

Smoke Free Policy

S.20

Reviewed

28 April 2022

Date next due for review:

April 2025

27/01/2022 – Committee approved change to review date.

This policy document can be produced in various formats, for instance, in larger print or audio-format; and it can also be translated into other languages, as appropriate.

Our equality and diversity policy statement describes our key equality commitments that we use to develop all organisational services; this includes employment services and services to tenants and other customers.

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The Scottish Housing Regulator Reg. No: HAC231; Registered Scottish Charity No: SC038237; FCA Reg. No: 2375R(S); Property Factor Reg. No: PF000151

Terms of Reference

- Equality Act 2010
- Health and Safety at Work etc Act 1974
- Smoking, Health and Social Care (Scotland) Act 2005
- Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006
- Workplace (Health, Safety and Welfare) Regulations 1992
- Health & Safety Control Manual
- EVH Model Policy Document
- Healthy Working Lives

Risk and Financial Implication

- Potential risk to the health, safety and wellbeing of staff, committee, and customers if inadequate controls to manage the risk from first hand and second hand smoke.
- Non-compliance is a criminal offence and imposes fines of £50 for individuals and £200 for managers/owners who allow smoking within their premises and/or fail to display warning notices and/or fail to stop employees, customers and visitors from smoking.

Linkage to Internal Management Business Plan and Regulatory Standards

- Business Plan:
Section 3: Mission, Values and Objectives
- Regulatory Standards:
Standard 5 - The RSL conducts its affairs with honesty and integrity.
- To ensure that the Association is an employer of choice

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Introduction

Pineview Housing Association Ltd recognises, as an employer, it has a duty under the Smoking, Health and Social Care (Scotland) Act 2005, the Health and Safety at Work Act 1974 and Workplace (Health, Safety and Welfare) Regulations 1992, to ensure, so far as is reasonably practicable, that its working environment for all employees is healthy and safe. This policy has been introduced as the Association's response to the Smoking, Health and Social Care (Scotland) Act 2005 as well as its duty of care for the health and welfare of all employees and customers. It has been recognised that passive smoking can cause diseases therefore preventing it can save lives.

The reference to smoking relates to all types of smoking – standard cigarettes, cigars, pipes, e-cigarettes etc.

Equality & Diversity Statement

The Association's Equal Opportunity and Diversity policy outlines our commitment to promote a zero tolerance to unfair treatment or discrimination to any person or group of persons, particularly on the basis of any of the protected characteristics. This includes ensuring that everyone has equal access to information and services and, to this end, the Association will make available a copy of this document in a range of alternative formats.

Smoking in Scotland (ASH Scotland Facts November 2021)

Smoking Rates

- 17% of adults in Scotland are current smokers (19% of men and 16% of women)
 - Smoking rates have dropped significantly from 52% in 1974, to 28% in 2003, and 17% in 2019
 - 2% of 13 year olds and 7% of 15 year olds in Scotland are regular smokers
 - E-cigarette use in adults have remained stable since 2015, at 7%
 - An average of 13,300 children aged 11– 15 start smoking each year in Scotland
 - 14.6% of pregnant women in Scotland smoke at the time of their first antenatal appointment
- Around two-thirds (68% in 2019) of Scottish smokers say they would like to stop smoking

Death and disease

There are 9,360 smoking-attributable deaths a year accounting for 16% of all Scottish deaths

There are nearly 100,000 smoking-related hospital admissions every year in Scotland, equating to 1,923 people a week, 274 people a day or 11 people an hour in Scotland amongst the 35 - 69 age group an average of 22 years of life are lost for every smoking-related death

Economics

A 2010 report showed that smoking costs Scotland nearly £1.1 billion every year*

Smoking costs more to Scotland than the tax revenue it generates

In 2009 the costs attributable to smoking to NHS Scotland were between 323M and 509M*

*There are no newer estimates

Scotland's Charter for a Tobacco-free Generation

In August 2018 the Association pledged to endorse ASH Scotland's Charter for a Tobacco-free Generation. Scotland's Charter for a Tobacco-free Generation is an initiative to help reduce the harm caused by smoking and deliver a tobacco-free generation by 2034. By endorsing the Charter the Association aims to improve people's wellbeing and make a commitment to a healthier, wealthier place to grow, learn, play and work.

Legal Framework

Smoking, Health and Social Care (Scotland) Act 2005

The Smoking, Health and Social Care (Scotland) Bill was introduced to Parliament on 17th December 2004 and approved by MSPs on 30th June 2005. It received Royal Assent on 5th August 2005 and came into force in Scotland on 26th March 2006. The law imposes a total ban of smoking and affects most public premises and also includes workplaces and work vehicles.

The Act also makes non-compliance a criminal offence and imposes fines of £50 for individuals and £200 for managers/owners who allow smoking within their premises and/or fail to display warning notices and/or fail to stop employees, customers and visitors from smoking. Refusal or failure to pay may result in prosecution and a fine of up to £2,500. The law is enforced by the Environmental Health Officers who can inspect any non-smoking premises unannounced and impose fines on individuals and employers. All enclosed and partially enclosed public premises are covered by the law (Appendix A) with a few exemptions (Appendix B). There are however no legal obligations placed on employers to provide smoking facilities in any premises excluded from the Act.

Health and Safety at Work Act 1974

The act imposes a general duty on employers to ensure health, safety and welfare at work for their employees or workers. As a result, employers must resolve complaints from their employees or workers about their health and welfare being put at risk from working in a smoky environment.

Health and Safety (Workplace) Regulations 1992

The regulations require employers to ensure that there are arrangements in place to protect non-smokers from discomfort caused by tobacco smoke in rest areas.

Policy Principles

This Smoke-Free Policy:

- Has been produced in response to the Association's duty under the Smoking, Health and Social Care (Scotland) Act 2005 in force from 26th March 2006.
- Guarantees all employees, workers, contractors, customers, visitors, staff from other agencies, governing body members and members of the public, air free of tobacco smoke within all premises of the Association.
- Prohibits smoking throughout the working premises.
- Withdraws completely the provisions of smoking rooms.

- Details how the Association will deal with non-observance of smoking restrictions in relation to workers, customers, visitors and contractors.
- Offers a voluntary support for employees who smoke in their cessation effort and discusses the prevalence of new smoking cessation aids such as electronic cigarettes.

Policy Conditions

As a result of the Smoking, Health and Social Care (Scotland) Act 2005, the Association imposes a total ban of smoking in all its premises in any common or work areas, including vehicles owned, leased or hired by the organisation. Private cars used to transport colleagues, clients or visitors in relation to business are also covered by this policy. Anyone who wishes to smoke must do so in the designated outdoor smoking area stipulated by the Association – **at the container in the rear car park for cigarettes and at the rear of the office for e-cigarettes (these areas required to be separate to prevent users of e-cigarettes being exposed to second hand smoke)** or in any place that is not covered by the smoking ban. To prevent the risk of being exposed to second hand smoke and/or vapour, smoking is prohibited in entrances, doorways, close to windows and ventilators etc. When at work, people may only smoke during unpaid rest breaks where they have clocked off work.

Smoking out with the organisation’s premises

Employees should be guided by the professionalism that is required of them regardless of where they are working from, for example, working from home, on home visits, on estate management inspections, etc. This includes things like how we present ourselves for work, how we present for and behave at meetings.

When working out with the organisation’s premises, smoking should not take place in an area which has PHA equipment in it as the smoke will contaminate the equipment and the equipment may need to be assigned to someone else or relocated to the office in the future.

Passive smoking exposure out with the organisation’s premises

As per the Association’s Health and Safety Control Manual, section 3.12: “Where employees are exposed to passive smoke outwith company premises or vehicles while on company business, they will be entitled to request a smoke-free environment in which to continue their business. Where no such environment is available, the employee will be entitled to cease work within the area. In such circumstances, the employee will report such situation to their Line Manager without delay, who will take the appropriate action”.

Implementation

- The person responsible for ensuring compliance with the policy is the Director.
- The main policy provisions will be clearly displayed at the entrance to the Association’s premises (Appendix C)
- The No Smoking signs will be clearly displayed in the Association’s premises including any company vehicles (Appendix D).
- The Association has no smoking area or ashtrays within their premises.
- Non-compliance with the Association’s Smoke-Free Policy will be dealt with by following procedures outlined below. The Association also wishes to stress that the non-

compliance with the smoking law is a criminal offence as per the Smoking, Health and Social Care (Scotland) Act 2005 and that fines and prosecution may be applied to individuals and employers by the Environmental Health Officers.

- The Association will not hold tobacco-related investments, or accept sponsorship or donations from tobacco companies.
- Smoking will only be allowed in designated areas. Smoking outwith these areas will be regarded as a breach of this policy.
- Any questions, comments or concerns regarding the Smoke Free Policy should be raised with the Director. Breaches of the policy should be reported to your line manager.

Non-compliance

All employees, workers, contractors, customers, visitors, staff from other agencies, governing body or committee members and members of the public are informed that the Association operates a Smoke-Free Policy in all its premises, developed to ensure a safe working environment. The displayed No Smoking signs are designed to inform and remind everyone of this. Whilst it is the Association's belief that most people will respect the policy, we have put in place procedures to deal with non-compliance. Any person not complying with the ban commits an offence towards the organisation as well as the law. It is therefore our intention to enforce this policy and impose sanctions on people that choose not to comply with it.

The Smoke-Free Policy applies to all employees and workers across the organisation. It is the responsibility of employees and workers to adhere to this policy. Line managers are responsible for enforcing the policy and will be trained on implementation issues. Any acts of non-compliance with this policy will be dealt with in accordance with the Association's Disciplinary Procedures. For employees, a refusal to comply with a Smoking Ban will be treated as misconduct or gross misconduct, dependent on the coverage of the Smoking Ban in external workplace areas, and the presence of any flammable materials present inside or outside the premises. Breaches of the Smoke-Free Policy with reference to health and safety procedures or legislative provisions will attract the appropriate level of discipline up to and including dismissal. This measure is to ensure the provision of a safe working environment as well as compliance with the law.

Any contractor, customer, visitor, staff from other agencies or other members of the public who refuses to comply with the provisions of the Smoke-Free policy will be asked to leave the premises immediately. Further refusal will result in the withdrawal of contracts with individual contractors, as well as informing their employers of their non-compliance, the potential withdrawal of services to our customers and barring visitors or members of the public from our premises. Persistent refusal will trigger an application of our normal procedure for dealing with antisocial behaviour. Governing body or committee members who refuse to refrain from smoking in accordance with the Smoke-Free Policy would be dealt with in accordance with their Code of Conduct.

Concerns/Issues

Any employees, workers, contractors, customers, visitors, staff from other agencies, governing body or committee members who have any concerns should report these immediately to the Director.

Cessation Support

The Association recognises that passive smoking adversely affects the health of all employees. However, it does recognise that the Smoke-Free Policy can impact on smokers' working lives.

In an effort to help employees adjust to the changes they will be supported through:

- Being encouraged to seek advice on modifying their smoking behaviour or quitting smoking.
- Supplies of self-help information will be made available on request.
- Periodic campaigns will be undertaken to encourage smokers to stop and to publicise the support available.
- A Source of support is Scotland's national stop smoking helpline, Smokeline, which is available by calling 0800 848484. Alternatively, you can contact them via their website www.canstopsmoking.com The service can help by:
 - talking through all the options available to you
 - referring you to free [local NHS services](#)
 - sending you a [free Quit Your Way Scotland quit pack](#)
 - helping you [plan to stop](#) in a way that suits you
 - offering support and advice when you're trying to stop
 - being there when other [support services](#) are closed

Your GP and local pharmacies can also offer assistance and advice with smoking cessation.

Use of Electronic Cigarettes

Electronic cigarettes are being widely used to aid smoking cessation. Electronic cigarettes release varying amounts of nicotine in a warm water mist, which simulates the flavour of a real cigarette. Electronic cigarettes are not covered under the Smoking, Health and Social Care (Scotland) Act 2005 as they were not in existence when the legislation was introduced. Some employers have taken the view that as electronic cigarettes produce water vapour rather than smoke, they can be used indoors legally.

The Association understands that there is still research to be completed on the safety and effectiveness of electronic cigarettes as a smoking cessation tool. Our employees should therefore use electronic cigarettes during rest breaks in designated smoking areas. We do not deem it appropriate to use electronic cigarettes on the Association's premises, as they could cause annoyance to colleagues and be perceived as 'real' cigarettes if used in areas where there is contact with customers, along with colleagues, visitors and contractors. We would ask that all those that the policy applies to respect this application of the rules and do not expect any breaches of the rules to take place.

Policy Review

This policy will be reviewed at least every three years to ensure it continues to meet legislative and organisational needs or where EVH issues a revised Model Policy, whichever is sooner.

APPENDIX A: 'NO-SMOKING PREMISES' (as listed in Schedule 1 to the Regulations)

Those premises which fall within the scope of the legislation, having been classed as 'no-smoking premises', are:

1. Restaurants.
2. Bars and public houses.
3. Shops and shopping centres.
4. Hotels.
5. Libraries, archives, museums and galleries.
6. Cinemas, concert halls, theatres, bingo halls, gaming and amusement arcades, casinos, dance halls, discotheques and other premises used for the entertainment of members of the public.
7. Premises used as a broadcasting studio or film studio or for the recording of a performance with a view to its use in a programme service or in a film intended for public exhibition.
8. Halls or any other premises used for the assembly of the public for social or recreational purposes.
9. Conference centres, public halls and exhibition halls.
10. Public toilets.
11. Club premises.
12. Offices, factories and other premises that are non-domestic premises in which one or more persons work.
13. Offshore installations.
14. Educational institution premises.
15. Premises providing care home services, sheltered housing or secure accommodation services and premises that are non-domestic premises which provide offender accommodation services.
16. Hospitals, hospices, psychiatric hospitals, psychiatric units and health care premises.
17. Crèches, day nurseries, day centres and other premises used for the day care of children and adults.
18. Premises used for, or in connection with, public worship or religious instruction, or the social or recreational activities of a religious body.
19. Sports centres.
20. Airport passenger terminals and any other public transportation premises.
21. Public transportation vehicles.
22. Vehicles which one or more persons use for work.
23. Public telephone kiosks.

Cited from: Scottish Executive: www.clearingtheairscotland.com

APPENDIX B: EXEMPTIONS (as listed in Schedule 2 to the Regulations)

Those premises (or part of premises) which are exempt from the legislation are:

1. Residential accommodation.
2. Designated rooms in adult care homes.
3. Adult hospices.
4. Designated rooms in psychiatric hospitals and psychiatric units.
5. Designated hotel bedrooms.
6. Detention or interview rooms which are designated rooms.
7. Designated rooms in offshore installations.
8. Private vehicles.

Cited from: Scottish Executive: www.clearingtheairscotland.com

Purpose

This policy has been developed to protect all employees, service users, customers and visitors from exposure to second-hand smoke and to assist compliance with the Smoking, Health and Social Care (Scotland) Act 2005. The reference to smoking relates to all types of smoking – standard cigarettes, cigars, pipes, e-cigarettes etc.

Exposure to second-hand smoke, also known as passive smoking, increases the risk of lung cancer, heart disease and other illnesses. Ventilation or separating smokers and non-smokers within the same airspace does not completely stop potentially dangerous exposure.

Policy

It is the policy of the Association that all our workplaces are smoke-free, and all employees have a right to work in a smoke-free environment. The policy came into effect on 26th March 2006 and was last reviewed in April 2022.

Smoking is prohibited throughout the entire workplace with no exceptions. This includes company vehicles. This policy applies to all employees, workers, contractors, customers, visitors, staff from other agencies, governing body or committee members or members of the public.

The Association has a designated smoking area and ashtray for staff and committee members **at the container in the rear car park for cigarettes and at the rear of the office for e-cigarettes** (these areas required to be separate to prevent users of e-cigarettes being exposed to second hand smoke). Workers, customers, contractors, and any other visitors to the office are not permitted to smoke within the Association's premises. The nearest public ashtray is across the road from the office, outside the shops on Rozelle Avenue.

Implementation

Overall responsibility for policy implementation and review rests with the Director. All staff are obliged to adhere to, and facilitate the implementation of the policy.

The person named above shall inform all existing employees, consultants and contractors of the policy and their role in the implementation and monitoring of the policy. They'll also have to give all new personnel a copy of the policy on recruitment/induction.

Appropriate 'No Smoking' signs will be clearly displayed at the entrances to and within the premises.

Non-compliance

Disciplinary procedures shall be followed if an employee does not comply with this policy. The procedures set out in the full version of the Smoke-Free Policy shall be followed if a contractor, customer, visitor, staff from other agencies, board or committee members or members of the public do not comply. Those who do not comply with the smoking law are also liable to a fixed penalty fine and possible criminal prosecution.

Help to stop smoking

Support for smokers who want to stop will be provided as outlined in the full version of the Smoke-Free Policy.

Cited from: Scottish Executive: www.clearingtheairsotland.com



These are no smoking premises. It is an offence to smoke or knowingly to permit smoking in these premises.

If you observe someone smoking here, a complaint may be made to: **Joyce Orr,**
Director