



# WREN'S NEST PRIMARY SCHOOL

## Smoke Free Policy

Adopted by

Wren's Nest Primary Full Governing Body

March 2021

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# SMOKE FREE POLICY & PROCEDURE

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## 1. INTRODUCTION

This policy has been developed to protect all employees, whether employed directly by this School or through an agency, and visitors from exposure to second-hand smoke.

From 1<sup>st</sup> July 2007 smoking was prohibited in all workplace premises and the policy was first implemented from this date to ensure this School is smoke-free.

The Policy takes all possible reasonable steps to protect colleagues and pupils from second-hand smoke exposure and to comply with legislative requirements. The School acknowledges that some colleagues use electronic cigarettes (“e-cigarettes”) and although they fall outside the scope of smoke-free legislation, the same conditions will apply throughout this policy, in that the School prohibits the use of e-cigarettes in the workplace and all its associated buildings and grounds.

## 2. RESPONSIBILITIES

The Governing Body, the Headteacher and Senior Leadership Team fully support this policy and its implementation to ensure full compliance.

All governors, employees, visitors, and contractors must observe and comply with this Smoke-Free Policy and related legislation.

## 3. LEGAL REQUIREMENTS

The Health Act 2006 aims to: -

- Protect the health of our colleagues
- Protect the health of customers/service users.

In provisions made under the **Health Act 2006**, all **enclosed** and **substantially** enclosed workplaces and public places will be legally required to be smoke free.

### 3.1 Substantially Enclosed Workplaces

Premises are substantially enclosed if they have a ceiling or roof and the walls are more than half of the perimeter of the premises. This is known as the 50% rule as in order for smoking to be allowed in a structure, at least 50% of the walls to the structure must be missing.

This means that some outdoor buildings and car parks will be substantially enclosed and must be signed as smoke-free areas.

### 3.2 No Smoking Signage

There are legal requirements to display no smoking signs in or on any premises that are affected by a smoking ban, so that they can be read by people on the premises and approaching the premises. They must be obviously displayed and protected from tampering, damage, removal or concealment as it is an offence to smoke in a smoke free area.

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Information is contained within the Smoke-Free (Signs) Regulations 2012 regarding the appropriate size of signage.

### **3.3 External Smoking Areas**

Smoking in sheltered doorways that are substantially enclosed is illegal.

In addition to the legislation, this School, has determined that smoking near entrances or exits to this School, buildings, and in locations where smoke can enter buildings through open windows or ventilation systems will be prohibited.

There is no requirement under the legislation to provide an external smoking shelter.

### **3.4 Home Visits**

People's homes are not covered by the legislation, whether they are private or social houses. Colleagues who must visit pupil's homes are at risk if they are visiting a smoker. If the person you are visiting is a smoker, please refer to **section 6.3** for support and guidance on what reasonable steps should be taken.

### **3.5 Premises used by Children**

Under the legislation, all public premises used or visited by children must be smoke-free. In addition to the legislation, in all schools where Dudley Council is the employer or the Governing Body, is the employer has decided that the entire school grounds will be smoke-free.

### **3.6 Smoke-free Vehicles**

The law requires school owned vehicles to be smoke-free at all times, if they are used:

- To transport members of the public and/or pupils
- During paid or voluntary work by more than one person – regardless of whether they are in the vehicle at the same time

All School vehicles will continue to be smoke-free. Smoke-Free vehicles will need to display a no-smoking symbol.

There is a requirement to observe, co-operate and comply with the School's Smoke-Free Policy and legislation. Compliance will be encouraged and where necessary management should be informed of any breaches. Visitors should be made aware that there is a statutory duty not to allow smoking in our premises and vehicles.

## **4. SMOKE BREAKS (UNPAID BREAKS)**

This School, **prohibits** its employees from taking smoke breaks during work time.

Colleagues who choose to smoke during unpaid breaks must still adhere to the requirements to be outside and away from entrances or exits to the School or where smoke can re-enter buildings through windows or ventilation systems.

## 5. ELECTRONIC CIGARETTES

E-cigarettes are battery-powered products that release a visible vapour containing liquid nicotine that is inhaled by the user. Although they fall outside the scope of smoke-free legislation, the Schools **prohibits** the use of e-cigarettes in the workplace and all school buildings/premises by governors, employees, visitors and members of the public and the conditions set out in this Policy will also be applied to the use of e-cigarettes.

## 6. NON-COMPLIANCE

In all situations, failure to comply with the law is a criminal offence. Individuals and organisations could be liable for a fixed penalty fine for smoking in no smoking premises/vehicles.

Under the legislation, **Appendix 1** provides further details of the fixed penalty notices and maximum fines to offences of non-compliance.

### 6.1 Non-Compliance - Employees

- Report incidents of non-compliance to a member of the Senior Leadership Team.
- If any person refuses to acknowledge the Schools Policy, the employee will be liable to disciplinary action in accordance with the School's Disciplinary Policy and Procedures.
- The School should maintain a record of all such incidents and outcomes.

### 6.2 Non-Compliance – Visitors

- Draw the person's attention to the No Smoking signs and remind them they are committing an offence and breaching policy, politely ask them to stop smoking.
- Advise the person that it is also an offence for you to allow anyone to smoke.
- Explain that the Schools is obliged to refuse service to visitor's if they continue to smoke (on Schools premises or in vehicles).
- If the visitor continues to smoke, they should be asked to leave the premises.
- Implement the normal anti-social/illegal behaviour procedure.
- Maintain a record of incidents and outcomes.
- It may be necessary to contact a senior member of staff to assist.

### 6.3 Dealing with Non-Compliance – Home Visits

- Ask the service user (or their relatives/visitors) politely if they could refrain from smoking for the duration of the visit or if they could smoke in another room.
- If they continue, depending on whether this is Social/Private housing implement the normal anti-social/illegal behaviour procedure or exit the property.
- Maintain a record of incidents and outcomes.

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## 7. WORKPLACE SUPPORT -STOP SMOKING SERVICES

**Solutions 4 Health** provides a wide range of services available across Dudley. If you need any help, advice or support you can call **Solutions 4 Health** on 01384 732402 or 0800 061 4962 to speak to a member of the team.

Weekly supports sessions can be accessed through most GP practices, Pharmacists and evening clinics. To find out more please contact the Dudley Stop Smoking Service by visiting [Letsget.healthydudley@nhs.net](mailto:Letsget.healthydudley@nhs.net) for more information.

### APPENDIX 1 - LEGAL IMPLICATIONS OF NON-COMPLIANCE (FIXED PENALTY NOTICES AND MAXIMUM FINES)

#### Smoking in smoke-free premises or vehicles:

A Fixed Penalty Notice of £50 imposed on the person smoking. Or a maximum fine of £200 if prosecuted and convicted by a court. (Fixed penalty reduced to £30 if paid in 15 days).

#### Failure to display no-smoking signs:

A Fixed Penalty Notice of £200 on whoever manages or occupies the smoke-free premises or vehicle. Or a maximum fine of £1000 if prosecuted and convicted by a court. (Fixed penalty reduced to £150 if paid in 15 days).

#### Failure to prevent smoking in a smoke-free place:

A maximum fine of £2,500 imposed on whoever manages or controls the smoke-free premises or vehicle if prosecuted and convicted by a court. There is no fixed penalty notice for this offence.

#### Sales of Tobacco Products:

It is a criminal offence for anyone to sell, transport or possess illegal tobacco products. Illegal tobacco can either be smuggled (bought outside the UK and resold) or counterfeit (illegally manufactured to look like UK brands).

The selling/storing and dealing in any way of illegal cigarettes and tobacco on School/ Academy [*delete as appropriate*] premises will not be tolerated. We will fully co-operate with the Law Enforcement Agencies, such as HM Revenue & Customs, in their investigations. Any such conduct will be considered as Gross Misconduct in accordance with our Disciplinary Policy and Procedures.

Penalties for such offences may also include imprisonment and/or fines of up to £5,000 applying to individuals as well as managers knowingly allowing their premises to be used for such purposes.

## Littering Offences

Employees are reminded that the discarding of cigarette ends other than in a litter bin or suitable receptacle constitutes a littering offence and fines of £80.00 may be levied on the offender by the Council or fines up to £2,500 by the Magistrates Court.

### DOCUMENT ADMINISTRATION

<b>Name of Document</b>	Smoke Free Policy & Procedure
<b>Applicable to</b>	Services provided to schools by Your   HR Support for Wren's Nest Primary School Marigold Crescent Dudley DY1 3NX
<b>Version number</b>	V1
<b>Document Number</b>	TSHR SFP-0221 v1
<b>Status of Document</b>	Your   HR Support for Schools
<b>With effect from Date</b>	February 2021
<b>Template provided by</b>	Your   HR Support for Schools
<b>Date of Review</b>	February 2024
<b>Applies to: (Tick School type)</b>	<input type="checkbox"/> All (services provided by Your   HR Advisory for Schools, DMBC) <input type="checkbox"/> Voluntary Controlled <input checked="" type="checkbox"/> Community <input type="checkbox"/> Voluntary Aided <input type="checkbox"/> Academies <input type="checkbox"/> Maintained <input type="checkbox"/> Pupil referral units <input type="checkbox"/> Foundation
<b>Contact</b>	Mrs Sarah Parkes - Headteacher

<b>Amendment and summary of changes with revised document number</b>	<b>Date</b>	<b>Amended by</b>
<ul style="list-style-type: none"> <li>• Revisions to the provision of Stop Smoking support/services contact details;</li> <li>• Inclusion of the option for Academy Schools to adopt the Dudley Policy;</li> <li>• Penalty Fines moved to Appendices'.</li> <li>• Policy is now "Accessibility" Compliant, including the removal of diagrams</li> </ul>	February 2021	Alison Birch

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## APPROVAL

Amendment/changes Approved by:	Approval Date	Name of Approving Chair
Wren's Nest Primary Full Governing Body	25 <sup>th</sup> March 2021	Mrs Gill Abrahams

## CONSULTATION

The following organisations have been consulted on this document:

### Trade union (*tick all that apply*)

- NASUWT
- NEU
- ASCL
- NAHT
- GMB
- UNISON

## COLLECTIVE AGREEMENTS

This document should be read in conjunction with the relevant collective agreements.

- **For teaching staff** - Conditions of Service for School Teachers in England and Wales (Burgundy Book)
- **For non-teaching staff** - National Joint Council for Local Government Services (Green Book)

In the event there is a conflict between the conditions sets out in the relevant collective agreement and this document, the relevant collective agreement shall prevail. In the absence of a defined procedure/process within the relevant collective agreements relating to the conditions of service on the specific matter, every effort shall be made to adhere to industry best practice principles (e.g. ACAS guidance and/or any updated and new statutory guidance issued by the Department of Education "DFE").