



## GROUP NO SMOKING POLICY

POLICY IMPLEMENTATION CHECKLIST	
Policy Guardian:	Director of People
Author:	Human Resources Manager
Version number:	3.0
Approved by Governing Bodies:	September 2020
Effective from:	September 2020
Due for review on:	September 2023
Diversity compliant:	Yes
Equality Impact Assessment required:	No
Data Protection compliant:	Yes
Health & Safety compliant:	Yes
Procedure implemented:	No
QL system changes made:	N/A
KPIs / reporting arrangements implemented:	N/A
Training Completed:	N/A
Posted on intranet:	Yes
Posted on website:	Yes
Publicity material issued:	N/A

This document can also be provided in large print, braille, audio or other non-written format, and in a variety of languages.

## 1. Introduction

This policy has been devised to ensure that the Caledonia Housing Group (“the Group”) complies with the following legislation:

- Smoking, Health and Social Care (Scotland) Act 2005
- Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006
- Health & Safety at Work Act 1974
- Management of Health & Safety at Work Regulations 1999 (MHSWR)

The Smoking, Health and Social Care (Scotland) Act 2005 bans smoking in ‘no smoking premises’ by:

- creating an offence of permitting others to smoke in no smoking premises;
- creating an offence of smoking in no smoking premises; and
- creating an offence of failing to display warning notices in no-smoking premises.

Failure to comply with the Smoking, Health and Social Care (Scotland) Act 2005 is deemed a criminal offence which carries fixed penalties. Those in control of no-smoking premises could be liable to a fixed penalty fine of £200 if they do not take reasonable action to prevent someone smoking on the premises, or if they do not provide adequate No Smoking signs.

Individuals who smoke in no-smoking premises will be liable to a fixed penalty fine of £50. Refusal to pay or failure to pay may result in prosecution and a fine of up to £2,500.

The Group also has a ‘duty of care’ to protect its employees, tenants/service users, visitors and contractors from exposure to harmful substances and hazardous working conditions. Smoking is the single largest preventable cause of ill health and mortality in Scotland with ‘second-hand’ smoking or passive smoking posing a significant health risk to non-smokers.

The Group No Smoking Policy has also subjected **E-cigarettes** to the same compliance controls as required for tobacco-based products.

## 2. Caledonia Group Responsibilities

- to maintain a safe, healthy working environment;
- to protect the health of staff, tenants/service users, visitors and contractors and not subject them to hazardous environments;
- to comply with the Smoking, Health and Social Care (Scotland) Act 2005, the Health & Safety at Work Act 1974 and the Safety & Health of Pregnant Workers Directive (92/85/EEC)
- to make sure that staff and any contractors appointed by the Group understand their responsibilities in respect of the above.

## 3. Policy Scope & Exemptions

This policy applies to the following groups/individuals:

- all Group staff;
- tenants & service users;
- visitors to Group premises;
- Governing body members;

- contractors; and
- any group/individuals whose work or personal circumstances brings them into Group premises.

It is the policy of the Group that all of our workplaces, company vehicles, premises, and areas within the visible curtilage of premises (such as entrances and exits from our premises and staff car parks) are smoke free.

**In terms of exceptions to the legislation smoking will be allowed in the following circumstances;**

- The Group residential facilities, where tenants' freedom to smoke must be taken into account; and
- private premises where employees are working in a member of the public's private accommodation, where the tenants have the freedom to smoke.

The Group recognises its duty to take reasonable steps to protect our employees from risks of passive smoking and have appropriate control measures in place with respect to home visits. This duty of care will be achieved by the following means:

- tenants/service-users will be requested not to smoke or vape when the staff member is visiting and for one hour before staff arrive;
- staff will have discretion to assess risks and, if concerned about passive smoking, in particular circumstances they will have the right to postpone or terminate any visit;
- if particular risks are identified, staff should try to arrange office appointments with tenants where practical or seek to arrange virtual meetings if appropriate; and
- line managers will support staff in ensuring appropriate ways to provide services whilst protecting staff rights to work in a smoke-free environment.

Given the diverse range of services provided by the Group, there may be occasions where staff may have to enter a non-smoke free working environment such as responding to an emergency. In these cases the staff member will report all such incidents to their line manager with a view to putting reasonable control measures in place wherever possible if an on-going risk to health is identified.

#### **4. Principles Underpinning the Policy**

This policy is designed to provide a smoke-free environment for staff, tenants/service users and those appointed by the Group to carry out duties on their behalf. The underlying principles of this policy are:

- No Group employee, tenant/service user or contractor should be exposed to smoke against their will;
- The Group will provide appropriate support to staff who wish to give up smoking including arranging for advice on giving up, paying for smoking cessation as part the Group health benefits package and distributing self-help guides; and
- Group staff that visit other organisations/associations must comply with the no-smoking policies of those organisations.

#### **5. Operational Responsibilities**

Key responsibilities are detailed below to ensure that the Group complies with the various legislation listed in Section 1 of this policy.

## **5.1 Responsibilities**

### **5.1.1 Chief Executive & Directors**

The Chief Executive has the responsibility for ensuring the following:

- The Group No Smoking Policy is embedded across the whole of the Group and delegating responsibility for the implementation to the appropriate Director(s);
- sufficient resources are provided to enable the Group No Smoking Policy to be fully implemented and managed; and

### **5.1.2 Operational Managers**

Operational Managers are responsible for ensuring compliance with the No Smoking legislation and therefore have a duty to ensure that:

- the required 'No Smoking' signs are displayed in such a way as to ensure all employees, visitors, contractors and service users are aware that they must comply with the smoking law;
- all employees, visitors, contractors and service users are informed of their role in the implementation and monitoring of the policy;
- all new employees are aware of the Group No Smoking Policy when recruited and at induction training;

### **5.1.3 Line Managers**

All line managers are responsible in their area of control for:

- implementing the Group No Smoking Policy within their area of control and ensuring compliance with the legislation; and
- ensuring that all Group employees (including trainees/work placement students) in their area of control are formally made aware of the Group No Smoking Policy and providing advice on procedures and support available.

### **5.1.4. All Employees**

All Group employees are responsible for adhering to the following:

- observing the Group No Smoking Policy whilst complying with the relevant legislation relating to smoke-free public areas;
- co-operating with management in the implementation of the Group No Smoking Policy;
- ensuring all visitors are aware that there is a statutory duty not to allow smoking on Group premises (including company vehicles) and advise them that by doing so that they are committing a criminal offence and will be liable to a fixed penalty fine if prosecuted;
- where applicable, those employees who are receiving support/guidance from counsellors on how to stop smoking will need to demonstrate a commitment by following any agreed programme for smoking cessation; and
- ensuring that if smoking is part of their lifestyle, it does not adversely affect their attendance at work or ability to perform their duties to the required standard.

### **5.1.5 Governing Body Members/Tenants/Service Users/Visitors/Contractors**

All governing body members, tenants/service-users/visitors and contractors have responsibility for adhering to the following no-smoking related requirements:

- observing the Group No Smoking Policy whilst complying with the relevant legislation relating to smoke-free public areas; and
- contractors carry out services on behalf of the Group or working on Group sites are subject to the requirements of the Group No Smoking Policy and will be notified of these conditions prior to commencement of work.

## **6 Dealing With Issues of Non-Compliance**

The Group is confident that the majority of people will respect the law relating to no smoking in public spaces, and take personal responsibility for complying with the legislative requirements. However, it is important that management and employees know what to do if someone refuses to stop smoking when requested to by a Group employee. In cases of non-compliance, Group employees should initiate the following actions:

- draw the person's attention to the 'No Smoking' signs and remind them that they're committing a criminal offence by breaching the Group No Smoking Policy and politely ask them to extinguish their smoking material immediately;
- advise the person that it's also a criminal offence to knowingly let anyone smoke on Group premises;
- explain to them that the Group has a smoke-free policy to ensure a safe working environment for all staff and customers; and
- contact the person responsible for the premise as detailed in the no smoking signage.

### **If the person smoking is an employee:**

- follow the guidance above and report the incident to your line-manager manager at the earliest opportunity;
- if the person refuses to acknowledge the requirements of the Group No Smoking Policy they will be liable for potential disciplinary actions – if such action is necessary it will be dealt with through the Group disciplinary action process; and
- Group managers should maintain a record of all such incidents and outcomes in accordance with the Association's disciplinary procedures;

### **If the person smoking is a non-Group employee:**

- explain that all Group employees are obliged to refuse to serve the individual(s) if they continue to smoke;
- if the individual(s) carries on smoking, ask them to leave the premises, however if they refuse to stop smoking, the employee dealing with the situation should implement the normal procedure for dealing with difficult customers for the relevant premise;
- if the individual(s) carries on smoking in their own home, Group employees have the right to terminate the visit ;
- if at any stage staff feel that any of the above actions may put them at risk, then they should contact a more senior member of staff immediately who then will take the appropriate action; and
- staff involved in situations such as this should maintain a record of all such incidents and outcomes.

## **7 Monitoring & Evaluation**

This policy will be subject to a regular review or where legislative changes have been made to the key pieces of legislation that underpin this policy. Furthermore, the policy will also be reviewed and amended where appropriate in relation to ensuring the policy remains effective for addressing any incidents of non-compliance.