

Leicester  
City Council

**WARDS AFFECTED**  
**ALL**

**Cabinet**

**25 June 2007**

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## **Smokefree Regulation Policy**

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### **Report of the Corporate Director of Regeneration & Culture**

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#### **1 Purpose of Report**

- 1.1 To seek Cabinet approval of the regulatory approach that officers will take in dealing with smokefree related regulation and enforcement in Leicester.

#### **2 Summary**

- 2.1 On 1 July 2007 the Health Act 2006 brings in a ban on smoking in all enclosed and substantially enclosed work places, public places and vehicles. Leicester City Council is responsible for ensuring that owners/managers of workplaces, public places and vehicles, employees and visitors comply with the smokefree legislation. The requirements are that:

- premises owners/managers take steps to stop smoking on their premises
- premises and vehicles display appropriate signage
- individuals do not smoke in smokefree places

- 2.3 Cabinet, on 12<sup>th</sup> March 2007, endorsed a broad framework for introduction of Smokefree legislation in Leicester, delegated powers to the Corporate Director Regeneration & Culture and asked that arrangements be made for enforcement of the legislation. Cabinet further requested that a Smokefree Regulation Policy is drawn up and submitted for approval prior to 1<sup>st</sup> July 2007.

- 2.4 The Smokefree Regulation Policy proposed in this Report sets out how the Smokefree Team will work to achieve compliance and the criteria that will be used in deciding how to respond to breaches of the legislation. The Policy sets out that enforcement action will be taken where it is fair and proportionate to do so, and provides guidance on how this is to be interpreted.

- 2.5 There are differences in smoking prevalence and consumption in the UK, varying by age, sex, social class, employment status, and ethnicity. The benefits of smokefree legislation will accrue across all communities. However, it is expected that the most significant impacts will be for people from lower socio-economic classes as these are more likely to smoke than those from higher classes.

- 2.6 Evidence, albeit anecdotal at this stage, from elsewhere in the UK does not indicate any correlation between non-compliance with smokefree legislation and the ethnicity or socio-economic status of premise owners/managers, employees

and visitors/clientele. It is not thought that the enforcement burden will fall disproportionately on specific community groups in the City.

### **3 Recommendations**

Cabinet is recommended to:

- 3.1 Approve the Smokefree Regulation Policy attached to this report.
- 3.2 Delegate authority to the Corporate Director of Regeneration & Culture to amend the Policy in consultation with the Cabinet Lead for Environment and Sustainability using national guidance and local experience.

### **4 Financial & Legal Implications**

#### ***Financial Implications***

- 4.1 The implementation of Smokefree legislation is funded with new monies made available by Government and received by way of a Section 31 Grant under the Local Government Act 2003. A sum of £193,007 has been earmarked for Leicester City Council being £32,819 in 2006/07 and £160,188 in 2007/08. Future funding levels and arrangements are not known at present.
- 4.2 The majority of this grant will be used to fund a team of 4 staff who will lead on implementation of the smokefree legislation, with the remainder being used to fund associated costs, production of guidance and documentation, awareness events for local businesses, legal costs. Fixed Penalty monies will be used to offset the cost of the service. Likely income is not known at this time.
- 4.3 The future funding issue will be addressed in the 2008/09 budget setting process which will commence in the latter half of 2007.

*Martin Judson, Head of Resources, Regeneration & Culture, ext 7390*

#### ***Legal Implications***

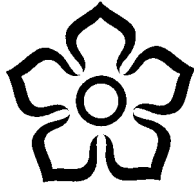
- 4.4 As of the 1st of July 2007, smoke free legislation in England comes into force. The policy details the legislation and powers that the Council will have a duty to enforce as an enforcement authority under the provisions detailed in Section 1.1 of the Policy.
- 4.5 The authorised officers who will be tasked with the enforcement powers will need to be given delegated authority by the relevant Director and the new legislation included in the delegated powers list to come into effect on the 1st of July.

*Jamie Guazzaroni, Solicitor, Legal Services, ext 6350*

### **5 Report Author**

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<b>Key Decision</b>	No
<b>Reason</b>	N/A
<b>Appeared in Forward Plan</b>	N/A
<b>Executive or Council Decision</b>	Executive (Cabinet)



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## **Smokefree Regulation Policy**

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### **Report of the Corporate Director of Regeneration & Culture**

#### **Report**

#### **1. Background**

- 1.1 Smoking is the principal avoidable cause of premature deaths in the UK. Smokefree places is one on the measures being taken to reduce the 106,000 deaths in the UK caused by smoking every year (86,500 in England) and this measure is specifically aimed at protecting the health & safety of employees, visitors and vehicle users from second hand smoke.
- 1.2 From 1 July 2007 the Health Act 2006 brings in a ban on smoking in all enclosed and substantially enclosed work places, public places and vehicles. Leicester City Council is responsible for ensuring that owners/managers of workplaces, public places and vehicles, employees and visitors comply with the smokefree legislation, namely, that:
- premises owners/managers take steps to stop smoking on their premises
  - premises and vehicles display appropriate signage
  - individuals do not smoke in smokefree places
- 1.3 Cabinet, on 12<sup>th</sup> March 2007, endorsed a broad framework for introduction of Smokefree legislation in Leicester, delegated powers to the Corporate Director Regeneration & Culture and asked that arrangements be made for enforcement of the legislation. Cabinet further requested that a Smokefree Regulation Policy is submitted for approval prior to 1<sup>st</sup> July 2007.

#### **2. The Issues**

- 2.1 The Legislative and Regulatory Reform Act 2006, and any codes of practice that may be made under that Act, require local authority regulatory activities to be carried out in a way which is transparent, accountable, proportionate and consistent.
- 2.2 The purpose of this Policy is to set out for the benefit of local businesses, the public, councillors and officers how smokefree regulatory activities will be undertaken in the City and the criteria that will be used for enforcement action.

- 2.3 The City Council places a strong emphasis on working with businesses and any interested representative groups to ensure compliance with the law and that the health of the public and workers is protected.
- 2.4 Leicester City Council will seek to ensure, through the provision of information, advice, guidance, training and enforcement action, that persons in control of 'enclosed' or 'substantially enclosed' work places, public places and work vehicles, their representatives, the public and other duty holders comply with the smokefree legislation.
- 2.5 The City Council commits itself to applying a consistent approach to enforcement action across a business sector or similar business sectors, so that regulatory activities and actions reflect the real risk to worker and public health. The risk profile in the City is not uniform and regulatory efforts will be targeted at those premises which have the highest risk. Consequently, business and other premises where smoking is not, or has never been, the 'norm' can expect a lighter touch as regards inspectional activities from the commencement of the ban. As the risk profile changes regulatory efforts will be retargeted.
- 2.6 The City Council will consider every complaint made and will respond accordingly. This may be through an immediate inspection or through insertion of the complained about premise into the inspection programme.
- 2.7 The City Council has a limited number of enforcement measures available:
- Informal warnings
  - Fixed penalties notices (for inadequate signage and smoking in smokefree place)
  - Legal proceedings (for permitting smoking in smokefree place)
- 2.8 Enforcement action will be taken where there has been a breach of the legislation and it is fair and proportionate to do so. Circumstances vary considerably and it is impossible to set out definitive rules for each conceivable scenario. However, Section 5, Enforcement Action, Regulation Policy does set out guidance on making a decision on enforcement action.

### **3. Equalities Impact Assessment**

- 3.1 There are large differences in smoking prevalence and consumption in the UK, varying by age, sex, social class, employment status, and ethnicity. People in deprived circumstances are not only more likely to take up smoking but generally start younger, smoke more heavily and are less likely to quit smoking, each of which increases the risk of smoking-related disease.
- 3.2 Smoking behaviour is strongly related to a person's socio-economic class. People from lower socio-economic classes are more likely to smoke than those from higher classes. Part of the pattern of smoking among the different ethnic groups is explained by the socio-economic differences among the groups. For example, Bangladeshi men were over represented in the lowest socio-economic class (semi-routine or routine occupations), and these men also had the highest rates of smoking.
- 3.3 The benefits of smokefree legislation will accrue across all communities.

- 3.4 Evidence from elsewhere in the UK, albeit anecdotal at this stage, does not indicate any correlation between non-compliance with smokefree legislation and the ethnicity or socio-economic status of premise owners/managers, employees and visitors/clientele.
- 3.5 It is therefore thought that the enforcement burden will not fall disproportionately on specific community groups in the City. To reduce the risk of this happening the Smokefree Team has undertaken intensive work with some discrete business sectors, namely, sheesha cafes/bars to make them aware of the legislative restrictions that will apply and encourage them to consider alternative services for customers.

- About 12 million adults in the UK smoke cigarettes - 27% of men and 26% of women. There has been a large fall over past decades through established smokers quitting but almost as many young people are taking up smoking as previously.
- Research shows, in so far, as ethnicity is concerned there are differences in prevalence (The Health of Minority Ethnic Groups, Health Survey for England 1999, TSO (London 2001)).
- Bangladeshi men were the most likely group to smoke cigarettes (44 per cent in 1999), followed by White Irish (39 per cent) and Black Caribbean men (35 per cent). Men from each of these ethnic groups were more likely to smoke than men in the general population (27 per cent). Chinese men (17 per cent) were the least likely to smoke. Similar proportions of Pakistani (26 per cent) and Indian (23 per cent) men smoked as in the general population.
- Like men, White Irish and Black Caribbean women had the highest smoking rates in 1999 (33 per cent and 25 per cent respectively), although only White Irish women had a rate higher than the general population (27 per cent). However, unlike men, women in every other minority ethnic group were much less likely to smoke than women in the general population.
- Patterns of cigarette smoking among the different ethnic groups remained the same after allowing for differences in their age structures.
- Although very few Bangladeshi women smoked cigarettes, a relatively large proportion (26 per cent) chewed tobacco. This method of using tobacco was also popular among Bangladeshi men (19 per cent), but they tended to use it in conjunction with cigarettes.
- In the general population, men and women were equally likely to be smokers. However, among minority ethnic groups women were less likely to smoke than men. The sex difference was particularly marked among the Bangladeshi group.

3.6 Statement from Louise Ross – Smoking Cessation officer, LCPCT Directorate of Public Health, on the health benefits of smokefree:

“Once England goes smokefree, the number of people previously exposed to second hand smoke will drop significantly. This is good news for smokers and non-smokers alike. Most smokers say that this will help them to quit or at least cut down. Non-smokers, especially those suffering from asthma and other respiratory problems, will be able to enjoy smokefree work, leisure and travel. This is important as being exposed to secondhand smoke can increase a non-smoker's risk of getting lung cancer by 24% and the risk of getting heart disease by 25%, as well as being associated with many other medical conditions like the respiratory disease, COPD and other types of cancer.

The Leicester Tobacco Control Coordination Group have been meeting regularly since the announcement of the smoking ban to plan means by which the ban shall be implemented. The affiliated organisations are already working hard to promote the smokefree message by supporting and informing businesses and all organisations that have enclosed public spaces. It is envisaged that this work will increase beyond the ban date of July 1<sup>st</sup> 2007.

Anyone in Leicester wanting help to stop smoking can contact STOP! on (0116) 295 4141. The team offer a wide range of sessions throughout Leicester. This is a free NHS service and smokers are four times more likely to quit for good with the help and support the team offer.

[www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk)

Some of the health benefits from stopping smoking can occur quite quickly as the table below shows. Other health improvements may take many years, depending on how long a person has smoked. “

<b>Time since quitting</b>	<b>Beneficial health changes that take place</b>
<b>8 hours</b>	Nicotine and carbon monoxide levels in blood reduce by half, oxygen levels return to normal. Circulation improves.
<b>24 hours</b>	Carbon monoxide and nicotine eliminated from the body.
<b>48 hours</b>	The decline in lung function and excess risk of lung cancer halts.
<b>1 month</b>	Appearance improves – skin loses its grayish pallor and becomes less wrinkled
<b>3 - 9 months</b>	Coughs and wheezing declines
<b>1 year</b>	The excess risk of a heart attack reduces by half compared to that of a smoker.
<b>15 years</b>	Risk of heart attack falls to the same as someone who has never smoked.

#### 4. OTHER IMPLICATIONS

##### 4.1

OTHER IMPLICATIONS	YES/NO	PARAGRAPH REFERENCES WITHIN SUPPORTING PAPERS
Equal Opportunities	Y	See Section 3
Policy	N	
Sustainable and Environmental	N	
Crime and Disorder	Y	Enforcement activity may be undertaken at times and places where there are other 'crime and disorder' concerns. Enforcement activity may lead to 'crime and disorder' issues. Activities will be co-ordinated with police as necessary.
Human Rights Act	Y	Regulatory activities and enforcement impinge on Human Rights. The Regulation of Investigative Powers Act 2000 and codes issued thereunder provide safeguards to ensure that any intrusion is properly considered and justified.
Older People on Low Income	Y	Some of the highest levels of smoking occur within deprived areas/communities. Legislative impact and public health benefit are therefore likely to be greatest in these areas.

##### 4.2 Risk Assessment Matrix

	Risk	Likelihood L/M/H	Severity Impact L/M/H	Control Actions (if necessary/or appropriate)
1	Health & Safety of Officers	L	L	Review H&S procedures and re-issue if necessary. Involve Police where breach of peace is likely.
2	Court costs for failed legal action	L	L	Keep under review emerging national guidance, reported and unreported court cases. Liaise with Legal Services

L - Low  
M - Medium  
H - High

L - Low  
M - Medium  
H - High

**5. Background Papers – Local Government Act 1972**

Cabinet, 12 March 2007, Implementation of Smokefree Legislation in Leicester,  
Report of the Corporate Director of Regeneration & Culture

The Health of Minority Ethnic Groups, Health Survey for England 1999, TSO  
(London 2001)

**6. Consultations**

**Consultee**

R&C Head of Finance

Legal Services

Louise Ross

**Date Consulted**

6 June 2007

6 June 2007



## **FOR CABINET APPROVAL**

# **Leicester City Council's Smokefree Regulation Policy**

## **1.0 PURPOSE**

- 1.1. This document outlines the policy of Leicester City Council for the enforcement of the smokefree provisions of the Health Act 2006, the Smoke-free (Premises and Enforcement) Regulations 2006, etc.

## **2.0 THE AIMS OF THE POLICY**

- 2.1 The City Council is charged with the duty of ensuring that the public, businesses and operators of public premises comply with the smokefree premises and vehicles requirements of the Health Act 2006.
- 2.2 The aims of the Regulation Policy are to ensure that regulatory activities are carried out in a way which is transparent, accountable, proportionate and consistent as required by the Legislative and Regulatory Reform Act 2006 and any codes of practice made under that Act.
- 2.3 The Policy will be applied to all smokefree regulatory activities and must be adhered to by all officers of Leicester City Council authorised for this purpose.

## **3.0 OVERALL APPROACH TO REGULATION**

- 3.1 Leicester City Council will seek to ensure, through the provision of information, advice, guidance, training and enforcement action, that persons in control of 'enclosed' or 'substantially enclosed' work places, public places and work vehicles, their representatives, the public and other duty holders comply with the smokefree legislation.
- 3.2 The City Council places a strong emphasis on working with businesses and representative groups to ensure compliance with the law and that the health of the public and workers is protected.
- 3.3 The City Council will apply a consistent approach to enforcement action across all business sectors and communities.
- 3.4 The City Council's Authorised Officers will take formal enforcement action (fixed penalty notices, legal proceedings) where public health has been placed at risk by a failure to comply with the law and it is fair and proportionate to do so.
- 3.6 For the purposes of this policy an authorised officer is any member of staff employed by Leicester City Council who is authorised to enforce the provisions of the Health Act 2006 by the Service Director of Environmental Services.
- 3.7 The City Council will promote the availability of smoking cessation services whenever possible to maximise impact in improving public health.

## FOR CABINET APPROVAL

### 4.0 REGULATORY STRATEGY

4.1 In addition to providing information and advice to persons in control of smokefree premises, their representatives, the public and other duty holders, Leicester City Council will undertake to :-

- Carry out a pro-active risk based programme of inspections of smokefree premises and vehicles within the City of Leicester.
- Investigate all complaints about smoking in smokefree premises and vehicles.
- Signpost employers, the public and other duty holders to partner organisations, such as Business Link, Leicester PCT Stop!
- Promote consistency in enforcement standards through staff training, staff guidance, liaising with other local authorities and adhering to national guidance produced for officers involved in the enforcement of the provisions of the Health Act 2006.
- Work in partnership with neighbouring district councils, the PCT and other organisations for specific enforcement and educational initiatives.

#### **Inspections**

4.2 Inspections will be carried out by Authorised Officers to check compliance with smokefree legislation and ensure that, where necessary, appropriate remedial action is taken. Inspections may be proactive, i.e. driven by a risk assessment, or reactive, i.e. in response to a specific complaint or other intelligence.

4.3 Inspections will be scheduled on the basis of a risk assessment. This assessment will include consideration of:

- The nature of the business or the activities underway in the premises
- The history of compliance with public health and consumer protection legislation
- The nature and number of smoking related complaints received by the City Council about premises of that type.

4.4 Authorised Officers may carry out a compliance check in a variety of ways. The check may be by:

- a) Open Inspection – where the officers announce themselves and show appropriate identification to person in charge of premises, prior to assessing compliance with the provisions.
- b) Covert Inspection – where the officers will assess compliance by observation within the premises. At the end of the inspection officers will inform the person in charge of premises of their presence, present their identification and report their findings.

## FOR CABINET APPROVAL

- c) Surveillance Inspection – where officers assess compliance by observation within the premises. Observations may take place at several points in time. The person in charge of the premise will be informed at the end of the surveillance exercise.

The choice of inspection method is one for professional judgement of departmental management.

- 4.5 Any covert surveillance will comply with the Council's policy in relation to the Regulation of Investigatory Powers Act 2000 (RIPA).
- 4.6 Authorised officers will, in the normal course of events, leave a written report for the premises manager at the end of any inspection outlining their findings and any requirements for compliance. The time period for compliance will be agreed with the owner/manager/proprietor. If appropriate, a further letter will be sent (within 10 working days) to clarify any complex issues arising out of the inspection.

### **Responding To Enquiries And Complaints**

- 4.7 Enquiries and complaints, including anonymous complaints, will be accepted directly by the Smokefree Team/Health & Safety Team or via any corporate, local or national enquiry points that exist.
- 4.8 The protocol arrangements for responding to a service request are as follows:
  - a) The receiving officer will assess the nature of the enquiry and will normally contact the 'enquirer' to clarify matters.
  - b) If the enquiry is judged to be a request for information or advice the officer will provide the information or advice and, if necessary, will refer the caller to the Smokefree England Information line on **0800 169 1697** or the website [www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk).
  - c) If the enquiry identifies a potential breach of the legislation in a local business or public building then the Smokefree Team/Health & Safety Team may carry out an immediate inspection or include the premise in a planned inspection programme or project. The decision will be based on the quality of the information provided, the seriousness of the alleged breach, in particular the persons affected by the breach and the history of compliance.
  - d) Businesses and other public premises with a history of complaints will be given priority in compliance inspection programmes.
  - e) The Smokefree Team/Health & Safety Team will notify the complainant when their complaint has been investigated and action taken.
  - f) The complaint and action undertaken will be documented by the authorised officer and Uniform 7 updated accordingly.

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g) The complaint record and any copies of correspondence will be filed appropriately.

4.9 The information held by the Smokefree Team is subject to the Freedom of Information Act and the Data Protection Act.

### 5.0 ENFORCEMENT ACTION

5.1 On discovering a breach of legislation the Authorised Officer of the City Council may:

- Issue an 'informal' warning
- Issue a Fixed Penalty Notice
- Initiate legal proceedings

5.2 In deciding on what action it is fair and proportionate to take, Authorised Officers will have due regard to the guidance below.

#### **Issue of an 'informal' warning**

5.3 The issue of an 'informal' warning would be appropriate where the premises manager, employee or visitor could reasonably not have known that the premises were subject to smokefree legislation and are willing to take prompt remedial action.

5.4 The issue of an 'informal' warning would be appropriate where the premises manager has taken steps to comply with the smokefree legislation but the compliance is incomplete.

5.5 The issue of an 'informal' warning would not be appropriate where the premises manager, employee or visitor has been previously informed and failed to take remedial action.

5.6 The issue of an 'informal' warning would not be appropriate where the premise belongs to a business sector which has been the subject of a special national and/or local information campaign, such as the licensed trade or taxi.

#### **Issue of a Fixed Penalty Notice**

5.7 A Fixed Penalty Notice will normally be issued where the premises manager, employee or visitor should reasonably have known that the premises was subject to smokefree legislation, has failed to heed advice given or to take appropriate action within the agreed time.

5.8 A Fixed Penalty Notice will normally be issued where the employee or visitor does not cease smoking when asked to do so by the premises manager or Authorised Officer.

5.9 A Fixed Penalty Notice will be issued at the time that the breach is identified, or if appropriate at a later date.

## FOR CABINET APPROVAL

5.10 A Fixed Penalty Notice will:

- identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence
- state the amount of the penalty and the period within which it may be paid
- state the discounted amount and the period within which it may be paid
- state the person to whom and the address at which payment may be made
- state the method or methods by which payment may be made
- state the person to whom and the address at which any representations relating to the notice may be made
- state the consequences of not making a payment within the period for payment

5.11 The current amounts of the fines for fixed penalty notices are indicated in Appendix 1.

5.12 If a Fixed Penalty Notice is served, and the recipient does not make the appropriate payment within the prescribed timescale, the Council will institute legal proceedings.

### **Legal Proceedings**

5.13 The City Council will prosecute premises managers where there has been a major breach of the legislation, for example, by permitting frequent social or widespread smoking by employees an/or visitors in premises that are supposed to be smokefree.

5.14 In deciding whether to prosecute, the following issues will also be considered:

- whether there has been a blatant disregard for the law;
- the economic advantages of breaking the law;
- the general record and approach of the offender;
- whether it is desirable to be seen to produce some public effect, including the need to ensure remedial action and, through the punishment of offenders, to deter others from similar failures to comply with the law;
- whether evidence available provides a realistic prospect of conviction;
- whether an authorised officer has been obstructed in the lawful course of their duties;
- whether or not the offender has taken all reasonable steps to prevent a recurrence of the problem,
- the suitability of evidence from witnesses and their willingness to co-operate.

## **6.0 APPEALS**

6.1 There is no right of appeal to a FPN.

## **FOR CABINET APPROVAL**

### **7.0 WITHDRAWALS OF FPN's**

7.1 There is no right of appeal against the service of a notice but the person on whom the notice is served may ask questions or put forward information that they feel, relevant to the issue of the notice. Should such information suggest that for example a notice has been incorrectly issued then the council may give notice in writing to the person and withdraw the FPN. If any monies have already been paid, these must be repaid.

### **8.0 REQUESTING A COURT HEARING**

8.1 Where a person has received a FPN they can give notice in writing to Leicester City Council requesting a Court hearing in respect of the offence for which they have received the notice. Legal proceedings may then be brought against them before the end of the penalty payment period. If the person changes their mind and then pays the discounted or penalty amount, then the proceedings may not be continued.

### **9.0 FAILURE TO PAY A FPN**

9.1 If a person on whom a notice has been issued fails to pay the amount set out at the end of the 29 day period then the council may institute legal proceedings for the offence to which the penalty notice relates.

### **10.0 DISCOUNT FOR PROMPT PAYMENT**

10.1 A person may discharge the FPN at a discounted rate if they promptly.

**FOR CABINET APPROVAL**

**APPENDIX 1**

**Offences and penalties**

<b>Offence under the Health Act 2006</b>	<b>Defence under the Health Act 2006</b>	<b>FPN</b>	<b>FPN</b>	<b>Maximum court awarded fine</b>
		<b>IF PAID IN 15 DAYS</b>	<b>IF PAID IN 29 DAYS</b>	<b>IF FOUND GUILTY</b>
<b>Section 6(5)</b> Failure to display no-smoking sign in a smokefree premise or vehicle (occupier or manager)	<b>Section 6(6)</b> It is a defence for the person charged to show that they did not know and could not have reasonably been expected to know that the premises were smokefree <b>or</b> that they did not know and could not have reasonably have been expected to know that no-smoking signs complying with the requirements were <i>not</i> being displayed in accordance with the requirements <b>or</b> that on other grounds it was reasonable for them not to comply with this duty.	<b>£150</b>	<b>£200</b>	Level <b>3</b> on standard scale – currently up to <b>£1000</b>
<b>Section 7(2)</b> Person who smokes in a smokefree place or vehicle (any person smoking)	<b>Section 7(4)</b> It is a defence for the person charged to show that they did not know and could not reasonably have been expected to know that it was a smokefree place.	<b>£30</b>	<b>£50</b>	Level <b>1</b> on standard scale – currently up to <b>£200</b>
<b>Section 8(4)</b> Person having management or control of smokefree premises or vehicle fails to stop a person from smoking there (manager or person in control)	<b>Section 8(5)</b> It is a defence for the person charged to show that they took reasonable steps to cause the person in question to stop smoking <b>or</b> that they did not know and could not reasonably have been expected to know that the person in question was smoking <b>or</b> that on other grounds it was reasonable for them not to comply with the duty.	<b>Not applicable</b>	<b>Not applicable</b>	Level <b>4</b> on standard scale – currently up to <b>£2500</b>
<b>Section 11</b> Any person who intentionally obstructs an authorised officer <b>or</b> who fails to give assistance when requested to do so <b>or</b> who gives false or misleading information		<b>Not applicable</b>	<b>Not applicable</b>	Level <b>3</b> on standard scale – currently up to <b>£1000</b>