

COUNTY BOROUGH OF BLAENAU GWENT



**POLICY & GUIDELINES
ON
SMOKE FREE
WORKPLACES**



BLAENAU GWENT COUNTY BOROUGH COUNCIL

POLICY ON SMOKE FREE WORKPLACES

1. INTRODUCTION

- 1.1 The purpose of this corporate policy is to provide a smoke free environment in all Blaenau Gwent County Borough Councils permanent places of work. The Authoritys previous policy needed replacing due to new legislation and current trends.
- 1.2 In addition to this policy, guidelines to help Managers and employees comply with the policy have been prepared.
- 1.3 A smoke free working environment is required to: -
 - Comply with the Smoke Free Premises etc (Wales) Regulations (in force on 2 April 2007).
 - Achieve the Corporate Health Standard Silver Award.
 - Promote a healthy working environment.
 - Set an example to other employers in the County Borough.
 - Encourage smokers (employees or others such as the public) to cease smoking.
 - Protect employees and others from second hand smoke.
- 1.4 The Council accepts the medical evidence that smoking is linked to lung cancer, heart disease, chronic bronchitis and other serious illnesses. The risks to non-smokers from inhaling other people's second hand smoke (passive smoking) is well established and smoking may also give rise to other hazards such as increased fire risks.
- 1.5 The Council recognises that smoking is an addictive habit and will offer ongoing support to employees who wish to cease smoking or have difficulties complying with this policy.
- 1.6 The Council views this smoke free policy as a constructive means of meeting the needs of non-smokers to work in a smoke free environment, and at the same time be an encouragement to smokers to give up smoking.

2. **SCOPE**

- 2.1 This policy applies to all employees, elected members, volunteers, contractors, agency workers, visitors, school pupils and service users who work in or use any of the Council's premises and other relevant places of work.
- 2.2 The policy applies to all of the Council's premises that are classed as workplaces and to communal areas of premises that are not covered by the Smoke Free Premises etc (Wales) Regulations 2007. (See the smoking guidelines)
- 2.3 It is strongly recommended that Headteachers and School Governing Bodies adopt this corporate policy.

3. **THE POLICY**

3.1 Smoking is prohibited: -

- In all Council premises (except the statutory exemptions) including access areas and adjacent car parks and land. However for reasons of practicability this does not apply to members of public in Council parks and similar open spaces.
- In all Council owned vehicles including leased or hired vehicles. This should also include vehicles owned by individual schools. (Home to school transport contractors must ensure their own vehicles comply with the law).
- At all Council functions (including hospitality) in Council premises.
- By all employees when visiting service users homes or other organisations premises.
- In all Council premises hired or leased to members of the public.
- Communal areas of housing stock such as stairwells in flats.
- Communal areas of business units owned and managed by the Authority (the employers who lease each individual unit are responsible for their own policy and compliance with the law).

4. **EXEMPTIONS**

4.1 There are a number of statutory exemptions: -

- Residential Homes – **residents** may smoke in a designated smoking room.
- Sheltered Housing – residents and their visitors may smoke in their own rooms. Communal areas such as corridors and the lounge are no smoking.
- Private Domestic Premises – when employees visit domestic premises, including Council housing stock, the owner or tenant is legally entitled to smoke. However departments need to put arrangements in place to reduce the risk of passive smoking. (See smoking guidelines).
- Private Vehicles – employees who use their own private vehicles at work are exempt. However when they carry non-smoking passengers at work courtesy will dictate that they do not smoke.

5. **SMOKING BREAKS**

5.1 If any employee wishes to smoke they must do so in their official break* and they must leave the premises including the car park if there is one. Employees are not permitted to leave the building even if they “clock out” to smoke other than during their official break*.

*** NB Official break is defined as an unpaid statutory rest break such as a lunch break or a paid rest break in premises that have been sanctioned by Management as requiring such a break eg Monwell Hankinson, the Contact Centre, schools, the Business Resource Centres Training Schemes, Sports Centres etc.**

5.2 To help smokers adjust to the policy a 1-month phasing in period from the effective date of implementation will commence. This means that for 1 month only employees will be able to smoke away from the building in car parks for a maximum of two smoking breaks a day. After 1 month car parks etc will be no smoking.

6. **NON-COMPLIANCE WITH THE POLICY**

- 6.1 Non-compliance with the policy is to be taken seriously especially where the Smoke Free etc (Wales) Regulations have been breached. Managers are responsible for ensuring the policy is complied with but each and every employee has a legal responsibility to comply with the law and the policy. Failure to comply with the policy will lead to disciplinary action being taken.
- 6.2 Non-compliance by non-employees such as the public is to be addressed by management and procedures should be implemented to protect the safety of employees who enforce the policy.
- 6.3 In extreme cases of non-compliance with the law, employees and Managers may be subject to penalties such as a fixed penalty notice or own prosecution (see guidelines for more details).

7. **SMOKING CESSATION**

- 7.1 The Authority recognises that some smokers may have difficulties complying with this policy. They must discuss their difficulties with their Line Manager initially and further discussions with Human Resources, the Corporate Health and Safety Manager or the Occupational Health Advisor may be required.

Employees or Elected Members who wish to receive support can:

- Access smoking cessation support via the All Wales Smoking Cessation Service Tel: 0800 085 2219.
- Contact the NHS Smokers Help line for Wales Tel: 0800 169 0169.
- Access support on an individual or group basis. Interested persons should contact the Human Resources Division.
- Attend a recognised smoking cessation course.
- Access free patches or similar products.

8. **SIGNAGE**

- 8.1 Signage that complies with the Smoke Free Premises etc (Wales) Regulations must be displayed: -
 - At all entrances and exits (not fire exits) to smoke free premises.
 - In each compartment of a smoke free vehicle.

Each department and/or premises Managers are responsible for premises signs and the Transport Manager is responsible for vehicle signs.

9. **IMPLEMENTATION**

- The responsibility for implementing the policy and for instigating the appropriate action if there is non-compliance rests with each Corporate Director and their Heads of Service.
- The policy is to be issued to every new and existing employee and posted on the Corporate Health and Safety Sections Intranet Site.
- The policy should be displayed on the relevant notice boards in each workplace.
- The requirements of the policy are deemed to be part of an employees Contract of Employment.
- Departments who use contractors/volunteers/agency workers are responsible for informing them of the policy's requirements.

10. **PRACTICAL CONSIDERATIONS**

The Council recognises that there may be some Council premises where the full requirements of the policy may not be practical for operational reasons. Compromises that do not breach the Smoke Free Premises etc (Wales) Regulations may be appropriate (see guidelines for more details).

**CORPORATE HEALTH & SAFETY MANAGER
CORPORATE HEALTH & SAFETY SECTION**

BLAENAU GWENT COUNTY BOROUGH COUNCIL

CORPORATE HEALTH & SAFETY SECTION GUIDELINES – SMOKE FREE WORKPLACES

1. INTRODUCTION

- 1.1 These guidelines supplement the corporate policy and give Managers and employee's practical guidance and information on the legislation and other factors concerning smoking at work.

2. BACKGROUND

- 2.1 Most Local Authorities have had policies on smoking at work since the late 1980's/early 1990's. These policies have differed from selective bans to outright bans. Historically Blaenau Gwent Council's policies have been as follows: -

- 1990 – selective ban based on voting arrangements. This was based on a vote of employees in a workplace such as an office. The majority decided if it was to be smoking or non-smoking.
- 1996 – selective ban. Based on a vote but (for example) if one single non-smoker in an office of 5 smokers objected to smoking then a ban would result.
- 2001 – Outright ban in all Council premises and vehicles except licensed bars. Employees had to “clock out” and go outside the building to smoke.
- 2003 – The above policy was extended to licensed bars.

- 2.2 Clearly over the years the Council's policy (in line with most other Local Authorities) has become stricter. This is obviously due to different trends and attitudes towards smoking, the reduction in the number of people smoking, the perceived compensation culture and of course, irrefutable medical evidence.

- 2.3 Some Local Authorities have introduced zero tolerance policies in 2006 in anticipation of the Smoke Free (Wales) legislation and because they are trying to obtain the Gold Corporate Health Standard (see paragraph 5).

3. **HEALTH EFFECTS**

- 3.1 It is estimated that there are 6000 smoking related deaths in Wales every year. This means that 1 in 5 deaths in Wales is attributable to smoking. The figure of 6000 deaths greatly exceeds the number of other premature deaths such as work related accidents and ill health, road traffic accidents, drug overdoses etc.
- 3.2 Whilst the dangers to smokers have been established for decades, in the past decade awareness has grown of the dangers to non-smokers from second hand tobacco smoke (passive smoking). The UK Scientific Committee on Tobacco and Health reviewed the evidence of second hand smoke in 2004. They concluded that it was a serious risk to public health and that exposure to second hand smoke increases the risk of: -
- Heart disease amongst non-smokers by 25%.
 - Lung cancer amongst non-smokers by 24%.
 - Respiratory problems in adults and children.
 - Sudden infant death syndrome (cot death).
 - Middle ear infection in children.
 - Asthma attacks.
- 3.3 Many people assume that proper ventilation can eliminate the health risks associated with second hand smoke. However, substantial evidence shows that ventilation systems only eliminate the smell and visibility of smoke – not the toxic carcinogens (cancer causing agents). As there is no safe level of exposure to second hand smoke, ventilation is not an option.
- 3.4 It is estimated that eliminating exposure to second hand smoke in enclosed public places will prevent over 400 deaths each year among non-smokers in Wales from heart disease, cancer, and respiratory illness. In addition experience from other countries show that restrictions on smoking in public places causes smokers to reduce the number of cigarettes they smoke and even give up altogether.

4.1 **Smoke Free Premises etc (Wales) Regulations 2007**

4.1.1 The Regulations came into force on 2 April 2007. The Regulations have been introduced to reduce the risks of smoking to both smokers and non-smokers. The Regulations are relatively straightforward but their implications are wide reaching. There are exemptions for reasons of practicality and in general the Regulations try to protect most people in most working situations, rather than everyone in every working situation.

The Regulations require: -

- All **enclosed** public places to be smoke free. This includes pubs, clubs, restaurants, hospitals, offices, shops, indoor leisure facilities, factories, workshops, day centres, community centres, youth centres, public toilets, schools, colleges etc. (Enclosed means if the premises has a ceiling or a roof, and except for doors, windows and passageways, are wholly enclosed whether on a permanent or temporary basis). Whilst they are not workplaces, communal areas of domestic buildings such as flats or sheltered housing complexes should also be smoke free.
- All **substantially enclosed** public places to be smoke free. (Substantially enclosed means if they have a ceiling or roof but there are openings in the walls, which are less than half of the total area of the walls, including other structures that “serve” as walls. In other words more than 50% enclosed). Therefore many porches outside of buildings or canopy type structures are substantially enclosed. Most bus shelters will also be substantially enclosed.
- **Vehicles** that are used to transport the public or are used by more than one employee in carrying out work duties even if this is at different times or only intermittently must also be smoke free. However private vehicles which are defined as vehicles which are used primarily for private purposes by persons who own them or have the right to use them in an unrestricted way are not required to be smoke free. Clearly Council owned or hired vehicles must be smoke free but cars owned by employees even when used for work purposes do not have to be smoke free.
- Premises and vehicles to have suitable **signage**: -
 - Premises signs must be displayed in a prominent position at or near every entrance (not fire exits). They must be flat and rectangular and be a minimum of 160 mm x 230 mm. They must contain a graphic representation of a burning cigarette enclosed in a red circle at least 85 mm in diameter with a red bar across the circle which crosses the cigarette symbol. They must say “it is against the law to smoke in these premises” in English and Welsh.

- Vehicle signs must contain the same graphic symbol as premises but be at least 75 mm in diameter. No text is necessary but it must be displayed in each compartment of the vehicle.

4.2 **Exemptions to the Smoke Free (Wales) Regulations**

4.2.1 Only a few exemptions to the law have been granted, mainly to cover workplaces that are also a persons place of residence. They are as follows: -

Residential Premises - Designated rooms in adult residential care homes, private flats in sheltered housing, adult hospices and residential mental health treatment setting.

A “**designated room**” or a “**designated bedroom**” means a room which:

- Has been designated by the person in charge of the establishment as a room in which smoking is permitted and has been clearly marked as a smoking room.
- Has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor to ceiling walls.
- Does not have a ventilation system that ventilates into any other part of the premises (except any other designated rooms or designated bedrooms).
 - Does not have any door which opens on to smoke free premises that is not mechanically closed immediately after use.

NB Designated rooms in residential homes are for residents only, not for staff and visitors.

Domestic Premises

Domestic premises such as privately owned houses, flats or rented accommodation (even Council housing stock) are not required to be smoke free. However communal areas such as stairwells in flats are required to be smoke free.

4.3 **Penalties**

4.3.1 Failure to comply with the law will be a criminal offence, as set out in the Health Act 2006. Penalties and fines are being set in Regulations to be made by the Department of Health: -

- Individuals may be liable to a fixed penalty of £50 for smoking in smoke free premises. In cases of prosecution and conviction, the maximum fine is £200.
- The Manager or person in control of any smoke free premises could be fined a fixed penalty of £200 for failing to display no smoking signs. In cases of prosecution and conviction, the maximum fine is £1,000.
- The Manager or person in control of any smoke free premises could be fined up to £2,500 for failing to prevent others from smoking in those premises.

Therefore it is clear that any premises Manager or responsible person who tolerates smoking by employees or others in smoke free areas could be liable for prosecution.

It is important to stress that the Environmental Health Section of Blaenau Gwent Council's Public Protection Division is primarily responsible for enforcing the new laws in all public places. It would therefore be embarrassing if they have to take action against anyone in the employment of their own Employer (Blaenau Gwent County Borough Council).

4.4 **Other Legislation**

Other legislation that can be applied to smoking in places of work are:

- Section 2 and 3 of the Health and Safety at Work Act 1974 (Employers responsibilities to their employees and others).
- Section 7 of the Health and Safety at Work Act 1974 (Employees responsibilities to themselves and others).
- The Management of Health and Safety at Work Regulations 1999 (Risk Assessment).
- Workplace Health, Safety and Welfare Regulations 1992 (welfare facilities must be smoke free).

5. **CORPORATE HEALTH STANDARD**

The Corporate Health Standard is the national mark of quality for health and well being in the workplace. The Standard has been developed to target the key preventable ill – health issues and the Health Challenge Wales priorities. The Standard promotes good practice and supports organisations on taking steps to promote the health and well being of their employees. The Standard is awarded to Employers at different levels, Bronze, Silver, Gold and Platinum. Blaenau Gwent Council is

committed (a corporate commitment) to achieving the Silver Standard in 2007 and the Gold Standard in the future. Employers are assessed on whether or not they meet the key elements of the Standard. One of these key elements is a “tobacco” policy. To meet the Silver criteria they must: -

- Have a smoke free policy. This does not require a ban outside of buildings but such a ban would send a clear message to the assessors that the Council is committed to eliminating second hand smoke and set an example to other employers in the Borough.
- Provide smoking cessation support and services.

6. **CURRENT TRENDS**

The current trends are showing a gradual shift towards zero tolerance (bans outside as well as inside). Many NHS Trusts have implemented zero tolerance in their hospitals. Out of 22 Welsh Local Authorities 7 have already implemented zero tolerance with the rest considering it. The Welsh Local Government Association are also in the process of adopting such a policy.

7. **PRACTICAL REASONS FOR A SMOKE FREE POLICY**

There are three practical reasons why a ban on smoking outside the building is required: -

- If the Council tolerated smoking by staff and others in car parks etc it is obvious that bad weather will mean staff and others heading for the nearest sheltered area eg porches, building entrances etc to smoke. Therefore they will be entering substantially enclosed areas and will breach the legislation.
- Non-smoking staff regularly complain at the amount of time staff spend outside the building smoking whilst they are at work.
- The “clocking out” arrangements of the previous policy were abused and in many cases not enforced by Management.

8. **VEHICLES**

The Smoke Free (Wales) Regulations 2007 ban smoking in Council owned or hired vehicles. The Regulations do not ban employees from smoking in their own cars. However, some Authorities have barred their employees smoking in their own cars whilst they are at work (eg driving to a meeting etc). It is clear that this is unenforceable and not reasonably practicable. However, employees who smoke should be simply asked not to smoke when carrying work related passenger/s.

9. **VISTING OTHER PREMISES OR PEOPLES HOMES**

- 9.1 If an employee visits work premises not owned or managed by the Authority then that employee must comply with the policy of the Employer owning or managing the premises. In any case the employer owning or managing the premises, their employees, and visitors must comply with the law.
- 9.2 Employees visiting other peoples homes are required not to smoke whilst on Council related business.
- 9.3 Employees are potentially at risk from working in peoples homes if the resident smokes in their presence. However, the Smoke Free (Wales) Regulations do not apply to domestic premises and the Authority cannot require residents not to smoke when an employee is present. However, Departments/Managers need to put reasonably practicable systems in place, such as simply asking residents not to smoke in their presence. If visits by employees are likely to be regular (eg Home Care, housing maintenance etc) then this request could be in writing. A verbal request would be appropriate for irregular visits and clearly it is not reasonably practicable to write to every single private property in the Borough. If residents don't comply then work should continue temporarily as it is not reasonably practicable to withdraw the service (eg in the middle of a housing repair). However, persistent offenders should be contacted by Management and a course of action agreed with the Health and Safety Manager, and if necessary, the Chief Legal Officer.

10. **ENFORCEMENT BY MANAGEMENT**

- 10.1 The Authority's policy clearly states that each Corporate Director and their Heads of Service are responsible for implementing and enforcing the policy in their Directorates. Ensuring compliance by staff is relatively straightforward but clearly there are occasions (eg large concert at a Leisure Centre) where there are potential conflict situations with the public. Such occasions are best dealt with by judgement and training. Staff should not put themselves at unnecessary risk but "do nothing because its safer" is not an option where the law is being broken.
- 10.2 Whilst most people will comply with the law it is anticipated that compliance outside the building will not be 100%. Compliance with the law should be a priority but Managers should not overlook compliance outside the building (as the Authority's policy requires).
- 10.3 If someone ignores the policy, the flow chart in Appendix 1 sets out steps for consideration. Clearly the chart cannot be used in all circumstances and only in extreme cases for non-compliance with the law (involving staff) should Managers contact the Environmental Health Team.

Managers should also try and enforce the policy with non-employees such as the public but again in extreme cases of non-compliance with the law Environmental Health Team can be contacted.

11. **SMOKING CESSATION**

11.1 Clearly some smokers may find it difficult to comply with a smoke free policy. They must discuss their difficulties with their Line Manager who in turn can contact the appropriate officer in Human Resources, the Corporate Health and Safety Manager or the Occupational Health Advisor. The Council must provide help and support to smokers who have difficulties with the policy for the following reasons: -

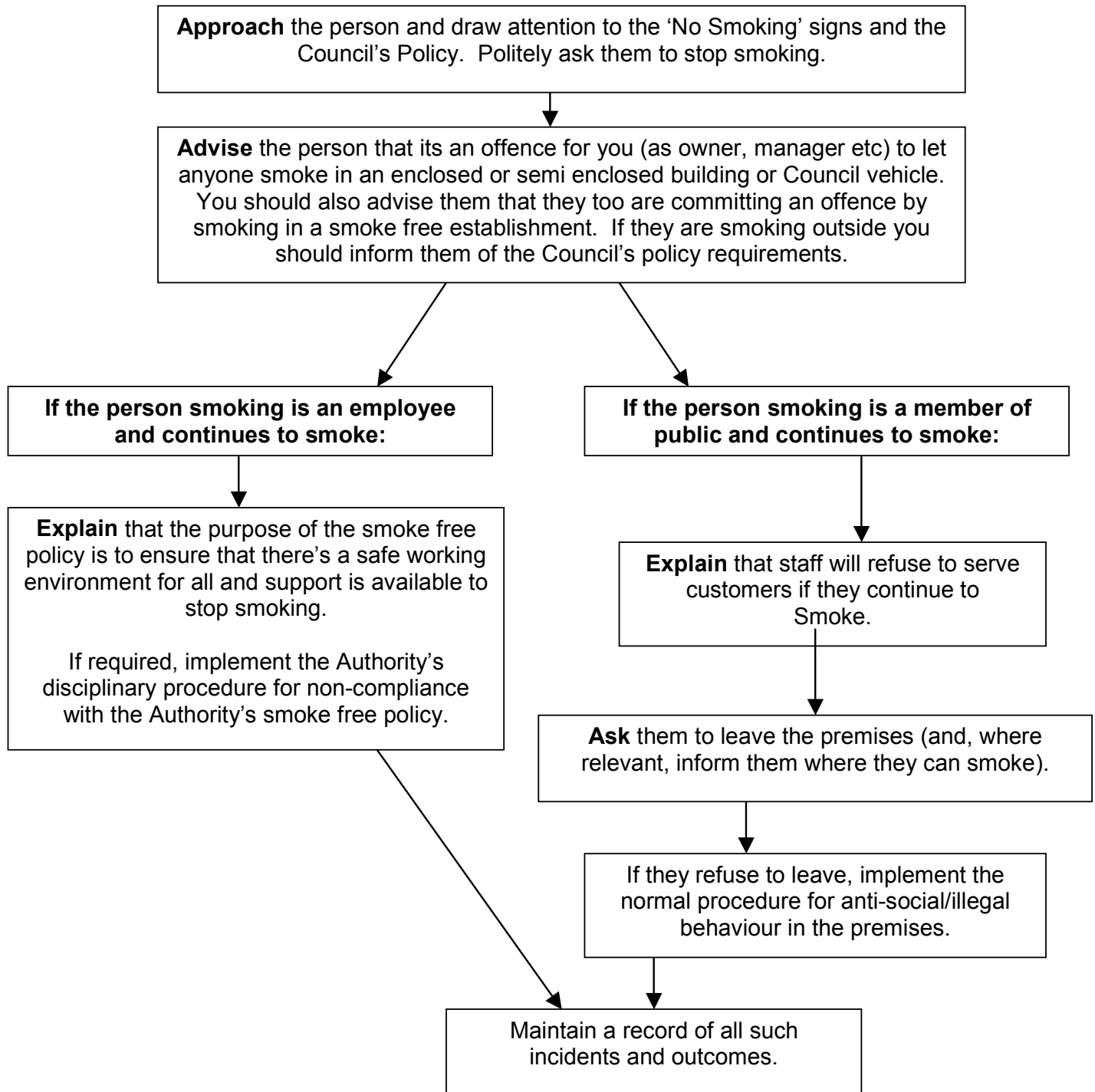
- Smoking is a very addictive habit and giving up smoking is difficult for many peoples.
- To achieve the Silver Corporate Health Standard the Council must offer help and support to smokers.

For details of smoking cessation etc please refer to the policy.

12. **PRACTICAL CONSIDERATIONS**

12.1 The policy states that there may be some Council premises where the full requirements of the policy may not be practical for operational reasons. Compromises that do not breach the legislation can be sought. Departments or Managers who identify premises that fall into this category must contact the Corporate Health and Safety Manager to discuss. There may need to be involvement from the Environmental Health Enforcement Team, the Human Resources Division and others.

**CORPORATE HEALTH & SAFETY MANAGER
CORPORATE HEALTH & SAFETY SECTION**



- In all cases where physical violence or intimidation is threatened or encountered, seek the assistance of the police.
- Another option is to contact the Authority's Environmental Health Team who can issue fixed penalty notices for non-compliance with the law. However please see Section 10.3 in the guideline for details.