

Health and Safety

11 May 2007

To: Heads of Universities and Colleges
HR Directors
Health and Safety Directors and Officers

Please distribute to: Occupational Health Professionals

Action:

To ensure that your institution has implemented the requirements of the smoke-free regulations by 1 July 2007.

Attachments:

None

SMOKING BAN AND IMPLICATIONS FOR HE INSTITUTIONS

Executive Summary

The Update informs Subscribers that all institutions in the UK must implement a smoking ban in all enclosed places to which the public have access by 1 July 2007, when the smoke-free regulations come into force (they are already in force in Scotland, Wales and Northern Ireland). This Update summarises the main requirements of the new legislation and main policy issues for HEIs.

Introduction

1 The Health Act 2006 bans smoking in enclosed places to which the public have access in England and Wales (see: http://www.opsi.gov.uk/acts/acts2006/ukpga_20060028_en.pdf). Similar bans were introduced in Scotland in March 2006, Wales on 2 April 2007 and Northern Ireland on 30 April 2007. Implementation is required in England by 1 July 2007. The legislation is intended to reduce the risks to health from the exposure to hazardous smoke. This Update outlines the key points that institutions (and students' unions) will need to be aware of to comply with the new regulations.

Smoke-free premises

- 2 The Smoke-free (Premises and Enforcement) Regulations 2006 can be found at: <http://www.opsi.gov.uk/SI/si2006/20063368.htm>
- 3 All 'enclosed' or 'substantially enclosed' premises to which the public have access will have to be smoke-free. Premises such as offices, lecture theatres, classrooms, bars, cafeterias, shops and work vehicles that are used by more than one person are covered by the regulations. 'Enclosed premises' are defined in the regulations as having a ceiling or roof and, except for doors, windows or passageways, are wholly enclosed either permanently or temporarily. 'Substantially enclosed premises' are defined in the regulations as having a ceiling or roof, but there are openings in the walls which are less than half of the total area of walls, including other structures that serve the purpose of walls and constitute the perimeter of the premises. A 'roof' includes both fixed and moveable structures.

- 4 Designated 'smoking rooms' will no longer be permitted, so institutions will need to ensure that any smoking rooms it has are closed.

No-smoking signage in premises

- 5 The Smoke-free (Signs) Regulations 2007 can be found at: <http://www.opsi.gov.uk/SI/si2007/20070923.htm>.
- 6 Institutions must take reasonable steps to ensure that staff, students and visitors are aware that the premises and vehicles are legally required to be smoke-free. All institutions must display at each entrance to smoke-free premises at least one no-smoking sign which is at least A5 in size, displays the no-smoking symbol, and contains the words "*No smoking. It is against the law to smoke in these premises*" in characters which can be easily read. The exceptions are entrances to smoke-free premises which are accessed through other smoke-free premises, and entrances which are solely for people to access their place of work which are within premises which have another entrance with no-smoking signage.
- 7 No-smoking signs should also be displayed in smoke-free vehicles.
- 8 It is important to note that employers are expected to be proactive in preventing smoking in smoke-free premises – simply displaying a no-smoking sign is not sufficient.

Policy issues

- 9 Institutions will need to ensure that they have policies in place which take the following into account:
 - The rules regarding smoking should apply to all staff at all levels, students and third parties (e.g. contractors and visitors), without exception, and all staff should be made aware of the policy;
 - Protective measures should be put in place for staff who are required to work in places where smoking is allowed e.g. cleaners or maintenance staff working in students' study bedrooms;
 - Although there is no legal obligation for employers to provide facilities for smokers, institutions should consider whether to provide external areas on the premises where smoking is allowed to ensure that staff and students do not smoke in areas which may present a security risk (e.g. isolated areas) or where the public perception of the institution may be affected; information about any arrangements that are made for smokers should be made readily available;
 - Consideration will need to be given to whether to allow staff to take smoking breaks during the working day, bearing in mind the fact that non-smoking colleagues may feel it is unfair if smokers are permitted more breaks;
 - Ways of promoting a healthy workplace should be explored; in particular, whether any additional support could be offered to staff to help them to stop smoking e.g. through the institution's occupational health services (see also the Resources section at the end of this Update);
 - Institutions will need to decide how non-observance of the policy will be dealt with – disciplinary rules and procedures should be reviewed to ensure that they cover any breach of the policy, and staff should be made aware that smoking at work is a disciplinary offence;

Penalties for non-compliance

- 10 HEIs should be aware of the following penalties which can be applied for failure to comply with the regulations:
 - An employer can face a fine of £200 for failure to display a prominent 'No Smoking' sign where it is required. There could also be a fine of up to £1,000 and criminal prosecution if this is unpaid;

- An employee (or student, contractor or visitor) will be required to pay a fine of £50 if they are found smoking on smoke-free premises. There could also face a fine of up to £200 and criminal prosecution if this is unpaid;
- An employer who fails to take reasonable steps to prevent smoking, will be liable to pay a fine of up to £2,500, depending on the charge brought.
- Institutions and students' unions could also receive claims from employees, students or visitors who have been exposed to smoke.

Further information

11 The following is a list of resources on smoking which Institutions may find useful:

- ACAS: <http://www.acas.gov.uk/index.aspx?articleid=696>
- Smokefree: <http://www.smokefreeengland.co.uk/>.
- NHS Direct: <http://www.nhsdirect.nhs.uk/articles/article.aspx?printPage=1&articleId=437>
- The Department of Health:
<http://www.dh.gov.uk/en/Policyandguidance/Healthandsocialcaretopics/Tobacco/index.htm>
- NHS Go Smoke Free Helpline: <http://www.gosmokefree.co.uk/>
- The British Heart Foundation: <http://www.bhf.org.uk/smoking/>

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