

Response to Request for Information

Reference FOI 000353
Date 09 August 2016

Council Policy on the Use of E-Cigarettes and Vaping

Request:

I am writing to request information under the Freedom of Information Act 2000 regarding your council's policy on the use of e-cigarettes and vaping. In order to assist you with this request, I am outlining my query as specifically as possible.

1. Please supply me with a copy of your council's policy on the use of e-cigarettes on council premises? This includes all council owned or leased buildings (for example, libraries, offices, museums), council owned or leased property (for example, parks, gardens, and other areas that form part of the grounds of council offices), and vehicles (for example, council owned or leased cars and vans).

City of Wolverhampton Council has a Smoke Free Policy, attached, which includes the use of e-cigarettes within the workplace. The policy applies to all Council employees. It also applies to councillors, visitors, contractors and service users attending Council premises and teachers in Council owned buildings.

As outlined on page 2 of the Policy, employees must observe the smoking ban applies to all Council owned and controlled buildings; council/hired vehicles – including single occupied vehicles, or private vehicles for work purposes (where passengers are being carried); and any area immediately surrounding any Council owned building entrance.

2. Please inform me if staff are required to leave their place of work (for example, their desk or vehicle) to vape?
Employees are required to leave their place of work, including their desk or vehicle as outlined above, to vape. Vaping and the use of e-cigarettes or similar is not permitted whilst at work.
3. Please inform me if staff and visitors have to leave the grounds of council owned or leased property to vape?
Employees and visitors should not smoke or vape directly outside entrances/exits of any Council owned and controlled buildings and the immediate surrounding area. A full list of where smoking is prohibited can be found at Appendix 1 of the Policy.
4. Please inform me if staff and visitors are required to use designated smoking areas on council owned or leased property in order to vape?
Employees and visitors are not required to use designated smoking areas in

order to vape; however they must do so a reasonable distance away from entrances/exits and the immediate surrounding area.

5. Please inform me if your council's policy on the use of e-cigarettes differs in any way from your council's existing policy on smoking. If it does, please explain the differences?

The use of e-cigarettes or similar is currently treated in the same way as real cigarettes and falls within the scope of the Council's Smoke Free Policy. However the policy is currently under review to incorporate information outlined in a recent publication produced by Public Health England.

6. Please detail your council's policy, if there is one, for staff smoking cessation and also if you encourage your staff to use e-cigarettes as a means of smoking cessation?

The Council does not have a separate policy for smoking cessation. Employees can access the Healthy Lifestyle Service provided via Public Health during working hours to obtain support with smoking cessation, and employees are also signposted to GPs, pharmacies and other community venues for support. Further information can be accessed via the following website:


<https://www.wolverhampton.gov.uk/stopsmoking>

Public Health will be promoting the services available for smoking cessation during 'Stoptober'. The Council's Occupational Health service has also supported Quit Smoking Cessation Programmes.

The Council's Smoke Free Policy contains information regarding the use of e-cigarettes; however this will be updated following a current review of the policy. The Council does not encourage employees to use e-cigarettes as a means of smoking cessation; but will support employees who choose to use them to do so.

7. Please inform me when your policy on the use of e-cigarettes was last reviewed, if it is under review, and/or if it is due to be under review in the near future?

The Council's Smoke Free Policy was last reviewed in August 2014 and is currently being reviewed to incorporate information outlined in a recent publication produced by Public Health England 'The use of e-cigarettes in public places and workplaces'. It is also being reviewed to reflect legislation making it a criminal offence to smoke in vehicles with children present.

HEALTH & SAFETY POLICY			
Safety Health & Wellbeing			
Smoke Free	Issue:		2
	Issue Date:		May 2007
	Date Reviewed		August 2014
	No of Pages:	5	

1.0 POLICY STATEMENT

Wolverhampton City Council acknowledges that passive smoking has been medically proven to cause lung cancer and heart disease in non-smokers, as well as many other illnesses and minor conditions. Section 2(2)(e) of the Health and Safety at Work Etc. Act 1974 places a duty on employers to:

“provide and maintain a safe working environment which is, so far as is reasonably practicable, safe, without risk to health and adequate as regards to facilities and arrangements for welfare at work”

Wolverhampton City Council has a duty in common law to take reasonable care to protect the health of its employees. Consequences of not adopting a policy concerning smoking may result in formal action as a result of damage to the general health and wellbeing of non-smokers.

The organisation has already taken steps to meet its duty. With effect from 17 May 2005, all Council occupied premises became smoke free. The Smoking Policy removed the provision of three ten minute smoking breaks for staff.

The implementation of the Health Act 2006 on 1 July 2007 means a comprehensive ban on smoking in work places and enclosed or substantially enclosed premises open to the public. The ban includes vehicles used for work.

The organisation acknowledges that some employees may wish to make use of electronic cigarettes ("e-cigarettes") in the workplace, particularly as an aid to giving up smoking. E-cigarettes are battery-powered products that release a visible vapour containing liquid nicotine which is inhaled by the user. Although they fall outside the scope of smoke-free legislation, the organisation prohibits the use of e-cigarettes in the workplace. The organisation's rationale for a ban on e-cigarettes is that:

- Although they do not produce smoke, e-cigarettes produce a vapour that could provide an annoyance or health risk to other employees;
- Some e-cigarette models can, particularly from a distance, look like real cigarettes making a smoking ban difficult to police, and creating an impression for visitors, contractors, service users and employees that it is acceptable to smoke.

This policy applies to all Council employees employed under the provisions of the various negotiating bodies. It also applies to councilors, visitors, contractors and service users attending Council premises and teachers in Council owned buildings.

2.0 OBJECTIVES OF THE SMOKE FREE POLICY

The objectives of the smoke free policy are to:

- Improve the health of employees, visitors and service users by providing a smoke free environment;
- Inform employees and managers of their statutory responsibilities;
- Support smokers to help them cope with increased restrictions or to stop smoking;
- Promote the culture of a No Smoking workplace amongst employees, contractors, service users and visitors;
- Provide a model of good practice for other organisations.

3.0 ORGANISATIONAL RESPONSIBILITIES

Role	Responsibility
Manager	<p>the designated manager shall:</p> <ul style="list-style-type: none"> • Comply with the law; • Ensure employees are informed that smoking is not permitted whilst at work, and there is no provision for smoking breaks; • Include passive smoking in risk assessments where appropriate e.g. service users homes; • Ensure that all future applicants for jobs are aware of the Council's policy through advertisements and at interview; • New employees are only appointed in the full knowledge of this policy and on the understanding that it is part of their terms and conditions of employment. • Ensure that all visitors, temporary staff, contractors etc., in their control are informed and comply with this policy.
Employee	<p>Employees:</p> <ul style="list-style-type: none"> • Must observe the smoking ban applies to all council owned and controlled buildings; council/hired vehicles – including single occupied vehicles, or private vehicles used for work purposes (where passengers are being carried); any area immediately surrounding any Council owned building entrance. • 'Vaping' and the use of e-cigarettes or similar is not permitted whilst at work. • Employees who choose to smoke must do so outside of core/contracted work hours. • Must not smoke directly outside any council entrances/exits and immediate surrounding area, and must be a reasonable distance away from entrances. • Are mindful that service users and our customers are entitled to enter a public building without having to pass through a curtain of smoke at entrances.

4.0 ARRANGEMENTS FOR ENSURING THE HEALTH AND SAFETY OF EMPLOYEES

The organisation takes the view that smoking constitutes a fire risk and a hazard to the health of all its employees, both smokers and non-smokers (as a result of passive smoking).

Smoking is not permitted in work spaces and/or the following enclosed areas:

- Any City Council owned and controlled building;
- Council/hired vehicles – including single occupied vehicles, or private vehicles used for work purposes (where passengers are being carried);
- Any area immediately surrounding any Council owned building entrance/exit.

The restriction applies at all times and applies to those on the premises, including outside normal working hours.

The use of e-cigarettes or similar is treated in the same way as real cigarettes and falls within the scope of this policy.

All visitors, temporary staff, contractors and clients will be expected to abide by the terms of the smoking policy.

Appropriate signs will be displayed at all entrances to the premises and employees should tactfully remind visitors of the policy, if necessary.

A full list of where smoking is prohibited can be found in Appendix 1.

5.0 EXEMPTIONS

Bedrooms and designated smoking rooms in Care Homes have been granted an exemption from the Health Act. Service users are permitted to smoke in specified areas so long as non-smoking staff and service users are not exposed to second-hand smoke as a result. In such premises, a designated smoking room may be allowed for residents only, provided that it complies with a minimum set of criteria to protect non-smoking staff and service users from exposure to tobacco smoke.

There are no requirements within the regulations for an individual not to smoke in their own home if a trade's person, cleaner or carer is present. In these cases, the householder and service providing service group should come to an agreement about smoking, including when and where smoking can take place, and how the service will be provided.

Smoking in Care Homes

Only residents within a care home (as previously defined) are permitted to smoke in the designated smoking room or their own bedroom (if agreed by the Service for safety reasons).

Where a smoking room is made available, internal doors must remain closed and windows open to allow rapid ventilation. The home manager will be responsible for ensuring that there is no smoking in the smoking room for at least an hour before a council employee, such as a cleaner, is required to enter the room to undertake his/her duties.

Where a council employee is required to support a resident of the care home whilst in the smoking facility, the service provider should reach an agreement with the service user over the arrangements to be put in place, in these circumstances at the outset of service delivery.

6.0 ENFORCEMENT OF THE POLICY

- 'No Smoking' signs will be clearly displayed.
- All council employees are equally responsible for health and safety at work and play a part in the enforcement of this policy.
- Managers will be responsible for ensuring that individuals do not smoke during contracted working hours, and inside a smoke free zone.
- A breach of this policy **by an employee** will be deemed to be in contravention of the Council's commitment to reduce smoking prevalence in Wolverhampton and a breach of health and safety. Anyone found to be smoking in a Council occupied premise and/or taking a smoking break during their contracted hours will be subject to action taken by the employing service area, this may include disciplinary proceedings for unauthorised absence. In addition, employees may be liable to action under the Health Act which is enforceable by Environmental Services for those who smoke in a smoke free environment.
- In the event of an employee taking an unauthorised break from work to smoke, the manager will be required to remind employees of the Smoke Free Policy and the potential for action being taken under the disciplinary procedure for taking **unauthorised breaks** from work. This also applies to those working outside of enclosed work places. The employee will also be advised of the requirements of the Health Act and the potential for action under the Act, enforceable by Environmental Services, if smoking in a smoke free environment listed in Section 4 of this policy. The employee will be given option of support or help with managing not smoking during working hours.

6.0 COMMUNICATION OF THE POLICY

Employees will be advised of the policy through i.e. City People, line managers, electronic media and at induction. Visitors and service users will be advised of the policy by appropriate signs and in other documentation supplied by Wolverhampton City Council.

This policy will also be communicated to others not directly in the employment of the Council. The requirements of the policy will be communicated in contractual documentation for contractors and suppliers.

7.0 TRAINING AND INFORMATION

All new employees should be encouraged to read the policy on smoking as part of their induction process and be referred to the 'no smoking' clause in the contract of employment.

The following is a list of places where smoking prohibitions apply:

Managers Fact Sheet	
Places where smoking is prohibited	
<ul style="list-style-type: none"> • restaurants • bars and public houses • shops and shopping centres • hotels • libraries, archives, museums and galleries • cinemas, concert halls, theatres, bingo halls, gaming and amusement arcades, casinos, dance halls, discotheques and other premises used for the entertainment of members of the public • premises used as a broadcasting studio or film studio or for the recording of a performance with a view to its use in a programme service or in a film intended for public exhibition • halls and any other premises used for the assembly of members of the public for social or recreational purposes • conference centres, public halls and exhibition halls • public toilets • public transportation vehicles • vehicles used by one or more persons for work 	<ul style="list-style-type: none"> • club premises • offices, factories and other premises that are non-domestic premises in which one or more persons work • offshore installations • educational institution premises • premises providing care home services, sheltered housing or secure accommodation services and premises that are non-domestic premises which provide offender accommodation services • hospitals, hospices, psychiatric hospitals, psychiatric units and healthcare premises • crèches, day nurseries, day centres and other premises used for the day care of children or adults • premises used for, or in connection with, public worship or religious instruction, or the social or recreational activities of a religious body • sports centres • airport passenger terminals and any other public transportation facilities • public telephone kiosks.