

## SMOKE FREE GUIDANCE FOR PREMISES LICENCE HOLDERS (and Club Premises Certificate holders)

### Smoke free legislation

The 'Smoke Free' provisions in the Health Act 2006 come into effect on the **1<sup>st</sup> July 2007**.

The Government's aim in introducing this legislation is to protect everyone from the adverse effects and unpleasantness associated with indoor smoking. Clubs, pubs, entertainment venues, hotels, guest houses, restaurants and late night food providers and takeaways are all included. Virtually all enclosed public places and workplaces in England will become smokefree on this date. The law requires that indoor workplace smoking rooms must discontinue. Anyone wanting to smoke will have to go outside instead.

This guidance is not intended to explain the new smoke free legislation in detail, but to remind you that licence holders must trade within the law and to provide a brief outline explaining how licence will be affected.

### These provisions will affect your business.

Be aware of the new requirements and take action appropriate to your premises to comply

### Do I have to provide an outside smoking area or shelter?

- You don't have to provide places for people to smoke
- but you do have to have the correct new signs in place even if your premises is already smoke free.

### If I decide to provide an outdoor smoking area or shelter – What should I consider?

- You will almost certainly require planning consent before constructing shelters or awnings of any kind.
- Be aware of land ownerships, leases and street drinking restrictions.
- Examine your existing licence carefully. Look for restrictions on terminal hours, conditions relating to the use of external areas and any requirements for entry and re-entry to the premises.
- You may need to apply for a variation to your premises licence (or club premises certificate) to serve or sell alcohol outside, or if your proposal affects the movement of people through the premises or may affect queuing outside the premises.
- You must not compromise safety and in particular fire escape routes and access to equipment.
- Nuisance caused by smoke and noise will be key issues and should be considered carefully. You are advised to liaise with your neighbours in advance.
- Areas you provide for use by smokers which have any part roofed must have 50% or more of the perimeter permanently unenclosed. Temporary awnings, umbrellas, canopies, shutters, doors or windows etc. must be assumed closed or fully extended when calculating the 50% rule. Shelters too close to other structures may be considered enclosed. Beware that many proprietary solutions being offered don't comply. If in doubt, don't do it, you will be wasting your money.

### How might this legislation affect my Premises Licence / Club Premises Certificate?

- Prosecution for failing to prevent smoking in enclosed areas of the premises may be used as evidence of poor management by responsible authorities requesting review of a premises licence.
- Your neighbours can request a review of the premises licence if they believe use of the premises is creating exterior nuisance affecting their enjoyment of their own property. Remember, prevention of public nuisance is a Licensing Act 2003 objective.
- A review of your licence would involve multi agency examination of your business and its management.

### What are the offences and who can be prosecuted?

- It is a criminal offence not to display adequate signage.
- Failing to prevent smoking in a smoke free place is a criminal offence.
- Smoking in a smoke free place is a criminal offence
- Failing to comply with a premises licence or club premises certificate is a criminal offence.

### Staff training and awareness

It is wise to ensure your staff (and Designated Premises Supervisor where alcohol is supplied) are aware of the smoke free provisions. Persons in charge of the premises at any time can be held responsible, not just the licence holder.

### Who will enforce the legislation?

Blackpool Council Enforcement Officers will actively enforce the legislation. Where premises are alleged to be offending, they will be visited and action taken if offences are being committed.

### Where can I get more information?

For full information on the new laws visit  
Advice on quitting smoking  
Smoking shelter & general Council guidance  
Other enquiries

[www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk)  
[www.gosmokefree.co.uk](http://www.gosmokefree.co.uk)  
Blackpool Council website (search for 'smoking')  
Blackpool Council Customer First Tel: 01253 477477