

Smokefree England 1 July 2007 – What it means for residential care homes and hospices

A law requiring smokefree environments in workplaces comes into effect 1 July 2007. The legislation ensures that virtually all workers are protected from the risks to health from tobacco smoke. The final regulations have yet to be approved by Parliament and so this guidance may change.

Are residential care homes and hospices included in the legislation?

Yes. It covers the *public areas* of residential care homes and hospices. This means that sitting rooms, dining areas, reception areas, corridors and all other communal areas which are enclosed places and structures which are 'substantially enclosed' are legally required to be smokefree. In addition work vehicles used by more than one person will also have to be smokefree.

What do '*enclosed*' and '*substantially enclosed*' mean?

Enclosed: the premises have a ceiling or roof and are wholly enclosed, whether on a permanent or temporary basis, e.g. tents, marquees, conservatories.

Substantially enclosed: the structure has a ceiling or roof and there are openings in the walls which are less than half the perimeter of the walls. This is called the '50% rule'. For more detailed information click onto www.smokefreeengland.co.uk.

Can residents smoke in their bedrooms?

Yes if it is the management's policy to allow smoking in bedrooms **and** if the following conditions are met:

- The person in charge of the premises designates a bedroom as one in which smoking is permitted
- A list of rooms designated for smoking is available if requested by an enforcement officer.
- The room is clearly signposted as a room where smoking is permitted
- The bedroom's ventilation system does not link into the smoke-free areas of the premises
- If the premises open onto a smokefree public areas, the door can be mechanically closed to prevent smoke drift

What if the owner's policy does not allow smoking in bedrooms?

The management can designate a smoking room for residents (but not staff) if it wishes. A designated smoking room has to be fully enclosed by solid, floor to ceiling walls and meet the conditions outlined above. Staff are not allowed to smoke in a smoking room.

What about staff who have to go into ‘smoking’ bedrooms or designated smoking rooms?

The legislation does not cover people providing personal care or domestic work in a person’s home or personal accommodation. Since employers have a duty of care to take reasonable precautions to protect the health of their employees, management need to undertake a risk assessment to reduce level of exposure to tobacco smoke that is as far as is reasonably practicable. See The Royal College of Nurses document, Protecting Community Staff from Exposure to Secondhand Smoke, www.rcn.org.uk for suggestions, e.g. asking residents not to smoke when a staff member is in the room and opening windows to fully ventilate the room during and after smoking.

What will the legislation mean in practice?

It requires the management to:

- Ensure all enclosed and substantially enclosed premises and work vehicles used by more than one person are smokefree
- Display ‘No-smoking’ signage at the public entrances to the premises and in work vehicles. Signage will be available free by registering at www.smokefreeengland.co.uk
- Ensure that rooms in which smoking is allowed meet the conditions described overleaf
- Undertake a risk assessment to reduce the risk of tobacco smoke to staff and non-smoking residents
- Take reasonable steps to ensure that staff, visitors and residents are aware that smoking is allowed only in designated rooms

Do employers have to provide smoking breaks or outside smoking areas?

No on both counts. By law, employers must give staff aged 18 and over an uninterrupted rest break of 20 minutes when their daily working time is more than six hours; staff under 18 should have a half hour break every four and a half hours. Staff can, of course, smoke during their rest period, if they choose, but they must not smoke in an enclosed or substantially enclosed area. Employers have to decide whether or not to permit smoking elsewhere on the premises e.g. in open car parks, grounds, or shelters and the organisation’s smoking policy should indicate where smoking is allowed.

What are the penalties for non-compliance?

The management is liable to the following penalties for non-compliance:

- Failure to display minimum no smoking signs: up to £1000 or £200 fixed penalty notice
- Failing to prevent smoking in a smokefree place, including vehicles: up to £2500.

Individuals found smoking in a smokefree area are liable to a £200 or a penalty notice of £50.

Is there help for staff to stop smoking?

The NHS offers a wide range of excellent, free and easily accessible support for smokers including local Stop Smoking Services, the Together Programme, the NHS Smoking Helpline on 0800 169 0169 , and nicotine replacement therapy (NRT) on prescription. Information about your local NHS Stop Smoking Service is at www.gosmokefree.co.uk

Can I get help to go smokefree?

Yes - log onto www.smokefreeengland.co.uk or phone the **Smokefree England Information Line 0800 169 1697** and register for the latest updates and FREE resources.