensure compliance with the law whilst also acknowledging the issues related to smoking by staff and members of the public visiting Council owned or managed premises.

### **SCOPE**

This procedure applies to all employees of Bracknell Forest Council and all contractors and agency staff working on behalf of Bracknell Forest Council.

### **THE POLICY**

Unless there is special exemption provision allowed for by legislation, smoking is prohibited in all Council owned or managed buildings.

Smoking outside Council buildings is permitted in designated areas only.

Provision will be made in appropriate places for the proper disposal of cigarette ends by both staff and the visiting public.

Commercial council-owned premises should have their own specific policies relating to members of the public smoking on council grounds.

Smoking is prohibited in all Council owned or leased vehicles. When smokers use their own private vehicles on Council business they are not permitted to smoke if they are carrying a passenger.

The Council will make available support to those staff wishing to give up smoking.

Staff are only permitted to smoke in their own time (for example, before and after work, lunchtimes and during official breaks).

Staff who use electronic vaporisers (e-cigarettes) are also required to use them outside and will also need to use them in their own time. Staff wishing to use electronic vaporisers will not be restricted to using areas designated for smokers to take their breaks.

The responsibility for applying these provisions and for ensuring compliance with this policy rests with the service area responsible for the management of the building, subject to the understanding that the objective is to ensure that all staff are not exposed to second hand smoke from tobacco products.

### **AIMS AND OBJECTIVES**

The Council is committed to providing a safe and comfortable working environment within all its buildings for employees and visitors. We intend to create as safe and

healthy environment for any person employed by BFC or others who may be affected by its undertakings as is practicable. The Council accepts that smoking is a lawful activity and a matter of personal choice. However, the Council recognises that smoking is a health risk.

The Council also acknowledges that smoking is a highly addictive habit and that it is supportive to those employees who wish to stop smoking. The use of electronic vaporisers is not viewed as smoking and employees who use these devices are not limited to the designated smoking areas. However, electronic vaporisers may not be used indoors on Council premises.

The successful implementation of the Policy depends on the co-operation of smokers and non-smokers alike.

## **APPLICATION**

### ***Buildings and structures***

This Policy applies to all premises where Council employees, whether they are full-time, part-time, contractors or temporary agency staff, work. This includes all Council-owned or managed offices, the Council depot and other public buildings such as libraries, theatres, leisure facilities etc. The Policy applies to common parts of buildings where BFC has a responsibility as landlord. Occupiers of all commercially let properties are required to make their own arrangements to ensure compliance with the legal provisions.

All areas within Council buildings are designated as NO SMOKING areas - this includes all offices regardless of whether they are occupied by a single employee or a group of employees; all corridors, public areas, meeting rooms, lavatories etc.

Council premises will have a designated, site specific, outdoor smoking area for employees. Smoking by employees will only be permitted within these designated areas. At such premises, designated area(s) will be clearly communicated to staff and a bin will be provided for cigarette butts. Designated smoking areas will be sited away from openable windows and doors to avoid smoke drifting into the buildings. Managers of commercially let premises and premises where members of the public use the facilities, must additionally consider how to ensure that arrangements are in place to avoid second hand smoke entering the building from the public/customers.

In care homes, subject to any exemption permitted by legislation, managers must take every possible measure to ensure that second-hand smoke exposure is kept to an absolute minimum for all staff and other residents. Unless permitted by the legislation staff will not be permitted to smoke on such premises.

School Governing Bodies are strongly encouraged to adopt this policy or produce their own policy that as a minimum meets the standards in this policy.

### ***Council Vehicles / Vehicles used on Council business***

Smoking is prohibited in all Council vehicles and those on hire to the Council which are used for the purpose of work by BFC employees.

Staff who use their own private vehicle for work purposes on a casual or essential car user basis are not permitted to smoke when they are carrying passengers in their cars

on Council business. They should also not allow passengers to smoke within their vehicle during working hours.

Employees using electronic vaporisers may not use them in Council vehicles or when carrying passengers in their own car on Council business.

### ***Service Users'- Private Homes***

Council employees may not smoke in private homes whilst on council business.

A council employee has the right to ask a service user, and others present in their home or workplace, not to smoke within the room(s) they need to go into to perform and complete their duties. The Council will reinforce this message by contacting service users and asking them to refrain from smoking when Council employees are present.

If the service users, or others on the premises, refuse to stop smoking in the relevant rooms of their home, the Council employee must decide whether it is necessary to enter the premises on that occasion or whether some alternative arrangement can be made. Employees may discuss with their manager ways to minimise the risk from second-hand smoke in service users' homes.

Employees must not use electronic vaporisers in service users' homes.

## **STANDARDS**

All visitors and contractors will be notified of the No Smoking obligation via appropriate means e.g. notices in reception areas.

Any contravention of this policy by employees will be regarded as a disciplinary breach and will be treated as misconduct under the Disciplinary Policy.

Notices, reminding people they are in a smoke-free area, will be displayed where necessary/deemed appropriate in both buildings and vehicles. These signs will comply with the requirements set out in the smoke-free legislation. In some instances staff may be given local direction verbally regarding designated smoking areas for example. In some instance it could be impracticable to erect signs in every possible location.

## **RECOGNISING THE NEEDS OF SMOKERS**

It is recognised that smoking is an addictive habit and an automatic response to certain situations. In order to help smokers reduce this dependency the Council is prepared in the implementation of the Policy to be supportive and understanding of individual needs whilst recognising:

- That service provision is the first priority of the Council;
- Smoking must be restricted in the work environment; and
- The scientific evidence for the link between smoking and illness, and hence the impact of smoking on service delivery.

In view of the above the Council will:

- a) Make provision to assist employees quit smoking. Staff wishing to give up smoking will be offered reasonable time off to attend Stop Smoking counselling during work time via agreement with their manager.
- b) Introduce local measures to discourage smoking in grounds where other staff have to pass, in order to help those employees having difficulty in stopping smoking.
- c) Ensure through its management arrangements that all employees are fully informed of the requirements and the objectives behind the Policy. In particular staff will be advised
  - that all indoor and enclosed workplaces (including Council owned/leased vehicles) are smoke-free;
  - the arrangements to be complied with in respect of the use of private vehicles,
  - the location of any designated external smoking areas where provided;
  - the location of any areas outside the actual buildings where smoking is not permitted
  - the details of what support is available to employees who wish to control, reduce or stop smoking in the form of counselling advice.
- d) Support employees who choose to use electronic vaporisers and allow them to use the electronic vaporisers in outdoor areas not designated for smoking.

### **ENSURING COMPLIANCE**

A breach of the Policy will constitute a disciplinary issue which will be dealt with under the agreed disciplinary procedure.

### **HUMAN RESOURCES**

HR will help ensure the implementation of this policy by:

- a) Ensuring that this policy is reviewed as necessary having regard to legislation, case law, approved codes of practice, or if through general application a need is highlighted.
- b) Providing advice and information on this policy to all employees of BFC.
- c) Ensuring that all job applicants are informed that BFC operates a Smoke-Free policy and what the implications are.
- d) Offer advice and information on Stop Smoking programmes available for persons who wish to stop smoking.

### **DIRECTORS**

Directors will ensure full implementation of this policy by:

- a) Promoting awareness of this policy to all line managers and staff
- b) Ensuring that all building managers implement the Policy.
- c) Making sufficient resources available to ensure implementation of the Policy.

### **LINE MANAGERS**

10.1 Line managers will ensure full implementation of this policy by:



- a) Ensuring all employees receive induction training and instruction in the safety arrangements relevant to smoking on joining the department.
- b) Ensuring all workers co-operate to ensure the success of this policy.
- c) Monitoring compliance and act upon breaches of this policy.

## **EMPLOYEES**

### **11.1 Employees must:**

- a) Co-operate to ensure the implementation of this policy.
- b) Notify managers on discovering incidents of illicit smoking where health or safety may be compromised.
- c) Not smoke during work time.
- d) Not use electronic vaporisers during work time.

## **FACILITIES/MANAGERS OF ESTABLISHMENTS**

### **12.1 Facilities/managers of establishments/vehicles must:**

- a) Ensure the display of appropriate signs at all entrances, throughout all corporate buildings and within Council vehicles.
- b) Through their room booking facility, ensure all people booking rooms are aware of the standards in this policy.
- c) Regularly check that areas not designated for smoking, and which represent a fire risk, are regularly checked to ensure that illicit smoking is not taking place, for example: fire exit routes.
- d) Where appropriate, ensure designated smoking areas are identified at Council premises.

## **CO-ORDINATION OF POLICY**

The responsibility for the provision of information or advice regarding this policy rests with Human Resources and the Health and Safety section.

## **COMPLAINTS ABOUT EMPLOYEES WHO SMOKE**

Complaints are to be expected and line managers should initially talk to the person about whom there are complaints directly and in a tactful way. Complaints are to be investigated and where appropriate, dealt with in accordance with existing disciplinary procedures.