

Personnel Committee – 1 March 2017

Smoke-free Procedure

1. Purpose of the report

To request Personnel Committee approval for the revised Smoke-free Procedure (Appendix 1).

2. Recommendations

Personnel Committee is recommended to:

- Agree the attached Smoke-free Procedure with effect from 1 April 2017.

3. Background

The revised Smoke-free Procedure will play an important role in the council discharging its duty of care in relation to its employees, visitor, customers and partner organisations, as well as the citizens of Walsall, and it is vital that it meets the needs of those who use it.

The purpose of this procedure is to protect all employees, service users, customers and visitors from the adverse effect of second hand smoke. The procedure aims to create an environment which promotes good employee health by encouraging and supporting employees who wish to stop smoking to do so.

Key changes introduced by the revised procedure are as follows:

- Removal of all designated smoking areas from council buildings
- Introduction of a non-smoking zone on all council premises (including car parks).
- Strengthening of management approval/discretion in preventing employees from using flexi breaks for smoking;
- Increased support for employees wishing to quit smoking

Managers' responsibilities

- Familiarise themselves with this procedure and implement it accordingly, ensuring the procedure is appropriately communicated to employees to ensure compliance.
- Ensure that employees are aware that there is no automatic right for them to take specific smoke breaks and that all flexi breaks are subject to management agreement where the needs of the service are paramount. Where such breaks have a detrimental effect on the service or otherwise affect the needs of the business, smoke breaks can be restricted. All flexi breaks including those approved for smoking purposes will require the employee to clock out and use their own time.
- Support employees who wish to quit smoking.

- Appropriately address non-compliance with the procedure and maintain a record of all such incidents and outcomes.

4. Financial

There are no direct financial implications arising from this report.

5. Legal

There is no automatic entitlement to flexi-time. The Council can, however, through the exercise of management discretion permit employees to work under flexi time arrangements. Breaks for smoking or for any other reason may be taken during a specified flexi-time period. Such breaks must, however, be reasonable. The principle is that staff are employed to work during normal working hours. Managers may permit persons to take breaks for smoking or other reasons so long as the service can be delivered without the breaks having a detrimental effect on the working of the Council.

6. Risk Management

Walsall Council has a duty to promote the health of its employees and the wider community through exemplifying good practice.

7. People

Detailed in the report.

Equality Impact Assessment attached (Appendix 2).

8. Consultation

Initial stakeholder engagement took place between 21 November and 21 December 2016.

Trade Union and wider management team consultation took place between 21 December 2016 and 10 January 2017.

CMT considered this report on 16 February 2017.

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Appendix 1

Smoke-free Procedure



Walsall Council

Version Control

Document title	Smoke-free Procedure		
Owner	Human Resources – Strategic Services		
Status	Draft	Version	2.0
Effective from	01/04/2017	Approved on	DD/MM/YYYY
Last updated	16/02/2017	Last updated by	HR Strategy and Planning
Purpose	To set out aims and expectations from staff, visitors, customers and partner organisations in relation to smokefree behaviours.		

This procedure links to:

- Code of Conduct
- Disciplinary procedure

This list is not exhaustive.

For advice and guidance with this document, or if you would like this information in another language or format please contact:

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1.0 Introduction

- 1.1 The purpose of this procedure is to protect all employees/workers, service users, customers and visitors from the adverse effect of second hand smoke and to comply with the smoke-free legislation of 1 July 2007.
- 1.2 The procedure aims to create an environment which promotes good employee health by encouraging and supporting employees/workers who wish to stop smoking to do so.
- 1.3 All areas previously known as 'designated smoking areas' are no longer operational, and smoking in those areas is prohibited.
- 1.4 The procedure supports the Council's position regarding being a smoke-free employer and as such there is no automatic right for employees to take specific smoke breaks.
- 1.5 The procedure aims to demonstrate the commitment of Walsall Council towards promoting the health of its employees/workers and the wider community through exemplifying good practice.
- 1.6 The procedure applies to the smoking of tobacco, e-cigarettes and vaping.

2.0 Scope of the procedure

- 2.1 This procedure applies to:
 - ❖ All council employees (including fixed term and temporary), casual workers, agency workers and volunteers;
 - ❖ Contractors working on Walsall Council premises;
 - ❖ All visitors to Walsall Council premises, including partners, service users and clients; and
 - ❖ Elected members.
- 2.2 This procedure excludes school-based employees/workers where the governing body has delegated authority and for whom separate arrangements apply.

3.0 Roles and responsibilities

- 3.1 Directors and Chief Officers will have overall responsibility for ensuring that the procedure is implemented in their directorates and/or service areas.
- 3.2 Heads of Service will support both management and employees/workers who wish to lead a healthier lifestyle and should strongly encourage all staff who smoke to consider smoking cessation initiatives.
- 3.3 Building managers have a responsibility to:
- ❖ Ensure that “No Smoking” notices are clearly displayed at all entrances and exits, and that provision is made for the safe and tidy extinguishing and disposal of cigarettes, in line with legislative requirements, and that any cigarette disposal bins are sited away from council buildings and sites, in particular main entrances, so that there is minimum risk of smoke inhalation to workers and visitors.
- 3.4 Line Managers have a responsibility to:
- ❖ Familiarise themselves with this procedure and implement it accordingly, ensuring the procedure is appropriately communicated to employees/workers to ensure compliance.
 - ❖ Monitor and manage the use of flexi breaks, exercising management discretion to approve or not, such breaks as are deemed reasonable and appropriate in line with service delivery requirements. The needs of the service will be considered over and above all else and where breaks (including smoke breaks) have a detrimental impact on the service or otherwise affect the needs of the business, the manager will have discretion to restrict such breaks.
 - ❖ Support employees/workers who wish to quit smoking.
 - ❖ Appropriately address non-compliance with the procedure and maintain a record of all such incidents and outcomes.
- 3.5 All employees/workers have a responsibility to:
- ❖ Familiarise themselves with the procedure and ensure they comply with the minimum standards as detailed in section 4 of the procedure.
 - ❖ Ensure that they do not smoke in the immediate vicinity of entrances and exits to Council buildings.
 - ❖ Consider the public image of the council if smoking in view of the public or visitors.

4.0 Minimum standards

- 4.1 Employees/workers must refrain from smoking:
- a) whilst on duty (including in people's private homes, outside spaces and in vehicles, those either privately owned, on loan, hire or lease);
 - b) in council buildings; and
 - c) on council sites and premises; this applies to all council sites, rented or owned, where the council have their employees/workers based.
- 4.2. There is no absolute right for employees to take smoke breaks or use flexi-time for such smoke breaks. However employees may request smoke breaks which will be subject to management agreement (as with all flexi-time requests). In considering such requests managers will assess the reasonableness and appropriateness of the request and will consider approval or not in line with their individual service delivery requirements.
- 4.3 Employees/workers who fail to comply with this procedure may be subject to the council's disciplinary procedure as well as to any sanction that may be applicable under criminal law.
- 4.4 Employees/workers are reminded that the selling/storing and dealing in any way of illegal cigarettes and tobacco products on Walsall Council premises constitutes a criminal offence, and any employee caught doing so will be reported to the police as well as being subjected to disciplinary proceedings.
- 4.5 Managers will provide all the necessary support to help employees/workers wishing to quit smoking.

5.0 Work in the community

- 5.1 Employees/workers working in the community (e.g. leisure centres, service users' homes, care homes, children's homes) are prohibited from smoking in work time. This includes smoking in vehicles, both owned by the council, or other vehicles used for work, and service users' homes.
- 5.2 Employees/workers who make home visits will be supported by their manager in requesting that the customer/householder refrains from smoking in their presence during the visit. Such requests should be included in the text of all appointment letters, wherever possible. Any requests either in person or writing must be made in a courteous and respectful manner. If the person receiving the service refuses to comply, this does not mean that the service will not be provided; employees/workers are advised to seek advice from their line manager.

6.0 Smoking cessation support

- 6.1 Managers are expected, sensitively and supportively, to ask employees/workers about any support they need to promote their general wellbeing. This will include pro-actively asking those who smoke if they require any assistance to stop smoking, encouraging them to consider the benefits of quitting, as well as the effects of smoking on their current and future health and supporting them to access the local stop smoking service.
- 6.2 Managers are expected to promote employee health and wellbeing and optimum performance by supporting any member of staff to stop smoking by accessing local stop smoking service.
- 6.3 Walsall Council employees/workers who wish to stop smoking will be supported to do so and will be given the time to attend one standard 12-week Stop Smoking programme (weekly sessions), on production of a proof of appointment. Any subsequent quit attempts will need to be attended in the employee's own time, unless in exceptional circumstances the line manager approves additional time.
- 6.4 Support groups are generally run for an hour a week for 12 weeks and are organised by Public Health. For details of current in-house programmes, please see the [Public Health Walsall website](#).
- 6.5 For further enquiries on or support with quitting smoking please contact One You - Walsall on 01922 444044 or www.oneyouwalsall.com.
- 6.6 Information and guidance for those wishing to give up smoking can also be found on the NHS Smokefree website, (<http://smokefree.nhs.uk>) or by calling 0800 022 4332.
- 6.7 For counselling support, employees/workers are advised to contact the Council's [Employee Assistance Programme](#) to access counselling services.

Appendix 2

Equality Impact Assessment (EqIA) for Policies, Procedures and Services

Proposal name	Smoke-free procedure		
Directorate	Resources		
Service	HR Strategy and Planning		
Responsible Officer	Nicola Rickhuss		
EqIA Author	Kat Lambert		
Proposal planning start	01/11/2016	Proposal start date (due or actual)	01/04/2017

1	What is the purpose of the proposal?	Yes / No	New / revision
	Policy	No	n/a
	Procedure	Yes	Revision
	Internal service	Yes	n/a
	External Service	Yes	n/a
	Other - give details		
2	What are the intended outcomes, reasons for change? (The business case)		
	<p>The purpose of this procedure is to protect all employees/workers, service users, customers and visitors from the adverse effect of second hand smoke and to comply with the smoke-free legislation of 1 July 2007.</p> <p>The procedure aims to create an environment which promotes good employee health by encouraging and supporting employees/workers who wish to stop smoking to do so.</p> <p>The procedure aims to demonstrate the commitment of Walsall Council towards promoting the health of its employees/workers and the wider community through exemplifying good practice, which strengthens delivery of its statutory role as guardian of public health.</p> <p>The procedure applies to the smoking of tobacco, e-cigarettes and vaping</p> <p>Minimum standards: Employees/workers must refrain from smoking:</p> <ol style="list-style-type: none"> whilst on duty (including in people's private homes, outside spaces and in vehicles, those either privately owned, on loan, hire or lease) in council buildings; on Council sites and premises, this applies to all council sites, rented or owned, 		



where the council have their employers/workers based.

There is no absolute right for employees to take smoke breaks or use flexi-time for such smoke breaks. However employees may request smoke breaks which will be subject to management agreement (as with all flexi-time requests).

Employees/workers who fail to comply with this procedure may be subject to the council's disciplinary procedure as well as to any sanction that may be applicable under criminal law.

Employees/workers are reminded that the selling/storing and dealing in any way of illegal cigarettes and tobacco products on Walsall Council premises constitutes a criminal offence, and any employee caught doing so will be reported to the police as well as being subjected to disciplinary proceedings.

Managers will provide all the necessary support to help employees/workers wishing to quit smoking.

3 Who is the proposal potential likely to affect?

People in Walsall	Yes / No	Detail
All	Yes	All visitors to Walsall Council premises, including partners, service users and clients and elected members.
Specific group/s	Yes	Smokers
Council employees	Yes	All council employees, casual workers, agency workers and volunteers, contractors working on Walsall Council premises.
Other	No	n/a

4 Evidence, engagement and consultation (including from area partnerships, where relevant)

4.1

Type	Initial stakeholder engagement	Date	21/11/2016 – 21/12/2016
Audience	Public Health, Environmental Health,		
Protected characteristics			
Feedback			
Support for the removal of designated smoking areas and the introduction of a smoke free zone around council buildings to protect workers and Walsall citizens for the adverse effects of smoke.			

Type	Consultation		Date	21/12/2016 – 10/1/2017
Audience	Trades Unions and wider management teams; HR operations and strategy.			
Protected characteristics				
Feedback				
<p>Support of the removal of designated smoking areas and the introduction of a smoke free zone around council buildings to protect workers and Walsall citizens for the adverse effects of smoke.</p> <p>Suggestions to increase the provision of support for smoking cessation sessions in recognition of the difficulty of beating a long-standing addiction – final version did not address this issue.</p> <p>Concerns around the removal of flexi time for smoking breaks – final version did address this issue.</p>				
CMT considered this report on the 16th February 2017.				
4.2	Concise summary of evidence, engagement and consultation (including from area partnerships, where relevant)			
5	How may the proposal affect each protected characteristic or group? The effect may be positive, negative or neutral.			
	Characteristic	Effect	Reason	Action needed Y or N
Age			No disparate impact foreseen	
Disability			No disparate impact foreseen	
Gender reassignment			No disparate impact foreseen	
Marriage and civil partnership			No disparate impact foreseen	
Pregnancy and maternity			No disparate impact foreseen	
Race			No disparate impact foreseen	
Religion or belief			No disparate impact foreseen	
Sex			No disparate impact foreseen	
Sexual orientation			No disparate impact foreseen	

	Other (give detail)		
	Further information		
6	Does your proposal link with other proposals to have a cumulative effect on particular equality groups? If yes, give details below.		(Delete one) Yes / No
	HR and Public Health Walsall are cooperating around smoking cessation sessions.		
7	Which justifiable action does the evidence, engagement and consultation suggest you take? (Bold which one applies)		
	A	No major change required	
	B	Adjustments needed to remove barriers or to better promote equality	
	C	Continue despite possible adverse impact	
	D	Stop and rethink your proposal	

Action and monitoring plan

Action Date	Action	Responsibility	Outcome Date	Outcome
Implementation date	Alternative formats (including audio and Easy Read) for disabled employees are available on request.			
Implementation date	Information and update will be circulated to all employees on maternity/paternity leave and long term absence.			

Update to EqIA

Date	Detail