

# Policy – No Smoking

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# Policy - No Smoking

## Version control

This document is subject to regular review due to legislative and policy changes. The latest versions of all our publications can be found on our website. Before contacting us about the content of this document, we recommend that you refer to the most recent version on the website and any relevant guidance.

Version	Date approved	Approved by	Notes / changes
v1.0	25/02/10	SLT	Draft policy
v2.0	10/04/10	Full Council	New policy
v2.1	17/03/15	Catrin Roberts	Update and inclusion of FAQs
v3.0	16/04/18	Andrea Malam	Reformatting
v4.0	26/02/19	Cabinet	Amended wording agreed at SLT with regards to permitted smoking areas
v4.1	12/07/21	David Kennedy	Reformatting
V4.2	19/07/23	Alana Nicandros	New legislation

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# **Policy - No Smoking**

## **Policy Statement**

The Council will provide a safe working environment for all employees, which is free from smoke. No employee will be subjected to passive smoke during the course of their employment. As a public body, the Council also has a duty to promote a positive image to the general public and lead the way for other organisations.

## **Introduction**

The Council will provide a safe working environment for all employees, which is free from smoke. No employee will be subjected to passive smoke during the course of their employment. As a public body, the Council also has a duty to promote a positive image to the general public and lead the way for other organisations.

This policy refers to regular cigarettes, cigars and pipe, any other substance that contains tobacco and electronic cigarettes.

## **Aims**

The aim of this policy is primarily to protect the health, safety and welfare of all employees. It will also provide support, advice and counselling for employees who wish to stop smoking.

## **Application/Scope of Process**

This policy will apply to all contractors, agency workers, elected members and employees of Denbighshire County Council. This policy will apply to all premises occupied and managed by the Council other than premises being used as residential accommodation.

## **Engagement /Participation/Consultation**

This policy has been drafted taking account issues raised by employees attending Staff Road shows and Breakfast meetings. It has also been consulted and negotiated with the Senior Leadership Team, managers and Trade Unions.

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## Legal and Other References

Section 2(1) of the Health and Safety at Work Act 1974 imposes a general duty on employers to their employees and provides that: “it shall be the duty of every employer to ensure, so far as reasonably practicable, the health, safety and welfare at work of all his employees. Section 2(2)(e) of HSAW 1974, places a specific duty on the employer in respect of employees: “to provide and maintain a safe working environment which is, so far as is reasonably practicable, safe, without risks to health and adequate as regards facilities and arrangements for their welfare at work”.

The key factor in cases for compensation under HSWA is not whether the employer in fact knew about the risks of particular substances or practices in the workplaces, but whether they ought to have known, in the light of knowledge available at the time.

This is the concept of “guilty knowledge”. In 1998, ASH obtained a legal opinion from John Melville Williams QC which suggests that the date of guilty knowledge in respect of second hand smoke would be likely to be held by the courts to be sometime in the early 1990s.

No job applicant or employee will experience discrimination, harassment or bullying, or receive less favourable treatment because of their age, disability, gender reassignment, marital or civil partnership status, race, pregnancy or maternity, religion or belief, sex, sexual orientation or caring responsibilities.

## Policy Details

### Council premises/locations

Smoking will not be permitted in the following premises or locations or their immediate environs:

- Civic centres
- Offices, including reception areas
- Canteens and mess rooms
- Depots
- Country parks and outside facilities

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- Schools, including staff rooms
- Sports facilities
- Toilet facilities within any of the above
- Residential homes (other than residents and night staff)

Unless there are areas designated and agreed by SLT as Permitted Smoking Areas for Staff.

Smoking will not be permitted near to entrances or windows to a Council premises or any other outside area in the immediate vicinity, whereby smoke may affect other employees or portray a negative image of the Council.

## Vehicles

Smoking will not be permitted in any vehicle bearing the County Council logo or in any vehicle carrying employees and/or clients in the course of their duties. Employees who traditionally take their breaks in a Council vehicle should be aware that if they wish to smoke during their official breaks, they must step outside and away from the immediate vicinity of the vehicle to do so. Employees should apply discretion as to where they stop giving due consideration to whether it is safe and legal to do so and be mindful of the public perception of the council at all times.

## Permitted smoking areas

Anyone wishing to smoke whilst on official breaks or whilst clocked off must either use the Permitted Smoking areas if these are available or leave the immediate vicinity of the Council premises. Smoking will not be permitted near to entrances or windows to a Council premises or any other outside area in the immediate vicinity, whereby smoke may affect other employees or portray a negative image of the Council.

**Please note that there is no legal duty on the Council to provide permitted smoking areas and these will only be provided if possible and with the agreement of SLT.**

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## **Residential homes**

All residential homes may have an internal designated smoking area for the residents only. Employees will not be permitted to smoke in these areas.

A designated smoking room can only be used by residents of the adult care home or adult hospice who are aged 18 and over. The room cannot therefore be used by staff or visitors to smoke and children are prohibited. If the manager of the adult care home or adult hospice wants to provide a designated smoking room, the designation has two new conditions:

Condition 1 is that the person in charge of the adult care home or adult hospice designates the smoking room as only for use residents who are over the age of 18. A record of all the rooms that have been designated must be kept. The designation can be withdrawn at any time

Condition 2 relates to the room and sets out its requirements.

The room: Has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor to ceiling walls. Does not have a ventilation system that ventilates into a smoke-free part of the premises. Does not have doors which do not mechanically close immediately after use if they open into smoke-free areas. Is clearly marked as a room in which smoking is permitted.

## **Outside workers**

Employees who work outside either as part of a group or a lone worker will not be permitted to smoke whilst on duty.

## **Private functions**

All rooms which are available for private functions will be designated as no smoking areas.

## **Licensed bar areas**

All licensed bar areas will be designated as no smoking areas.

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## **Working in client's homes**

All clients will be informed that DCC employees should not be subjected to passive smoke, and therefore they should refrain from smoking whilst employees are working in their homes. Employees will be required to respectfully ask any client who does smoke in their presence to stop until their meeting or work is concluded. No action will be taken against an employee who refuses to work with clients who smoke in their presence.

## **Cleaning smoking areas**

Designated smoking areas must be closed to clients 2 hours before the smoking area is to be cleaned and the area well ventilated to clear the air of passive smoke.

## **Designated smoking areas**

There will be no designated smoking areas. Anyone wishing to smoke whilst on official breaks or whilst clocked off must leave the immediate vicinity of the Council premises. Smoking will not be permitted near to entrances or windows to a Council premises or any other outside area in the immediate vicinity, whereby smoke may affect other employees or portray a negative image of the Council.

## **Smoking breaks**

There will be no smoking breaks allowed.

## **Breaches of the policy**

### **Employees**

This will be treated as a disciplinary issue and the full range of disciplinary penalties as described in the Council's Disciplinary Procedure can be imposed.

### **Members**

This will be treated as if it were a breach of the Code of Conduct, and be dealt with by the Standards Committee.



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## Contractors

This will be dealt with under the default procedures in contracts and may lead to financial penalties and/or the termination of contract.

## Useful contacts

[www.helpafiistopio.cymru](http://www.helpafiistopio.cymru) 0808 250 6061

[www.helpmequit.wales](http://www.helpmequit.wales) 0808 250 6061

[www.nhs.uk/smokefree](http://www.nhs.uk/smokefree)

[www.quit.org.uk](http://www.quit.org.uk) 0800 00 22 00

## Frequently asked questions

### **Can an employee take smoking breaks during their working day?**

The authority does not provide time for smokers to take a 'smoking break' during working hours. If applicable, smokers may utilise the Flexible Working Policy to smoke during their working day, however, employees must clock out for the whole duration they are absent from their place of work. If an employee is not subject to the flexible working policy then they will only be permitted to smoke on their formal breaks.

### **What action would be taken if an employee were to contravene any aspect of the policy?**

An employee would be subject to the Disciplinary Procedure.

### **Can employees smoke in a Council vehicle?**

An employee is not permitted to smoke in any vehicle bearing the County Council logo, or in any vehicle carry employees and/or clients of the Council in the course of their duties.

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### **If an employee works outside, can they smoke during their working day?**

Employees who work outside, whether the work as part of a group or alone, will not be permitted to smoke during their working day unless they are on a formal break.

### **What action can an employee take if working in a client's home and they do not wish to be subject to passive smoking?**

No employee should be subject to passive smoking. The authority would take no action against an employee who respectfully asks a client not to smoke in their presence. It is also expected that employees will not smoke in a client's home. Protective gear can be supplied to employees in these circumstances.

### **Are there designated smoking areas on Council premises?**

The Council will not provide designated smoking areas. Employees wishing to smoke during their working day must clock out and then leave the immediate parameters of the council premises. Employees must refrain from smoking by entrances or windows of council premises or in any such area which may affect other employees or portray a negative image of the Council.