

Smokefree legislation

The Health Act 2006 made virtually all workplaces and public places, including work vehicles free from tobacco smoke. The primary aim of the legislation is to protect workers and the general public from the exposure to the harmful effects of secondhand smoke.

What does the law do?

Smoking is prohibited in all enclosed or 'substantially enclosed' public places and workplaces by making it an offence to:

- smoke in smokefree premises
- permit others to smoke in smokefree premises
- fail to display warning notices in smokefree premises

Premises will be considered to be 'substantially enclosed' if they have a ceiling or roof, but there are openings in the walls, which are less than half of the total area of the walls.

Which premises are affected?

Smokefree legislation applies to premises:

- the public has access to, eg pubs, shopping centres, restaurants, cafes
- that are a place of work
- providing education, health or care services

'Work' also covers voluntary work, so if a community hall holds an event staffed by volunteers, it would have to be smokefree. If the public attended, it would be both a workplace and a public place.

What about vehicles?

All vehicles used for public transport, eg buses, trains and taxis, are affected by the law. Where a vehicle is used as a workplace by more than one person, regardless of whether they are in the vehicle at the same time, it will be required to be smokefree at all times. This protects shift and other workers using the same vehicle from the hazards of second-hand smoke.

Are there any exemptions?

Private dwellings (this includes holiday cottages, caravans and associated buildings such as garages that are for the exclusive use of the persons living in the dwelling) do not have to be smokefree. In addition, the regulations do not restrict people from smoking in their private accommodation even if it is used for work providing the work is personal care or maintenance work. Providers of such services will have to consider how to protect their staff and negotiate private agreements with staff and clients about smoking while the care or maintenance is being carried out.

Common parts in residential premises such as stairwells or workplaces such as lift motor rooms will have to be smokefree.

The regulations allow for designated bedrooms in hotels, guest houses, hostels, members clubs etc to be not smokefree if they meet certain conditions, including being designated in writing by the person in charge of the premises. Shared rooms such as dormitories must always be smokefree.

In other residential situations such as prisons, care homes, hospices etc the regulations allow either for designated bedrooms or other designated rooms to be used only for smoking.

What are the penalties?

- Smoking in a smokefree place could lead to a fine of £200 - with a fixed penalty option of £50.
- Failure to prevent smoking in a smokefree place - a fine of £2,500.
- Signage offences - a fine of £1,000.

How does the council enforce this?

The council's enforcement staff have worked closely with businesses to raise awareness of the legislation. This approach was complemented by visits to confirm compliance or in response to complaints.

Prosecution or the use of fixed penalty notices will be used only when the seriousness of the situation warrants in line with our Enforcement Policy.

What should employers and occupiers be doing now?

- Discuss with your staff how best to meet their needs and comply with the law.
- Write a smoking policy if you haven't already got one.
- Provide external smoking shelters if you wish. You will probably need planning permission and possibly building regulation approval for the structure. Any shelter must have an opening which is greater than half the area of the walls in order to avoid the shelter becoming 'substantially enclosed' and thereby breaching the regulations.
- Provide support to any members of staff who want to quit smoking.

To help staff to give up call the [South Essex Stop Smoking Service](#) on 0800 0224 332 or 0800 169 0169. Alternatively call 01702 212000 leaving your contact details.

Further information

For more information on smoking shelters or other aspects of the ban, please Regulatory Services:

Address details

Silver number 01702 215005

Up-to-date developments on the regulations and other resources are also available on the [Smokefree England](#) website.