



Smoke Free Policy

Policy Manual Section:	Governance
Policy Number:	HR25
Scottish Social Housing Charter Reference:	1. Equalities 2. Participation 3. Communication
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This policy can provide this document on request, in different languages and formats, including Braille and audio formats.



1.0 INTRODUCTION

- 1.1 Govan Housing Association and Govan HOME Team (the Group) recognises, as an employers, it has a legal duty under the Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016, 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 it provides a working environment for all employees that is healthy and safe.

2.0 LEGAL AND REGULATORY FRAMEWORK

- 2.1 The relevant legislation that this policy relates to are:

- Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016
- Smoking Prohibition (Children in Motor Vehicles) (Scotland) Act 2016 and (Commencement) Regulations 2016
- Tobacco and Primary Medical Services (Scotland) Act 2010

- 2.2 The laws impose a total ban of smoking in public premises - and also includes workplaces and work vehicles.

- 2.3 The laws also make non-compliance a criminal offence and imposes fines for individuals and 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.

- 2.4 The laws are 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 legislation.

- 2.5 Also relevant are:

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.

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.

3.0 POLICY PRINCIPLES

3.1 This policy attempts to:

- guarantee 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 the Group (including vehicles);
- prohibit smoking throughout the working premises;
- withdraw completely the provisions of smoking rooms;
- detail how the Group will deal with non-observance of smoking restrictions in relation to workers, customers, visitors and contractors;
- offer a voluntary support for employees who smoke in their cessation effort and discusses the prevalence of new smoking cessation aids such as electronic cigarettes.

4.0 POLICY CONDITIONS

4.1 The Group 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.

4.2 Anyone who wishes to smoke must do so in the designated outdoor smoking area stipulated by the Group or in any place that is not covered by the smoking ban.

5.0 USE OF ELECTRONIC CIGARETTES

5.1 Electronic cigarettes are being widely used to aid smoking cessation. Electronic cigarettes, however, release varying amounts of nicotine in a warm water mist, which it is said simulates the flavour of a real cigarette.

5.2 The Group understands that there is still research to be completed on the safety and effectiveness of electronic cigarettes. **Our employees should therefore only use electronic cigarettes during rest or lunch breaks either in the designated smoking areas or out with the Group's offices.** Use of electronic cigarettes within the Group's premises is forbidden. Failure to comply with this rule may lead to disciplinary action.

6.0 IMPLEMENTATION

6.1 The person responsible for ensuring compliance with the policy is the Chief Executive Officer.

6.2 The Group has no smoking area or ashtrays within their premises.

6.3 Non-compliance with this Policy will be dealt with by following procedures outlined below. Govan Housing Association also wishes to stress that the non-compliance with the smoking law is a criminal offence as per legislation outlined in Section 2

above and that fines and prosecution may be applied to individuals and employers by Environmental Health Officers.

- 6.4 The Group will not hold tobacco-related investments, or accept sponsorship or donations from tobacco companies.
- 6.5 Smoking will only be allowed in designated areas. Smoking outwith these areas will be regarded as a breach of this policy.
- 6.6 Any questions, comments or concerns regarding the Smoke Free Policy should be raised with the Chief Executive 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 Govan Housing Association 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 Govan Housing Association'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, including disciplinary action.
- 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 Govan Housing Association'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 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 CESSATION SUPPORT

8.1 Govan Housing Association 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.

8.2 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.
- Periodic campaigns will be undertaken to encourage smokers to stop and to publicise the support available.

9.0 EQUALITY AND DIVERSITY

9.1 Govan Housing Association Group is committed to equality and diversity will not discriminate in the operation of this policy on the basis of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender, sexual orientation, national origin, cultural background, ethnic origin, tenure, issues related to literacy and numeracy, employment status or domestic circumstances.

9.2 We will seek to promote and to achieve equality of treatment and opportunity for all groups in society and will not tolerate any sort of unfair treatment or discrimination on any grounds.

9.3 In line with our commitment to equal opportunities, this policy can be made available free of charge in a variety of formats including Braille, large print, audio or translated into a different language.

10.0 REVIEW

10.1 This policy will be reviewed in August 2024 or earlier as required in line with changes in good practice or legislation.

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 Government: 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 if not being used for business purposes.

Cited from: Scottish Government: www.clearingtheairscotland.com

Equality Impact Assessment

TITLE OF POLICY	Smoke Free Policy
Strategic Outcome	Mitigation of behaviour that may adversely affect the performance of the Association and well being of employees and ensure compliance with relevant legislation and good practice.
What is the purpose of the proposed policy?	<ul style="list-style-type: none"> • Clarify the Group’s position on smoking at work and strict adherence to the legislation • Provide guidance and boundaries on appropriate assistance and support to employees with issues relating to smoking. • Adhere to legal obligations of the Group as set out under Health and Safety Legislation. • Clarify the circumstances in which disciplinary procedures will be instigated. • Provide guidance for managers to manage smoking at work issues. • Clarify that e-cigarettes and vapors are also banned within the workplace except in the designated smoking area.
Protected Characteristic Groups Affected By the Policy	<p>Age This policy clearly outlines that all staff will be treated equally and consistently in relation to smoking and discrimination will not be tolerated. It is intended that this will positively reassure all employees that they will not be discriminated because of age.</p> <p>Disability The Policy is applicable to all employees irrespective of any disability that may exist.</p> <p>Marriage and Civil Partnership The terms of this policy relates to all employees, irrespective of marital status.</p> <p>Pregnancy and Maternity This policy refers to the management of smoking problems affecting the working environment. It relates to all employees, including pregnant employees.</p> <p>Race Similar to earlier points above, the policy does not relate specifically to this protected group, however, it is applicable to all employees irrespective of the</p>

	<p>person's race.</p> <p>Religion or Belief The policy does not consider religion or beliefs of individuals but clearly states it relates to all employees.</p> <p>Gender and Gender Reassignment All employees are required to comply with this policy including males, females, transgender people and those seeking or have experienced gender reassignment.</p> <p>Sexual Orientation This policy relates to all employees who will be treated equally and consistently. This means that lesbian, gay, bi-sexual and transgender people will be treated the same as heterosexual people.</p>
<p>Who is the Target Audience of this policy or who is intended to benefit from the proposed policy and how?</p> <p>(i.e. employees, service users, Management Committee etc.)</p>	<p>All the Group's employees are affected by the policy. It is intended to benefit:</p> <ul style="list-style-type: none"> • employees who may be affected by smoking by clarifying the respective rules, the support that is available and possible disciplinary steps that may be taken; • employees who suspect a colleague may be ignoring the smoking rules in the workplace by clarifying, the steps to be taken and timescale for doing so; • line managers who are required to address an employee's suspected smoking abuse in the workplace by providing guidance on the steps that may be taken.
<p>Has any consultation, involvement been undertaken with the protected characteristic groups to inform this assessment? (please provide details who and how consulted)</p>	<p>No. The information relating to staff is confidential and does not identify what characteristic relates to what individual. In consequence, it was not possible to consult the specific protected characteristic groups. All staff have been made aware of the policy which emphasises that all groups will be treated equally and consistently.</p>
<p>How have you, or will you, put the policy into practice, and who is or will be responsible for delivering it?</p>	<p>The policy has been approved by the Association's governing body as a Group policy and is included in the corporate Policy Manual. The Chief Executive is responsible for the review of the policy and departmental managers will be responsible for delivery of the policy on a day to day basis.</p>
<p>How does the policy fit into our wider or related</p>	<p>This Policy ties in with the following policies:</p>

<p>policy initiatives?</p>	<ul style="list-style-type: none"> • Code of Conduct of Staff • Equality and Diversity <p>It also Relates to:</p> <ul style="list-style-type: none"> • Conditions of Employment in terms of disciplinary action; • Health and Safety at Work Act 1974; • Health(Tobacco, Nicotine etc and Care) (Scotland) Act 2016 • Smoking Prohibition (Children in Motor Vehicles) (Scotland) Act 2016 and (Commencement) Regulations 2016 • Tobacco and Primary Medical Services (Scotland) Act 2010
<p>Do you have a set budget for this work?</p>	<p>The costs of with managing behaviour associated with the abuse of smoking in the workplace will be incorporated within departmental staffing budgets which are set by senior staff and approved by the respective governing bodies each year.</p>
