

CITY OF  
WOLVERHAMPTON  
COUNCIL

## Response to Request for Information

Reference      FOI 001521  
Date            20 September 2017

### *Policy on Use of E-Cigarettes and Vaping*

#### Request:

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).

[In response to question 1 above, please see attached "Smoke Free Policy" provided on page 4 onwards.](#)
2. Please inform me if staff are required to leave their place of work (for example, their desk or vehicle) to vape.

[In response to question 2 above, the use of e-cigarettes is prohibited in the workplace. Like smoking, 'vaping' is not permitted at work on any part of the workplace premises. Employees may not leave their place of work during their contracted hours to smoke/vape.](#)
3. Please inform me if staff and visitors have to leave the grounds of council owned or leased property to vape.

[In response to question 3 above, as above, 'vaping' is not permitted at work on any part of the workplace premises. This includes any City Council owned and controlled building including enclosed, partially enclosed and non-enclosed areas within the boundary of the relevant premises, and any Council/hired vehicles, including single occupied vehicles, or private vehicles used for work purposes \(where passengers are being carried\).](#)
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.

[In response to question 4 above, the answer is no, the Council has no designated smoking areas as smoking/vaping is not permitted on the premises.](#)

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 Council's policy on e-cigarettes is the same as smoking. 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 vapor 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.

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 relating to smoking cessation, however the following paragraph is included in the Council's smoke free policy (attached):

Employees can seek smoking cessation support through Human Resources Occupational Health. There are a variety of Smoking Cessation Apps available for download to smartphones which provide detailed support packages. Equally the following websites provide useful information and support:-  
[www.nhs.uk/smokefree](http://www.nhs.uk/smokefree) <https://quitnow.smokefree.nhs.uk>  
Many GP surgeries offer smoking cessation clinics and support.

Information and support relating to smoking cessation is also available to employees via the Employee Assistance Programme.

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 policy was published on 01/03/2017 and is next due for review on 01/03/2018.

8. The Government's Tobacco Control Plan explicitly states that "Public Health England has produced guidance for employers and organisations looking to introduce policies around e-cigarettes and vaping in public and recommend such policies to be evidence based. PHE recommends that e-cigarette use is not covered by smokefree legislation and should not be routinely included in the requirements of an organisation's smokefree policy". If the council has not reviewed its policy since the publication of this control plan, does it have any plans to do so in the future?

The Government's Tobacco Control Plan recommendations will be used to provide an evidence base to build a case for e-cigarettes to be included in the local authorities smoke free policy when it is next reviewed.

[NOT PROTECTIVELY MARKED]

- 9.** Are councillors due to debate/discuss the Government's Tobacco Control Plan and/or Public Health England's advice on vaping policies?  
[There are currently no plans to debate the/discuss this with councillors.](#)

# CITY OF WOLVERHAMPTON COUNCIL

## Human Resources Policy Framework

### Smoke Free Policy

<b>Approved by:</b>	
Published:	
Review date:	

CONSULTATION			
The following officers and/or bodies have been consulted on this policy:			
Officers and/or Bodies	From	To	
CCC Scrutiny Panel			
CDB/SEB			
MRG			
HR			
The following Trade Unions have been consulted on this policy:			
	From	To	
REVIEW LOG			
Date	Version	Comments/Review	Approved by

EQUALITY ANALYSIS

ADVICE
Contact HR on 01902 552345 or email <a href="mailto:HR.supportdesk@wolverhampton.gov.uk">HR.supportdesk@wolverhampton.gov.uk</a> for HR advice.

COMMENTS AND AMENDMENTS

Contact HR on 01902 552345 or email [HR.supportdesk@wolverhampton.gov.uk](mailto:HR.supportdesk@wolverhampton.gov.uk) to make any comments or suggest any feedback on this policy.

**DISTRIBUTION**

This policy is placed on the HR intranet for managers and employees to view. Copies will be provided to recognised Trade Unions and managers electronically.

## INDEX

<b>Section</b>		<b>Page</b>
1	Policy Statement	4
2	Legislation	4
3	Scope	5
4	Principles	5
5	Smoke Free Workplace	5
6	Exemptions	6
7	Smoking in Care Homes	6
8	Enforcement of the Policy	6
9	Communication of the Policy	7
10	Training, Information and supporting employees	7
11	Roles and Responsibilities	7
Appendix 1	Boundary maps	

## 1. Policy Statement

- 1.1 The City of Wolverhampton 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.
- 1.2 The City of Wolverhampton 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.

## 2. Legislation

- 2.1 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”*

- 2.2 The implementation of the Health Act 2006 on 1 July 2007 implemented 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.
- 2.3 The Smoke-free (Signs) Regulations 2012 revoked and replaced the previous Smoke-free (Signs) Regulations 2006 with the main difference being that at least one legible no-smoking sign must still be displayed in smoke-free premises and vehicles, but owners and managers are now free to decide the size, design and location of the signs.
- 2.4 The Smoke-free (Private Vehicles) Regulations 2015 implemented a ban on smoking in vehicles carrying children and determined failure to comply would be a criminal offence.
- 2.5 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.

### **3. Scope**

- 3.1 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

### **4. Principles**

- 4.1 This Policy aims 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.

### **5. Smoke Free Workplace**

- 5.1 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).

- 5.2 Smoking is not permitted at work on any part of the workplace premises as follows:-

- Any City Council owned and controlled building including enclosed, partially enclosed and non-enclosed areas within the boundary of the relevant premises
- Council/hired vehicles – including single occupied vehicles, or private vehicles used for work purposes (where passengers are being carried).

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



- 5.4 The use of e-cigarettes or similar is treated in the same way as real cigarettes and falls within the scope of this policy.
- 5.5 All visitors, temporary employees, agency workers, contractors and clients will be expected to abide by the terms of the smoking policy.
- 5.6 Appropriate signs will be displayed at all entrances to the premises and employees should tactfully remind visitors of the policy, if necessary.

## **6.0 Exemptions**

- 6.1 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 employees 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 employees and service users from exposure to tobacco smoke.
- 6.2 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.

## **7.0 Smoking in Care Homes**

- 7.1 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).
- 7.2 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.
- 7.3 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.

## **8.0 Enforcement of the policy**

- 8.1 No Smoking' signs will be clearly displayed in accordance with the Smoke-free (Signs) Regulations 2012 or any subsequent relevant legislation.
- 8.2 All council employees are equally responsible for health and safety at work and play a part in the enforcement of this policy.

- 8.3 Managers will be responsible raising awareness of the Smoke Free Policy and for ensuring that employees do not smoke during contracted working hours, and inside a smoke free zone.
- 8.4 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.
- 8.5 An employee found to be smoking in an area designated smoke-free and/or taking a smoking break during their contracted hours may be subject to disciplinary action.

## **9.0 Communication of the policy**

- 9.1 Employees will be advised of the policy through 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 the City of Wolverhampton Council.
- 9.2 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.

## **10.0 Training, Information and supporting employees.**

- 10.1 All new employees should be encouraged to read the policy on smoking as part of their induction process and should be referred to the employee responsibilities. A policy will be available on the HR Intranet.
- 10.2 Employees can seek smoking cessation support through Human Resources Occupational Health. There are a variety of Smoking Cessation Apps available for download to smartphones which provide detailed support packages. Equally the following websites provide useful information and support:- [www.nhs.uk/smokefree](http://www.nhs.uk/smokefree) <https://quitnow.smokefree.nhs.uk>  
Many GP surgeries offer smoking cessation clinics and support.

## **11. Roles and Responsibilities**

### **11.1 Managers are required to:**

- 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 user's 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 employees, agency workers, contractors etc., in their control are informed and comply with this policy.

### **11.2 Employee Responsibilities**

- Employees must observe the smoking ban applies to all council owned and controlled buildings and is extended to include all areas within the boundary of council ownership and control. Appendix 1 includes boundary maps for council offices.
- Employees should satisfy themselves they are aware of the boundary at other premises under the Council's ownership and control.
- Employees must observe the smoking ban applies to all council owned and controlled vehicles and any vehicles used for the carriage of passengers as part of the business of the council.
- '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.
- Be mindful that service users and our customers are entitled to enter a public building without having to pass through a curtain of smoke on the premises.

### **11.3 Human Resources are required to**

- provide operational support and advice to the organisation to enable the effective management of this policy.
- Ensure the communication, maintenance, regular review and updating of this policy
- Monitor and review delivery and impact of this policy

### **11.4 The Head of Human Resources is required to**

In consultation with the recognised Trade Unions, the Head of Human Resources will exercise delegated authority for and be responsible for the on-going review and updating of this Policy to ensure compliance with changes in statutory requirements and operational delivery, including responsibility for identifying the appropriate process for the regular evaluation of the effectiveness of this policy. Any fundamental changes to this policy will be brought before the Resources Panel for approval.