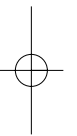
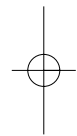


# Smoke-free legislation

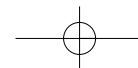
Important information for employers,  
managers and those in control of premises in Northern Ireland

[www.spacetobreathe.org.uk](http://www.spacetobreathe.org.uk)



Produced by the Health Promotion Agency for Northern Ireland  
Telephone: 028 9031 1611 (voice/minicom) [www.healthpromotionagency.org.uk](http://www.healthpromotionagency.org.uk)

03/07



## Key facts on smoke-free legislation

- The Smoking (Northern Ireland) Order 2006 (the Order) will come into effect on Monday 30 April 2007. From this date it will be against the law to smoke in most 'enclosed' and 'substantially enclosed' workplaces and public places, including work vehicles and public transport. Enclosed and substantially enclosed are defined in **Appendix 1** which also contains details of some other definitions under the Order.
- The legislation is being introduced to protect workers and the public from exposure to second-hand smoke and will be enforced by district councils' environmental health officers.
- Unless an exemption applies, premises are smoke-free if they are enclosed or substantially enclosed.
- Those responsible for smoke-free premises and/or smoke-free vehicles will be required to display no-smoking signs so that they are clearly visible to all employees, customers and visitors. Failure to comply may result in the issue of a £200 fixed penalty notice or lead to a prosecution, for which the maximum penalty on summary conviction will be £1,000.
- Individuals may receive a £50 fixed penalty notice if they smoke in smoke-free premises or smoke-free vehicles. The maximum penalty on summary conviction will be £1,000.
- The law requires those responsible for smoke-free premises to prevent or stop a person smoking there. A similar requirement is made of drivers, those with management responsibilities and those with responsibility for order and safety on smoke-free vehicles. Failure to comply may lead to a prosecution for which the maximum penalty on summary conviction will be £2,500.
- An offence of obstructing an authorised officer of a district council (see Appendix 1 for definition) has also been created for which the maximum penalty on summary conviction will be £1,000.
- Information on smoke-free legislation and how to obtain free no-smoking signage is available at [www.spacetobreathe.org.uk](http://www.spacetobreathe.org.uk) or by contacting the environmental health department of district councils (please refer to **Appendix 2** for contact details).



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**Sample no-smoking signs**



## 1 Introduction

From Monday, 30 April 2007 it will be against the law to smoke in most enclosed and substantially enclosed workplaces and public places, including work vehicles and public transport.

This publication, along with a website, [www.spacetobreathe.org.uk](http://www.spacetobreathe.org.uk) provides useful information about smoke-free legislation and is for guidance only. **Anyone in doubt about their legal obligations should seek independent legal advice.**

## 2 Why do we need smoke-free legislation?

The primary aim of smoke-free legislation is to protect employees and the general public in Northern Ireland from exposure to second-hand smoke.

The Government firmly believes that the scientific and medical evidence demonstrates clear health risks associated with exposure to second-hand smoke. The body of evidence in this area is detailed and extensive, has been critically reviewed and is internationally accepted.

## 3 Where will smoke-free legislation apply?

From 30 April 2007, smoke-free legislation will apply to most premises which are enclosed or substantially enclosed. **Premises open to the public must be smoke-free.** However, premises open to the public that are not used as a place of work are required to be smoke-free **only** during those times when they are open to the public (for example, stately homes which are open to the public for one day a year and are not a person's workplace).

Premises must be smoke-free **all the time** if they are used as a place of work:

- (a) by more than one person (even if the persons who work there do so at different times, or only intermittently); or
- (b) where members of the public might attend for the purpose of seeking or receiving goods or services from the person or persons working there (even if members of the public are not always present).

If only part of the premises is open to the public or used as a place of work (see 3(a) and 3(b) above), only that part of the premises is required to be smoke-free.

Smoke-free legislation will also apply to vehicles which are used for the transport of members of the public or a section of the public, for example, buses, taxis and trains, and vehicles which are used for work by more than one person (even if the persons who work there do so at different times or only intermittently).



#### 4 Exemptions

There are few exemptions to smoke-free legislation. Those available are subject to certain conditions. The exemptions are:

- private accommodation;
- a designated bedroom in the following: a hotel, a guest house, an inn, a hostel or a members' club;
- a designated room in the following: a residential care home, a nursing home, a hospice or a research and testing facility;
- a designated room in residential accommodation in a mental health unit;

**Note: the provision for smoking in a designated room in residential accommodation in a mental health unit ceases to have effect from 30 April 2008;**

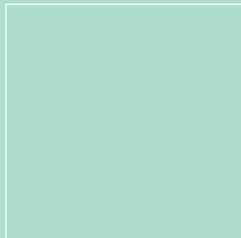
- prisons, young offenders' centres and remand centres;

Note: this exemption does not extend to visitors' centres, social clubs, premises on which intoxicating liquor is sold, and premises used for physical recreation of persons other than those detained, all of which are required to be smoke-free;

- a designated room used as a detention cell within a police station, an exercise area within a police station and an interview room within a Child Abuse and Rape Enquiry (CARE) suite;

**Note: the provision for smoking in a designated room used as a detention cell within a police station, an exercise area within a police station and an interview room within a CARE suite, ceases to have effect from 30 April 2008; and**

- specialist tobacconists (only for the purposes of sampling).



#### 4.1 Private accommodation

The legislation does not require private accommodation and dwellings to be smoke-free except for those areas that are used as a place of work and communal areas, such as stairwells in apartment blocks.

The legislation does not apply to work undertaken in a private dwelling on behalf of a person living in the dwelling:

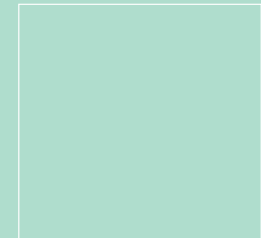
- that is carried out solely to provide personal care;
- to assist with domestic work;
- to maintain the structure or fabric of the dwelling; or
- to install, maintain, or remove any service provided for the inhabitants.

This means that, for example, there will be no legal requirement for an individual not to smoke in their own home if a tradesman, nanny, cleaner, or carer is present. In such circumstances it is recommended that the householder and the person providing the service come to an agreement, in advance of the visit, about whether, when, and where smoking may take place.

Key points to note are:

- Where a room or bedroom is designated as one where smoking may take place, the designation must be in writing. The person in charge of the premises must make the written designation available for inspection by an environmental health officer at any time.
- Rooms or bedrooms that are designated for smoking must be clearly marked as rooms in which smoking is permitted.

There is no obligation upon persons in charge of premises to allow smoking to take place just because an exemption is available under smoke-free legislation. The regulations aim to provide the flexibility for those in charge to decide whether exemptions are appropriate, based on factors that are specific to their premises. These may include the nature of the client, resident or customer base, the physical lay-out of the premises and the application of other legislation, such as health and safety.



#### 4.2 Designated rooms in residential accommodation

Residential accommodation includes hotels, guest houses, inns, hostels, members' clubs, residential care homes, nursing homes, hospices and mental health units. A person in charge of residential accommodation to which an exemption from the smoke-free legislation may apply, should carefully consider the definitions of 'designated bedroom' and 'designated room', outlined in **Appendix 1**.





## 5 How to comply with the law

From 30 April 2007, all those responsible for smoke-free premises and smoke-free vehicles must take reasonable steps to ensure that employees, customers and other visitors do not smoke.

The legislation **requires** those responsible for smoke-free premises and/or smoke-free vehicles to:

- display no-smoking signs (see paragraph 5.1); and
- take reasonable steps to stop people from smoking, including informing smokers that they are committing an offence.

In addition **it is also recommended** that those responsible for smoke-free premises and/or smoke-free vehicles take the following minimum action:

- implement a smoke-free policy – ensuring that all staff are aware of this policy and its implications (see section 8);
- remove all ashtrays;
- inform persons smoking that they are committing an offence;
- request that they extinguish their smoking materials or leave; and
- refuse service to individuals who are smoking in smoke-free premises.

### 5.1 No-smoking signage in smoke-free premises

The legislation requires those responsible for smoke-free premises to display at least one no-smoking sign in a prominent position **at each public entrance**.

This sign must:

- be a flat, rectangular sign that is not less than 148 millimetres by 210 millimetres;
- bear the international no-smoking symbol at least 75 millimetres in diameter (see definition **Appendix 1**);
- contain, in characters that can be easily read, the following words:

**‘No smoking. It is against the law to smoke in these premises.’**

On the sign, the words ‘these premises’ may be replaced by words referring to the particular smoke-free premises, for example, ‘this hotel’.



A no-smoking sign that displays the international no-smoking symbol is the **minimum** requirement at entrances to smoke-free premises which:

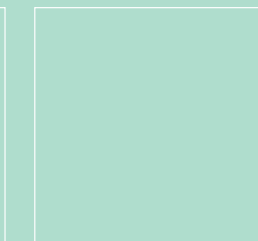
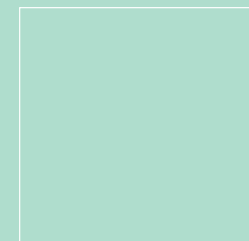
- are located within other smoke-free premises (for example, a shop within an indoor shopping centre); or
- are for staff only (providing that the premises displays at least one rectangular sign with words as detailed under 5.1 on page 8).

### 5.2 No-smoking signage in smoke-free vehicles

The legislation requires those responsible for a smoke-free vehicle to display a no-smoking sign in each compartment. These no-smoking signs must display the international no-smoking symbol (see definition **Appendix 1**).

### 5.3 Obtaining free no-smoking signage

Examples of no-smoking signs are included with this document and additional supplies, including signage for smoke-free vehicles, are available free of charge by contacting the relevant district council's environmental health department. Free signage is also available to download at [www.spacetobreathe.org.uk](http://www.spacetobreathe.org.uk) but those responsible for the display of signage will need to consider the colour requirements as set out in **Appendix 1**. The environmental health department of district councils can provide advice on the types of signage premises are required to display in order to comply with smoke-free legislation (please refer to **Appendix 2** for contact details).



### 5.4 What to do if someone is smoking in smoke-free premises

It is anticipated that the majority of people will respect the new law on smoking. However, it is important to know what to do if someone continues to smoke. It is recommended that:

- the individual's attention is drawn to the 'no-smoking' signs; that they are reminded they are committing an offence; and that they are politely asked to stop smoking;
- the individual is advised that it is also an offence for those responsible for smoke-free premises to allow anyone to smoke;
- it is explained to the individual that the business has a smoke-free policy to ensure a safe working environment for all staff and customers;



If the person smoking is an employee:

- if the warning has been ignored, immediately ask the employee to leave the premises (and, where relevant, inform him or her where and when they can smoke);
- if the employee refuses, implement the normal disciplinary procedure for antisocial/illegal behaviour in the workplace; and
- maintain a record of all such incidents and outcomes.

If the person smoking is a customer:

- explain that staff are obliged to refuse service if he or she continues to smoke;
- if the customer carries on smoking, he or she should be asked to leave the premises (and, where relevant, informed where they can smoke);
- if the customer refuses, implement the normal procedure for antisocial/illegal behaviour in the premises; and
- maintain a record of all such incidents and outcomes.

Similar procedures should be adopted to deal with smoking in smoke-free vehicles.

**In all cases where physical violence or intimidation is threatened or encountered, seek the assistance of the police.**



**5.5 Compliance line**

A compliance line will operate from 30 April 2007. This will allow the public to report breaches of smoke-free legislation. All reports will be followed up by environmental health officers. The telephone number for the compliance line is 0845 603 2500 (calls will be charged at a local rate).

**5.6 Outdoor smoking shelters**

Businesses are not required to provide outdoor smoking areas for staff or customers, but if such facilities are under consideration then legal and local planning advice should be sought to establish, among other things, whether the proposed structures would meet the legal requirements for smoking to take place.

The environmental health department of district councils will be able to provide further advice on outdoor smoking shelters. Please refer to **Appendix 2** for contact details.

Enforcement officers may carry out inspections in a number of different ways. This could include inspections:

- where officers will announce themselves prior to assessing the situation within the premises; or
- more covert surveillance, where officers will assess the situation by observation, then identify themselves following the period of surveillance.

**At all times, officers will strive to adopt a non-confrontational approach.**

**6 Enforcing smoke-free legislation**

Smoke-free legislation will be enforced by district councils' environmental health officers. These officers already work closely with businesses in areas such as food safety, and health and safety. A similar approach will be used to implement the new smoking law – providing advice and support to businesses wherever possible.

Enforcement officers will have the power to enter any premises (other than premises used only as a private dwelling house not open to the public) to determine whether the law is being upheld. They will also assess whether or not those in control of the premises have taken all reasonable precautions to avoid people smoking.

Inspections carried out by enforcement officers will either be pro-active (to advise businesses and to confirm compliance with the law), or re-active (in response to a complaint). Inspections may also be incorporated within other health and safety, and food hygiene inspections.





### 7 Penalties for not complying with smoke-free legislation

Failure to comply with smoke-free legislation will be an offence.

- Failure to prevent smoking in smoke-free premises may lead to a maximum fine on summary conviction of £2,500.
- Failure to display no-smoking signage may lead to a £200 fixed penalty or to a maximum fine on summary conviction of £1,000.
- Smoking in a smoke-free place may lead to a £50 fixed penalty or to a maximum fine on summary conviction of £1,000.

- provide information on how to obtain help to quit smoking; and
- be communicated to all staff and in particular to new and part-time staff before they commence employment.

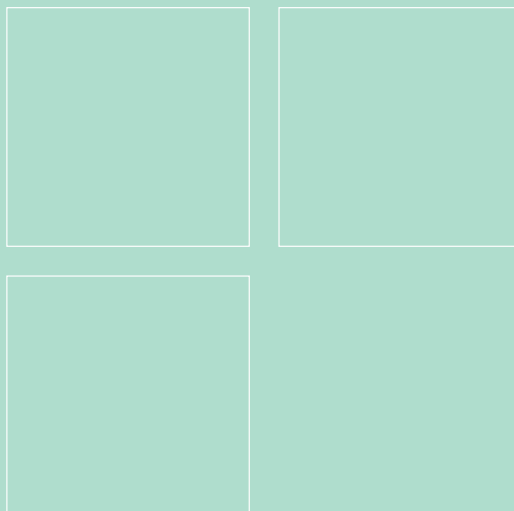
If the policy is breached, disciplinary action should be taken, similar to the procedures used for other disciplinary matters.

A sample smoke-free policy is included in **Appendix 3**. You can also download the sample smoke-free policy from [www.spacetobreathe.org.uk](http://www.spacetobreathe.org.uk)

### 8 Smoke-free policy

It is strongly recommended that all businesses develop and implement a written smoke-free policy. This policy should:

- be concise and simple to understand;
- identify the members of management and staff who have responsibility for its implementation;
- state the procedures to be followed in the event of non-compliance;
- acknowledge the right of employees to work in a smoke-free environment;



# Appendix 1:

## The Smoking (Northern Ireland) Order 2006

The Smoking (Northern Ireland) Order 2006 (the Order) prohibits smoking in enclosed and substantially enclosed workplaces and public places, and in certain vehicles. It details the offences relevant to the Order, the penalties for non-compliance, the requirements for the display of no-smoking signage and gives certain powers to authorised officers of district councils.

The Order also defines smoke-free premises and enables the DHSSPS to make regulations that will exempt certain premises (or parts of premises) from the legislation.

Some relevant definitions under the Order are set out below.

- **Smoking** refers to smoking tobacco or anything which contains tobacco, or smoking any other substance. It includes being in possession of lit tobacco or of anything lit which contains tobacco, or being in possession of any other lit substance in a form in which it could be smoked.
- **Authorised officer** in relation to a district council, means any person (whether or not an officer of the council) who is authorised by it in writing, either generally or specially, to act in matters arising under the Order.
- **Premises** includes any building, any structure or installation (whether movable or not) and any tent.
- **Vehicle** includes any type of vehicle, train, vessel or any other means of transport except:
  - (a) an aircraft;
  - (b) any ship or hovercraft in relation to which regulations could be made under section 85 of the Merchant Shipping Act 1995 (c.21) (safety and health on ships) including that section as applied by any Order in Council under section 1(1)(h) of the Hovercraft Act 1968 (c.59).
- **Work** includes voluntary work.
- **Enclosed** refers to premises that have a ceiling or roof and, except for doors, windows and passageways, they are wholly enclosed, either permanently or temporarily.
- **Substantially enclosed** refers to premises that have a ceiling or roof but there is an opening or an aggregate area of openings in the walls which is less than half of the area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premises. In determining the area of an opening or an aggregate area of the openings, no account is to be taken of openings in which there are doors, windows or other fittings that can be opened or shut.
- **Roof** includes any fixed or moveable structure or device which is capable of covering all or part of the premises as a roof, including for example a canvas awning.
- **No-smoking symbol** means a symbol which consists of a graphic representation of a single burning cigarette enclosed in a red circle of at least 75 millimetres in diameter with a red bar across it:
- A **designated bedroom** in a hotel, guest house, inn, hostel or members' club, means a room which:
  - (a) is set apart exclusively for sleeping accommodation;
  - (b) has been designated in writing by the person in charge of the premises in which the room is situated as being a room in which smoking is permitted;
  - (c) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;

- (d) does not have a ventilation system that ventilates into any other part of the premises (except any other designated bedroom) or other premises;
- (e) does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use; and
- (f) is clearly marked as a bedroom in which smoking is permitted.
- Bedroom** does not include any dormitory or other room that a person in charge of premises makes available under separate arrangements for persons to share at the same time.
- A **designated room** for the use of patients aged 16 years or over in residential accommodation in a mental health unit means a room used only for smoking which:
    - (a) has been designated in writing by the person in charge of the mental health unit as being a room in which smoking is permitted;
    - (b) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;
    - (c) does not have a ventilation system that ventilates into any other part of the premises (except any other designated room) or other premises;
    - (d) does not have any door that opens on to smoke-free premises which is not mechanically closed immediately after use; and
    - (e) is clearly marked as a room in which smoking is permitted.
- Note: the provision for smoking in a designated room in residential accommodation in a mental health unit ceases to have effect from 30 April 2008.**
- A PDF file of the Order in full can be obtained from [www.spacetobreathe.org.uk](http://www.spacetobreathe.org.uk) or the Department of Health, Social Services and Public Safety. Frequently asked questions and answers in relation to the Order can also be found on [www.spacetobreathe.org.uk](http://www.spacetobreathe.org.uk)
- A **designated room** that is used as accommodation for persons aged 16 years or over in residential care homes, nursing homes and hospices means a room used only for smoking which:
    - (a) has been designated in writing by the person in charge of the premises in which the room is situated as being a room in which smoking is permitted;
    - (b) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;
    - (c) does not have a ventilation system that ventilates into any other part of the premises (except any other designated room) or other premises;
    - (d) does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use; and
    - (e) is clearly marked as a room in which smoking is permitted.

# Appendix 2:

## Contact details for district councils

### Antrim Borough Council

Antrim Civic Centre  
50 Styles Way  
Antrim  
BT41 2UB  
Tel: 028 9446 3113  
[www.antrim.gov.uk](http://www.antrim.gov.uk)

### Ards Borough Council

2 Church Street  
Newtownards  
BT23 4AP  
Tel: 028 9182 4000  
[www.ards-council.gov.uk](http://www.ards-council.gov.uk)

### Armagh City and District Council

Council Offices  
The Palace Demesne  
Armagh  
BT60 4EL  
Tel: 028 3752 9600  
[www.armagh.gov.uk](http://www.armagh.gov.uk)

### Ballymena Borough Council

'Ardeevin'  
80 Galgorm Road  
Ballymena  
BT42 1AB  
Tel: 028 2566 0300  
[www.ballymena.gov.uk](http://www.ballymena.gov.uk)

### Ballymoney Borough Council

Riada House  
14 Charles Street  
Ballymoney  
BT53 6DZ  
Tel: 028 2766 0200  
[www.ballymoney.gov.uk](http://www.ballymoney.gov.uk)

### Banbridge District Council

Civic Building  
Downshire Road  
Banbridge  
BT32 3JY  
Tel: 028 4066 0600  
[www.banbridge.gov.uk](http://www.banbridge.gov.uk)

### Belfast City Council

City Hall  
Belfast  
BT1 5GS  
Tel: 028 9032 0202  
[www.belfastcity.gov.uk](http://www.belfastcity.gov.uk)

### Carrickfergus Borough Council

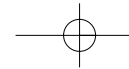
Carrickfergus Museum and Civic Centre  
Antrim Street  
Carrickfergus  
BT38 7DG  
Tel: 028 9335 8000  
[www.carrickfergus.org](http://www.carrickfergus.org)

### Castlereagh Borough Council

Civic Offices  
Bradford Court  
Upper Galwally  
Castlereagh  
Belfast  
BT8 6RB  
Tel: 028 9049 4500  
[www.castlereagh.gov.uk](http://www.castlereagh.gov.uk)

### Coleraine Borough Council

Cloonavin  
66 Portstewart Road  
Coleraine  
BT52 1EY  
Tel: 028 7034 7034  
[www.colerainebc.gov.uk](http://www.colerainebc.gov.uk)



**Cookstown District Council**

Burn Road  
Cookstown  
BT80 8DT  
Tel: 028 8676 2205  
www.cookstown.gov.uk

**Craigavon Borough Council**

PO Box 66  
Civic Centre  
Lakeview Road  
Craigavon  
BT64 1AL  
Tel: 028 3831 2400  
www.craigavon.gov.uk

**Derry City Council**

98 Strand Road  
Derry  
BT48 7NN  
Tel: 028 7136 5151  
www.derrycity.gov.uk

**Down District Council**

24 Strangford Road  
Downpatrick  
BT30 6SR  
Tel: 028 4461 0800  
www.downdc.gov.uk

**Dungannon & South Tyrone  
Borough Council**

Council Offices  
Circular Road  
Dungannon  
BT71 6DT  
Tel: 028 8772 0300  
www.dungannon.gov.uk

**Fermanagh District Council**

Townhall  
Enniskillen  
BT74 7BA  
Tel: 028 6632 5050  
www.fermanagh.gov.uk

**Larne Borough Council**

Smiley Buildings  
Victoria Road  
Larne  
BT40 1RU  
Tel: 028 2827 2313  
www.larne.gov.uk

**Limavady Borough Council**

7 Connell Street  
Limavady  
BT49 0HA  
Tel: 028 7772 2226  
www.limavady.gov.uk

**Lisburn City Council**

Lagan Valley Island  
Island Civic Centre  
The Island  
Lisburn  
BT27 4RL  
Tel: 028 9250 9250  
www.lisburncity.gov.uk

**Magherafelt District Council**

50 Ballyronan Road  
Magherafelt  
BT45 6EN  
Tel: 028 7939 7979  
www.magherafelt.gov.uk

**Moyle District Council**

Sheskburn House  
7 Mary Street  
Ballycastle  
BT54 6QH  
Tel: 028 2076 2225  
www.moyle-council.org

**Newry and Mourne District Council**

Monaghan Row  
Newry  
BT35 8DJ  
Tel: 028 3031 3031  
www.newryandmourne.gov.uk

**Newtownabbey Borough Council**

Mossley Mill  
Newtownabbey  
BT36 5QA  
Tel: 028 9034 0000  
www.newtownabbey.gov.uk

**North Down Borough Council**

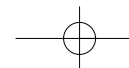
Town Hall  
The Castle  
Bangor  
BT20 4BT  
Tel: 028 9127 0371  
www.northdown.gov.uk

**Omagh District Council**

The Grange  
Mountjoy Road  
Omagh  
BT79 7BL  
Tel: 028 8224 5321  
www.omagh.gov.uk

**Strabane District Council**

47 Derry Road  
Strabane  
BT82 8DY  
Tel: 028 7138 2204  
www.strabane.org.uk



# Appendix 3:

## Sample smoke-free policy

### Purpose

This policy has been developed to protect all employees, service users, customers and visitors from exposure to second-hand smoke and to assist compliance with The Smoking (Northern Ireland) Order 2006.

Exposure to second-hand smoke, also known as passive smoking, increases the risk of lung cancer, heart disease and other illnesses. Ventilation or separating smokers and non-smokers within the same airspace does not prevent exposure to tobacco smoke.

### Policy

It is the policy of **[INSERT NAME OF BUSINESS]** that all of our workplaces are smoke-free and all employees have a right to work in a smoke-free environment. The policy shall come into effect on **[DATE]** and be reviewed on **[DATE]** by **[NAME]**.

Smoking is prohibited throughout the entire workplace with no exceptions. This includes company vehicles. This policy applies to all employees, consultants, contractors, customers or members and visitors.

**[IF THERE ARE EXTERNAL AREAS WHERE EMPLOYEES AND CUSTOMERS CAN SMOKE, THESE SHOULD COMPLY WITH THE LAW AND CAN BE OUTLINED HERE]**

### Implementation

Overall responsibility for policy implementation and review rests with **[NAME (the manager or person in control of the premises)]**.

All staff are required to adhere to, and facilitate the implementation of the policy. The person named above shall inform all existing employees, consultants and contractors of the policy and their role in the implementation and monitoring of the policy. They will also give all new personnel a copy of the policy on recruitment/induction. Appropriate no-smoking signs will be clearly displayed at the entrances to and within the premises.

### Non-compliance

Disciplinary procedures will be followed if a member of staff does not comply with this policy. Standard procedures should be followed if a customer, visitor or passenger does not comply. Under smoke-free legislation, offences relating to the display of signage and smoking in a smoke-free place may attract a fixed penalty notice or lead to a prosecution. Failure to prevent smoking in a smoke-free place may lead to a prosecution.

### Help to stop smoking

Support for smokers who want to stop will be provided. **[PROVIDE LOCAL DETAILS HERE]**

The Smokers' Helpline on 0800 85 85 85 is a freephone service, which provides friendly advice and support to smokers about stopping smoking. If you want to talk to someone face-to-face, ask at your GP practice or local pharmacy where you can get general advice on nicotine replacement therapy and non-nicotine treatments.