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**Guidance produced for Schools by NYES HR.**

**Access: If you require this information in an alternative format, such as large type, audio cassette or Braille, please contact NYES HR.**

## 1. Scope

- 1.1 This policy applies to all school based employees (all teaching and support staff).
- 1.2 If a concern or grievance is raised regarding any aspect of this policy it should be dealt with as promptly as possible within this process. Matters should only be referred to be dealt with through the Resolving Issues at Work Procedure where they are not related to the application of this policy for that individual case.
- 1.3 **Where reference is made to Manager within this policy, this could mean Headteacher, line manager, Head of Department/Faculty, School Business Manager or Governor.**

## 2. Policy Statement

- 2.1 This policy uses the term 'smoking' to refer to the use of tobacco. The use of e-cigarettes is also detailed, however it is noted that e-cigarettes are different from tobacco and this is reflected in the policy.
- 2.2 The school is committed to safeguarding the health and well-being of all employees, visitors and individuals. The school:
- Recognises its duty to provide safe and healthy working conditions and service delivery environments, by prohibiting smoking in all its workplaces, enclosed and substantially enclosed spaces and vehicles
  - Recognises the significant evidence detailing the harmful effect on health of smoking including passive smoking

## 3. Aims

The aim of this policy is to:

- Inform staff and managers of their responsibilities in respect of the policy
- Inform staff of the Health Act, 2006 and associated regulation which prohibits smoking in public and substantially enclosed public places/premises
- Protect the health of staff, service, and others visiting and using school premises and services by applying and enforcing the law
- Outline the support available for staff who wish to quit smoking

## 4. The Law and Regulations

- 4.1 The Health Act, 2006, provides five sets of smoke free regulations which can be accessed [here](#). The school as an employer, service provider and building and premises owner/user must comply.
- 4.2 The Health Act 2006 also places a legal duty on persons who occupy or manage smoke-free premises to display no-smoking signs that meet requirements set out in the

regulations. Under the Health Act 2006 it is against the law not to display the required no-smoking signs

- 4.3 Where breaches take place, the Health Act, 2006 provides the following which applies to employees, managers, contractors and any other person on school premises in the smoke-free areas:
- The offence of smoking in a smoke-free place will be a summary conviction and fine up to £200 or a fixed penalty notice of £50 to the individual
  - Where an **employer** fails to display no-smoking signs they may receive a summary conviction and a fine of up to £1,000 or a fixed notice penalty of £200
  - The offence of **failing to prevent smoking** in a smoke-free place will be a summary conviction and fine up to £2,500
- 4.4 In addition, the following will apply and any breach of the regulations by employees will be treated as a conduct issue:
- Staff are reminded there is no such thing as a smoking break entitlement
  - Staff will not taking breaks during the working day in order to take smoking breaks. Staff will not smoke during claimed working time
  - Staff must not smoke while in school grounds
  - Staff who smoke are prohibited from smoking in or near school doorways, entrances and exits to school buildings. Instead staff who smoke are urged to smoke elsewhere away from school grounds (if there is a designated area then this must be used)
  - Smoking is prohibited in all school buildings and all enclosed or substantially enclosed public areas, with the exception of clearly designated areas. (Refer to Residential Establishments for exceptions (5.0))
  - Smoking is prohibited in school owned and hired vehicles including pool cars and any vehicle used for school business as a public space
  - Where staff have a responsibility to transport staff, other personnel, or clients, smoking in the vehicle is prohibited
  - The policy applies to all school employees. The policy also applies to staff employed through an agency, by a contractor or by other organisations

## 5. Third Party Premises

- 5.1 The School has a duty of care to protect its employees, it cannot exert prohibitions in private dwellings. Employees should where possible, request that the occupant arrange for a non-smoking area to be provide for the duration of the visit
- 5.2 Where people who use school services or other occupants do not respect this request and a solution cannot be agreed at that point, the employee might, for this reason only, suspend the visit. However, prior to taking this action they should seek the advice and assistance of their line manager
- 5.3 If an employee identifies that they have a pre-existing health problem, which is made worse by exposure to smoke they should discuss this with their manager to make alternative arrangements where possible

## 6. E-Cigarettes

- 6.1 This policy aims to support staff who are attempting to stop/reduce smoking, whilst respecting the views of other staff and visitors. The School acknowledges that some employees may wish to make use of electronic cigarettes, particularly as an aid to giving up or reducing smoking
- 6.2 This is interim guidance which will be reviewed and revised as further evidence regarding e-cigarettes emerges
- 6.3 This policy recognises that e-cigarettes are different from tobacco cigarettes and consequently should be treated in relation to the workplace issues they create, not simply apply the same principles for tobacco cigarettes
- 6.4 To support employees the following guidance outlines the Schools policy on the use of e-cigarettes:
- The use of e-cigarettes is not permitted on school grounds. Those staff who use e-cigarettes are urged to smoke elsewhere away from school grounds (if there is a designated area then this must be used)
  - The use of e-cigarettes is not permitted in any enclosed or substantially enclosed workplaces
  - The use of e-cigarettes is not permitted inside any school buildings
  - The use of e-cigarettes is not permitted while in any vehicle that is used for either paid or voluntary work including schools own fleet vehicles because the school treats these as enclosed spaces
- 6.5 Due to potential health and safety implications employees are not permitted to charge e-cigarettes at work or in vehicles. (This policy applies to all electrical devices including mobile phone chargers which have not been tested and approved)
- 6.6 Staff will not be entitled to take e-cigarette breaks during the working day

## **7. Support for Staff Who Wish to Stop Smoking**

7.1 The school supports staff who wish to quit smoking and recognises that quitting smoking is one of the best things to do to improve an individual's health.

7.2 *For more information about stopping smoking, visit the NHS website*

## **8. Review of the Policy**

The policy will be reviewed by NYES HR periodically as and when required