

DRAFT

Smoke free Workplace  
Policy

July 2007  
V1.4 (final)

## Smoke free Workplace Policy

### 1. Introduction

- 1.1 Secondhand smoke is a serious health hazard and there is no safe level of exposure. Every time someone breathes in secondhand smoke, they breath in over 4,000 chemicals. Many are highly toxic and over 50 are known to cause cancer. Medical and scientific evidence shows that exposure to secondhand smoke increases the risk of serious medical conditions such as lung cancer, heart disease, asthma attacks, childhood respiratory disease and reduced lung function.
- 1.2 Scientific evidence also proves that ventilation does not eliminate the risk to health of secondhand smoke in enclosed workplaces. The only way to provide effective protection is to prevent people breathing in secondhand smoke in the first place.

### 2. Policy Statement

- 2.1 West Yorkshire Fire & Rescue Authority (herein referred to as the Authority) accepts there are serious risks to a persons health from smoking, including passive smoking, and will do all that is reasonably practicable to safeguard the health of it's employees & visitors.
- 2.2 The Authority recognises that non smokers have the right to come to work in a smoke free workplace.
- 2.3 The Authority recognises smoking is an addiction and has therefore taken a staged approach to the implementation of this policy to give smokers who wish to stop smoking, time to do so and to give notice of its intensions to those who do not.
- 2.4 The Authority will, through the Occupational Health Unit (OHU) provide advice and support to employees who wish to stop smoking.
- 2.5 This policy will be reviewed and updated as necessary or at intervals not exceeding 3 years.

### 3. Background

- 3.1 Smoke free legislation which became effective on 1<sup>st</sup> July 07 (see section 4) for the first time makes it a specific criminal offence to smoke in an enclosed or substantially enclosed workplace. The new legislation also defines works vehicles as "workplaces", however domestic premises are exempt from the law.

Library:WYFS

Document Name:\_P&T\_28\_9\_07.DOC

Document #: 5116 Version:v1

Author\_Id: CAM

## Draft Smoke free Workplace Policy

- 3.2 The law requires all entrances to smoke free buildings owned by the Authority to display “No Smoking” signs in a prominent place, and all Authority owned vehicles to display similar signs inside the vehicle.
- 3.3 The law also places a duty on those who own/manage smoke free workplaces to enforce the law.
- 3.4 Due to the Authority introducing its No Smoking Policy in 2002, smoking inside all Authority premises has been prohibited for some years, and so the implications of the new law will, in this respect be limited, in comparison to other organisations who have allowed employees to smoke in their premises.

### 4. Legal Position

- 4.1 The Health Act 2006, the Smoke-free (Premises and Enforcement) Regulations 2007, the Smoke-free (Signs) Regulations 2007, the Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007, the Smoke-free (Exemptions and Vehicles) Regulations 2007, the Smoke-free (Penalties and Discounted Amounts) Regulations 2007 collectively make up the commonly referred to “Smoke Free Legislation”. Together they provide the legal framework for the establishment of smoke free enclosed/substantially enclosed workplaces, the requirement to display appropriate no smoking signs, the requirement not to smoke in such premises and for the law to be enforced by premise management, along with penalties for non compliance and some, albeit limited, exemptions.
- 4.2 Section 2 & 3 of the Health & Safety at Work etc Act 1974 requires the Authority to ensure the health, safety and welfare of its employees, and non employees who may be effected by our undertaking. This extends to exposure to passive smoke.
- 4.3 Regulation 3 of the Management of Health & Safety at Work Regulations (MHSWR)1999 (as amended) requires employers to assess the risks to the health and safety of their employees and others who may be affected by an employer's undertaking.
- 4.4 Section 7 of the HSW Act requires employees to take reasonable care for the health and safety of themselves and of others who may be affected by their acts or omissions at work. Employees must also co-operate with employers to enable the employer to comply with their health and safety duties.
- 4.5 Employers also have a general duty of care towards their employees in Common Law.

Library:WYFS

Document Name:\_P&T\_28\_9\_07.DOC

Document #: 5116 Version:v1

Author\_Id: CAM

## Draft Smoke free Workplace Policy

### 5. Arrangements for Implementing Policy

#### 5.1 Provision for Smokers

5.1.1 It is the intention of the Authority to make all Authority owned/managed premises **and grounds** smoke free and to prohibit all employees from smoking whilst at work. It is however recognised that smoking is an addiction and that some staff may want to use the introduction of this policy as a reason to stop smoking, and this will take time.

5.1.2 **Therefore smoking whilst at work, both on and off Authority premises will be prohibited from 1<sup>st</sup> July 08.** This will give smokers 1 year from the introduction of the new smoke free legislation to stop if they so wish, however for those who do not, puts them on notice regarding the intension of the Authority.

5.1.3 Employees promoted (substantive) or employed after 1997 are not permitted to smoke whilst at work, as they have a clause in their contract of employment preventing them doing so.

5.1.4 Employees promoted or employed before 1997 are permitted to smoke whilst at work, at one of the identified Designated External Smoking Areas (DESA's), until the total ban which will be introduced on 1<sup>st</sup> July 08.

5.1.5 Until 1<sup>st</sup> July 08, Fire & Rescue Staff (FRS) working at FSHQ who are permitted to smoke will continue to be allowed to smoke during the working day at one of the DESA's. As a result of the review of DESA's at FSHQ the number of them has been reduced and therefore may mean longer away from an employees place of work, therefore this situation shall be monitored by management to ensure it does not have a negative impact on business. Line Managers should take responsibility for ensuring that smoking breaks are taken within the contingencies of the Service.

5.1.6 Until 1<sup>st</sup> July 08, station based ~~operational~~ personnel who are permitted to smoke will continue to be allowed to smoke during their designated breaks/lunch and stand down at their DESA.

5.1.7 All DESA's have been reviewed to ensure they meet legal requirements, and will be identified by a "Designated External Smoking Area Sign" and a butt bin. Ash and cigarette ends must be disposed off responsibly.

5.1.8 No exemptions will be made for private functions held on Authority premises.

Library:WYFS

Document Name:\_P&T\_28\_9\_07.DOC

Document #: 5116 Version:v1

Author\_Id: CAM

## Draft Smoke free Workplace Policy

### 5.2 Smoking during Operational Duties

5.2.1 Operational personnel attending incidents before 1<sup>st</sup> July 08 should not smoke unless with the express approval of the Officer in Charge of the incident. If granted smoking will only take place in an area specified by the OiC. This area must be in the open air and away from others.

5.2.2 From the 1<sup>st</sup> July 08 smoking during operational duties will be prohibited.

### 5.3 Authority Vehicles

5.3.1 The definition in law of a workplace also included works vehicles as the risks from passive smoking are the same in an enclosed vehicle as they are a building. It has also been proven that the chemicals in smoke are released slowly over time from soft furnishings and so a risk of exposure to these chemicals still exists long after a cigarette has been put out. Therefore smoking in all Authority vehicles will be prohibited.

5.3.2 Note: Lease vehicles are not covered by the smoke free legislation as their use is predominantly private (as private mileage is greater than business mileage). However, due to the fact that other, non smoking employees may use the vehicle and that the vehicle becomes a workplace for certain groups of staff who work in the vehicle e.g. technicians, a policy decision has been taken to include lease vehicles in the prohibition.

### 5.4 Private Vehicles used on Authority Business

5.4.1 Private vehicles are also exempt from the new smoke free legislation. Smokers may smoke whilst using their private vehicle on Authority business **provided they are not carrying non smoking passengers.** If non smoking passengers are in the vehicle smoking will be prohibited. In addition, if the carrying of passengers is pre-arranged, the vehicle owner should refrain from smoking for 2 hours prior to the journey, to allow the smoke to dissipate.

Note: Employees will not be permitted to smoke in their private vehicles whilst on Authority premises.

### 5.5 Domestic Premises

Library:WYFS

Document Name:\_P&T\_28\_9\_07.DOC

Document #: 5116 Version:v1

Author\_Id: CAM

## Draft Smoke free Workplace Policy

- 5.5.1 Domestic premises are exempt from the smoke free legislation, however the Authority recognises such premises are workplaces for some employees who undertake community fire safety work and has a general duty under the Health & Safety at Work etc Act 1974 to ensure employees health & safety as far as is reasonably practicable. This duty extends to exposure to harmful chemicals present in tobacco smoke.
- 5.5.2 On entering a domestic property where occupants are/have been smoking the employee should undertake a dynamic risk assessment (DRA) to assess the environment. If it is their view, the level of smoke in the air is unpleasant or unsafe, individuals should politely inform the occupier that due to the smoke, the visit will have to be stopped and re-arranged for another time. If working in the area, this may be the same day (at least 2 hours) or alternatively re-arranged for a separate day.
- 5.5.3 Some CFS visits are made by appointment and some are not. For those which are made by prior appointment, the occupier should, at the time the appointment is arranged, be requested to refrain from smoking 2 hours prior to the visit and maintain a smoke free environment for the duration of the visit. For those visits not pre arranged the DRA principle detailed in 5.4.2 above should be applied.

### 5.6 Risk Assessment

- 5.6.1 Each DESA must be risk assessed to ensure the risks are adequately controlled. These assessments should be reviewed as and when there is a change which makes them no longer valid, or annually.
- 5.6.2 Risk assessments for other station/departmental activities should be reviewed to ensure that where appropriate, the risk of passive smoking has been identified and included on the assessment.

### 5.7 Signage

- 5.7.1 The smoke free legislation now requires specific wording on signage displayed on all entrances to smoke free workplaces (No smoking: it is against the law to smoke on these premises, along with the no smoking symbol). Such signage will be affixed in a prominent position at every pedestrian entrance to all Authority premises.
- 5.7.2 The smoke free legislation now also requires all Authority vehicles to display the no smoking symbol. Therefore such signage will be affixed in a prominent place inside each such vehicle. In the case of appliances a sign shall be displayed in the front and rear crew cab.

### 5.8 Staff Support

Library:WYFS

Document Name:\_P&T\_28\_9\_07.DOC

Document #: 5116 Version:v1

Author\_Id: CAM

## Draft Smoke free Workplace Policy

- 5.8.1 Employees who want to stop smoking can contact the OHU who can offer help and assistance along with putting them in touch with local NHS support groups. Further help with such things as nicotine patches/gum can be sought from employees own GP and therefore will not be provided by the Authority.

### 6 Information & Training

- 6.1 Information and guidance on the smoke free legislation, how to deal with people who smoke in a smoke free building and the penalties likely for breaching the law are all available on the OHSU website.
- 6.2 Help and information on giving up smoking is also available on the OHSU website.
- 6.3 Guidance on responsibilities for enforcing this policy are contained in section 7 of this policy.

### 7 Responsibility for Implementing Policy

- 7.1 All personnel within the Authority are required to co-operate with the implementation of this policy. However the following individuals and groups have additional responsibilities within this policy:

#### 7.2 *Director of Human Resources*

- Introduce and monitor the overall policy.
- Monitor that risk assessments are being carried out and that guidance, advice and support is available when required.
- Ensure that arrangements are in place, where required, to support those employees who want to stop smoking (via OHU & the provision of information & advice).

#### 7.3 *Area & Group Managers/Section Heads*

- Ensure that each DESA has an up to date risk assessment & that all relevant risk assessments e.g. undertaking CFS visits, include the passive smoking risk.
- Ensure that arrangements put in place by the Authority to manage the risk of passive smoking are implemented.

#### 7.4 *Station/Departmental Managers*

- Undertake risk assessments of each DESA and review regularly.

Library:WYFS

Document Name:\_P&T\_28\_9\_07.DOC

Document #: 5116 Version:v1

Author\_Id: CAM

## Draft Smoke free Workplace Policy

- Ensure passive smoking is considered when reviewing existing risk assessments and when undertaking new ones e.g. undertaking CFS visits
- Ensure all staff are aware of this policy.
- Ensure the requirements of this policy are implemented and enforced.
- Encourage employees to report non compliances with this policy to their line manager.

### 7.5 *Employees*

- Co-operate with the requirements of this policy.
- Act responsibly and take reasonable care to avoid putting yourself and others at risk.
- Report non compliances with this policy to their line manager.
- Dispose of ash and cigarette ends responsibly using the butt bins provided

## 8 Further Reading

*Everything you need to prepare for the new smokefree law on 1<sup>st</sup> July 07 – HM Government/NHS.*

*How the new smokefree law will effect you – HM Government/NHS.*