



## **Smoke Free Brent Policy and Procedures**

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Owner: Director of Legal and HR Services**



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# The Policy and Procedures

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## Aims and Objectives

The main aims of this policy are:

- To protect employees and service users from the harmful emissions in tobacco smoke
- To ensure support for employees who want to stop smoking
- To require employees to adjust their smoking habits not to smoke whilst at work
- To demonstrate that the local authority is fulfilling its statutory duty to improve the health of the population

Specifically the policy and procedures provide:

- Information on making our premises smoke free.
- Rules to ensure that Brent presents a positive smoke free image
- A basis to ensure the council responds to its legal duties
- Information on smoking in our parks and other open spaces
- Guidance on the issue of smoking during working hours
- Advice on how to get help in stopping smoking

This policy is non contractual, and reflects current legislation and good practice.

## Legal Context

The policy has been developed to comply with the Health Act 2006, with regulations made under it and with the Council's duties under the Health and Safety at Work Act 1974 to provide a working environment which is, as far as practicable, without risks to health associated with exposure to 'second-hand' or passive smoking.

Since 1<sup>st</sup> July 2007 the Council has been responsible for enforcing the Smoke-Free legislation in all workplaces, public vehicles, work vehicles and public premises (such as buildings) in the Borough which are enclosed or substantially enclosed.

## Electronic Cigarettes

Our employees are entitled to work in a smoke free workplace. The Council's position is that it is not operationally feasible to differentiate between a real or electronic cigarette so they are not included within the scope of the Health Act 2006. London Borough of Brent (LBB) has determined that this policy should also apply to the use of Electronic Cigarettes within Council buildings and premises, vehicles and residents' homes. Reference to smoking in the rest of this policy should also be taken to apply to the use of electronic cigarettes (vaping).

## Who is and is not covered by the policy

The law banning smoking in public places from 1 July 2007 applies to all members of the public and staff.

This policy applies to the following groups of staff:

- Permanent employees of Brent
- Temporary employees of Brent
- Agency staff working for Brent
- Volunteers working for Brent
- Trainees, work placement and work experience students
- Contractors delivering services for Brent on Brent land or premises
- Elected Members of Brent Council

## **Roles and Responsibilities**

- All employees and others listed above must abide by this policy
- All managers must ensure the policy is applied in their area of responsibility
- The Director of Legal and HR Services will monitor and review the policy
- Brent Council will support its employees to stop smoking

## **Smoking in our buildings, vehicles and on our land**

Smoking includes smoking substances other than tobacco. It also includes being in possession of lit tobacco or of any other lit substance in a form in which it could be smoked. The law does not only apply to cigarettes but also to pipes, cigars and water pipes. As stated previously, this policy also applies to the use of electronic cigarettes.

Smoking is not allowed at any time in any of our buildings or in any part of our buildings apart from on the public highway or in our Parks, as detailed below. Smoking is also not allowed in any temporary structures we control such as tents and marquees. In addition smoking is not allowed in the grounds of our buildings or in the immediate vicinity, including any garden and external communal areas, in order to present a good image of the Council as a smoke free employer and to avoid issues around smoking litter near our buildings.

Smoking is not allowed in any vehicle owned or operated by the Council. This also includes privately owned vehicles used for work when there are passengers in the car. This applies even if the car is stationary.

Smoking is allowed on the public highway or in our Parks. However smoking in these places by staff is only allowed in locations where there is no significant risk of smoke drifting back into a building. Also staff can only smoke in these places during their scheduled breaks or lunchtime. Employees must ensure that any outward signs of being a London Borough of Brent employee, e.g. ID Badge, uniform with Brent logo are not visible when smoking. Employees must also make sure that all smoking materials are properly extinguished and responsibly and appropriately disposed of.

The law *does not* require the following places to be smoke free but Brent staff are not allowed to smoke in these places when they are on duty:-

- A member of the public's home
- Individual bedrooms or rooms to be used only for smoking in residential care homes where the residents using the rooms are aged 18 years or over.

When they are on duty Brent staff are also not allowed to smoke in any buildings, temporary structures or vehicles which the Council does not control or manage but which the law requires to be smoke free.

## **Smoking during working hours**

Smoking is not allowed during the time when employees are expected to be working.

Smoking is only allowed during the lunch break or during other scheduled breaks if they are a normal part of the working day.

Even if employees choose to smoke during lunch or a scheduled break they are not allowed to do this in any of the places listed in the section above where smoking is not allowed.

### **Enforcing this policy - staff**

London Borough of Brent (LBB) recognises that smoking is an addiction and that they smoke free policy could impact on smokers' working lives. LBB wishes to support employees who want to stop smoking.

However, a deliberate breach of this policy by any employee is potentially a disciplinary offence. In most cases of a breach there is likely to be informal action to support employees to comply with the policy although in serious cases, such as where smoking is causing a fire risk or in the presence of children, formal disciplinary action may be taken. Continuing breaches of the policy by employees will result in disciplinary action that could ultimately lead to dismissal from the Council. Continuing breaches of this policy by agency workers, contractors or volunteers may result in the termination of their work for the Council.

If a manager is aware that any of the staff covered by this policy are breaching it, they have a duty to tell the individual to stop smoking and draw their attention to this policy and the consequences of breaching it. Managers should also discuss with employees the support which is available to them if they wish to consider stopping smoking.

### **Enforcing this policy – members of the public**

If a manager or member of staff is aware that a member of the public is breaching this policy in any of the premises or vehicles in which smoking is banned then they should:

- Draw the person's attention to the no-smoking signs and ask them to stop smoking
- Where a member of the public is a customer, explain that staff will refuse to serve them if they continue to smoke
- In cases where smoking on site also breaches local service policies and terms of use, explain a prohibition on accessing those services may be incurred, such as a ban on visiting library buildings
- Explain to the member of the public that they will be asked to leave if they continue to smoke
- If the member of public continues to smoke and refuses to leave, then Council staff should implement the service's normal procedure for removing members of the public from the premises

People who do not comply with the law on smoking in public places may also receive a fixed penalty notice and/or possible prosecution. The Council may also face legal action if it fails to prevent smoking in buildings under its control.

This policy will also be enforced in situations where an individual may not have been directly observed smoking on site, but where there is sufficient evidence to indicate that they have been smoking e.g. detritus or odours in the immediate vicinity which are strongly attributable to an individual.

### **Getting help to stop smoking**

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.

The Council is committed to supporting employees to live healthier lifestyles including the provision of free Stop Smoking Clinics held at the Civic Centre.

## **Brent Council Stop Smoking Services**

Stop Smoking Services report that people who give up smoking with the support of a local Stop Smoking Service that offers 6-12 week treatment and support in Stop Smoking Clinic alongside using a stop smoking medication, such as Nicotine Replacement Therapy (NRT) or Champix (Varenicline) or Zyban, are four times more likely to succeed than those without support.

- The Brent Stop Smoking Services are based here at the Brent Civic Centre and offers the Stop Smoking Clinic to its staff members, as well as to members of the public who either live, work or have their General Practitioner (GP) in Brent.
- The Brent Stop Smoking Service offers 6-12 week stop smoking clinics, either with individual face to face sessions or group support. Telephone sessions are offered to clients who are unable to attend the face to face session.
- To speak to one of our Brent Smoking Cessation Specialists based here at the Civic Centre, either call the Brent Stop Smoking Service on: 0208 937 5490 Monday to Friday between 9am and 7pm – there is an answer phone service for calls outside working hours and on Saturdays between 9am to 5pm. Alternatively, you can email the service and they will aim to make contact with you within 24 hours.
- For information or to refer / self-refer, and to request resources, email our secure email address on: [stopsmoking@brent.gov.uk](mailto:stopsmoking@brent.gov.uk)
- This support programme is free to join and is designed to help smokers quit using both medical research as well as insights from ex-smokers.
- The NHS Smoking Helpline is available where individuals can speak to a specialist adviser or request resources from: <http://smokefree.nhs.uk/advice-and-information/> - an online resource for information and support that smokers need to stop and stay “stopped”.
- NHS Smoking Helpline is: 0800 022 4 332 - lines are open Monday to Friday 9am to 8pm and Saturday and Sunday from 11am to 5pm.
- London Smoking Cessation Transformation Project can be reached on: [www.stopsmokingportal.com](http://www.stopsmokingportal.com) or contacted on their helpline on: 0300 123 1044

## **Use of electronic cigarettes**

Whilst it is recognised that e-cigarettes may form part of an individual's smoking cessation programme and are part of a wider range of options to help individual's stop smoking e.g. nicotine patches, gum, inhalers etc. it is equally the case that particularly from a distance they may look like real cigarettes, making a smoking ban difficult to police as well as creating an impression for visitors, customers or other employees that it is acceptable to smoke. Even if they are being used as part of a smoking cessation programme, therefore the restrictions set out in this policy will still apply.

## **Links to other Policies and Procedures**

### **Managing Sickness Procedure**

If you are currently in the managing sickness procedure and your health issues can be in any way linked to smoking then the Council may provide additional support to you in giving up smoking.

### **Health and Safety Policy**

The Council's Health and Safety policy commits the Council to setting an example of good practice. The policy provides a framework that commits managers and staff to take responsibility for safety at work.

### **Disciplinary procedure**

A breach of this policy is potentially a disciplinary offence. In most cases of a breach there is likely to be informal action to support you in complying. However willful and continuing breaches of the policy will result in disciplinary action that could ultimately lead to dismissal from the Council.

### **Evaluation review and change**

This policy and procedures will be evaluated and reviewed every three years.

The Council reserves the right to amend the provisions in this policy at its discretion but will not do so without first consulting with staff and trade unions in such a manner as it considers appropriate, unless there is a change in the law that the Council must respond to before such consultation can be completed.

Any questions about the application or interpretation of this policy should be referred to the Director of Legal Services and HR and to their delegated representative whose decision shall be final.