

Implementation of smoke-free legislation in England

Supplementary guidance for local authority regulatory officers and businesses about the use of no-smoking signs from 1 October 2012



In offering this advice it must be clearly understood that:

- legislation may change over time and the advice given is based on the information available at the time the guidance was produced – it is not necessarily comprehensive and is subject to revision in the light of the further information;
- only the courts can interpret statutory legislation with any authority; and
- this advice is not intended to be definitive guidance nor a substitute for the relevant law and independent legal advice should be sought where appropriate.

Contents

1	Introduction	4
2	Smoke-free legislation – compliance levels	5
3	Background to the changes in the legal requirements in respect of signs	7
4	Changes to the legal requirements in relation to no-smoking signs	8
5	Application and implications for determining and securing compliance	9
6	Enforcement issues	12
	Appendix 1 Example of readily available smoke-free sign.....	13
	Appendix 2 Securing compliance – the role of regulatory officers.....	14
	Appendix 3 Template fixed penalty notice – Failing to display at least one legible no-smoking sign.....	15

References in this supplementary guidance to the general guidance document mean the guidance on implementation of smokefree legislation published by LACORS (former advisory body supported by the Local Government Association): *Implementation of smokefree legislation in England: Guidance for local council regulatory officers* – Second Edition, 2009
www.cieh.org/policy/smokefree_workplaces.html



1 Introduction

This supplementary guidance has been developed by the Chartered Institute of Environmental Health and the Trading Standards Institute, in consultation with the Department of Health.

It sets out the requirements for the display of no-smoking signs to comply with smoke-free legislation. These requirements change on 1 October 2012 with the coming into force in England of the Smoke-free (Signs) Regulations 2012 which revoke and replace the Smoke-free (Signs) Regulations 2007.

This guidance is to help local authority regulatory officers use the new requirements to best effect and to help businesses continue to use smoke-free signs that both comply with the law and help the public comply with the law by not smoking where it is prohibited by the smoke-free law in public places and vehicles.

This supplementary guidance is intended to be used in conjunction with the previous guidance on implementation of smoke-free legislation published by LACORS (former advisory body supported by the Local Government Association): *Implementation of smokefree legislation in England: Guidance for local council regulatory officers – Second Edition, 2009* and *Implementation of smokefree legislation in England: Guidance for local council regulatory officers – Associated Issues, 2007*, the contents of both of which are current **except** in respect of references to the use of no-smoking signs, which reflected the earlier statutory requirements.

It has been clearly demonstrated that smoke-free legislation is popular with the public, well complied with and is effectively achieving its objective. With all legislation there is always the opportunity for local interpretation and application and for adjusting requirements according to local circumstances. However, in the light of the extensive business and public interest that has been expressed about these requirements, it is particularly important to continue to ensure a consistent approach to application of the legislation so that both employees and members of the public are properly protected from secondhand smoke and businesses across England are treated fairly.

This guidance may be amended and updated in the light of experience of implementation to which end the CIEH welcomes both your comments and your suggestions for further clarification and future inclusions.

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For copies of these and other guidance documents see CIEH website page at **www.cieh.org/policy/smokefree_workplaces.html**

2 Smoke-free legislation – compliance levels

The background to the introduction of smoke-free legislation is set out in the main guidance. The Government's objectives in implementing smoke-free legislation are to:

- reduce the risks to health from exposure of secondhand smoke;
- recognise a person's right to be protected from harm and enjoy smoke-free air;
- increase the benefits of smoke-free enclosed places and workplaces for people trying to give up smoking so they can succeed in an environment where social pressures to smoke are reduced; and
- save thousands of lives by reducing both exposure to hazardous secondhand smoke and overall smoking rates.

The Government's ongoing commitment to protect the public from the health harms of secondhand smoke continues to be reflected in *Healthy Lives, Healthy People: A Tobacco Control Plan for England* (March 2011).

www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_124917

The Tobacco Control Plan sets out the Government's comprehensive and evidence-based tobacco control strategy and explains what it will do to support efforts to reduce tobacco use in the context of the new public health system. Chapter 7 is concerned with reducing exposure to secondhand smoke.

As a result of the high level of compliance with smokefree laws, smoking in enclosed work and public places is now largely a thing of the past. Everyone can now benefit from clean air at work, while travelling on public transport and in enclosed public places. Smokefree laws are proving to be effective, popular and compliance is virtually universal.

Healthy Lives, Healthy People: A Tobacco Control Plan for England, paragraph 7.1



Alongside the Tobacco Control Plan, the Government also published an academic review of the evidence of the impact of the smoke-free legislation since its implementation in England in 2007. The research found that in all study areas there was a high degree of compliance with the legislation, with only a few minor infringements observed or reported, usually at the boundaries between public and outdoor spaces.

The Impact of Smokefree Legislation in England, University of Bath, 2011

www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_124959.pdf



- High levels of compliance have been achieved since initial implementation of the smokefree legislation, and these have been maintained as the records of the Local Government Association compliance data show for the years 2007-2010, available at: http://collections.europarchive.org/tna/20110202220654/http://www.smokefreeengland.co.uk/files/83840-coi-smokefree-compliance_period_tagged-13.pdf

July 2007 to June 2010 (cumulative)					
	Total number inspected	Identified as compliant – no smoking		Identified as compliant – signage	
		Number	%	Number	%
East Midlands	80,104	78,891	98.5 %	73,533	91.8 %
East of England	90,523	88,620	97.9 %	81,691	90.2 %
London	104,268	102,216	98.0 %	93,280	89.5 %
North East	46,110	45,432	98.5 %	43,870	95.1 %
North West	141,465	138,740	98.1 %	132,443	93.6 %
South East	121,628	120,195	98.8 %	111,593	91.7 %
South West	85,358	83,886	98.3 %	76,387	89.5 %
West Midlands	67,629	66,684	98.6 %	61,552	91.0 %
Yorkshire and Humberside	75,528	73,940	97.9 %	67,779	89.7 %
England	812,613	798,604	98.3 %	742,128	91.3 %

Base: all respondent local authorities and port health authorities (334).

3 Background to the changes in the legal requirements in respect of signs

As part of the Government's Growth Review and Better Regulation Framework, it set up the Red Tape Challenge with the aim of reducing the overall burden of regulation – 'and the inspections and bureaucracy that go with them' - and to encourage greater responsibility in our society, trusting people to do the right thing. As part of the Red Tape Challenge a public consultation was carried out during the summer of 2011 on legislation affecting the hospitality, food and drink business sectors.

(www.redtapechallenge.cabinetoffice.gov.uk/2011/09/hospitality-food-and-drink-Regulations) This resulted in a Government announcement on 28 September 2011 of a deregulation package comprising changes to over 60 different rules and Regulations affecting these sectors, which were considered to be unnecessarily burdensome, overly bureaucratic or simply redundant and which would be simplified, amended or abolished.

This deregulation package included the commitment to amend the Smoke-free (Signs) Regulations 2007 (the 2007 Regulations) which set out requirements for the location and design of no-smoking signs in smoke-free premises and vehicles.

Responses to the consultation through the Red Tape Challenge were received from people responsible for no-smoking signs in places such as historic buildings and Bed and Breakfast establishments, who felt the aesthetic quality of such premises were compromised by the requirements of the 2007 Regulations, and who questioned whether the need for them remained. Many respondents argued that the smoke-free legislation is now well established and owners of such public places should be free to decide how best to place no-smoking signs. Respondents argued that outdoor signs were unduly burdensome to maintain (e.g. outdoor signs fade and weather), and that as Bed and Breakfast accommodation is often provided in private residences, no-smoking signs detract from the ambience.

In its response to the deregulation proposal, the CIEH stated that it considered that regulatory requirements for signs prohibiting smoking have been crucial to the implementation and maintenance of compliance with smoke-free requirements and contributed significantly to the public acceptance of smoke-free indoor environments. However, it also recognised that from the start there had been strong objections to the requirements for no-smoking signs to be displayed at each entrance to smoke-free premises and in smoke-free vehicles – especially as many of these (estimated at up to 50%) were already smoke-free before the introduction of the smoke-free legislation and in some cases had been so for a long period of time.

It can now be maintained that, with the high levels of compliance that we have succeeded in achieving, we have already reached the intended position where it can be stated that **not smoking in indoor workplaces and public places are the accepted norms of behavior.**

This guidance is to help local authority regulatory officers use the new requirements to best effect and to help businesses continue to use smoke-free signs that both comply with the law and that help the public comply with not smoking where it is prohibited in public places and vehicles.



4 Changes to the legal requirements in relation to no-smoking signs

The legislation prohibiting smoking in enclosed workplaces and public places and vehicles is set out in Part 1 of the Health Act 2006 and related Regulations.

Duty to display no-smoking signs

Section 6 of the Act deals with no-smoking signs. It makes it the duty of any person who occupies or is concerned in the management of smoke-free premises to make sure that no-smoking signs are displayed in those premises and that the signs comply with the requirements of that section, including the requirements set out in Regulations. The Regulations also make provisions relating to the display of no-smoking signs in smoke-free vehicles.

The new Smoke-free (Signs) Regulations 2012 (the 2012 Regulations) revoke and replace the Smoke-free (Signs) Regulations 2007. They come into force on 1 October 2012 and can be found, with the accompanying Explanatory Memorandum and Impact assessment, at <http://www.legislation.gov.uk/uksi/2012/1536/contents/made>

Previous requirements

The 2007 Regulations made detailed requirements about the design and location of no-smoking signs. In particular that in smoke-free premises a prescribed no-smoking sign must be displayed at each entrance to the premises.

The key features of the required signs were:

1. The sign must incorporate the no-smoking symbol at least 70mm in diameter
2. The following words must appear in characters that can be easily read – ‘No smoking. It is against the law to smoke in these premises.’
3. Each sign must be displayed in a prominent position

New duty to display no-smoking signs in smoke-free premises

The provisions in section 6 of the 2006 Act remain unchanged. Section 6 places a duty on any person who occupies or is concerned in the management of smoke-free premises to make sure that no-smoking signs are displayed in those premises that comply with section 6 and the Regulations.

The major change is that the only requirement in the 2012 Regulations is in regulation 3, that to fulfill the duty at section 6(1) of the Act, **at least one legible no-smoking sign** is displayed in smoke-free premises.

There are no other requirements as to the size, shape, content or location of no-smoking signs in smoke-free premises.

New duty to display no-smoking signs in smokefree vehicles

To ensure that smoke-free vehicles are treated in the same way as smoke-free premises, and that their managers are subject to equivalent duties, the only requirement for smokefree vehicles is provided by Regulation 2. It is a duty on any person with management responsibilities for a smoke-free vehicle to ensure that **at least one legible no-smoking sign** is displayed in the vehicle.

As with signs in premises, there are no requirements as to the size, shape, content, or location of no-smoking signs in vehicles

Action required by business managers

The effect of the 2012 Regulations is deregulatory. No action is required by a manager of smoke-free premises or vehicles, who currently complies with the 2007 Regulations; they need do nothing to continue to comply with the new 2012 Regulations.

5 Application and implications for determining and securing compliance

The 2012 Regulations provide a minimum requirement for at least one legible no-smoking sign to be displayed in smoke-free premises and vehicles. Regulatory officers may wish to encourage managers to adopt best practice in displaying more than the minimum number, design and location, of signs required to comply with the law. In many cases it will be in managers' interests to support their staff in encouraging compliance and helping the public to comply with smoke-free legislation. Regulatory officers should, however take care to distinguish between what may appear to be a reasonable approach to the display of signs and what is actually required by the law.

The prominent display of clear signs is also in the interests of managers who remain liable for the offence if anyone smokes in smoke-free premises or vehicle.

Many people managing smoke-free premises and vehicles understand and appreciate the importance of continuing to have no-smoking signs prominently and legibly displayed in order to support their staff and to ensure easy and trouble-free compliance by members of the public using their premises and vehicles. Where this is so, it is likely that managers will wish to keep and maintain the existing signs in place, particularly at the entrances to premises.

However, with the introduction of the new 2012 Regulations it can be anticipated that no-smoking signs may be removed from locations in some premises, or may be (especially over time) replaced with signs which fail to make clear that they are indicating a legal requirement. A sign may be also displayed in a way that is not clearly legible and as a result it will neither properly inform nor be conspicuous and will not comply with the 2012 Regulations.

If these premises are ones in which, smoking has historically been unlikely to occur, or where managers pro-actively respond effectively to any contravention, this may have little or no effect on levels of compliance.

However, there will also be premises where increased non-compliance may occur as a result because of the actions of people who might

- plead ignorance of the law or to being forgetful – in the absence of a prominent sign at the entrance reminding them that they are entering a no-smoking premises
- still wish to assert their mistaken 'rights' to smoke
- be visitors to England and are genuinely unfamiliar with our comprehensive smoke-free requirements – given that there are still many countries which have adopted smoke-free legislation but continue to permit smoking in bars and restaurants

The use of no-smoking signs can only be to inform and advise and to some extent act as a deterrent to people who may intend to smoke in smoke-free premises. The displaying of signs is not an end in itself and it is not a substitute for effective management of the premises.

The management controls that may be needed were set out in detail in Section 7 of the general guidance document. They included that persons in control of smoke-free premises should, depending on the type of premises and the nature of the business, carry out the following:

- develop a smoke-free policy (preferably in writing in consultation with employees);
- adopt procedures (again, preferably in writing) for dealing with any people who smoke or attempt to smoke within the premises;
- train staff in both the smoke-free policy and the written procedures and their roles and responsibilities for implementation;
- keep a written record of any incident where an individual smokes on the premises in contravention of the legislation, together with the action taken by any members of staff and the outcome; and
- for premises with exemptions, keep a written record of any rooms designated as rooms in which smoking will be permitted in accordance with the legal requirements. →

→ Content of premises signs

The simplest way for people to obtain a smoke-free sign is to download it from the Smokefree England website (now archived but still available from http://collections.europarchive.org/tna/20110202220654/http://www.smokefreeengland.co.uk/files/a5_sign_sf_premises.pdf)

The advantage of using this sign, which is shown in Appendix 1, is that it has become widely recognised and makes it clear that “It is against the law to smoke on these premises”, that is to say that it is not simply giving advice, it is issuing an instruction for which there is a legal sanction and therefore failing to comply can incur a penalty.

It will be difficult and unnecessary for anyone to try to produce a clearer and more precise sign, although there are plenty of other no-smoking signs commercially available, almost all of which incorporate the no-smoking symbol, but very few include the wording “It is against the law to smoke on these premises”.

In the past there have been substitutions for the words ‘these premises’ where it was considered helpful to refer to the name and/or type of the particular premises to which the sign relates e.g. ‘this hotel’. This was particularly useful where the smoke-free requirements applied to only particular parts of the premises. For example in residential accommodation with communal areas the signs could say: “No Smoking. It is against the law to smoke in the communal parts of this building”. These arrangements can continue and be encouraged.

There will also be businesses which will already have produced their own signs using corporate symbols and colours, and more may wish to do.

Positioning of no-smoking signs

The no-smoking sign is required to be displayed. Previously this has been achieved by attaching the sign to the premises in some manner so as to be continuously in place at the entrance where it is intended to be seen. The wording

of the previous Regulations included that the positioning needed to be prominent which was commonly interpreted as in the line of sight, or at head height.

However, a dictionary definition of the word ‘display’ includes to present or to hold up to view. In the light of this it has previously been acceptable for the no-smoking sign to be attached to a free-standing board or something similar which is stood or hung or temporarily affixed at the entrance when the premises are open for business. This practice can continue.

Additional no-smoking signs for parts of premises

The requirement is that there must be at least one legible no-smoking sign displayed in smoke-free premises. In most premises therefore the provision of a single no-smoking sign will be sufficient to meet the legal requirement regardless of the size and nature of the premises and the number of entrances. However, where the premises comprise more than one building or structure, regulatory officers may wish to encourage managers to display signs in each separate building, structure or section of the premises as it would clearly be in managers’ interests to establish and maintain high levels of compliance and low risks of the need for enforcement action.

Differentiation of places where people can smoke

There is no legal requirement for owners of premises, managers of staff, or anyone else to provide outdoor shelters for their employees, customers or residents to smoke in. However, structures which are constructed so as to be not-substantially closed (so called ‘smoking shelters’) are frequently being provided to accommodate people who wish to smoke whilst visiting smoke-free premises, particularly those associated with hospitality premises. In such circumstances the displaying of signs to identify where people can smoke, and to direct people who wish to smoke to those places, could be used to support compliance.

Compliance in smoke-free vehicles

Any person with management responsibilities for a smoke-free vehicle must ensure that at least one legible no-smoking sign is displayed in the vehicle.

There are no requirements as to the size, shape or content of the sign, neither are there any requirements for the sign to be displayed in any particular position inside the vehicle.

Previously a no-smoking sign was required to be displayed in each enclosed compartment of the vehicle in which people can be carried including the driver's compartment. Now, as a minimum, only at least one legible sign is required to be displayed in the vehicle. The previous requirement was for the no-smoking sign to be displayed in a prominent position. This is no longer a requirement, however commonsense indicates that the signs need to be visible at all times by the occupants of the vehicle and should not therefore be easily obstructed e.g. by the storage of luggage, or on windows which can be opened.

The purpose of the no-smoking sign in a vehicle is to inform occupants that they may not smoke whilst they are inside the vehicle and that they can expect no-one else to be smoking in the vehicle at any time and its position for display will be determined accordingly. If the smoke-free sign is not visible from outside the vehicle it will not assist regulatory officers or members of the public in identifying the vehicle as a smoke-free vehicle and reporting non-compliance.

General advice

The above descriptions relate to the minimum requirements for no-smoking signs in smoke-free premises and vehicles. Businesses are free to keep any pre-existing no-smoking signs in place where these are additional to the minimum requirements and to provide as much additional signage in whatever format and language they consider appropriate to inform people and support compliance. For example, additional signs may be appropriate in places where it is known that people have previously tried to smoke undetected such as in toilet cubicles and upper floors of double-decker buses.

Similarly, no-smoking signs can be combined with other deterrent messages. Many hotel premises continue to experience smoking in bedrooms where it is not permitted. Some display additional signs which include warnings about the existence of detection measures including smoke alarms as well as financial penalties which may be imposed in the form of charges for room cleaning and even fire brigade attendance. Some school buses display warnings that passengers who are reported to be smoking on-board may have their travel passes withdrawn.

A business is considered to be complying with the legislation if smoking is not taking place in enclosed or substantially enclosed workplaces or public places or vehicles and the required signage is properly displayed.

For the future, the determining factor for business owners to consider is whether the signs in use are sufficient in number and effective in their format and positioning in deterring people from smoking on the premises or vehicles and in assisting staff in explaining the smoke-free requirements to people.

Other requirements in respect of signs

The Health and Safety (Safety Signs and Signals) Regulations 1996 set out the minimum general legal requirements for the provision of safety and health signs at work. The smoke-free signs regulations do not alter, change or interfere with the 1996 regulations in any way and they still apply. While the new 2012 smoke-free regulations simply require no-smoking signs to be legible, the 1996 regulations still require signs to incorporate the round no-smoking symbol (black on white background with red edging and diagonal line) as set out in paragraph 3 Schedule 1 Part II of the 1996 Regulations.

6 Enforcement issues

The experience in England has been that of other countries which have introduced comprehensive smoke-free legislation in that this type of legislation is widely supported by the public, that high rates of self enforcement are evident and that there has therefore been only a minimal need to employ enforcement measures.

Therefore, successful implementation of the smoke-free legislation has previously been measured by the number of premises and vehicles that are meeting the requirements of the law and are smoke-free and/or where smoking no longer takes place, rather than by the number of enforcement actions being taken.

Non-compliance with the smoke-free legislation occurs therefore when smoking is allowed to take place in enclosed or substantially enclosed workplaces or public places and a no-smoking sign is not displayed.

The approach taken by regulatory officers to smoke-free legislation should be determined primarily by the local council's enforcement policy and on the same basis as other areas of environmental and public health protection which is normally on a risk based approach. (See Appendix 2 for recommended approach.)

Generally, in determining whether to undertake any enforcement action, regulatory officers will need to carry out an assessment to determine whether owners, occupiers, managers or any person in control of smokefree premises are making reasonable efforts:

- to prohibit people from smoking on their premises or in their vehicle
- to prevent them from doing so, and
- to detect when breaches have occurred

These efforts will include a combination of compliance with the specific legal requirements together with actions and activities which represent good practice, including the appropriate use of no-smoking signs and messages. (Guidance on good practice is set out in Appendix 4 of the general guidance document.)

In the past regulatory officers have been using discretion in imposing the requirements for smoke-free signs and their primary concern has been for effective use of signs at those premises which have been or still are associated with smoking. These have previously been primarily those premises associated with the hospitality trade and more recently the so-called 'shisha bars'.

When all of the considerations described in this guidance have been taken into account, the CIEH does not envisage that regulatory officers will wish to undertake enforcement measures in respect of sign requirements alone unless there has been outright and persistent refusal to comply. It will be more appropriate for regulatory officers to concentrate any enforcement action on those premises where smoking is, or is alleged to be, taking place. In those circumstances the absence of, or ineffective use of, signs to inform people of no-smoking requirements and to deter smoking on the premises may well be a feature of the evidence to be presented.

The enforcement options available to regulatory officers are set out in Section 8 of the general guidance which includes an enforcement flowchart.

For the offence of failing to display no-smoking signs, these include:

- giving a verbal warning;
- issuing a written warning;
- serving a Fixed Penalty Notice (FPN) or instituting legal proceedings against an owner, occupier, manager or any other person in charge of no smoking premises for failing to display a no-smoking sign in the premises (contrary to Section 6(1) Health Act 2006 and the 2012 Regulations) or in the vehicle (contrary to Section 6(2) Health Act 2006 and the 2012 Regulations).

Appendix 1

Example of readily available smoke-free sign

Available to be printed or downloaded from http://collections.europarchive.org/tna/20110202220654/http://www.smokefreeengland.co.uk/files/a5_sign_sf_premises.pdf



Appendix 2

Securing compliance – the role of regulatory officers

Local councils are encouraged to adopt a risk-based approach to compliance. Their regulatory officers already work closely with businesses to build and maintain compliance across a wide range of laws, for example age restricted products, food safety and product safety. It is recommended that councils adopt the same risk-based approach to the monitoring and enforcement of compliance with the new laws on tobacco display and pricing.

Each local council should already have in place an appropriate enforcement policy for their area. The following approach may be helpful to use as the basis of such a policy to build maximum compliance.

Step 1

An educational and advisory approach should be taken both before, and for a period of time after, the new law comes into force. It will soon become apparent which businesses are making efforts to comply and which are not.

Step 2

Non-compliance may be due to misunderstandings or a lack of diligence and may be remedied by providing further information, advice and guidance with clear deadlines to achieve full compliance.

Step 3

Where it is evident that no serious efforts are being made to comply, then it may be appropriate to take enforcement action. This will need to be fully and properly considered and will need clear justification. In general, except in cases of blatant refusal to comply, it may be desirable to have evidence of the fact that earlier advice and support was given and that the business has had reasonable opportunity to comply.

As with all council enforcement measures, any action taken should be fair, proportionate, consistent and decided upon with reference to the Regulators' Compliance Code:

www.bis.gov.uk/files/file45019.pdf

and the enforcement policy statement of the individual council



Appendix 3

Template fixed penalty notice – Failing to display at least one legible no-smoking sign

Template notices are provided in the Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007.

SCHEDULE 1 Regulation 3(2)

Form 1 – Failing to display at least one legible no-smoking sign

[NAME OF ENFORCEMENT AUTHORITY]
[ADDRESS OF ENFORCEMENT AUTHORITY]

HEALTH ACT 2006:
SECTION 6 (FAILURE TO DISPLAY NO-SMOKING SIGNS
IN ACCORDANCE WITH REQUIREMENTS MADE BY OR UNDER SECTION 6)
FIXED PENALTY NOTICE
PENALTY AMOUNT £200

PART 1 RECIPIENT COPY

Penalty notice number _____

Full name of alleged offender _____

Address of alleged offender _____

_____ Postcode _____

Date of birth (if known) _____ Male/female (circle one) _____

I, _____ (name), an authorised officer of [name of enforcement authority]

Under section 10 of the Health Act 2006, have reason to believe that you committed an offence under section 6 of the Health Act 2006 (failure to display no-smoking signs in accordance with requirements made by or under section 6) in premises, a place or vehicle in relation to which [name of enforcement authority] has enforcement responsibilities.

The circumstances alleged to constitute the offence are that at:

_____ (time) on _____ (date)

you, at/on the following premises, place or vehicle (where alleged offence took place, including address, if any):

_____ being premises, a place or vehicle to which the provisions of section 6 of the Health Act 2006 applies, allegedly (details of offence):

This notice offers you the opportunity of discharging any liability for conviction for that offence by the payment of a fixed penalty of **£200 (two hundred pounds)**. No proceedings will be taken for this offence before the expiration of the period of 29 days beginning with _____ (insert the date on which this notice is given).

You will not be liable to conviction for the offence if you pay the fixed penalty within that period. In this Form this period is referred to as the **29 day period**.

You can pay a discounted amount of £150 (one hundred and fifty pounds) if you pay within the period of 15 days beginning with _____ (insert the date on which this notice is given). If the 15th day is not a working day, you may pay on the next working day. ‘Working day’ means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971. In this Form this period is referred to as the 15 day period.

Information for the immediate attention of the person who has been issued this penalty notice is at Part 2 of this notice. Details about how to pay this fixed penalty are at Part 3 of this notice. Details about how to request a court hearing in relation to this alleged offence are at Part 4 of this notice. **If you have any questions, or if you wish to discuss this notice, please contact** [insert name and address of enforcement authority and contact details].

Signature of authorised officer _____ Date of issue _____

Appendix 3

PART 2 **INFORMATION FOR THE IMMEDIATE ATTENTION OF THE** **PERSON WHO HAS BEEN ISSUED WITH THIS PENALTY NOTICE**

You have received this notice because the authorised officer of [name of enforcement authority] named in Part 1 of this notice has reason to believe that you have committed the offence of failing to display a no-smoking sign in accordance with requirements made by or under section 6 of the Health Act 2006. Within the 29 day period specified in Part 1, you must either pay the penalty or request that the matter be heard by a court. You may not do both.

If you fail to do either, [name of enforcement authority] as an enforcement authority by virtue of section 10 of the Health Act 2006, may pursue this matter in court. A person found guilty of the offence of failure to display a legible smoking sign in a smoke-free place is liable on summary conviction to a fine not exceeding level 3 on the standard scale (a).

(a) Currently £1000 – see section 37 of the Criminal Justice Act 1982 (c.48) as amended by section 17 of the Criminal Justice Act 1991 (c.53).

Appendix 3

PART 3 PAYING THE PENALTY

The amount of the fixed penalty is **£200 (two hundred pounds)**. It must be paid within the 29 day period which is specified in Part 1.

You can pay a discounted amount of **£150 (one hundred and fifty pounds)** if you pay within the 15 day period specified in Part 1.

If you choose to pay the penalty, no further action will be taken in respect of the alleged offence described at Part 1 of this penalty notice. The payment of the penalty involves no admission of guilt and will not result in a record of criminal conviction being made against you.

Payment may be made by completing Part 3A below and returning it with payment to the address stated in that Part, or by completing Part 3A below and paying in person at [name of enforcement authority]. Acceptable methods of payment include cash, cheque, postal order or money order.

Cheques, postal orders or money orders should be made payable to [name of enforcement authority]. If you choose to pay this penalty in cash by post, this must be sent by registered post, and proof of posting must be retained. If you require a receipt for the payment of the penalty, you must ask for one at the time of payment, and if paying by post, you must provide a stamped, self-addressed envelope.

**WARNING – LATE PAYMENT WILL NOT BE ACCEPTED
YOU WILL NOT BE SENT A REMINDER**

PART 3A PAYMENT OF FIXED PENALTY ISSUED UNDER SECTION 6 OF THE HEALTH ACT 2006 (FAILURE TO DISPLAY NO-SMOKING SIGNS IN ACCORDANCE WITH REQUIREMENTS MADE BY OR UNDER SECTION 6)

This slip must accompany all payments

To: [Name and address of enforcement authority where payment should be sent]

Penalty notice number _____

I enclose the amount of _____
(tick one box) **£150 (if the payment is made within the 15 day period specified in Part 1)**
 £200 (if the payment is made within the 29 day period specified in Part 1)

Full name of alleged offender _____

Address of alleged offender _____

_____ **Postcode** _____

Signature x _____ **Date of issue** _____

Appendix 3

PART 4 REQUESTING A COURT HEARING

If you choose to request a court hearing, you must within the 29 day period do so by completing Part 4A and sending it to [name of enforcement authority], or by writing to [name of enforcement authority] at the address stated on Part 4A, giving your details, the penalty notice number (which can be found in Part 1 of this notice) and an address at which a summons can be served on you. The summons will tell you when and where to attend court. Only the recipient of this penalty notice (the person named at Part 1) may request a court hearing.

PART 4A HEALTH ACT 2006: FAILING TO DISPLAY A NO-SMOKING SIGN IN ACCORDANCE WITH REQUIREMENTS MADE BY OR UNDER SECTION 6 REQUEST FOR ALLEGED OFFENCE TO BE DEALT WITH BY A COURT OF LAW

To: [Name and address of enforcement authority]

Penalty notice number _____

I wish to be dealt with by a court of law for the alleged offence.

Full name of alleged offender _____

Address of alleged offender _____

_____ Postcode _____

Signature x _____ Date of issue _____



No smoking
It is against the law
to smoke on
these premises



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