



Health & Safety Smoking Policy

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¹ or earlier if change in legislation or on risk assessment

Amendment Control

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Policy Summary

This policy is in place to ensure compliance with the Smoking, Health and Social Care (Scotland) Act 2005 which came into effect on 26 March 2006.

This procedure has been developed to protect all Edinburgh Napier University staff, students, contractors and visitors from exposure to second-hand tobacco smoke (passive smoking) and e-cigarette vapours, including any smoke which can increase the risk of lung cancer, heart disease and other illnesses.

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1. Purpose and scope

This policy is in place to ensure compliance with the Smoking, Health and Social Care (Scotland) Act 2005 which came into effect on 26 March 2006.

This procedure has been developed to protect all Edinburgh Napier University staff, students, contractors and visitors from exposure to second-hand tobacco smoke (passive smoking) and e-cigarette vapours, including any smoke which can increase the risk of lung cancer, heart disease and other illnesses.

The aim of this procedure is to:

- **Protect** the health of staff, students, visitors and contractors when on University premises
- **Inform** staff and students of their responsibilities in respect of the procedure
- **Support** staff and students who wish to stop smoking

This procedure will apply to all staff, students, visitors, contractors and other persons who may enter or work on our University premises.

The information contained within this procedure can also be used as guidance for checking that non-University employees, e.g. contractors and visitors are compliant.

Further information regarding the smoking ban can be found at: [Healthier Scotland – clearing the air](#).

2. References

- The Health Act
- [The Smoking, Health and Social Care \(Scotland\) Act](#)
- Smoke Free (Premises and Enforcement) Regulations
- The Prohibition of Smoking in Certain Premises (Scotland) Regulations

3. Definitions

3.1. Enclosed and substantially enclosed spaces

Enclosed

Premises are considered to be enclosed if they have a ceiling or roof and, except for doors, windows or passageways, are wholly enclosed, whether on a permanent or temporary basis. Tents, marquees, and similar structures are also classified as enclosed premises within this definition.

Substantially enclosed

Premises are substantially enclosed if they have a ceiling or roof (this includes any fixed or movable structures, such as canvas awnings), but there are permanent openings in the walls which are less than half of the total areas of walls, including other structures which serve the purpose of walls and constitute the perimeter of premises. This is known as the 50% rule.

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When determining the area of an opening, no account can be taken of openings in which doors, windows or other fittings can be open or shut.

3.2. Smoking

The legislation covers the smoking of tobacco or anything that contains tobacco, or smoking any other substance, including manufactured cigarettes, hand-rolled cigarettes, pipes and cigars.

This means that anything that is smoked is covered by the smoke free legislation, including the examples given above, plus herbal cigarettes and water pipes (including shisha, hookah, and hubble-bubble pipes).

3.3. Electronic e-cigarettes

Electronic e-cigarettes are not covered by anti-smoking legislation. They do not burn tobacco, instead they heat and vaporise a liquid containing nicotine and other chemicals, so that the nicotine can be inhaled. As such, it is not an offence to use an e-cigarette in an enclosed space.

However, the University has decided that this policy will apply to e-cigarettes. Due to risks of shorting and overcharging of e-cigarettes it is forbidden to charge e-cigarettes within University buildings.

4. General principles

4.1. Legislation

Since 26 March 2006, smoking is not permitted in any enclosed or substantially enclosed public place, including places of work. Employees, visitors and any other person that may enter University premises are not permitted to smoke inside any University building which is deemed under the rules to be either enclosed or substantially enclosed.

Local Authorities and their Environmental Health Officers are there to provide support to businesses and have the discretion to enforce the smoking ban. They have the authority to enter premises to ensure compliance and to investigate complaints. They may also use covert surveillance to ensure that people comply with new rules.

Note: Scottish legislation contains an explicit prosecution provision against directors and other senior managers where their University has been convicted of an offence.

Vehicles

The legislation does not just cover buildings but encompasses all enclosed spaces including vehicles. University vehicles will be entirely smoke-free. Where a vehicle is used as a workplace by more than one person – whether or not they are in the vehicle at the same time – it must remain smoke free at all times, even if all the occupants/users are smokers.

4.2. The employer's duty

Under the rules, the University must take reasonable steps to ensure that no one smokes in enclosed places on our premises or in vehicles that are included under the legislation. Failing to prevent smoking in non-smoking premises or vehicles could lead to a £50 Fixed Penalty Notice or a fine of up to £2500 on the University.

4.3. Restrictions on smoking (including electronic e-cigarettes)

Smoking at or near the entrances / reception areas to all University buildings (including Student Accommodation) will be actively discouraged. Staff, students, contractors and visitors are asked to respect the rights of others to enjoy a smoke-free environment, and to smoke **only** in the designated areas.

Smoking is not permitted on any premises managed, leased or owned by the University at any time. This includes all entrances, lifts, corridors, stairways, lavatories, rest rooms, reception areas, workshops, lecture rooms, theatres, etc. (the list is not exhaustive - compliance will be based upon the definitions of 'enclosed' and 'substantially enclosed').

4.4. Building/construction work

Where building/construction work is carried out and buildings are not fully enclosed during the construction phase, e.g. new teaching accommodation etc., these areas will be regarded as construction sites. For reasons of 'fire safety', 'health' and 'insurance purposes', there will be **no smoking within any buildings under construction**. Alternative arrangements for smoking in the welfare areas will be provided as long as they meet the legal requirements as if it were an enclosed space and a fire risk assessment has been carried out to take account of the building under construction.

4.5. Student accommodation

All of student accommodation is non-smoking, including the use of **e-cigarettes**. A fine will be applied under the Code of Student Conduct if any resident or their guest/s are found to be smoking in any of our accommodation. Smoke and heat detectors should never be covered as these are provided for fire safety and would put occupants and others at risk, any breaches could affect the Tenancy Agreement.

4.6. Electronic cigarettes

Electronic e-cigarettes are not covered by anti-smoking legislation. As such, it is not an offence to use an e-cigarette in an enclosed space. Individuals will not be allowed to use an e-cigarette or 'vape', anywhere on University premises, except at designated locations. Vaping is not permitted when moving between external areas onsite even if felt vaping is discreet.

4.7. No smoking signs

All University buildings are signed to indicate that smoking is prohibited. 'No smoking signs' are located at various locations around our Campuses e.g. main entrances, waste bin/storage areas, chemical and gas storage buildings and storage units and at our goods entrances. Additional signage is available from Property & Facilities.

4.8. Shelters

Smoking areas have been designated at each main University Campus. These shelters comply with the rules for enclosed spaces. Our shelters have been positioned far enough away from doors and open windows to make sure that cigarette smoke does not enter adjacent buildings.

5. Implementation

5.1. Staff and students

All staff and students are expected to adhere to and facilitate the procedure. Staff and students are only permitted to smoke in the areas designated.

5.2. Visitors

All visitors are required to abide by the smoking procedure. Staff members are expected to inform visitors of the procedure but are not expected to enter into any confrontation that may put them at risk.

5.3. Contractors

All contractors and subcontractors are required to abide by the smoking procedure. Tenders and contracts sent out to contractors will stipulate adherence to this procedure as a contractual condition.

6. Enforcement

Responsibility for the day-to-day implementation of this procedure rests with all staff, but students also have a role to play. Staff and students should seek management support if they feel in any way apprehensive about addressing anyone breaching this procedure.

Where individuals are found to be smoking in enclosed premises in contravention of this procedure, you should:

- Ask them politely to stop smoking immediately

- Draw their attention to the University's smoke-free procedure, that all University buildings are smoke-free spaces and remind them they are committing an offence

If the individual continues to smoke, you should:

- Ask them to leave the premises immediately and, where appropriate, advise them where they can smoke
- Inform their line manager or School/Service or contractor of the incident

Where the individual is a staff member or student and they continue to resist, the University's disciplinary procedure may be implemented.

A record of all incidents and the outcomes should be maintained.

Anyone breaking the law can be potentially prosecuted by the enforcing authorities.

7. Helping you to stop smoking

Support is available for staff and students that wish to stop smoking. Staff should contact the Occupational Health Service. Students should contact the ENSA Campaigns and Representation Officer for further information.

Other resources of advice:

- Your local GP
- Call Smokefree - Tel: 0800 022 4332 (<http://smokefree.nhs.uk/>)
- NHS Inform provide [information on Stopping Smoking](#).
- QuitYourWay is an advice and support service for anyone trying to stop smoking in Scotland. Contact them on 0800 848484 anytime between 8am to 10pm 7 days a week.
- [Smoking - British Heat Foundation](#)
- [Ash Scotland](#)