



NO SMOKING POLICY

POLICY IMPLEMENTATION CHECKLIST	
Policy Guardian:	Business Services Director
Author:	Business Performance Manager
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Diversity compliant:	Yes
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Data Protection compliant:	Yes
Health & Safety compliant:	Yes
Procedure implemented:	No
QL system changes made:	N/A
KPIs / reporting arrangements implemented:	N/A
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Business Services – Implementation Review:	1 December 2013

1. Introduction

This policy has been devised to ensure that Caledonia Housing Association (CHA) 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.

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

2. Caledonia Housing Association 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 CHA understand their responsibilities in respect of the above.

3. Policy Scope & Exemptions

This policy applies to the following groups/individuals:

- all CHA staff;
- tenants & service users;
- visitors to CHA premises;
- Management Board members;
- contractors; and
- any group/individuals whose work or personal circumstances brings them into CHA premises.

It is the policy of the CHA 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;

- CHA 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 CHA 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 when the staff member is visiting;
- 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; 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 CHA, 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 CHA to carry out duties on their behalf. The underlying principles of this policy are:

- No CHA employee, tenant/service user or contractor should be exposed to smoke against their will;

- CHA 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 CHA health benefits package and distributing self-help guides; and
- CHA staff that visit other organisations/associations must comply with the no-smoking policies of those organisations.

5. CHA Responsibilities

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

5.1 Responsibilities

5.1.1 Chief Executive & Departmental Directors

The Chief Executive has the responsibility for ensuring the following:

- CHA No Smoking Policy is embedded across the whole of the Association and delegating responsibility for the implementation to the appropriate Director(s);
- sufficient resources are provided to enable the CHA No Smoking Policy to be fully implemented and managed; and
- appropriate health education, advice and support is an integral part of the overall management culture with appropriate support and assistance made available for all CHA employees.

5.1.2 Managers

Managers are responsible for ensuring compliance with the No Smoking legislation and therefore must:

- display the required 'No Smoking' signs in such a way as to ensure all employees, visitors, contractors and service users are aware that they must comply with the smoking law;
- inform all employees, visitors, contractors and service users of their role in the implementation and monitoring of the policy;
- ensure all new employees receive a copy of the CHA No Smoking Policy when recruited and at induction training;
- recognise that smoking is an addiction and provide appropriate support and assistance for employees who wish to stop smoking;
- work in partnership with external organisations such as NHS Tayside to promote health improvement initiatives such as the Healthy Working Lives initiative;
- introduce health promotions which encourage employees to adopt a balanced lifestyle and identify and address personal health problems;
- seeking assistance from smoking cessation counsellors to support employees;
- supporting employees in efforts to stop smoking, and recognise those who have successfully stopped; and
- provide the opportunity for staff to receive regular health checks and fitness assessments.

5.1.3 Supervisors

All supervisors are responsible in their area of control for:

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

5.1.4. All Employees

All CHA employees are responsible for adhering to the following:

- observing the CHA No Smoking Policy whilst complying with the relevant legislation relating to smoke-free public areas;
- co-operating with management in the implementation of the CHA No Smoking Policy;
- ensuring all visitors are aware that there is a statutory duty not to allow smoking CHA premises (including company vehicles) and advise them that by doing so that they are committing a criminal offence and will be liable to 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 Management Board/Tenants/Service Users/Visitors/Contractors

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

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

6 Dealing With Issues of Non-Compliance

CHA 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 CHA employee. In cases of non-compliance, CHA 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 CHA No Smoking Policy and politely ask them to extinguish their smoking material immediately;
- advise the person that it's also a criminal offence for you knowingly let anyone smoke on CHA premises;
- explain to them that CHA 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 CHA No Smoking Policy they will be liable for potential disciplinary actions – if such action is necessary it will be dealt with through the CHA disciplinary action process; and
- CHA 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-CHA employee:

- explain that all CHA 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 at any stage the CHA member of staff feels 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.