

# Smoke Free Policy

<b><i>Purpose:</i></b>	To establish DPHA's policy and set out our position on smoking in the workplace.
<b><i>Review Date:</i></b>	3 years from date of approval
<b><i>Guidance:</i></b>	EVH Model policy and guidance
<b><i>Regulatory Standards:</i></b>	4.1 The governing body ensures it receives good quality information and advice from staff and, where necessary, expert independent advisers, that is timely and appropriate to it's strategic role and decisions. The governing body is able to evidence any of its decisions. 5.2 The RSL upholds and promoted the standards of behaviour and conduct it expects of governing body members and staff through an appropriate code of conduct. It manages governing body members' performance, ensures compliance and has a robust system to deal with any breach of the code.
<b><i>Date reviewed by Policy Review Working Group (PRWG):</i></b>	February 2023
<b><i>Date approved by Board of Management (or PRWG if delegated):</i></b>	February 2023
<b><i>Publish on the Website</i></b>	No

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## **INTRODUCTION**

- 1.1 Dalmuir Park Housing Association (DPHA) 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.
- 1.2 This policy has been introduced as DPHA'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.
- 1.3 This Smoke-Free Policy has been produced in response to DPHA's duty under the Smoking, Health and Social Care (Scotland) Act 2005 in force from 26<sup>th</sup> March 2006.

## **2.0 BACKGROUND**

- 2.1 Ten million adults smoke in the UK. In Scotland, 23% of all adults aged 16 and over were current smokers in 2011. The prevalence of smoking is highest in the 25-34 year old age group (30%) and lowest in the over 75's age group (8%).
- 2.2 Smoking is one of the main principal avoidable causes of premature deaths. It causes 100,000 deaths in the UK, and of these over 13,000 deaths in Scotland, out of which over 1,000 can be attributed to passive smoking. The Scientific Committee on Tobacco and Health's review on evidence of passive smoking showed it to be a serious public hazard, increasing the risk of lung cancer, heart disease and respiratory illness and causing a variety of conditions in children. It also concluded that good ventilation systems, whilst eliminating the smell and visibility of smoke, do not eliminate the toxic carcinogens.

## **3.0 LEGAL AND REGULATORY REQUIREMENTS**

- 3.1 **Smoking, Health and Social Care (Scotland) Act 2005**  
The Smoking, Health and Social Care (Scotland) Bill was introduced to Parliament on 17<sup>th</sup> December 2004 and approved by MSPs on 30<sup>th</sup> June 2005. It received Royal Assent on 5<sup>th</sup> August 2005 and came into force in Scotland on 26<sup>th</sup> March 2006. The law imposes a total ban of smoking and affects most public premises and also includes workplaces and work vehicles.
- 3.2 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.

### 3.3 **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.

### 3.4 **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.

## 4.0 **POLICY PRINCIPLES**

- 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 DPHA.
- Prohibits smoking throughout the working premises.
- Details how DPHA 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 programmes.

## 5.0 **POLICY CONDITIONS**

5.1 As a result of the Smoking, Health and Social Care (Scotland) Act 2005, DPHA 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 DPHA - gable end of building at fire exit or in any place that is not covered by the smoking ban.

5.2 Passive smoking exposure out with DPHA's premises

As per DPHA'S Health and Safety Control Manual, section 3.11: "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".

## 6.0 **IMPLEMENTATION**

- The person responsible for ensuring compliance with the policy is DPHA's Chief Executive.

- The main policy provisions will be clearly displayed at the entrance to DPHA's premises (**Appendix C**).
- The No Smoking signs will be clearly displayed in DPHA's premises including company cars (**Appendix D**).
- DPHA has no smoking area or ashtrays within their premises.
- Non-compliance with DPHA's Smoke-Free Policy will be dealt with by following procedures outlined below. DPHA 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.
- DPHA will not hold tobacco-related investments or accept sponsorship or donations from tobacco companies or e-cigarette companies.
- Smoking will only be allowed in designated areas. Smoking out with 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 Corporate Services Officer. Breaches of the policy should be reported to your line manager.

## **7.0 NON-COMPLIANCE**

- 7.1 All employees, workers, contractors, customers, visitors, staff from other agencies, governing body or committee members and members of the public are informed that DPHA 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 DPHA'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.
- 7.2 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 DPHA'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.
- 7.3 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 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.

## **8.0 USE OF ELECTRONIC CIGARETTES**

8.1 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.

8.2 DPHA 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 DPHA'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.

## **9.0 CESSATION SUPPORT**

DPHA 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.
- Sources of support are Scotland's national stop smoking helpline, Smokeline, which is available by calling 0800 848 484. Alternatively, you can contact them via their website [canstopsmoking.com](http://canstopsmoking.com). You can also contact the Department of Health website [www.smokefree.nhs.uk](http://www.smokefree.nhs.uk) or the smokefree helpline on 0800 022 4332 to receive your 'quit kit' or find your local NHS stop smoking service. Your GP and local pharmacies can also offer assistance and advice with smoking cessation.

## **10.0 SMOKING BREAK**

There is no right for a break specifically for the purpose of smoking. Staff may use their lunchbreak to smoke outside the workplace in the designated smoking areas (side of Beardmore House, outwith common areas in Sheltered Housing and in the

car park area at the CE Centre) that have been agreed by the Leadership Team for all service areas.

## **11.0 EQUALITY AND HUMAN RIGHTS**

11.1 We are committed to promoting an environment of respect, understanding, encouraging diversity and eliminating discrimination by providing equality of opportunity for all. This is reflected in our Equality and Human Rights Policy.

## **12.0 GDPR**

12.1 We will treat personal data in line with our obligations under the current data protection regulations and our Privacy Policy. Information regarding how data will be used and the basis for processing your data is provided in our Customer Fair Processing Notice.

## **13.0 DISSATISFACTION**

13.1 Any employee not satisfied with the implementation of this Policy can in the first instance raise their concerns with their Team Leader or the senior officer dealing with the situation. If the employee remains dissatisfied they should refer to the Association's Grievance Policy and procedures.

## **14.0 POLICY REVIEW**

14.1 This policy will be reviewed 3 years after it has been approved by the Board, or earlier if required.

## 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](http://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](http://www.clearingtheairscotland.com)

## DALMUIR PARK HOUSING ASSOCIATION'S Smoke-Free Policy

### 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.

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 DPHA's 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 26<sup>th</sup> March 2006.

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.

Employees, workers, customers, contractors, visitors and governing body or committee members are allowed to smoke in DPHA's designated smoking areas that have been agreed by the Leadership Team for all service areas.

### IMPLEMENTATION

Overall responsibility for policy implementation and review rests with DPHA's Chief Executive. 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 support as outlined in the full version of the Smoke-Free Policy.

- Sources of support are Scotland's national stop smoking helpline, Smokeline, which is available by calling 0800 848484. Alternatively, you can contact them via their website [canstopsmoking.com](http://canstopsmoking.com). You can also contact the Department of Health website [www.smokefree.nhs.uk](http://www.smokefree.nhs.uk) or the smokefree helpline on 0800 022 4332 to receive your 'quit kit' or find your local NHS stop smoking service. Your GP and local pharmacies can also offer assistance and advice with smoking cessation.

Cited from: Scottish Executive: [www.clearingtheairscotland.com](http://www.clearingtheairscotland.com)

**APPENDIX D**

Cited from: Scottish Executive: [www.clearingtheairscotland.com](http://www.clearingtheairscotland.com)

