



# Smokefree

## Introduction

**THE air is clearing in England from July 1 as the country goes smokefree. From the summer it will be against the law to light up in nearly all enclosed public places in a move which has been hailed as the greatest health improvement since the introduction of seatbelts.**

But, what does the legislation mean for businesses in England?

What do managers and owners have to do to comply?

What will happen to people who decide to flout the law?

Help is on hand to answer these questions.

Smoke-free Bristol has produced this newsletter to answer the key questions.

Businesses can register at [www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk) to get updates on going smokefree and for free signage.

## Warning

**BUSINESSES across Bristol are risking fines because they do not know the full details of the new smoking rules.**

From July 1 it will be illegal to light up in enclosed public places and workplaces, which means smoking rooms will have to close.

But, it will also be against the law not to display the correct no-smoking signs and many businesses, which are already smokefree, do not realise they are risking fines by not putting up the signage.

Full details of the new regulations and the responsibilities of managers, licensees, owners and staff are included in this newsletter.

For further information you can contact 0117 922 3838 and ask to be put through to the Public Health Services team.

## Overview

**SMOKING in enclosed workplace will be outlawed in England on July 1.**

The aim is to protect the public from the dangerous effects of secondhand smoke.

In shops, restaurants, pubs, clubs, sports centres, hospitals, offices and other places of work, it will be an offence to smoke, to



allow others to smoke and to not display warning signs.

Powers have been given to enforcement officers to allow them to enter no-smoking premises and issue fixed penalty notices. It is also an offence for anyone to fail to give their name and address to these officers when requested.

There are exemptions to the rules. These include:

- most residential accommodation

- designated rooms in adult care homes and hospices, mental health hospitals, prisons and hotels

- private vehicles
- certain laboratory rooms

The law applies to all wholly or substantially enclosed areas to which the public has access, which are being used as a place of work, as a club or for education, health or care services.

This means if a structure

has a ceiling or roof with permanent openings in the walls which are less than half of the total area of sides, smoking is not allowed. It includes permanent and temporary structures like marquees.

Under the legislation smoking rooms must also be removed.

This is because, even if the area is completely enclosed, smoke will still drift into other spaces and cause a danger.

Ventilation systems offer no protection as they simply remove the smells

and visible signs of the smoke from the air, not the toxins.

Outside smoking shelters are permitted under the new legislation, as long as they are not wholly or partially enclosed.

However, managers and business owners are under no obligation to provide a shelter for staff or customers.

Businesses with a couple of employees must still comply, even if everyone smokes and shopkeepers who work alone before opening hours are no

longer allowed to have a cigarette when the shop is closed.

Compliance means employers, managers and those in control of no-smoking premises must display no-smoking signs and take reasonable measures to ensure staff, customers and visitors are aware of the law and do not smoke.

If a customer refuses to stop smoking when asked, or if they behave in a threatening or abusive way to staff, the police can be called.

Those in control of no-smoking premises could be liable to a fixed penalty fine of £200 if they do not display the correct signage, or up to £1,000 if the offence goes to court. If they do not take reasonable action to prevent someone smoking they could be fined up to £2,500.

Individuals who smoke in no-smoking premises will be liable to a fine of £50.

# The English legislation

**THE following pages look at the English law in more detail.**

For further information log onto [www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk) or contact 0117 922 3838 and ask to be put through to the Public Health Services team.

## Signs

**BUSINESS leaders will find they are breaking the smokefree laws if they do not display signs.**

The new regulations say the person in charge of the building must put up no-smoking signs at entrances.

Failure to do so could see them facing a fixed fine of up to £200 or £1,000 if the offence is taken to court.

The signs must be at least A5 in size with the red international no-smoking



symbol at least 70mm in diameter.

They should also have the words "No smoking. It is against the law to smoke in these premises", although 'these premises' can be changed to the building in which the sign is displayed, for example 'this hotel'.

Signs should be up in a

prominent position at all entrances to smokefree buildings or areas.

If the building is inside another smokefree area, such as a shopping centre, or there is a staff entrance separate to the main entrance, a sign with just the international red no-smoking symbol can be used instead.

The smaller signs can also be used in vehicles. Owners and operators of smokefree vehicles must make sure signs are on display in each compartment.

Compliant signs can be downloaded free from [www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk) or ordered by telephone on 0800 169 1697.

Businesses can choose to design and make their own signs, to fit around their own décor, as long as they fulfil the requirements outlined above.

## Pubs

**LICENSEES have a certain amount of responsibility under the smokefree laws.**

They can be fined for allowing smoking on their premises and for not displaying the correct no-smoking signage.

However, as long as they



take all reasonable measures to prevent smoking they will not be liable under the legislation.

The best way to do this is to have a smoking policy in place and to train staff on how to approach smokers.

If the smoker refuses to leave you should think about stopping service and even calling the police as they are breaking the law.

If they are threatening or abusive go straight to the police.

## Hotels, bed and breakfasts etc

**HOTELS, boarding houses, guest houses, bed and breakfasts, inns and hostels are covered by the smokefree law.**

All enclosed areas including bars, restaurants, lounges and hallways must be smokefree.

Although there is no requirement to do so, proprietors have the power to designate one or more bedrooms as smoking rooms if they wish.

These must:

- be set apart exclusively for sleeping accommodation;

- have been designated in writing by the person in charge of the premises as a smoking room;
- have a ceiling and, except for doors and windows, be completely enclosed on all sides by solid, floor-to-ceiling walls;
- not have a ventilation system that ventilates into any other part of the hotel (except any other designated bedrooms);
- not have any doors that open onto smokefree premises which are not mechanically closed immediately after use (this is covered by fire doors);
- be clearly marked as a bedroom in which smoking is permitted.

However, bedroom does not include any dormitory or room set aside for separate parties to share. These must be smokefree.

## Private clubs

**PRIVATE clubs are a workplace and therefore fall under the regulations.**

Premises, such as rugby,

snooker, golf and working men's clubs, which are wholly or substantially enclosed, are affected by the law.

These must be totally smokefree and display the correct signage at entrances.

The only exception is for clubs which offer accommodation to members.

In this situation the person in charge may designate specific bedrooms, which are only for sleeping, as smoking rooms.

To do this:

- they must designate the room in writing;
- the room has to have a ceiling and, except for doors and windows, be completely enclosed on all sides by solid, floor-to-ceiling walls
- it must not have a ventilation system that ventilates into any other part of the premises (except any other designated bedrooms);
- it must not have any door that opens onto smokefree premises which is not

mechanically closed immediately after use; and

- signs must be put up to show smoking is allowed inside the room.

A bedroom does not include any dormitory or other room that is available under separate arrangements for persons to share at the same time.

## Smoking Shelters

**ONE of the biggest questions business owners face in the wake of the Government's decision to ban smoking is whether or not to build outdoor smoking shelters.**

These can be used by staff or customers as a smoking area away from cold winds and rain.

The idea is especially popular with pubs, with landlords concerned about the impact smokefree will have on their business.

However, there are a number of issues to consider when thinking about installing a shelter.

First, according to the legislation it has to be less than 50 per cent enclosed in order for smoking to be allowed.

This means, if a shelter is a perfect square with a roof, it would need to have less than two full sides.

Planning permission, which can cost about £250 for the application alone, may be needed.

The cost of the building materials and foundations will add to the bill, and there could be issues about the location of a shelter, for example whether it is part of the licensed area, and whether noise from



assembled smokers will disturb the neighbours.

A spokesman for Avon Fire and Rescue Service said: "If you do build a smoking shelter you will need to situate it well away from the buildings otherwise the smoke will still enter the building and therefore the lungs of those inside.

"It should not be sited next to hazards, such as flammable materials and you should include steel bins with sand for extinguishing the cigarettes."

Cleaning will need to be considered as any staff entering the shelter risk exposure to secondhand smoke.

There could also be a difficulty in keeping an eye on the shelter. With it being 50 per cent open, members of the public could start using shelters designed for a specific business' staff and customers.

## The 50 per cent rule

**FROM July 1 smoking will no longer be allowed in any area which is more than 50 per cent enclosed.**

This means if a shelter has a ceiling or roof with permanent openings in the walls which are less than half of the total area of its sides, smoking is not allowed.

This includes other structures which serve as walls but not doors, windows or other fittings which can be open or shut.

A roof includes any fixed or movable structures, such as canvas awnings.

For further information about the rule log onto

[www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk) or contact the council on 0117 922 3838 and ask for the Public Health Services team.

## Working in other people's homes

**HOMES are not caught by the new legislation.**

If a carer, builder, cleaner, plumber, electrician or other tradesperson goes to work in a private home this does not have to be smokefree under the regulations.

However, best practice is that employers should try to minimise exposure of the employee to secondhand smoke.

This may mean workers asking, not telling, someone not to smoke when they are providing a service to them in their own home.

## Vehicles and public transport

**PUBLIC vehicles are enclosed spaces so smoking will not be allowed on board.**



It is up to the driver, anyone with management responsibilities for the vehicle or anyone responsible for order or safety on board to make sure no one lights up.

This applies to all work vehicles and those used by more than one person for voluntary work, unless they are privately owned and only occasionally used.

Privately owned vehicles are not covered by the legislation, but public transport such as hackney carriages, private hire vehicles, trains and buses are.

Company vehicles which are used as a workplace, including vans or lorries, must be smokefree at all times.

No-smoking signs must be on display in each compartment.

These must show the red international no-smoking symbol at least 70mm in diameter and be displayed in a prominent position.

A compartment is any enclosed area (including if it is separated by canvas, fabric or other covering) that can carry people.

Smoking is permitted in vehicles that are for the sole use of the driver and are not used as a workplace by anyone else, either as a driver or passenger.

It is also allowed in vehicles that are used primarily for private rather than work purposes.

## Bus shelters

**COUNCILS and transport operators are required to comply with the law.**

If bus shelters are wholly or substantially enclosed, then they must be smokefree and display the correct signage.



## Designated rooms

**CERTAIN workplaces are allowed to have designated smoking rooms under the legislation.**

For hotels, guest houses, hostels and members' club bedrooms these can only be rooms which are set aside exclusively for sleeping accommodation.

In care homes, hospices, off shore institutions, residential mental health units (until July 1, 2008) and prisons for people aged over 18, managers can also assign a room purely for smoking purposes.

In both cases these must:

- have been designated in writing by the person in

charge of the premises as a smoking room;

- have a ceiling and, except for doors and windows, be completely enclosed on all sides by solid, floor-to-ceiling walls;
- not have a ventilation system that ventilates into any other part of the hotel (except any other designated bedrooms);
- not have any doors that open onto smokefree premises which are not mechanically closed immediately after use (this is covered by fire doors);
- be clearly marked as a bedroom in which smoking is permitted.

A room which is being used for research and testing may also be exempt for the tests to be carried out, as long as it meets the above requirements.

The research and testing must relate to:

- emissions from tobacco and other products used for smoking;
- development of products from smoking with lower fire hazards;
- for smoking with lower fire hazards;
- the fire safety testing of materials involving products for smoking;
- development of smoking or pharmaceutical products that could result in the manufacture of less dangerous products for smoking;
- smoking cessation programmes.

## Marquees and tents

**THE definition of premises includes any tent, marquee or stall.**

These would therefore be caught by the legislation, if wholly or substantially enclosed.

This applies even if the sides of the marquee or tent are temporary, including if they can be rolled up.

If the area falls under the legislation and has to be smokefree the correct signage should also be put up at the entrance.

## Prisons and young offenders' institutions

**BOSSSES at adult prisons can choose to designate smoking rooms under the new rules.**

This could be a bedroom or a room used only for smoking, but to comply with the law it must:

- be designated in writing as a room in which smoking is permitted;
- have a ceiling and, except for doors and windows, be completely enclosed on all sides by solid floor-to-ceiling walls;
- not have a ventilation system that ventilates into any other part of the premises (except any other designated rooms); and
- be clearly marked as a room in which smoking is permitted.

This exemption only applies to prisons which hold people aged over 18. Young offenders' institutions must be completely smokefree.

## Residential accommodation

**THE smokefree regulations are designed to protect workers from the dangers of secondhand smoke.**

This means residential accommodation does not have to be smokefree unless it is used as a workplace, or visited by the public.

If a home is also an office or workplace it must be smokefree if more than one person uses it, even if they both are smokers, or if people are invited into the workspace, for example for meetings.

Common stairs in apartment blocks are usually the property of all the residents and as such are also not caught by the smokefree law.

The exception to this rule is when the area would be accessed by someone as part of their work. For example, if a residential caretaker or if a postal worker has to enter the hall to deliver letters it must be smokefree.

There is also an exemption for residential accommodation which is part of an otherwise smokefree building.

This includes pub landlords who live above their pub. It means smoking

is allowed in the private part of the premises.

If a carer, builder, cleaner, plumber, electrician or other tradesperson goes to work in a private home this does not have to be smokefree under the regulations.

## Theatres and broadcasting or film studios

**THEATRES and broadcasting/film studios are no-smoking premises under the law.**

However, actors are still allowed to light up if the artistic integrity of a performance makes it appropriate.

For example, if there is a retelling of the story of Winston Churchill the actor could smoke his trademark cigar.

But only the stage where the performance is taking place would be exempt from being smokefree.

## Outdoors

**SMOKING is prohibited by law only in wholly or substantially enclosed public places.**

Open air playgrounds, parks and beaches are therefore not affected.



Employers can determine whether their smokefree policies extend to external areas, but they will not be subject to the law.

For example, some companies are extending the no-smoking policy to cover car parks, or near

doors and windows.

## Sports stadia

**DUE to the variation in the design of sports stadia in relation to the seating or standing area of the ground, some stadia may**

**be substantially enclosed while some are not.**

Stadia owners are advised to take legal advice on whether their stadium is caught by the legislation.

All football league stadia will voluntarily go

smokefree at the start of the new season.

You should also talk to enforcement officers at Bristol City Council. For further information call 0117 922 3838 and ask for the Public Health Services team.

# Other useful information



## The Scottish example

**SMOKEFREE legislation breezed into Scotland last year in a move which seemed to help the pub and club trade.**

The law, which made it illegal to smoke in enclosed public places, came into force on March 26.

But the predicted riots on the streets, and a downturn in trade for the hospitality sectors, were not seen.

City of Edinburgh environmental health teams were out on the first Sunday after the ban came into force and visited 147 premises.

Manager John Rafferty said: "We were delighted with the response of both staff and smokers."

The Scotsman reported that takings were up in the country's pubs and bars since the introduction of the new law.

The article said: "Publicans across the country said sales of food and drink rose significantly.

"One bar in Edinburgh reported a 25 per cent boost as drinkers were attracted by smokefree rooms.

"The hotel market is unscathed by the smoking ban and continues to prosper."

The policy and research manager for ASH Scotland, Rachel Harrison, said: "There has been an overwhelmingly positive reception throughout Scotland to the smokefree legislation. People have accepted it, and welcomed it.

"Already the days of having to work and socialise in smoky rooms seem like a distant memory.

"It has literally been a breath of fresh air for most of us."

## A smokefree policy

**BUSINESSES looking to go smokefree can be put off by what looks like a minefield of details.**

But there is help available for those which want to make the change, or get ready for the new laws.

Bristol's Smokefree Advisors can help businesses go smokefree.

Anyone wanting more information about the steps involved in developing a smoking policy and giving

a healthier environment to their staff, can email [smokefree@bristol.gov.uk](mailto:smokefree@bristol.gov.uk) or call 0117 9224788

A smokefree advisor said: "We are here to help and give advice on anything from smoking policies to the type of support which can be offered to staff.

"We can also help businesses that want to go smokefree before the national date, which shows a true commitment to the health and wellbeing of staff and customers."

## Licensing

**LICENCE holders are being warned to check any steps they take to allow customers to smoke outside are allowed under their licence.**

If there are restrictions on entry and re-entry to the premises, or the times any



outside area can be used, then an application can be made to vary the terms of the licence.

If significant changes to the premises are to be made then a fresh application for the grant of a new licence may be required.

All applications will be checked by the council's health and safety, noise control, trading standards, and planning teams as required by the Licensing Act.

For further information call 0117 922 3838 and ask for Licensing.

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## Shelters and planning

**SMOKING shelters will be springing up across Bristol in the lead up to the new law.**

Builders will need to make sure they have the correct planning permissions.

Permanent shelters will need approval and the design and position will need to fit in with surroundings as the location could impact on neighbours.

If the shelter is to be attached to, or next to, a listed building it will also need Listed Building Consent.

If the structure is big and the design needs a permanent fitting, like a canopy, it will need planning approval.

However, portable shelters like umbrellas will not usually need planning permission, but it may be worth seeking further advice before installation.

Permanent or temporary shelters planned for

conservation areas will need to be checked by the planners to make sure the changes protect or enhance the area.

For further information call 0117 922 3838 and ask for planning.

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## Raising the Legal Age for sale

**CURRENTLY it is illegal to sell tobacco to anyone under 16, but from 1 October this year the minimum legal age will rise to 18, bringing it in line with sales of alcohol.**

This will reinforce the dangers of smoking to young people and is aimed to reduce the numbers of teenagers taking up smoking. It will also help eliminate confusion among retailers.

Trading Standards has responsibility for enforcing laws controlling such age-restricted products and also for other tight legal controls on how tobacco

may be marketed, including at the point of sale.

'No proof of age – no sale' is a free resource pack for retailers in the South West to help them comply with the law and is available from their local Trading Standards service.

Retailers can contact Bristol City Council Trading Standards on 0117 922 3604 to request a copy.

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## Putting tables and chairs on public highways

**OUTSIDE seating areas may be used as a spot for smokers to light up.**

But, if the only space is on the public pavements planning permission may be needed.

Businesses which serve alcohol on the highway should contact the Licensing Team to find out if they need to vary or apply for a Premises Licence.

There must be no obstructions – pavements must be wide enough for pedestrians, wheelchair users and pushchairs to get by.

Tables and chairs would need to be taken in at night and the area cleaned daily.

It would also need to be roped off, and there might be limits to how late at night it could be used.

Once you have settled on the design, location and use of the seating area, you can apply to Highways Asset Management for a licence.

For further information call 0117 922 3838 and ask for Highways Asset Management.

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## Smoking Litter

**SMOKING litter can be a real pain in the butt for many businesses.**

Cigarette ends are often stubbed out and thrown on the floor and the problem could get worse with more people going outside to light up.

The butts can take 10 years to break down and are full of toxins.

Businesses can reduce the problem by providing customers and workers with somewhere to dispose of their tabs.

This could range from outside ashtrays to disposable ashtrays that smokers can carry with them.

People who do drop butts can be fined £75. Businesses that have a litter problem may be served with a Litter Clearance Notice, which would require them to clear the



offending rubbish. This includes smoking-related litter. Failure to comply can lead to a £2,500 fine.

If butt litter does become a problem then businesses can get advice from Bristol Council.

For further information call 0117 922 3838 and ask for Clean and Green.



## Noise

**SMOKERS moving to the outdoors for a cigarette could cause an increase in noise.**

Businesses, especially those in the hospitality trade or located near to residential property, will need to consider the potential for noise and disturbance to their neighbours.

This could be from customers chatting and laughing, from music relayed to external speakers, or from the use of external eating and seating areas.

For further information about noise contact the Pollution Control Team on 0117 922 3838

## Support to Stop

**WITH England pledging to quit smoking in 2007, some individuals may choose to ditch the habit as well.**

Support to Stop is a free, friendly NHS service that offers a smoker support and advice in the first four weeks of a quit attempt.

A trained advisor will help plan a quit date, prepare to become smokefree and identify ways of coping with the difficult times.

Nicotine replacement therapy, such as patches, gum and lozenges are available on prescription.

Trained advisors can be found in most GP practices and many pharmacies across Bristol.

For further information call 0117 9595465.

Support to Stop also offers a free, online quitting support programme for staff that have regular access to a PC.

This involves completing an online survey which will provide a tailor made 12-week support programme with regular messages that can be viewed at a time to suit them.

For further information email [supporttostop.bristol@nhs.net](mailto:supporttostop.bristol@nhs.net) or call 0117 9595 465.

## Approaching a smoker

**DEALING with smokers who refuse to stub out can be a scary or daunting task.**

But, under the legislation,



managers who allow smoking in a smokefree building could be liable for a hefty fine of up to £2,500.

Training should be given to staff on how to approach a smoker and deal with the situation, if it happens.

Below are some tips to help you ask smokers to stop without a confrontation.

### 1 – Keep calm

Take some deep breaths and, whether you agree or disagree with smoking, try to detach yourself from your point of view. Be understanding to the smoker and not aggressive in what you say. Try something like, "I understand you like to smoke."

### 2 – Communicate your situation

Express your point of view. Tell them it is against the law for them to smoke here, or, if it is an extended part of your company's policy, that this is a smokefree area. Point out the no smoking sign and say that the manager will be fined and get a criminal record if people smoke inside.

### 3 – Suggest a solution

Tell them where they can go to continue smoking. This may be an outside

smoking shelter or somewhere else outside the building.

### 4 – Consider the consequences

Think about what would happen if the situation is not resolved. Explain this to the smoker. For example, you may have to call your manager in to help, you may have to refuse them further service or ask them to leave altogether. If they are refusing to move, call your manager. If they continue to ignore your request, or if they become violent at any time, call the police.

When the smoker puts out the cigarette, thank him or her.

## For further information contact:

Bristol City Council  
Telephone 0117 922 3838  
[www.bristol.gov.uk](http://www.bristol.gov.uk)

Smoke-free Bristol  
c/o The Chief Executive's Department,  
Room 201,  
Bristol City Council  
The Council House  
College Green  
Bristol BS1 5TR

Telephone 0117 922 4788

Email:  
[smokefree@bristol.gov.uk](mailto:smokefree@bristol.gov.uk)