



# **Nottinghamshire School Smoke Free Policy**

**September 2016**

# HR Advice, Support and Training Services

## HR Service

### Nottinghamshire School Smoke Free Policy – Table of Contents

<b>Heading</b>	<b>Page</b>
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
Appendix 1 – Smoke Free Policy Guidance	7
Appendix 2 – Smoke Free FAQ's	13

# Nottinghamshire School Smoke Free Policy

## 1. Introduction

- 1.1 The Governing Body of Brookhill Leys Primary & Nursery School adopted this Smoke Free policy December 2016. The Strategic Development, Personnel, Functions and Pay committee of the governing body will review and monitor the impact of the Smoke Free policy annually with the head teacher. The next review will take place in the Autumn term 2017.
- 1.2 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.
- 1.3 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.
- 1.4 The governing body recognises the legal requirements placed upon them by the Education Act 2002 and subsequent legislation (*refer to relevant legislation*)
- 1.5 The governing body delegates to the Strategic Development, Personnel, Functions and Pay committee of the governing body the responsibility for this policy.
- 1.6 The policy set out in this document has been formulated by the Strategic Development, Personnel, Functions and Pay committee of the governing body supplemented by staff representatives and other Governors. Full consultation with the staff in school and their representatives has taken place. The policy will be reviewed annually by the same representative group.
- 1.7 The governing body will take into consideration advice and guidance from the Local Authority relating to the school Smoke Free policy.
- 1.8 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 Strategic, Personnel, Functions and Pay committee of the governing body 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.

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<b>Lead HR Business Partner</b>	<b>Tara Cook</b>
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<b>Review date</b>	<b>April 2017</b>
<b>Senior HR Business Partner</b>	<b>Andy Wilson</b>

# **Nottinghamshire School Smoke Free Policy**

**GUIDANCE  
FOR HEADTEACHERS AND  
GOVERNING BODIES**

**September 2016**

**HR Advice, Support and Training Services**



# Appendix 1 – Guidance for Implementing Nottinghamshire School Smoke – free Policy

## 1. Background

1.1 Smoking is the number one preventable cause of death in the UK. Some 1,300 people die each year from smoking related illnesses in Nottinghamshire. The cost to the Nottinghamshire community is an estimated £203.5 million each year ([Action on Smoking and Health Ready Reckoner, 2016](#)). 17.5% of adults in Nottinghamshire smoke, slightly lower than the national average. This figure masks differences across the county with a variation of 10.2% to 22.6% (for the most up-to-date data visit: [Local Tobacco Control Profiles](#)).

The Council has a leading role in Nottinghamshire to improve public health, and reduce the preventable death, disability and disease that smoking causes each year in the community.

1.2 Smoking has been prohibited by law in virtually all enclosed and substantially enclosed work and public places throughout the United Kingdom since July 2007. Smoke free legislation in England forms part of the [Health Act 2006](#).

Under the Health Act, “**substantially enclosed**” means premises or structures with a ceiling or roof (including retractable structures such as awnings) and where there are permanent openings, other than windows or doors, which in total are less than half of the area of the walls. So, for example, bus stops can be required to be smoke free if the shelter is substantially enclosed. The law also applies to workplace vehicles including school vehicles.

1.3 As an exemplar employer, the Council wishes to lead the way by extending the smoke free policy and encouraging and supporting more smokers to give up. Giving up smoking is the single greatest behaviour change someone can make to improve their health which can also have a knock-on effect with their families and friends, and set an example to other organisations to follow. As an employer, the Council and the governing body have a duty to ensure the health of its employees, regardless of their place of work.

1.4 On the 20 November 2014, Nottinghamshire County Council signed the Local Government Declaration on Tobacco Control. In signing the Declaration this commits the council to:

- Reduce smoking prevalence and health inequalities and to raise the profile of harm caused by smoking to communities
- Develop an individualised action plan as well as plans with partners and local communities to address the causes and impacts of tobacco use
- Participate in local and regional networks for support (such as Nottinghamshire Strategic Tobacco Alliance Group and the regional Trading Standards best practice group on illegal tobacco and alcohol)
- Protect tobacco control work from the commercial and vested interests of the

tobacco industry by not accepting any partnerships, payments, gifts and services offered by the tobacco industry.

- Monitor the progress of plans against commitments.

**1.5** Naturally, the Council also has a responsibility for its employees within schools and would wish to protect staff and pupils from second hand smoke exposure. While recognising that the Governing Bodies have a responsibility for employment matters, the Smoke free Policy is a health and safety issue and as such remains the responsibility of the County Council. Therefore this policy applies to community schools.

**1.6** For voluntary aided, foundation schools and academies, the staff are employed by, and the premises are owned by, the Governing Body. Therefore, it is not possible to extend the policy into such schools. However, such Governing Bodies have the same responsibilities for the health and safety of employees and Nottinghamshire County Council can offer support in developing smoke free policies

## **2. Guidance for employees**

**2.1** The Smoke free Policy reflects a commitment to raising awareness of the dangers of smoking and second hand smoke exposure. We know from the Department of Health and the Office of National Statistics that 70% of smokers want to quit and we recognise the difficulties associated with this. Nicotine is a highly addictive substance and the Council recognises that staff will need support to stop smoking. Therefore the Council is providing a comprehensive package of support for smokers to help them to quit. As an employer the best way that we can encourage staff to stop smoking is to restrict smoking during working time. The Council recognises that this may be difficult for some employees. Where smokers are unwilling or unable to stop smoking completely, the Council encourages temporary abstinence whilst at work. Temporary abstinence can be supported by use of licensed nicotine containing products such as Nicotine Replacement Therapy (NRT) e.g. patches, inhalator, lozenges.

**2.2** Working time is defined as paid hours worked and excludes unpaid lunch breaks. Smoking breaks during work time are not permitted. Use of flexitime for smoking breaks is also not permitted.

### **Support for employees who smoke**

**2.3** For employees who want to stop smoking the following support is in place to help:

**2.4** Information on the free NCC commissioned stop smoking services, will be made widely available to employees via, the schools portal, manager or named HR Business Partner. This information is also contained in the supporting information documents.

**2.5** Employees can approach services directly and attend either one-to-one support sessions or group support sessions in their own time. NCC commissioned stop smoking services will also be prepared to run workplace group sessions and employees may attend these, subject to approval by the Head Teacher.

- 2.6** Stop smoking advisers will be prepared to visit some sites to give information, answer queries and discuss nicotine replacement therapy and stop smoking medications available.
- 2.7** For employees who are unwilling or unable to stop smoking, use of licensed nicotine replacement products, such as patches, gum, and inhalator can assist with temporary abstinence whilst at work. For example a smoker would smoke his/her regular tobacco products in their own time, but during working time the smoker would wear a nicotine replacement therapy (NRT) patch for a steady release of nicotine or an intermittent product such as an NRT inhalator or lozenge to help reduce the urge to smoke. NRT is safe, inexpensive<sup>1</sup> and is licensed to be used in this way if so desired. If using for temporary abstinence smokers must remember to remove a patch when returning to smoking after the working day.

### **3. Guidance for Head Teachers and Senior Leaders**

#### **Informing employees of the policy**

- 3.1** The Governing Body should discuss and approve the updated Policy. The Head Teacher should ensure that the policy and its implications are discussed with staff.

#### **Implementing the policy with employees**

- 3.2** Head Teachers and other senior leaders with concerns about non-compliance should seek advice from their named HR Business Partner at an early stage.
- 3.3** Head Teachers should provide any employee who requests it with information [on NCC commissioned stop smoking services](#) and details of any workplace sessions that are taking place at their site. If an employee is unwilling or unable to stop smoking, Head Teachers can recommend the use of licensed nicotine products, for example [Nicotine Replacement Therapy \(NRT\)](#) such as patches, inhalator, and lozenges, to assist with temporary abstinence whilst at work.
- 3.4** Smokers should be reminded that, if they choose to smoke during their own time away from school grounds but in areas adjacent to Council sites, they should be sensitive to the negative impression potentially caused by smokers standing outside the school entrances and on the environment in terms of litter and those around them exposed to their smoke.
- 3.5** Where the smoke-free legislation does not apply e.g. when visiting people in their own homes, every reasonable step will be taken to protect employees from exposure

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<sup>1</sup> Cigarette cost=£35.92/ week. Based on average of 12 cigarettes smoked/day at £7.98 for a pack of 20 and £4 for a pack of 10 (Tobacco Manufacturers Association).

NRT cost= £10.14/week based on a pack of 7 NRT patches or a pack of gum (105 pieces) at £14 for a week's supply. Therefore both of the most common NRT options are cheaper than smoking over the counter cigarettes. Illegal cigarettes are roughly half the price, but this would still mean it would cost more.

to second-hand smoke. Head Teachers or other suitable school leader should carry out a risk assessment for any employees with concerns and take steps to ensure that, where possible, employees are not inhaling other people's smoke.

### **Supporting Employees**

- 3.6** Head Teachers should recognise that nicotine is an addictive substance and that some employees may have great difficulties complying with the policy. The Council wishes to support smokers with these changes and it is essential that Head Teachers treat this issue sensitively and with empathy by adopting a sympathetic approach. Further advice is available to help with this - see paragraph 3.3.
- 3.7** Where appropriate, Head Teachers can encourage employees to take up the support measures that are available. This can best be done by seeing employees who are smokers on a one-to-one basis, checking how the agreed arrangements are working and reminding them of the support and encouragement offered by the Council to help them stop smoking.
- 3.8** Any employee not complying with the policy should be asked to discuss this with the Head Teacher. Head Teachers should remind the employee of the rules introduced by the policy and of the support available. Head Teachers should stress the need for compliance and discuss ways that the employee can comply.
- 3.9** If further breaches of the policy occur, Head Teachers should discuss the reasons why with the employee, what actions have been tried to comply with the policy, and what other actions could be taken or what further can be offered. Head Teachers are encouraged to treat each case on an individual basis - being aware of the addictive nature of nicotine, to take advice from their named HR Business Partner and give the employee every reasonable chance to comply with the policy.
- 3.10** In cases of persistent breaches of the policy with a lack of intention to comply, it may be necessary to invoke the disciplinary procedure. However, this situation is unlikely and in other organisations where the same measures have been put in place there is a high level of compliance with no reported need to invoke disciplinary procedures.
- 3.11** Head Teachers and school leaders who smoke are expected to lead by example and to comply fully with the policy.
- 3.12** Head Teachers must ensure that the smoke-free policy is clearly explained to applicants at the appropriate stage of the recruitment process.

### **Informing the public of the policy**

- 3.13** Parents, visitors and other members of the public need to be informed of smoking restrictions in public places through clear signage. If signs are conspicuous, few people will disobey the rules although any who do will need to be approached promptly.

### **Ensuring public compliance**

- 3.14** Parents, visitors and other members of the public in breach of the policy at indoor and outdoor locations should be reminded of it by employees who notice the breach. If the person still refuses to comply, employees should ask the person to leave the

school site or premises as they are in breach of Council policy. Documented health and safety risk assessments should be extended to cover the arrangements necessary to deal with these situations. No employee should put themselves in a position of risk. Clear signage at the school will support employees dealing with public compliance.

## Appendix 2 – 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.