

Guidance on How the Smoke-Free Legislation Will Apply to the Communal Areas of Houses in Multiple Occupation (HMOs), Shared Houses, Self-contained flats, Halls of Residence/Hostels and Sheltered/Supported Housing in East Cambridgeshire.

The Smoke Free Law from 06:00am on the 1st July 2007 may affect you if you are a landlord or manager of a rented property described above. This will apply to the communal areas and is explained in detail below: -

The new Smoke-Free law in general, does not cover private dwellings. However, any enclosed, or substantially enclosed part of a premises shared with other premises, such as a **communal stairwell or a walkway or a lift** in a block of flats will be required to be smoke-free if:

- it is open to the public*
- it is used as a place of work, for example, by cleaning staff, postmen, delivery drivers, porters, security guards, housing officers etc...⁺

*Premises are **open to the public**, if the public, or a section of the public, has access. It does not matter whether access is open to everyone, or if access is restricted to certain members of the public by way of invitation or payment – the premises will still be required to be smoke-free.

⁺Premises that are places of **work** for more than one person will be required to be smoke-free at all times in all enclosed and substantially enclosed parts, even if people work there at different times of the day, or only intermittently. A place of work used only by one person will also be required to be smoke-free at all times if members of the public enter the premises, for example to receive goods or services.

The term 'work' includes voluntary work.

However there is no restriction on people smoking in any part of their private dwellings used for work, if the work is undertaken solely to:

- provide personal care for someone living in the dwelling (care for someone who is disabled or is otherwise unable to care for themselves);
- assist with the domestic work of the household in the dwelling (one person only);
- maintain the dwelling (painting/decorating etc...);
- install, maintain or remove any service provided to the dwelling for the benefit of people living there.

The legislation however does not extend to (privately rented) bedrooms within private dwellings and these are not required to be smoke-free, this means tenants are free to smoke in their own bedrooms.

The following examples illustrate how the Smoke-Free law will apply to different communal area set-ups:

Shared housing/bedsits

Generally the law does not extend to these premises. The typical example would be a four-bedroom property shared by four students who share communal areas such bathroom/toilet and kitchen facilities as well as lounge areas. These areas are behind a locked, front door and are not open to the public or a workplace.

However, the communal areas may become a workplace by use of two or more housing officers or cleaning staff, who are visiting the property as part of their work. We suggest that individual managing agents and property letting agencies make their own policies on whether smoking will be permitted in communal areas; best practice would suggest that each of the properties they own or manage would need to be assessed in terms of how many people visit the premises. It is also worthwhile noting that Health and Safety guidelines emphasise the fact that employers have a duty to protect their staff whilst they are working.

It is therefore East Cambridgeshire District Councils' recommendation that all communal areas are made smoke-free to protect tenants and anybody visiting the property in communal areas from second-hand smoke. This is however a recommendation only and may well be a longer-term goal of housing agencies.

Self-contained flats

The enclosed and substantially enclosed communal areas of blocks of flats such as stairwells, walkways, bin stores, garages, sheds and lifts, which are used in common with more than one set of premises are required to be smoke-free.

This is due to the fact that many of these areas are open to the public and in some cases considered a workplace. The spirit of the legislation is to protect members of the public from second-hand smoke as they pass through these areas to private premises, where this law does generally not apply.

Halls of Residence / University Hostels

We would consider the communal areas of these types of premises as required to be smoke-free if they are open to the public and/or a workplace for more than one person. Examples of these areas could be: stairwells and corridors that connect the flats and individual rooms as well as any kitchens and bathroom facilities belonging to the premises.

Again, private bedrooms would be exempt, even when a cleaner is present in that room for the purpose of cleaning the room or a maintenance technician is present to fix a light fitting etc.... In this event we are of the opinion that the cleaner/technician has the right to refuse to work in this room if someone is smoking. Managing agents may wish to make a policy to say that cleaners will not enter the room if someone is smoking or until the window is opened and the smoke has had some time to partially (or completely) disperse. In light of this, organisations may therefore wish to make all the accommodation smoke-free.

Supported/sheltered housing

Unfortunately the Council cannot give special consideration to this type of housing due to the requirements of the Smoke-Free Law.

Many communal areas are workplaces for supported housing staff that work with homeless and/or vulnerable individuals and are therefore required to be smoke-free. Whilst smokers and staff will be allowed to smoke in their designated bedrooms it may be wise for agencies to think about designating areas where smoking tenants and staff members can smoke, as long as they meet the abovementioned requirements. Appropriate cigarette disposal facilities placed alongside these areas would be desirable.

We understand that evicting residents for transgressing smoking regulations is strategically detrimental to the Council's homelessness strategy so we believe that supported and sheltered housing authorities should come up with their own policies for dealing with incidents of non-compliance and that evicting offenders based on one offence may be unnecessary.

At this point in time we cannot provide additional advice for dealing with non-compliant residents but emphasise eviction is the last action to take. Our only recommendation is that more counselling could be given to smoking tenants as well as providing smoking cessation support.

Finally, we suggest that Housing Associations etc liaise with similar schemes in other local authorities and share good practice.

Signage

The Smoke-Free law requires the following:

No-smoking signs will need to be displayed in a **prominent position** at every entrance to smoke-free premises. Signs must meet the following minimum requirements:

- be a minimum of A5 in area (210mm x 148mm)
- display the 'international' no-smoking symbol at least 70mm in diameter

- carry the following words in characters that can easily be read:
'No smoking. It is against the law to smoke in these premises'.

We are happy for these signs to be personalised by changing the words 'these premises' to refer to the name of type of premises. The smaller symbol is intended for entrances only used by staff (provided at least one entrance to the premises has the A5 sign) and premises located within larger smoke-free premises such as a shop in a shopping centre. However, we are recommending that these signs could also be used in 'hot-spot' areas to re-enforce the smoking legislation such as lifts, bathrooms etc.

Signs need not be placed on doors and windows at the entrance to the premises. We will allow for these signs to be placed inside the doorway on the wall; please ensure that the sign is in a 'prominent' position so that when someone enters the smoke-free premises, the sign can be clearly seen.

An example of the A5 sign



An example of the symbol only 'No Smoking' sign



The above signs are available free to download or order from the Smoke free England website: <http://www.smokefreeengland.co.uk> or by ringing the Smoke free England Hotline on: 0800 1691697. The A5 sign is available in other languages. The website also offers a variety of other resources such as leaflets explaining the new smoke-free law and further guidance.

Presently the Council has a very limited number of signs it can distribute thus it is recommended you seek alternative means of ordering signs such as by contacting Smoke free England.

Further advice

This document is intended only to serve as a guide and if you have any further questions regarding its content you are advised to contact the Smoke Free Officer for the Council, Mr. John Merryweather, or by e-mail at: johnmerryweather@eastcambs.gov.uk

Please be aware that in the run-up to the 1st July and soon afterwards the Department may experience a high-contact volume in queries and complaints and there may be a short delay in responding to any enquiries of this nature.