

Developing a (Non-) Smoking Policy

A. Review the current situation:

1. Is there any unofficial policy in operation, such as voluntary restrictions on times or areas?
2. What proportion of the workforce are smokers?
3. Do people already restrict their smoking out of consideration for others?
4. Is smoking prohibited in certain areas for health and safety reasons?

B. Assess the need to change:

1. Have there been complaints about smoking in particular areas?
2. Is it possible to prevent the risk of passive smoking and provide all those who want it with a smoke-free working space without much relocation?
3. Do changes in working practices or the materials being used mean that smoking needs to be (further) restricted for health and safety reasons?
4. Are smokers generally having more sickness absence than non-smokers?
5. Is there pressure to restrict or ban smoking in order to improve employees' health?
6. Is there a fire risk from smoking?
7. Is there a fire risk from restricting smoking – will people try and smoke in secret?

If there is a need to change:

C. Draw up a range of options:

1. A total ban
2. No smoking as the norm, with limited designated smoking areas
3. Staff in each working area to choose – either by ban if at least one person objects to smoking, or majority decision (though this does not protect non-smokers if they cannot be moved to another area)
4. Smoking restricted to certain times, such as breaks or outside core flexitime hours

D. Consult with everyone on the options:

1. Give about three months notice to all staff that a smoking policy is being introduced and make sure everyone has a chance to express their views.
2. Carry out a survey of all staff or at least of a representative sample – not just smokers or nonsmokers.
3. Discuss the issue through normal negotiating channels and meetings, with trade unions and staff representatives.

E. Decide on policy details:

1. Total or partial ban based on the results of the staff survey, health and safety and the physical possibilities of adapting the workplace.
2. Will smoking be allowed during workplace meetings? If not, will there be smoking breaks?
3. Will smoking be allowed or not in lifts, corridors, toilets, changing rooms, staff rooms?
4. What are the consequences if staff are found smoking in smoke-free areas?
5. Does the public come into the workplace and will they be included?
6. Whether people smoke or not is a personal matter.
7. Whether and where they smoke at work is a workplace matter.

F. Monitor and review the policy:

1. Has the policy been well received by staff?
2. Has the policy been easy or difficult to enforce?
3. How many staff have used the Smoking Cessation Service?
4. How many staff are now smokers?
5. Has there been any significant change in sickness absence?

Legal Issues Relating to Smoking at Work

Health and Safety at Work Act

There is no direct legislative requirement to protect employees from effects of tobacco smoke, though there is developing case law.

Section 2 - general duty, and possibly Section 7 - duty of employees, could be interpreted to cover

smoking:

Section 2(2)e requires an employer to provide for employees an environment which , “so far as is reasonably practicable, safe ... and adequate as regards facilities and arrangements for their welfare at work.”

Section 7 puts a duty on employees to take reasonable care for the health and safety of themselves or others by their work activities and to co-operate with employers and others in meeting statutory requirements.

An Approved Code of Practice was expected in early 2001, but has not yet been produced.

Social Security Act

In 1990 the Social Security Commissioner found in favour of a claim under this Act that the effects of passive smoking could be considered an industrial accident, in the case of Joan Clay, NUCPS, who won her claim that asthma attacks were aggravated by tobacco smoke in the office.

Workplace (Health, Safety and Welfare) Regulations 1992

Requires employers to protect non-smokers from discomfort caused by tobacco smoke in rest rooms and rest areas.

Employers must ensure that enclosed workplaces are ventilated by sufficient quantity of fresh air or purified air.

Management of Health and Safety at Work Regulations 1992

Employers have to carry out assessments of the risks to health and safety of employees and others using the workplace premises. This can be interpreted to include smoking as a potential fire risk. Since employers also have to review arrangements in the light of changing work patterns and practices, this could also include matters relating to smoking at work.

Common Law

Duty of employers to take reasonable care to protect the health of their employees.

Employment Contracts

If the contract of employment does not specify that smoking is allowed, there is no implied right to smoke at work. As long as employees have been consulted and informed well in advance, the introduction of smoking restrictions or a total ban will not constitute a breach of contract of employment. On the other hand, if an employer fails to take steps to minimise the exposure of tobacco smoke for the passive non-smoker, this may be regarded as a breach of contract sufficient to allow the non-smoker to resign and claim for constructive dismissal.

Communicate decisions clearly to all staff and to visitors:

Label smoking and smoke-free areas clearly.

Put notices (and ash trays) at entrances if there is a total ban or if reception and waiting areas are smoke-free.

Explain what the consequences are for staff of smoking in smoke-free areas.

Train staff in dealing with visitors who refuse to stop smoking.

Carry out complementary health and safety improvements:

Are all potentially hazardous materials and substances properly controlled?

Is it generally a pleasant working environment?

Is ventilation generally satisfactory throughout the workplace?

Is ventilation adequate and appropriate in areas where smoking will still be allowed?

Decorate and furnish smoking areas for staff.

Reorganise working areas if necessary to accommodate smokers and non-smokers.

Offer help to staff who want to give up smoking or reduce intake during work time:

Contact the Smoking Cessation Service for individual counselling or group sessions or training.

Offer information and support to staff who don't want to stop smoking, but just want to get through the day if smoking is restricted.

Provide Nicotine Replacement Therapy free or subsidised.

Consider small incentives or awards for people who give up for specified periods.

Plan events for No Smoking Day in March each year.

Offer training for occupational health staff or volunteers who want to help others to give up smoking.

How We Can Help

We can help you to write and implement a policy on smoking.

We can help your employees to give up smoking, using the Stop Smoking Service.

Stop Smoking Service

The Manchester Stop Smoking Service offers help and support to people who want to give up smoking.

The Manchester base is within Manchester Public Health Development Service at Victoria Mill, Lower Vickers Street, Manchester M40 7LJ, Tel: 0161 205 5998.

- a team of specialist advisers who take individual referrals
- stop smoking groups
- quit and get fit groups in which people can try different types of physical activities at the same time as giving up smoking
- access to the Nicotine Replacement Therapy (NRT) scheme
- training for volunteers who want to help others to quit smoking

Resources including: leaflets, posters, information packs, and carbon monoxide monitors for loan, are available from the Manchester Public Health Development Resource Libraries. Contact: Carnell Bell-Smith at the North Base (Victoria Mill) on 0161 861 2913, or Sarah Race at the South Base (Withington Hospital) on 0161 291 3642.