

## **Consultation response on Smoke-free premises and vehicles**

The primary aim of the British Occupational Hygiene Society (BOHS) is simply “to help reduce work-related ill-health”. BOHS promotes public and professional awareness, good practice and standards to especially safeguard and improve all aspects of occupational health. Our membership includes eminent scientists, academics, professional practitioners, consultants and others, researching, educating and working within the disciplines of occupational hygiene to recognise, evaluate and improve the control of health hazards and risks in and around all manner of workplaces.

A great number of our members have experienced active professional involvement in all aspects of tobacco smoke and smoking including its monitoring, control and related policy making. This involvement has usually included interaction with employers, employees, trades unions, contractors, regulators and of course members of the public. Many of our members and colleagues have years of experience in the design, inspection, evaluation and measurement of control measure effectiveness, including general ventilation, fume extraction and enclosures of all shapes, sizes and degrees.

Various UK estimates and authorities have previously stated that there are more than 100,000 premature deaths per year that can be linked to long-term tobacco smoking. Furthermore at some of our recent BOHS seminars, eminent speakers have referenced statistics to recognised occupational deaths from second-hand smoke exposure within the hospitality industry. Clearly, effective regulatory measures that will reduce the incidence and continuation of smoking will help to reduce adverse health effects, (and nuisance and uptake) in both public and employed sectors of the community. Of course BOHS also recognises that good public health has benefits to occupational health and vice versa.

BOHS does wish to actively support and promote well-developed regulation, approved codes of practice (ACOP’s) and guidance, which will reduce the incidence and duration of all smoking and we are delighted to have the opportunity to participate in this consultation process. We do have some supportive comments to add to the 8 specific questions, but we do also recognise that there is much more work to be done. More dialogue and developing standards need to be formulated and communicated and BOHS would welcome the opportunity to be further involved in such ongoing activity.

### **Definitions relating to “substantially enclosed” premises:**

1. There are many examples of large sporting stadia, which have partial cantilever roofing and oval enclosing perimeter walls. These perimeter walls all have an enclosing wall area which is greater than 50% of their open area. Within Section 2 (2), (3) and (4) of the draft regulations all such stadia will

therefore require designation as smoke-free buildings. As these stadia are so large and significant landmarks this explanation should be communicated as an example within the definitions and associated guidance.

2. Many of our members have been involved in discussions relating to the size, design, procurement and placement of prefabricated smoking shelters outside many, public access, local authority and private workplaces. This has not always been a totally satisfactory solution, especially in relation to suitable placement and the avoidance of second-hand smoke being transferred to other smoke-free buildings and areas. To this end we believe that there should be a clearly defined essential standard for the design, sizing and placement of such shelters.

#### **Question 1: No-smoking signs**

- History has demonstrated that many ‘no smoking’ signs have not been as durable and weather resistant as they could have been and therefore this requirement needs to be incorporated.
- Building signs also need to be sized to suit the location. They also need to be positioned high enough to not be obscured by vehicles, furniture and standing or queuing people.
- Public, private and occupational entrances to all smoke-free rooms, premises, enclosures and areas all need to be sign-posted accordingly.

#### **Question 2: Enforcement**

- The UK Health and Safety Executive (HSE) must surely be included in the enforcement activities for smoke-free premises. HSE is the primary enforcement agency for all health and safety matters in the UK. Local Authorities do not have jurisdiction over or H&S responsibilities for the vast majority of workplaces where both the public and employed persons interface. HSE does have a crucial role to play in the enforcement of no smoking as an integral part of its prescribed H&S inspection and compliance processes.
- Surely there are also times and places wherein there are duties for both police forces, (such in public order) and fire brigades (where fire risks can be associated with smoking in prohibited areas)?
- There are very many workplaces wherein the nominated responsible person, or supervisor is not always present and when smoking can and does occur. Such persons are usually required to be ‘floating’ across various rooms, processes and areas. In some cases these people may even be working on a different shift. The essential flexibility of such roles will certainly lead to some confusion about who is really responsible and how enforcement can be effected. We see this as an issue that is also involved in another key point, as explained below:
- **Compliance monitoring and inspection:** These regulations and subsequent associated standards and guidance do need to be developed to explain how the instances and duration of prohibited smoking are to be identified or recognised. Clearly if the responsible person actually witnesses an offender smoking within a prescribed smoke-free location, this is a plain breach. However, smokers can be devious in their attempts to conceal smoking instances. Discarded used tobacco products, packaging and cigarette ends can be visual indications, but they can also be easily

concealed. Visual smoke concentrations and odours can also be indicators, but are not always conclusive proof and may not be tobacco-related. Fixed electrically operated smoke detectors are intended for fire protection and are not designed to alarm with tobacco smoke. Clearly, therefore standards and methods for the monitoring and detection of airborne tobacco smoke need to be developed and prescribed.

**Question 3: Private dwellings as workplaces.**

- We realise that care homes and private dwellings do have private rooms where people live. People living in their own personal rooms should be able to live as they wish in their own homes. We do accept (a) that tradesmen, cleaners, carers etc. will need access to such rooms and (b) some local arrangement on smoking is sensible, but there will always be a duty to safeguard the health of the visitor. This legal duty, together with a temporary cessation in actual smoking and some efforts to ventilate such a room should always be integral to such local arrangements.

**Question 4: Residential accommodation.**

- Suggested amendment to Paragraph 3.10a .....” is set apart exclusively for sleeping accommodation; **and**”.....
- It is the view of BOHS that it is far too easy for managers and proprietors to simply move portable signs to change the designation of a smoking-allowed room. Such rooms need to have properly fixed rather than temporary signs. Such rooms should also be equipped with effective smoke removal extraction systems, capable of delivering a prescribed standard of air changes that should be specified and referenced. BOHS would always welcome the opportunity to support the development of a suitable ACOP and/or guidance. Many Hotels and similar premises have sealed or restricted-opening windows. We would not advocate the use of windows as a prescribed form of ventilation, especially when wide open windows will present a serious fall hazard.

**Question 5: Performers.**

- In respect to these proposals, “artistic integrity” is in itself a very clear loophole which must be eliminated. Actors, singers, comedians and other prominent performers are role models for young and impressionable people. Many such people certainly do like to emulate their role models, so it is vitally important that performers are not seen to be encouraging anyone to smoke. It is also very wrong to give credence to performers, who may revel in some mistaken belief that they are some type of special case and have some unique dispensation.
- Similarly specialist tobacco shops present another loophole in which the employers’ absolute duty to safeguard the health of their employees and other **must** take precedence. A total smoking ban is the only way forward. Tobacco shops are clearly workplaces and if smoking was allowed to continue in them, the airborne concentrations of tobacco smoke would increase, due to smoke-free requirements within other places.

**Question 6: Research and testing facilities.**

- There needs to be a clear stipulation that such facilities **must never** be used for any casual smoking by any persons.

- Again there is a clear primary duty to safeguard the health of employed persons.
- The performance of smoke removal ventilation systems does need to be prescribed as previously described within our question 4 response.

**Question 7: Exempted premises.**

- Open canopies and other similar partial roofs and/or enclosures around: hospitals, office blocks, airports, railway stations, railway platforms, bus stations, bus shelters, various ticket offices, theatres and sporting venues have all increasingly become places where lots of smokers gather in high concentrations. Smokers cannot smoke inside their chosen venue, so they congregate immediately outside. This smoking is both a nuisance and a second-hand smoke hazard to non-smokers, but these congregations also present physical obstructions to the safe access and egress of many people and even emergence services. Hospital porters and paramedics being obstructed from transferring their wheelchair or stretcher patients is just one appropriate example. There really does need to be some additional clarity in defining the areas of absolute no smoking within and around all such locations.

**Question 8: Smoke-free vehicles**

- No additional comments.

The British Occupational Hygiene Society  
END.

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