

Date Issued	December 2006
Date Last Reviewed	February 2026
Department	Administration
Title	Smoke-Free Policy
Responsible	Chief Executive
Next Review Date	August 2031

1.0 Introduction

- 1.1 East Lothian Housing Association recognises, as an employer, it has a duty under the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 Smoking, Health and Social Care (Scotland) Act 2005, 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 its working environment for all employees is healthy and safe.
- 1.2 The Smoking, Health and Social Care (Scotland) Act 2005 came into force on 26 March 2006 allowing for the total ban on smoking in all of our premises, including vehicles owned, leased or hired by us and private cars.
- 1.3 It is a criminal offence not to comply with the smoking law. Environmental Health Officers can apply fines or prosecution to individuals and employers who fail to comply with the law. Details of premises covered by this legislation are given in Appendix 1 and details of exemptions are listed in Appendix 2.
- 1.4 This policy has been developed to ensure a safe environment for all our employees, workers, agency staff, consultants, contractors, governing body members, customers and visitors. We believe that most people will respect our policy but have put in place procedures to deal with non-compliance (see section 6.0). Any person not complying with the ban commits an offence towards the organisation, as well as the law.
- 1.5 This policy complies with the EVH Health and Safety Control Manual, section 3.12 (5) regarding passive smoking, which states:

“Where employees are exposed to passive smoke outwith East Lothian Housing Association’s premises/vehicles while on company business, they will be entitled to request a smoke-free environment in which to continue their business. Where no such environment is available, the employee will be entitled to cease work within the area. In such circumstances, the employee will report this situation to their Line Manager without delay, who will take the appropriate action”.

2.0 Our Principles

2.1 This smoking policy:

- Does not allow for anyone to smoke throughout our premises ensuring that all our employees, workers, agency staff, consultants, contractors, governing body members, customers and visitors can enjoy air free of tobacco smoke
- Prohibits smoking or use of electronic cigarettes throughout all work premises and any work vehicles
- Has been agreed with employees to help provide a healthy, safe and comfortable environment
- Details how we will deal with those who do not comply with the smoking restrictions
- Details how we will provide support for employees who find it difficult not being able to smoke or who are trying to stop

3.0 Definitions

The following are definitions which will be applied in the context of this policy.

- **Smoking** is the act of using any lit tobacco or similar substance that burns and produces smoke, such as a cigarette, cigar, pipe, or herbal smoking product
- **An electronic cigarette** (‘e’ cigarette or vape) is a device that heats a liquid to create a warm aerosol mist, which may contain nicotine and is inhaled to mimic the sensation and flavour of smoking, without involving combustion
- **Enclosed premises** refers to any space that has a roof and is surrounded by walls to the extent that it is considered indoors whether the walls are permanent or temporary
- **A workplace/company vehicle** is any vehicle used for work purposes, can be used by one or more people, even if they do not use it at the same time, such as a shared company car or van

- **Designated smoking area** is a controlled environment where individuals who choose to smoke/use electronic cigarettes can do so without negatively impacting others or violating smoking regulations

4.0 Policy Conditions

- 4.1 In line with Smoking, Health and Social Care (Scotland) Act 2005, We have placed a total ban on smoking or the use of electronic cigarettes in all of our premises, in any common or work areas, including the vehicles owned/leased/hired by us and private cars used to transport colleagues/clients/visitors in relation to business.
- 4.2 Anyone who wishes to smoke or use electronic cigarettes must do so outdoors. Staff must not smoke directly outside the staff entrance and all time used for smoking breaks must be deducted from their timesheets. The frequency and time of each break must be kept to a minimum.
- 4.3 It is noted that electronic cigarettes are not covered under the Smoking, Health and Social Care (Scotland) Act 2005, as they were not in existence when the legislation was introduced. However, whilst it is noted that electronic cigarettes can be used to aid smoking cessation, for clarity, the use of electronic cigarettes on ELHA premises, including company vehicles is prohibited.

We understand that there is still research to be completed on the safety and effectiveness of electronic cigarettes as a smoking cessation tool. Our employees should therefore only use electronic cigarettes during rest breaks in designated smoking areas. We do not deem it appropriate to use electronic cigarettes on any of our premises, as they could cause annoyance to colleagues and be perceived as 'real' cigarettes if used in areas where there is contact with customers, along with colleagues, visitors and contractors.

5.0 Implementation

5.1 Employer Responsibilities

- To ensure that all employees, workers, agency staff, consultants, contractors, governing body members, customers and visitors are informed that ELHA operates a Smoke-Free Policy in all its premises, developed to ensure a safe working environment
- To ensure the main aims of this policy are clearly displayed at the entrance to our premises (See Appendix 3)
- To ensure No Smoking signs will be clearly displayed as required in our premises, including in company vehicles

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- To ensure we signpost and provide support to any employees who are seeking to cease smoking or stop using electronic cigarettes
- To ensure that any occurrences of employees, workers, agency staff, consultants, contractors, governing body members, customers and visitors who do not comply with this Smoke Free Policy will be managed in line with the procedures outlined at section 6.0

Whilst ELHA does not have a designated outdoor smoking area on their premises, smoking is permitted in the local outside area, away from the office.

The Chief Executive is responsible for making sure that everyone complies with this policy. Any questions/comments/concerns regarding the Smoke Free policy should be taken to the Chief Executive.

5.2 Employee Responsibilities

- Adhere to ELHA's Smoke-Free Policy
- Report any breaches of ELHA Smoke-Free Policy to their line manager
- Report any exposure to passive smoking outwith ELHA's premises or company vehicles to their line manager
- Highlight any concerns regarding the Smoke Free Policy to their Line Manager
- Seek cessation support, if required by speaking with their Line Manager or utilising the information with this policy

6.0 Procedure for Non-compliance

6.1 We will inform all employees, workers, agency staff, consultants, contractors, governing body members, customers and visitors that we operate a Smoke-Free Policy in all of our premises. The displayed No Smoking signs are designed to inform and remind everyone of this.

6.2 Employees:
Line Managers are responsible for enforcing this policy. Any employee who does not comply with this policy will be managed in accordance with our Disciplinary Procedure.

6.2.1 For employees, a refusal to comply with a Smoking Ban will be treated as misconduct or gross misconduct, with outcomes of up to and including dismissal. The severity of discipline will reflect the fact that non-compliance breaches not only the organisation's Smoke-Free Policy but also Health and Safety Policy and the law: the Smoking, Health and Social Care (Scotland) Act 2005.

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- 6.3 Committee/Governing Board Members who refuse to refrain from smoking in accordance with the Smoke-Free Policy will be dealt with in accordance with their Code of Conduct.
- 6.4 Workers, agency staff, consultants, contractors, customers and visitors:
Anyone that refuses to comply with our Smoke-Free Policy will be asked to leave our premises immediately. Further refusal could result in the withdrawal of our services to customers, barring the visitors from visiting our premises and withdrawal of contracts with individual contractors, as well as informing their employers of their non-compliance.
- 6.5 **Passive Smoking**
Employees are entitled to work within a smoke-free environment, this includes out with company premises and vehicles. Employees should report any concerns to their Line Manager, who will take appropriate actions to prevent this.

7.0 Support to stop smoking

- 7.1 We recognise that the Smoke-Free Policy may impact those who smoke or use electronic cigarettes. We also recognise that passive smoking adversely affects the health of all employees.
- 7.2 We will support employees through the activities of our Health Happy Staff Group. This help includes:
- Allowing unpaid time-off during working hours to obtain help with giving up smoking, at the discretion of the line manager
 - Being encouraged to seek advice on modifying their smoking behaviour or stopping
 - Ensuring that supplies of self-help information are made available
 - Providing information on advice and support that is available
 - Undertaking periodic campaigns to encourage smokers to stop and to publicise the support available
- 7.3 Sources of support and their contact details are found at **Appendix 3**.

8.0 Policy Review

- 8.1 This policy will be reviewed at least every five years with any changes approved by the Senior Management Team.

APPENDIX 1

'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

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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 2

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

Cited from: Scottish Government: www.clearingtheairscotland.com

Summary of East Lothian Housing Association's Smoke-Free Policy

Purpose

This policy has been developed to protect all employees, service users, customers and visitors from exposure to second-hand smoke and to ensure compliance with the Smoking, Health and Social Care (Scotland) Act 2005.

Exposure to second-hand smoke, also known as passive smoking, increases the risk of lung cancer, heart disease and other illnesses. Ventilation or separating smokers and non-smokers within the same airspace does not completely stop potentially dangerous exposure.

Policy

It is our policy that all our workplaces are smoke-free to ensure that all our employees have a right to work in a smoke-free environment. The policy came into effect on 14 December 2006 and be reviewed at least every 5 years thereafter.

Smoking is prohibited throughout the entire workplace with no exceptions. This includes company vehicles. This policy applies to all employees, consultants, contractors, customers, ELHA Board members or visitors.

Anyone who wishes to smoke must do so outdoors. Staff must not smoke directly outside the staff entrance and all time must be deducted from their timesheets. The frequency and time of each break must be kept to a minimum.

Overall responsibility for policy implementation and review rests with The Chief Executive. All staff are obliged to adhere to and facilitate the implementation of the policy. All new staff will be given a copy of the policy on recruitment/induction.

Appropriate 'No Smoking' signs will be clearly displayed at the entrances to and within the premises.

Non-compliance

Disciplinary procedures shall be followed if a member of staff does not comply with this policy. The procedures set out in section 5 of the full version of the Smoke-Free Policy shall be followed if a customer, contractor or visitor does not comply. Those who do not comply with the smoking law are also liable to a fixed penalty fine and possible criminal prosecution.

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Help to stop smoking

We will provide support for smokers who want to stop as detailed in section 7 of the Smoke Free Policy. Sources of support include:

- **Smokeline.** Tel:0800 848484
- NHS Inform. **Quit your way.** www.nhsinform.scot/care-support-and-rights/nhs-services/helplines/quit-your-way-scotland
- NHS Resources <https://www.nhs.uk/better-health/quit-smoking/>
- Your local GP surgery or local pharmacy
- **Smokefree** <https://smokefree.gov/>
- **Quit smoking** . HSE website. <https://www2.hse.ie/living-well/quit-smoking/>

Cited from Scottish Government: www.clearingtheairscotland.com and local resources.