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**East Herts Council**  
**Smoke Free Work Place Policy**  
**June 2007**

## **East Herts Council**

### **Smoke-free Workplace Policy**

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## Introduction

The Health and Safety at Work etc. Act 1974 requires East Herts Council to ensure, so far as is reasonably practicable, the health and safety of its employees at work. It also owes a duty of care to third parties e.g. contractors, members of the public, guest and visitors etc to take reasonable care to ensure that they are not exposed to risks to their health and safety because of exposure to smoke / second hand smoke inhalation.

It is not the practice of East Herts Council to intrude upon the privacy of its employees, particularly in health matters, where the condition does not affect them undertaking their normal range of duties or for delivering services to the community. However East Herts Council does become concerned where the behaviour of an individual impinges on the health and safety of other employees and third parties, through unwanted exposure to second hand smoke.

## Aims and Scope of the Policy

To provide a smoke free environment for people to work in thus reducing risks to health associated with tobacco smoke inhalation.

This policy is designed to enable East Herts Council to deal with this controversial and sensitive issue in a practical and effective way. It is important that this policy should not victimise smokers but seek to eliminate or control the amount of employee exposure to second hand smoke.

The Council recognises that second hand smoke adversely affects the health of all employees. It is not concerned with **whether** anyone smokes but with **where** they smoke and the effects this has on staff and other members of the public.

The main aims are to:

- Ensure that all parties - employers, smokers and non-smokers and the public - have a clear understanding of their rights and responsibilities;
- Ensure that the workplace complies with any health and safety or other legislation; and
- Encourage smokers to seek advice on smoking cessation

This policy will apply to all staff, visitors, contractors and other persons who enter Council premises or use Council owned leased work vehicle and where a part of the home has been designated as a workplace.

The policy shall apply regardless of whether there is one person or more occupying or sharing a workplace or using a Council work vehicle owned and leased by the Council that displays its corporate identity.

### **Definitions**

For the purpose of this policy, the workplace is defined as:

All Council premises and within the immediate perimeter of the buildings where tobacco smoke may filter in through windows and doors

Shared premises

Council owned work vehicles

Leased work vehicles

### **Enclosed Premises**

*'Premises will be considered to be enclosed if they have a ceiling or roof and, except for doors, windows or passageways, are wholly enclosed, whether on a permanent or temporary basis'*

### **Substantially Enclosed Premises**

*'Premises are substantially enclosed if they have a ceiling or roof, but there are permanent openings in the walls which are less than half of the total areas of walls, including other structures which serve the purpose of walls and constitute the perimeter of premises'*

### **Work Vehicles – NOT Lease cars or personal vehicles**

Smoking is not permitted in any Council owned work vehicle regardless of whether it is driven or used by a single individual.

This does not include lease cars or personally owned vehicles. But where leased cars or personally owned vehicles are being used for work purposes and the vehicle is occupied by both smokers and non-smokers, the smokers should respect the right of non-smokers not to be exposed to second-hand smoke.

## **Legal Duties**

### Management of Health and Safety at Work Regulations 1999 (MHSWR)

In accordance with these regulations, the Council will assess the risks to health and safety to which its employees are exposed while at work, and will not knowingly allow an employee under the influence of alcohol, drug or substance misuse to continue working, if that employee's behaviour or negligence puts themselves or others at risk, as this could amount to a criminal offence, should that risk materialise or be realised, the Council might also incur civil liability to anyone injured as a consequence. In such cases management may have no alternative but to suspend the employee, or send them home from work.

### The Health Act 2006

This legislation makes a provision for the prohibition of smoking in certain premises, places and vehicles. Section 2 (2) states the following:

*'Premises must be smoke free if they are used as a place of work including work vehicles'*

## **Responsibility of Individuals**

Smoking is only permitted in designated places that are already identified in the attached appendices and that comply with the terms and specific requirements defined under the legislation and it shall be the responsibility of individuals to ensure they dispose of smoking materials responsibly and with consideration for the environment and non smokers.

Designated smoking areas are identified in Appendices A – D of this policy, please familiarise yourself with these instructions.

Employees that are required to wear a uniform in public whilst undertaking the business of the Council e.g. in public open spaces, interacting with the public or highly visible to the public are prohibited from smoking. They may, however, smoke in the designated areas identified in the attached appendices.

## **Responsibility of Managers**

All management level officers must ensure they read and understand the requirements of this policy and that their respective teams are briefed.

Managers need to be aware of their responsibility to ensure that employees who smoke are aware of their responsibilities to comply with the terms of the policy.

Line Managers are asked as part of the briefing process on this policy to remind employees who smoke to take note of the time spent away from their desks, it is not the responsibility of colleagues to inform or take note of this. Line Managers must undertake to discuss excessive time away from the workplace with the employee.

Disciplinary action is reserved as a last resort when an individual persists in refusing to observe the policy by smoking in unauthorised areas. Where this behaviour continues the employee will be liable to disciplinary action in accordance with the Councils disciplinary procedures.

## **Role of Human Resources**

The HR Team are available to provide support, guidance and assist with developing options for best resolution approaches to assisting with the management of individual cases.

All information will be treated in strictest confidence, unless criminal acts have taken place or health and safety has been, or is likely to be, put seriously at risk. If it is judged that such information cannot remain in confidence, then the person who disclosed the information shall be advised that this is the case.

## **Sources of Information and Advice**

Details of organisations and services offering information and advice on smoking cessation can be obtained from the following.

Simon Barfoot – Health Promotions Officer  
Environmental Health Service

[www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk)

NHS Smoking Helpline 0800 169 0 169

The Department of Health: [www.dh.gov.uk](http://www.dh.gov.uk)

Contact your GP for advice on smoking cessation programmes and support services

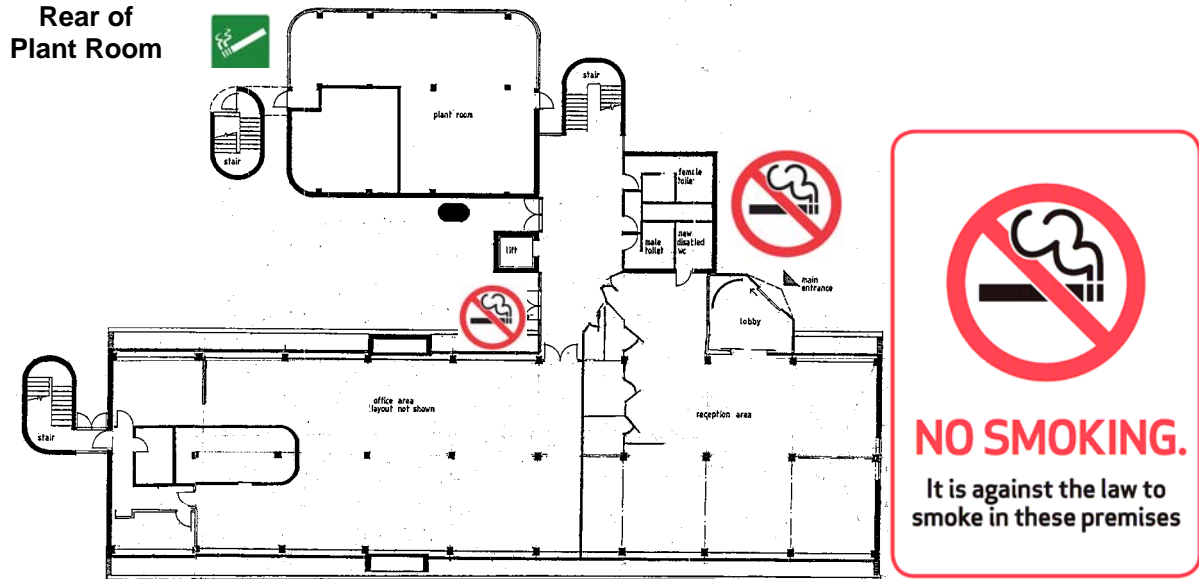
## **Policy Review and Amendment**

This Policy shall be reviewed two years or where changes in guidelines, contact details or new information useful to the execution of the policy are made in order to reflect the best possible level of support and management.

## Appendix A

### Designated Smoking Areas

#### Causeway



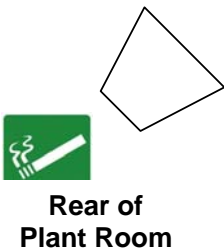
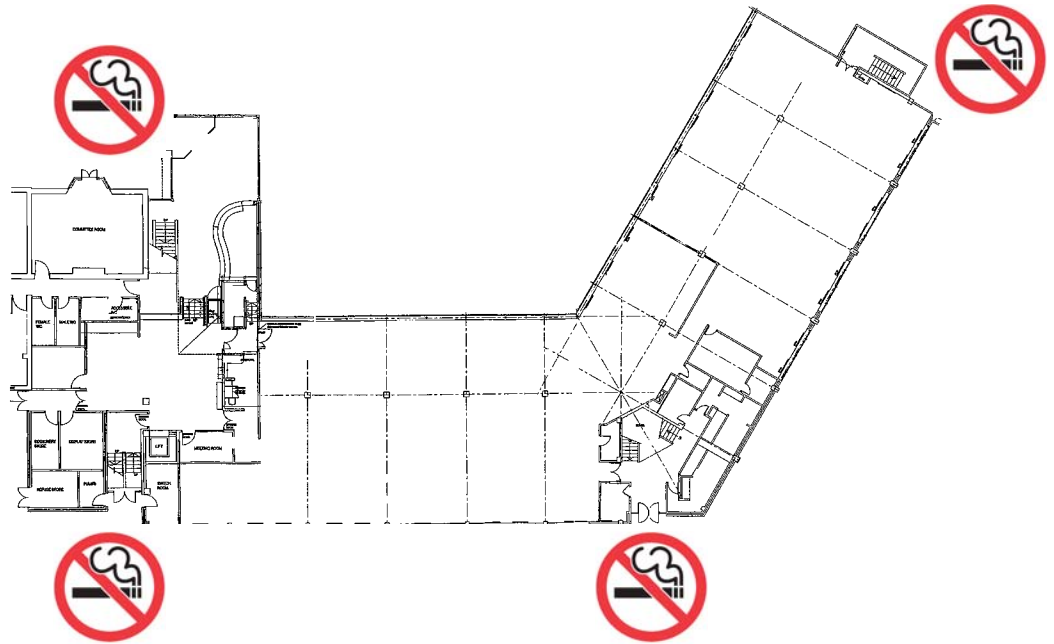
Smoking is not permitted in doorways or building recesses, staff and public entrances.



## Appendix B

### Designated Smoking Areas

#### Wallfields



**Bike Shed  
Bin Store**

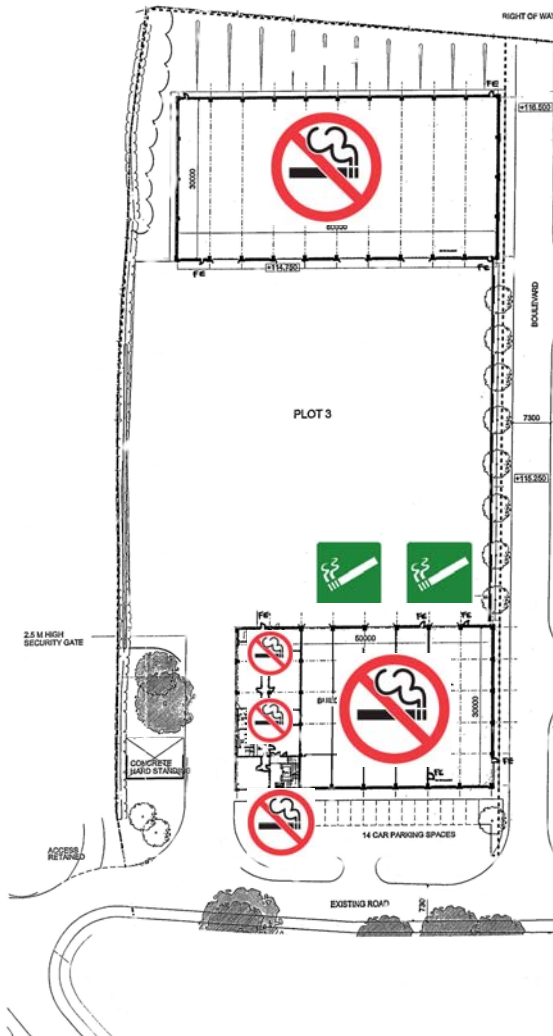


Smoking is not permitted in doorways or building recesses, staff and public entrances.

## Appendix C

### Designated Smoking Areas

### Buntingford Service Centre



## **Appendix D**

### **Castle Hall Theatre**

Smoking is permitted outside at the rear of the building.

#### **Note**

Artistic Integrity

### **The Smoke-free (Exemptions and Vehicles) Regulations 2007**

#### *PART 2*

#### *Exemptions*

#### **Performers**

**6.** Where the artistic integrity of a performance makes it appropriate for a person who is taking part in that performance to smoke, the part of the premises in which that person performs is not smoke-free in relation to that person during their performance.

For further advice and guidance on this please contact the 'Smoke Free England' information line on: **0800 169 169 7**