

EAST HERTS COUNCIL

LOCAL JOINT PANEL – 20 JUNE 2007

REPORT BY SECRETARY TO THE EMPLOYER'S SIDE

- 8(B) SMOKE FREE WORKPLACE POLICY 2007
ALCOHOL, DRUG AND SUBSTANCE MISUSE POLICY 2007
MANAGING VIOLENCE AND AGGRESSION POLICY 2007
MANAGING THE CRIMINAL RECORD BUREAU PROCESS POLICY 2007

WARD(S) AFFECTED: None

RECOMMENDATION – Local Joint Panel approves the attached policies.

1.0 Purpose/Summary of Report

- 1.1 Update existing policies in accordance with new legislation and regulatory good practice and guidelines.
- 1.2 To introduce revised policies to facilitate good management practice and compliance with legislation.

2.0 Contribution to the Council's Corporate Priorities/Objectives

- 2.1 Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.

3.0 Background

- 3.1 The introduction of new legislation and compliance with existing codes of conduct and good practice requires that the Council has in place written policies and procedures to meet its statutory obligations. Current policies are out of date and do not comply with existing legislation and good practice standards

4.0 Report

- 4.1 The policies and procedures have been fully discussed with UNISON, and changes have been made.

5.0 Consultation

5.1 HR and UNISON have held productive meetings for the sole purpose of considering the content and aim of these policies. We are now able to jointly recommend that these policies go forward to the next Human Resources Committee for adoption.

6.0 Legal Implications

6.1 The proposed policies will meet the legal requirements specified by Smoke Free legislation, Criminal Record Bureau codes of practice and Management of Health and Safety at Work Regulations.

7.0 Financial Implications

7.1 Failure to comply will leave the Authority open to challenge, enforcement action, loss of registered body status with the CRB, HSE enforcement action for breaches of Health and Safety Regulations, financial penalties by way of fines and/or liability claims.

8.0 Human Resource Implications

8.1 The Council needs robust policies to support its ongoing development and to ensure that it meets its obligations to incoming and current legislation.

9.0 Risk Management Implications

9.1 Risk from liability claims, financial penalties, reputation.

Background Papers

None

Contact Member:

Contact Officer: Peter Dickinson, Health and Safety Officer - Ext 1636



DRAFT

East Herts Council
Smoke Free Work Place Policy
June 2007

Version 0.2 – June 07 2007

DRAFT 0.5

East Herts Council

Smoke-free Workplace Policy

Introduction

Aims and Scope of Policy

Definition

- *Enclosed Premises*
- *Substantially Enclosed Premises*
- *Work Vehicles*

Legal Duties

- *The Health and Safety at Work etc Act 1974*
Management of Health and Safety at Work Regulations 1999
(MHSWR)
- *The Health Act 2006*
- *Smoke-Free (Premises and Enforcement) Regulations*
- *Smoke-Free (Signs) Regulations*
- *The Smoke-free (Exemptions and Vehicles) Regulations*
- *The Smoke-free (Vehicle Operators and Penalty Notices) Regulations*

Responsibility of Individuals

Responsibility of Managers

Role of HR

Sources of Information and Advice

Policy review and amendment

Appendices A – D Site Plans

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 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 work vehicles, lease cars 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 room or using a work or lease vehicle.

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

Lease 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 Vehicles or personal vehicles

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

This does not include lease vehicles or personally owned vehicles.

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 shall be identified 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 are prohibited from smoking.

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

NHS Smoking Helpline 0800 169 0 169

The Department of Health: www.dh.gov.uk

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

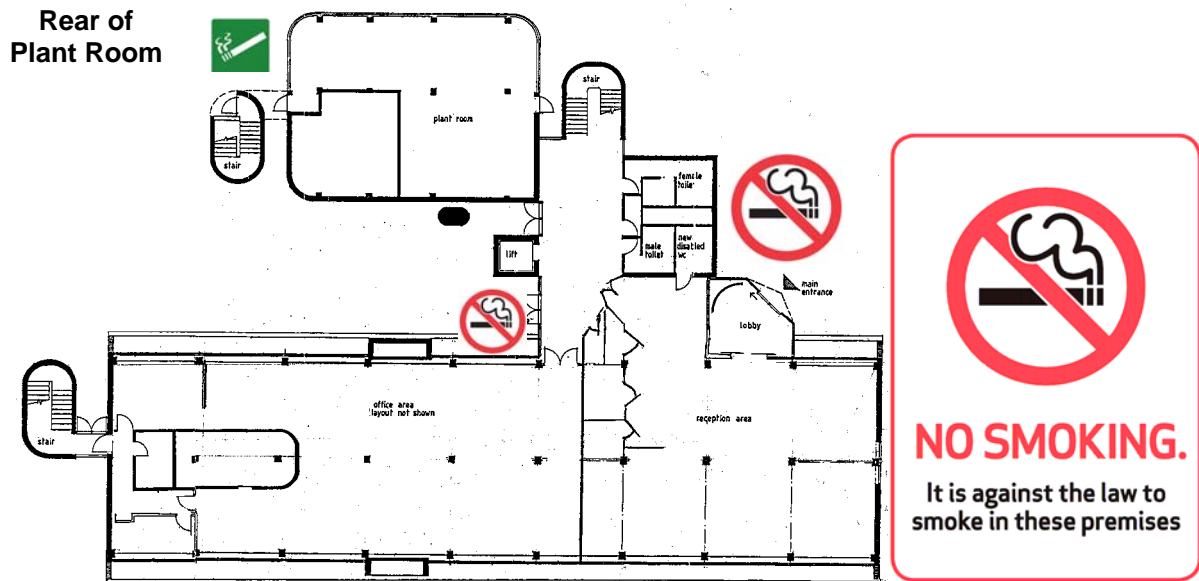
Policy Review and Amendment

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

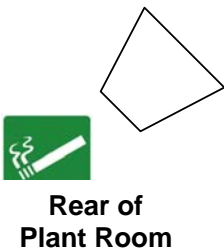
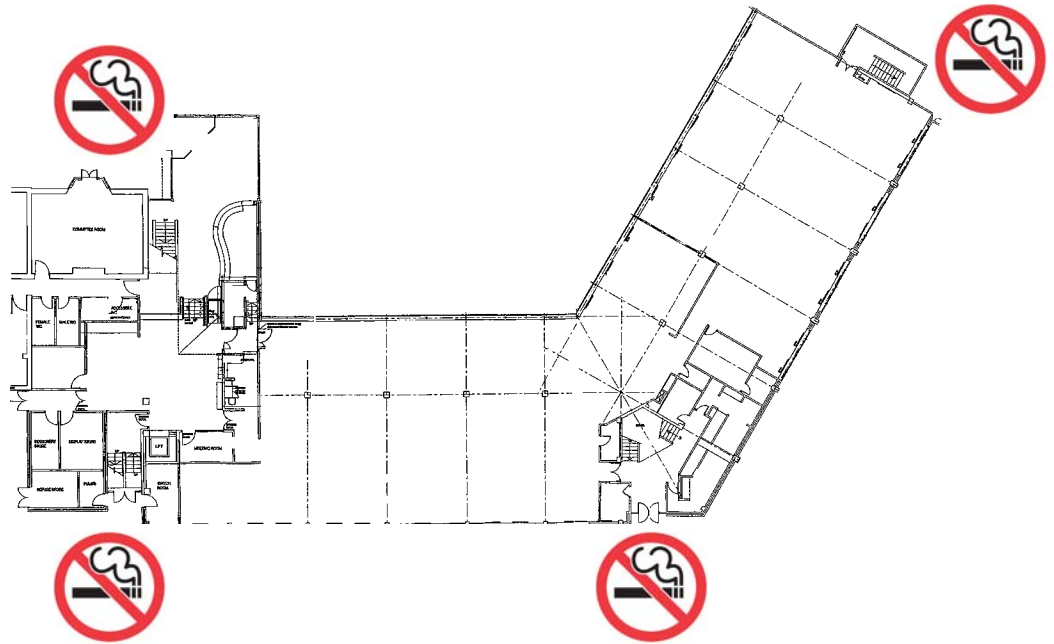


Smoking is not permitted in doorways or building recesses, staff and public entrances.

Appendix B

Designated Smoking Areas

Wallfields



**Bike Shed
Bin Store**

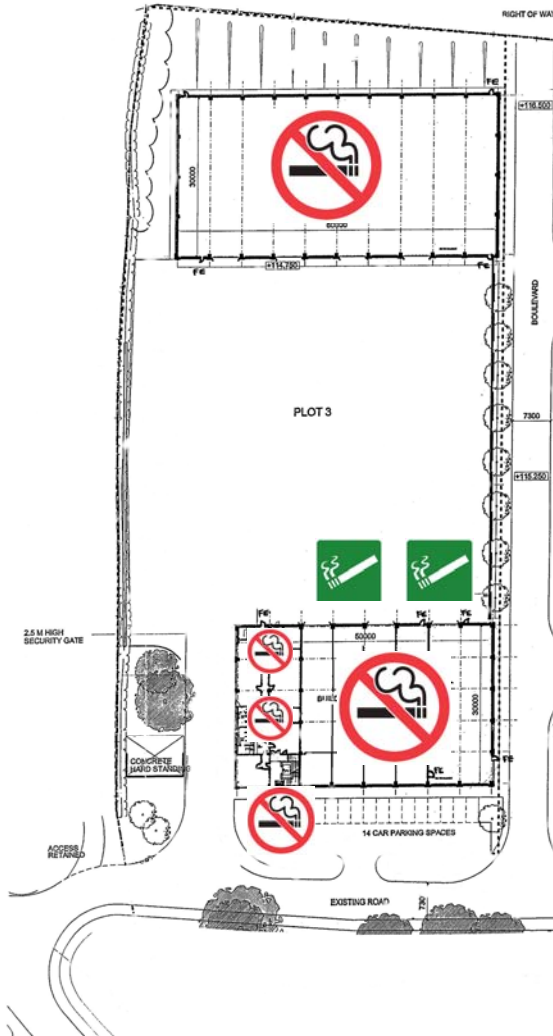


Smoking is not permitted in doorways or building recesses, staff and public entrances.

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 his performance.

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