

Nottinghamshire School Smoke Free Policy

September 2016

HR Advice, Support and Training Services

HR Service
Nottinghamshire School Smoke Free Policy – Table of Contents

Heading	Page
Introduction	2
Equalities and Equal Opportunities	2
Aims	3
Scope	3
Principles and Commitment	3
Background	4
Key actions to meet the commitments of the policy	4
Policy for third party premises	5
Enforcement of the Policy	5
Monitoring and Review	6
Consultation with Trades Unions	6
Smoke Free FAQ's	7

Nottinghamshire School Smoke Free Policy

1. Introduction

- 1.1 The governing body has adopted the policy set out in this document to provide a clear framework for the exercise of its powers and discretions in relation to all staff employed in the school and paid from within the school budget.
- 1.2 The governing body is committed to taking decisions in accordance with the principles of public life as listed in DfE guidance; objectivity, openness and accountability.
- 1.3 The governing body recognises the legal requirements placed upon them by the Education Act 2002 and subsequent legislation.
- 1.4 The governing body delegates to the Strategic, Planning and Development Committee of the Governing Body of Newark Orchard School the responsibility of reviewing this policy.
- 1.5 The policy set out in this document has been formulated by the Strategic Planning and Development Committee of the Newark Orchard School Governing Body supplemented by staff representatives and other Governors - as appropriate. Full consultation with the staff in school and their representatives has taken place. The policy will be reviewed annually by the same representative group.
- 1.6 The governing body will take into consideration advice and guidance from the Local Authority relating to the school Smoke Free policy.
- 1.7 This policy should be read in conjunction with the smoke free guidance and FAQ's.

2. Equalities and Equal Opportunities

- 2.1 The governing body recognises its legal responsibilities to staff under the Equality Act 2010 and this policy will ensure equality and fairness regardless of race, sex (gender), sexual orientation, religion or belief, gender re-assignment, pregnancy and maternity, marriage and civil partnership, disability or age. All decisions will be taken in accordance with relevant equalities legislation, the Employment Relations Act 1999, the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002. In doing so the governing body / Pay/Personnel and Pupils Committee of the governing body (**amend to be school specific*) will ensure that * decisions and processes are open, transparent and fair.
- 2.2 The governing body is also aware of its responsibilities and those of the local authority in respect of the Equal Pay Act 1970 which requires that men and women have a right to equal treatment and equal pay for work of equal value.

2.3 The governing body is aware of its responsibilities under the Freedom of Information Act 2000 and to make available this policy to all staff at the school.

3. Aims of the Policy

3.1 The purpose of the Smoke-free Policy is to protect children, employees, governors and people who visit Council premises from the effects of smoking and second-hand smoke exposure.

3.2 Smoking is a health and safety issue and, as such, remains the responsibility of the County Council. Therefore, this Policy applies to community schools and voluntary controlled schools.

4. Scope of the Policy

4.1 In relation to smoking restrictions; where the Policy and Guidance mention staff or employees, this applies equally to all staff employed by the school; governors, visitors, parents, workers engaged through an agency - by a contractor or by other organisations and visitors to the school premises.

4.2 For the purpose of this policy, smoking is defined as anything that is smoked; including manufactured and hand rolled cigarettes, pipes, cigars, herbal cigarettes and shisha pipes. Electronic cigarettes (e-cigarettes) and other vapour producing products are also included.

4.3 Due to concerns about the origin and build-quality of charging mechanisms for e-cigarettes, under no circumstances should they be connected to school electrical sockets or computer USB points.

5. Principles and Commitment

5.1 Nottinghamshire County Council and the Governing Body have a duty to protect the health of its employees. The evidence that exposure to other people's smoke is dangerous to health is undeniable.

5.2 The school and its employees are subject to the law, including the provisions of the Health Act, which since 1 July 2007, prohibits smoking in virtually all enclosed and substantially enclosed work and public places throughout the United Kingdom.

5.3 In addition, the Health and Safety at Work Act (1974) requires that the County Council and the school take reasonable measures to protect the health and safety of employees and members of the public visiting Council premises and grounds.

5.4 There is no right to smoke. This has been confirmed by the Court of Appeal which stated the right to smoke was not protected by Article 8 of the Human Rights Act 1998.

6. Background

- 6.1** Nottinghamshire County Council has a key role in promoting better health in Nottinghamshire. Smoking related ill health is a major challenge for our County and the Council should be a model for others in terms of its efforts to champion smoke-free environments and encouraging people to stop smoking.
- 6.2** At the full Council meeting held in November 2014, it was agreed that Nottinghamshire County Council would sign the Local Government Declaration on Tobacco Control; committing the Council to take action on tobacco related issues and to act as an exemplar to others.
- 6.3** To underpin this policy, the Council developed additional guidance and supporting documents which contain information about where to obtain support for people who wish to stop smoking and information about temporary abstinence whilst at work.
- 6.4** All smokers will be encouraged to use licensed nicotine replacement therapy as a safer source of nicotine and to access the most effective way to stop via Nottinghamshire County Council commissioned Stop Smoking Services.

7. Key actions to meet the commitments set out in this policy

- 7.1** Employees are not allowed to smoke during their working time.
- 7.2** In accordance with the smoke-free legislation, smoking is prohibited in the following areas:
- The School buildings, premises and grounds
 - All County Council owned and controlled buildings
 - All vehicles owned, leased or hired by the School

In addition, smoking is also prohibited in Council owned and controlled grounds including courtyards, at entranceways or in areas adjacent to buildings where smoke may be unpleasant for passing people or using that area or where the smell of smoke may affect others.

- 7.3** Staff are strongly discouraged from smoking in their own vehicles while on school business and are required not to smoke if there are passengers in the vehicle.
- 7.4** The school displays signs at all entrances and in vehicles to make it clear that smoking is prohibited.
- 7.5** No facilities e.g. smoking shelters or designated smoking spaces will be provided for smokers either inside or outside school premises.
- 7.6** Caretakers living in Council provided accommodation may smoke on their own premises outside working hours.
- 7.7** Staff who cannot leave the premises and grounds, for a break outside of working time because of their job, must abstain from smoking and should be encouraged to

stop or use nicotine replacement therapy in order to temporarily abstain from smoking.

8. Policy for Third Party Premises

- 8.1** Employees who are required to visit other premises, both commercial and domestic, as part of their duties should advise the people responsible for the premises of Nottinghamshire County Council's Smoke-free Policy when arranging a visit. Although Nottinghamshire County Council has a duty of care to protect its employees, it cannot control the Smoke-free Policy on such premises. Employees and/or managers should aim to contact those to be visited and to try to arrange for a non-smoking area to be provided for the duration of the visit. Where this is not possible, a request should be made that those visited refrain from smoking inside the premises or in the meeting area for one hour before the visit takes place and they should be asked not to smoke for the duration of the visit.
- 8.2** In circumstances where it is not possible to arrange a visit beforehand, employees should seek advice from their line manager who should take all reasonable steps to protect them from exposure to second-hand smoke.
- 8.3** It is recognised that there will be circumstances, particularly in visiting some domestic premises, where it will not prove possible to establish such arrangements as described in 6.1 and 6.2, and this should form part of the risk assessment. In such circumstances, the risk of entering the premises where smoking is taking place needs to be weighed against the risk of not undertaking the visit.

9. Enforcement of the Policy

- 9.1** The Governing Body and the Head Teacher are responsible for the promotion and maintenance of a smoke-free working environment. Head Teachers and senior leaders should refer to the guidance document regarding their responsibilities in relation to the policy and the implementation of it.
- 9.2** The County Council and the Governing Body recognise that smoking is an addiction and aims to provide a supportive environment for those who wish to overcome this and, in doing so, to promote the health and wellbeing of all employees. Details of support and information on temporary abstinence are available in the guidance document and supporting information.
- 9.3** Visitors who do not adhere to the Policy should be asked to comply or leave the premises.
- 9.4** All job applicants should be made aware of this Policy at the point of application. At recruitment, induction, appraisal and supervision, identified smokers should be offered support to stop smoking and should have the information about using licensed nicotine products for temporary abstinence made available to them.

10. Monitoring and Review

- 10.1** Where changes to this policy are proposed the governing body will undertake an Equality Impact Assessment (EQIA). The governing body will make available to staff the outcomes of the Equality Impact Assessment.
- 10.2** The governing body will monitor the outcomes and impact of this policy annually. As part of this review it that will monitor trends on progression across all groups of staff, the school's continued compliance with equalities legislation and the provisions of the STPCD, the Burgundy Book and the Green Book – NJC Conditions of Service.

11. Consultation and Agreement with the Recognised Trade Unions

- 11.1** The Nottinghamshire School Smoke Free Policy and Guidance is recommended for adoption by all community, voluntary aided, voluntary controlled, academy, foundation, and trust schools who purchase their HR Service from Nottinghamshire County Council.
- 11.2** The document has been agreed with the following Nottinghamshire recognised trade unions: ATL; ASCL; NAHT; UNISON and GMB.

Frequently Asked Questions (FAQs)

- 1. Staff are not allowed to smoke during their working hours. What is meant by 'working hours'?**

Working hours are defined as paid hours worked and excludes unpaid lunch breaks. Smoking breaks during work time are not permitted. If an employee chooses to smoke in their unpaid lunch break, they must smoke off site.

- 2. I use the Flexitime system. Am I able to use this for smoking breaks?**

No. Flexi time allows employees to vary start and finish times, not ad hoc breaks during the day. Flexi time primarily covers office-based employees and for parity the tobacco control policy needs to apply to all employees equally.

- 3. As the policy doesn't allow smoking during working hours, how will NCC support this?**

If employees wish to stop smoking completely, advice and information is available on the [Intranet](#), or from their manager or workplace health champion. Employees can approach [Smoke free Life Nottinghamshire](#) directly in order to access stop smoking support in their own time or where available, they can access lunchtime support sessions held at Council sites.

- 4. What if I don't want to quit smoking? I won't be able to manage until lunchtime without smoking.**

If an employee is not yet ready to quit smoking completely, the Council recognises it may be difficult to go for long periods without smoking. In order to support temporary abstinence whilst at work and to alleviate cravings from nicotine withdrawal, the Council encourages the use of licenced Nicotine Replacement Therapy (NRT) such as patches, lozenges and inhalator. Further information on use of NRT for temporary abstinence information is available on the [Intranet](#), or from their manager or workplace health champion.

- 5. I've been a smoker for many years and have never been able to give up before.**

Smokers often make many attempts before they manage to quit for good. Most smokers go 'cold turkey' and try and give up on their own. But studies show that using a local stop smoking service doubles your chances of giving up. Using a Nicotine Replacement product, such as patches or lozenges, alongside the stop smoking service doubles your chances of quitting again. Research has also shown that a highly successful way to support smokers who want to give up is to not permit smoking breaks during the working day, which is why the Council has this policy. With the help of [Smoke free Life Nottinghamshire](#) and some Nicotine Replacement

Therapy (NRT) even the heaviest smoker really will have an excellent chance of giving up for good.

6. I have managed to stop smoking using an e cigarette; can I still use this at work?

This policy covers the use of e-cigarettes at work (whether or not they contain nicotine), as well as tobacco containing products. As yet there have been no clinical studies into any long term health risks of e-cigarette use, either directly or passively, the BMA (British Medical Association) has said that more research is needed to establish the effectiveness and safety of the devices as a nicotine-replacement therapy. Also, given that some e-cigarettes can be very similar in appearance to traditional tobacco cigarettes, currently the same prohibitions and restrictions that apply to the use of cigarettes in the workplace will also apply to e-cigarettes.

Due to concerns over the origin and build-quality of these devices, under no circumstances should charging mechanisms be connected to NCC electrical sockets or computer USB points.

If you have quit smoking using an e-cigarette but are still experiencing urges to smoke, you are encouraged to use NRT during work time (and use an e-cigarette in your own time).

7. How will the policy be enforced?

We are relying on people to act responsibly and to take the right steps to safeguard their health. Implementation will be through line managers. Smokers will be asked to comply with the policy and the guidance is intended to assist in implementation while recognising that smoking is an addiction and that smokers should be treated sensitively.

8. Not allowing smoking during working hours: Does this mean staff can't smoke in vehicles?

As part of the smoke free legislation, smoking is prohibited in all NCC owned work vehicles. Staff are also strongly discouraged from smoking in their own vehicles whilst on council business, and are required not to smoke if there are passengers in the vehicle.

9. What about contractors? Will they be allowed to smoke when working for the Council?

No. Contractors will need to comply with Council policy when undertaking work for the Council. We recognise this should not be difficult e.g. when contractors come in to do a job in a council building, or when they are working alongside Council employees. In other circumstances, we will be looking for the policy to be applied as far as is reasonably practical, and will work with contractors about this.

10. I've noticed someone selling cheap tobacco. They said they had bought extra when they recently went abroad, should I report this?

Yes. It doesn't matter how an individual has obtained the tobacco, if it isn't being sold by a legitimate shop then it is illegal. Whether at work or in the community, if you have any suspicions you can call Crime stoppers anonymously on: 0800 555 111.