

Policy and Sustainability Committee

10:00am, Tuesday, 9 January 2024

Smoke Free Policy

Executive/routine
Wards

Routine

1. Recommendations

- 1.1 It is recommended that the Policy and Sustainability Committee approves the revised Smoke Free Policy.

Dr Deborah Smart

Executive Director – Corporate Services

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Smoke Free Policy

2. Executive Summary

- 2.1 This revised policy reconfirms the position of the City of Edinburgh Council with regards smoke free workplaces but also inserts updated guidance and resources for those employees who may be seeking to stop smoking.

3. Background

- 3.1 The Smoking, Health and Social Care (Scotland) Act 2005 banned smoking in public places, including workplaces and work-related vehicles, to protect people from the health risks of passive smoking.
- 3.2 Local Authorities are responsible for ensuring that all their enclosed or substantially enclosed premises are smoke free; maintaining a safe, healthy working environment; protecting the health of clients, staff, visitors and contractors from hazardous environments; and making sure that staff understand their responsibilities to take reasonable care of the health and safety of themselves and others. This restriction also applies to vehicles used on Council business.
- 3.3 The 2013 the Scottish Government document 'Creating a Tobacco-Free Generation – A Tobacco Control Strategy for Scotland' called for Local Authorities to extend smoking restrictions to surrounding grounds, and outdoor areas within their jurisdiction, focusing on areas frequented by children. The aim of the National Strategy is based on evidence that an effectively implemented Smoke Free Policy shows good leadership and demonstrates an exemplar role in supporting the public health of local communities in relation to preventable diseases and ill health caused by smoking.
- 3.4 Nicotine Vapour Products (NVPs) is the name given to electronic cigarettes and all related equipment, including liquids, in Scotland. With the proliferation of these products, the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 was introduced which brought in new rules for the purchase and supply of vapour products. It is widely accepted that electronic cigarettes are less harmful than tobacco products and that while not risk-free, current evidence suggests that the risks are reduced. Smokers should be encouraged to quit smoking altogether or, if they choose, to use electronic cigarettes as a stepping stone to quit completely.

- 3.5 'Healthy Working Lives' (part of Public Health Scotland) issued further guidance for workplaces with useful self-help resources, including translation services.

4. Main report

- 4.1 This report confirms the existing policy has been reviewed in line with the policy review timescale agreed when the policy was last approved in December 2020. There has been no significant change to regulations or guidance for local authorities on the restriction of smoking during this period.

5. Next Steps

- 5.1 This revised policy will be brought to the attention of all employees along with support advertising to promote those who want to stop smoking.

6. Financial impact

- 6.1 There is no additional financial impact associated with the ongoing implementation of this policy.

7. Equality and Poverty Impact

- 7.1 By continuing to adopt this policy, the Council are responding to the regulatory requirements placed on employers and exemplifying the Scottish Government's national smoke free ambitions whilst ensuring, as far as is reasonably practical, that employees, service users, contractors and visitors have a right to work in or visit Council premises/vehicles without being exposed to tobacco smoke.
- 7.2 Widespread community protection from the disease risks associated with tobacco smoke.
- 7.3 Healthier communities as smokers take the opportunity provided by smoke-free workplaces and public places as an opportunity to stop smoking.
- 7.4 A more efficient workforce as sickness absence rates reduce over time as the prevalence of acute degenerative tobacco related disease falls, and a reduction in associated health care and treatment costs.
- 7.5 A workforce that is treated more equitably regardless of their working environment.

8. Climate and Nature Emergency Implications

- 8.1 This policy does not directly impact on the climate emergency.

9. Risk, policy, compliance, governance and community impact

- 9.1 This policy supports the Council's general Health and Safety obligations to protect employees by managing work conditions to protect colleagues from the effects of tobacco smoke.

10. Background reading/external references

- 10.1 Accessible online resources:

- [Smoking, Health and Social Care \(Scotland\) Act 2005 \(legislation.gov.uk\)](#) (accessed 07.11.2023),
- [The Prohibition of Smoking in Certain Premises \(Scotland\) Regulations 2006 \(legislation.gov.uk\)](#) (accessed 07.11.2023),
- The [Health \(Tobacco, Nicotine etc. and Care\) \(Scotland\) Act 2016 \(legislation.gov.uk\)](#) (accessed 07.11.2023).
- [Review of 'Creating a tobacco-free generation: A Tobacco Control Strategy for Scotland' \(healthscotland.scot\)](#) (accessed 07.11.2023).
- ['Smoke-free local authority implementation guidance \(healthscotland.scot\)](#)
- [Supporting a smoke-free working environment \(healthyworkinglives.scot\)](#)
[Smoking - Healthy Working Lives](#) (accessed 07.11.2023)

11. Appendices

11. 1 Appendix 1 - The City of Edinburgh Council Smoke Free Policy 2024-27

Council Smoke Free Policy

Implementation date: 09 January 2024

Control schedule

Approved by	Policy and Sustainability Committee
Approval date	09.01.2024
Senior Responsible Officer	Dr Deborah Smart Executive Director of Corporate Services
Author	Chris Lawson, Head of Health, Safety and Risk
Scheduled for review	8 January 2027

Version Control

Version	Date	Author	Comment
0.1	June 2015	Ron Young	
0.2	August 2015	Susan N. Tannahill	Scope extended to include contractors; scope of Nicotine Delivery Devices clarified; clarification on scope of external areas to be designated as smoke free.
0.3	Dec 2020	Robert H. Allan	Document revision inserting latest Scottish Government and Public Health Scotland information and resources.
0.4	Jan 2024	Chris Lawson	Periodic review.

Subsequent committee decisions affecting this policy

Date	Committee	Link to report	Link to minute
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Council Smoke Free Policy

1.0 Foreword

- 1.1 It is widely recognised that smoking is the largest single cause of serious ill health and premature death in Scotland. Similarly, the health effects of people breathing in other people's tobacco smoke, i.e. secondhand smoking (SHS), has emerged as an important, national health concern.
- 1.2 Smoking is identified within the highway code as a distraction to be avoided when driving, furthermore cigarettes present a source of ignition and potential fire risk.
- 1.3 The City of Edinburgh Council (Council) elected members fully recognise their role in exemplifying Scotland's smoke free ambitions and that they have a duty to ensure, as far as is reasonably practical, that employees, service users, contractors and visitors have a right to work in or visit Council premises/vehicles¹ without being exposed to tobacco smoke.
- 1.4 This Policy sets out how the Council will maintain a completely smoke-free environment and the support staff can expect if they wish to stop smoking.

2.0 Scope

- 2.1 This policy applies to all persons who work in or visit Council operated premises/buildings (including tent, marquee or stall), sites and vehicles (defined in greater detail below). For the purposes of this Policy, the definition of smoking includes all tobacco-based products as well as Nicotine Vapour Products (NVP) (electronic cigarettes) regardless of their contents.

3.0 Policy aims

- 3.1 The aims of this policy are to:
 - a) comply with current Scottish smoke free legislation, namely the Smoking, Health and Social Care (Scotland) Act 2005, the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 and the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016;
 - b) support the 2013 Scottish Government recommendation that Local Authorities consider scope for extending smoking restrictions to outdoor areas within their jurisdiction (including within vehicles parked on the grounds of Council property);

- c) promote the health of all employees by means of discussion and support on key issues surrounding smoking, and encouraging/supporting employees who currently smoke to change their smoking behaviour;
- d) reduce the risks associated with SHS by prohibiting smoking in all Council owned premises, and designated outdoor areas within their jurisdiction;
- e) to prohibit smoking in any Council owned or hired fleet vehicle; and
- f) whilst private cars are exempt under the legislation, confirm that smoking shall not be permitted in privately owned or leased cars during authorised journeys on Council business.

4.0 Operating the policy

- 4.1 Executive Directors will be responsible for implementing, operating and monitoring this policy in respect of all Council workplaces and vehicles used on Council business that fall within their control, including supporting smoking restrictions in designated outdoor areas.

- 4.2 Executive Directors shall ensure that all employees are:
 - a) informed of the policy and how it will be implemented and applied;
 - b) informed that failing to adhere to the controls set out in the policy will be viewed seriously and will be dealt with in accordance with the Council's Disciplinary Procedures; and
 - c) reminded that unauthorised absence from work (e.g. leaving the workplace without permission for smoking or other purposes) is viewed as misconduct;

- 4.3 Additionally, Executive Directors shall ensure that:
 - d) all potential employees are informed of the non-smoking obligations which will be placed on them should they be offered employment with the Council (e.g. job information packs and selection interview);
 - e) no-smoking signs are prominently displayed in:
 - all Council premises that are affected by the smoking restrictions, so that they can be seen by people in the premises and approaching the premises
 - outdoor areas where smoking restrictions apply, i.e. surrounding areas of Council premises including entrances, car parks, playgrounds and courtyards within the boundary of Council premises;
 - other outdoor areas within the Council's jurisdiction likely to be frequented by children such as play parks. Smoking restrictions may also be applied at outdoor family events organised by the Council
 - all Council owned or hired fleet vehicles
 - f) managers take the appropriate action if any cases of persons smoking are reported to them (e.g. reminding employees and third parties of the content of this policy); and
 - g) managers maintain suitable records as appropriate to demonstrate compliance with the legislation (e.g. record of complaints and action taken).

5.0 Employee responsibilities

- 5.1 In line with the City of Edinburgh Council Health and Safety Policy, all employees are reminded of their responsibilities to act in the course of their

employment with due care for their own safety and welfare and that of others who could be affected by their acts or omissions.

- 5.2 It is the responsibility of employees who smoke to adhere to the controls set out in this policy and Scottish smoke free legislation.
- 5.3 Failure to comply with the law is a criminal offence and employees will be individually liable for any penalty that may result. Additionally, the Council may instigate internal disciplinary action against any employee in contravention of law and/or this policy.

6.0 Promoting health – smoking cessation

- 6.1 The Council is committed to promoting the health of all employees regardless of whether they work indoors or outdoors and will seek to work in partnership with health professionals in encouraging and supporting employees who currently smoke to change their smoking behaviour.
- 6.2 The Council will seek to ensure that employees are provided with support by:
- a) making available, on request, general information regarding health and smoking, including sources of help, for employees who wish to reduce or stop smoking; and
 - b) working with health partners for the provision of voluntary smoking cessation help, encouraging employees who wish to stop smoking to access group or one to one support sessions where these are considered appropriate. Where operationally possible, the Council may allow staff to attend such support during working hours (see appendix 1 for further information on smoking cessation and the support services available).

7.0 Visitors to Council premises and sites

- 7.1 Visitors, including contractors, will be required to conform to the smoking controls applying to employees.
- 7.2 Anyone found smoking will be informed that they may be committing an offence and will be asked to extinguish their smoking material immediately or leave the premises. Similarly, persons using NVPs, irrespective of contents, shall be required to cease or to leave the premises.

8.0 Special arrangements/exemptions

8.1 Meetings and Events

Any organisation or person granted the use of Council premises for meetings or events will be informed that smoking is not permitted in any part of the building.

8.2 Residential Adult Care Homes/Hospices

Residential Care Homes are regarded as being the homes of those residents there. In these special circumstances the legislation allows for the provision of a specific room(s) to be designated as places where residents can smoke. Such rooms must be adequately ventilated with appropriate signs 'for resident use only'.

8.3 Day Care Centres

In accordance with the legislation, there is no provision for smoking rooms in Day Care Centres. Therefore, clients attending such centres will be informed that smoking is not permitted in any part of the building.

8.4 Community Education Centres

In the case of Community Education Centres, the Management Committees will need to adopt the position that smoking will not be permitted, in compliance with the legislation.

9.0 Working in the community

9.1 It is recognised that a significant number of employees work away from Council premises, providing services to people in their own homes that are not covered by the legislation, or in other indoor workplaces where the Council does not have control.

9.2 Strong consideration and an agreed approach should be given to the exposure of health and social care staff to SHS in client's homes. Managers will need to apply the principles of risk management when assessing and controlling the risks to employees, to ensure that an appropriate level of service continues to be provided.

9.3 It is likely that, if asked, a client will stop smoking (or vaping) upon request, however in the circumstances where a client may not adhere to this request the risk management process should include consideration of the following:

- educating the client/service user in relation to the potential harm that SHS can cause to Council staff visiting and everyone else who enters the home;
- discussion with the client/service-user around what can be done in relation to reducing SHS concentrations – such as not smoking during a visit, reduction in smoking prior to the visit, etc.;
- ensuring staff at risk (such as people with asthma, those at risk of heart/lung conditions, pregnant staff, etc.) are not exposed to SHS in their work;
- where SHS concentrations cannot be reduced, limiting the amount of time spent in the home and accessing areas where SHS concentrations are lower; and/or
- consider staff rotation so no one member of staff is repeatedly exposed to SHS within the same home.

If the mitigation measures above cannot be achieved, or are deviated from after assessment, the member of staff has the right to withdraw from the premises if they believe there is a risk to their health. This should be reported to the line manager who will take the appropriate actions.

10.0 Review

- 10.1 This Policy will be reviewed every three years or when legislation, NHS smoking cessation support services or best practice materially changes.

11.0 Appendices

11.1 Appendix 1

Current information from various health providers and resources.

11.2 Appendix 2

Smoke-free local authority implementation guidance © NHS Health Scotland 2017.

Appendix 1

Current information from various health providers and resources

<https://www.ashscotland.org.uk/>

<https://www.nhsinform.scot/healthy-living/stopping-smoking/>

[Helping you become a tobacco-free school | ASH Scotland](#)

<https://www.gov.scot/policies/smoking/>

Appendix 2

Smoke-free local authority implementation guidance

[Raising Scotland's tobacco-free generation: our tobacco control action plan 2018 - gov.scot \(www.gov.scot\)](#)

[Smoke-free local authority implementation guidance \(healthscotland.scot\)](#)