

# Smoke drift in the home and workplace

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## Introduction

Smoking in all indoor workplaces and public places has been prohibited across the UK since July 2007 but domestic premises are generally exempt from the smokefree law. The smokefree law has helped to change attitudes towards smoking: around 8 out of 10 people support the legislation, including the majority of people who smoke. Although the law does not cover domestic premises, other than shared spaces, 80% of adults in England report that they do not allow smoking inside their home.<sup>1</sup>

A high level of support for smokefree homes is demonstrated by the large numbers of people who do not allow smoking in their own homes. However, some complain that they are badly affected by smoke seeping or drifting into their homes from neighbouring properties. Similar problems occur in some workplaces when smokers light-up outside but their smoke drifts into places where people are working. These situations are caused by 'smoke drift' and this briefing sets out steps that can be taken to tackle the problem. The focus is mainly on homes but the section at the end of the briefing deals specifically with the workplace. Note that the following applies to England and that different laws or procedures may apply in other jurisdictions within the UK.

## How widespread is the problem of smoke drift?

A YouGov survey revealed that 80% of adults in England prohibit smoking in their home. The same survey found that 10% of nonsmokers in England reported that they were exposed to tobacco smoke in their home and a further 2% were exposed to smoke both at home and at work.<sup>1</sup> Of those experiencing smoke in their home, 6% reported that the smoke was from someone other than a friend or family member who did not live in the household. This is likely to include smoke drift from adjoining premises, suggesting that the problem may affect thousands of people across the country. [See Annex 1 for Canadian data]

## How does tobacco smoke get into the home?

People living in flats or terraced houses are more likely to experience smoke drift than those in detached or semi-detached homes due to the way air is circulated within and between the buildings. Smoke may enter the home from a number of sources such as:

- open windows or doors
- through electrical ducting
- via cracks and gaps around window frames, floorboards, skirting boards, ceilings
- through shared ventilation systems

Some newer, purpose built flats may share ducting and ventilation systems which can act as conduits for the smoke. Researchers in the USA have estimated that 10% to 40% of the air in their apartments comes from the other apartments in the building, depending on variables such as the age of the building, the temperature, or levels of ventilation.<sup>2</sup>

### **Can smoke drift be measured?**

Tobacco smoke is made up of a gas phase and particulate phase. Particulate matter ('tar') forms as the smoke cools and lands on surfaces such as furniture and curtains while gases in tobacco smoke can react with other pollutants and sunlight to form new chemicals. Given the complex set of factors that influence environmental persistence of secondhand smoke it is very difficult to measure because the chemicals typically used as markers of secondhand smoke break down at different rates. For example nicotine decays much more quickly than other chemicals in tobacco smoke and is only a reliable measure immediately after a person has been exposed to it. Thus tobacco smoke concentrations are likely to be so low, through dilution and filtration, as to be undetectable in most cases against other 'background' pollutants.

### **How harmful is second-hand smoke?**

The 2006 US Surgeon General report states that there is no safe level of exposure to secondhand smoke and furthermore concludes that "the scientific evidence is now indisputable: secondhand smoke is not a mere annoyance. It is a serious health hazard that leads to disease and premature death in children and nonsmoking adults."<sup>3</sup>

Immediate effects of exposure to secondhand smoke include eye irritation, headache, cough, sore throat, dizziness and nausea. Adults with asthma can experience a significant decline in lung function when exposed, while new cases of asthma may be induced in children whose parents smoke. Short-term exposure to tobacco smoke also has a measurable effect on the heart in non-smokers.

Whilst the effects of direct exposure to secondhand smoke have been firmly established, there has been little research to date into the effects of indirect exposure. However, it is, plausible to hypothesise that similar effects may result from indirect exposure, depending on the extent of that exposure.

Indirect exposure may occur from residual airborne tobacco smoke or from the re-emission or "off-gassing" of tobacco smoke from certain objects such as furniture, curtains etc that absorb and then re-emit chemicals from tobacco smoke into the air over time. This has been called "third-hand" smoke. Some concern has been expressed about this phenomenon although evidence of any health impact remains inconclusive.<sup>4 5</sup>

### **What residents can do**

Although the public places smokefree legislation does not apply to the home (unless it is also a workplace), there are some steps that residents can take to reduce, if not eliminate the problem of smoke drift. It is important to bear in mind that negotiation rather than potentially costly litigation is the best way of achieving a positive outcome. Legal advice should only be sought once the following steps have been taken.

the landlord or managing agent and ask to see a copy of the tenancy agreement to determine if any "nuisance clause" prohibits activities that interfere with the comfort of other people living in the locality. This should be the case for most agreements.

## **Source of the smoke**

Firstly, try to establish where the smoke is coming from and where it is entering your home. Look for cracks and gaps between the walls and ceiling and/or floors, and around window frames and fill them. Also check any spaces around pipe work or electrical cabling and seal them. Keep a log of the times when the smoke seepage occurs. If the smoke is coming from the common (shared) areas of a block of flats (e.g. stairs, corridors) you should contact the landlord or managing agent as this may constitute a breach of the smokefree legislation.

## **The neighbours**

If there is still a smell of smoke after you have blocked up all the cracks and holes and if you are certain that the source of the smoke is from a neighbouring property, the next step is to contact the neighbour whom you believe is responsible.

Be clear about what you want to achieve, that is, to stop their tobacco smoke entering your home and consider what compromises you might be willing to make. For example, the neighbour may be willing to limit the time or place where s/he smokes to minimise smoke penetrating your home.

Some local authorities provide a mediation service to help resolve disputes between neighbours and this may be an option to explore along with those listed below.

[See resources]

## **Tenancy Agreement**

Most tenants will have a written agreement setting out the terms and conditions of the tenancy. If you are troubled by smoke coming from a property that is rented, you should contact the landlord or managing agent and ask to see a copy of the tenancy agreement to determine if any “nuisance clause” prohibits activities that interfere with the comfort of other people living in the locality. This should be the case for most agreements.<sup>6</sup>

## **Building modifications**

If negotiations with the neighbour are not satisfactory, contact the landlord or managing agent with a request to undertake modifications to the building to try and prevent the smoke from drifting through the building. This could include, for example, sealing any gaps in the floorboards or around shared pipework, where smoke may be seeping in. It should be noted that the landlord is currently under no legal requirement to undertake such work, other than general obligations to maintain the property in reasonable condition. However, the landlord may prefer to explore this option rather than taking action against the neighbour thought to be causing the problem.

If you own the property you may consider installing barriers yourself but this should be in the knowledge that while such remedial treatments can reduce smoke seepage, they may not totally eliminate it. Get advice from a reputable builder or surveyor.

## **Keeping records**

It is important to keep a record of all incidents of smoke seepage and any action taken to try to counter the problem. This should include any health effects and any medical consultations connected with this matter as this will add weight to your case in negotiations with the landlord and/or any subsequent legal representative.

## **Local Authority assistance**

Local authorities have a duty to take such steps as are ‘reasonably practicable’ to investigate complaints of ‘statutory nuisance’ as set out in the Environmental Protection Act 1990.<sup>7</sup> This duty will usually be carried out by Environmental Health Officers (EHOs). Smoke passing

from one premises to another (other than smoke from a chimney) may constitute a Statutory Nuisance under S 79 1(b) of this Act. However, when assessing whether a complaint can be classified as a “nuisance” EHOs must balance differing interests and take into account what is considered to be “reasonable”.

If the EHO determines that tobacco smoke is permeating from one building into another the officer must determine whether the effect of the smoke permeating is such as to be prejudicial to health or a nuisance.

An assessment of nuisance must take into account the standards of an average person and not that of someone who is hypersensitive. The duration, frequency, severity, time of day and locality also have a bearing on the assessment of whether there is an actionable nuisance.

The second arm of Statutory Nuisance is that of prejudice to health. This is an absolute and does not take into account reasonableness. However it demands more than just discomfort or annoyance; it requires evidence of the probability that disease will result in the particular circumstances. Therefore, before the local authority can take any action it must be satisfied that there is a case to answer. Note, this will inevitably vary from one authority to another.

### **Political support**

If the problem is not resolved amicably through dealings with the neighbour or the landlord try contacting your locally elected councillor(s) and MP. Although they may not be able to do much in practice, by contacting them you are helping to raise awareness of a common unresolved problem. Politicians may also apply pressure on local authorities to request that rented housing include a smokefree clause in the lease for new developments. For example, a proposal to amend the Localism Bill that is currently going through Parliament seeks to require local authorities to have regard to the effect of smoking when assessing planning applications.

### **Smokefree premises - Longer term goal**

As a longer-term solution you may wish to consult other neighbours and ask the landlord to consider making the premises smoke free (see Landlords section for more information). This is starting to take place in other countries such as Canada, USA and Australia.<sup>8</sup>

## **What landlords can do**

### **The case for going smokefree**

Landlords already have the power to make their properties smokefree provided that the terms are made explicit in the tenancy agreements. Enabling tenants to achieve smoke-free homes by including smoke-free clauses in tenancy agreements is not only good public health policy but also has economic benefits.

Residual deposits created by cigarette smoke and possible cigarette burns means that redecoration needs to be undertaken more often and more extensively when the tenant is a smoker. Although UK figures are not available, data collected in 2009 from housing authorities and subsidised housing facilities in New England, USA, indicate that the cost of redecoration for a unit occupied by a light smoker is more than three times the cost for a flat occupied by a non-smoker. [See annexe 1 for further data]

Smoking in the home creates additional fire hazards. In 2008, “smokers’ materials” were responsible for 2,814 accidental dwelling fires in the UK.<sup>10</sup> Introducing a smoke-free policy throughout the building may also reduce property insurance premiums.

Under common law people can generally do anything they wish unless it is proscribed.

Hence, smoking is usually permitted, regardless of whether the dwelling is privately owned or in public housing. However, a totally smokefree building could be particularly attractive to new tenants, adding to the value of the property.

Private landlords, local authorities and housing associations alike can include a clause prohibiting smoking in new tenancy agreements to a building. However, this may cause tension between new tenants who are prohibited from smoking and existing residents who may continue to smoke.

A better solution is to initiate a consultation with all the tenants and arrange for the ban to happen over as short a period of time as possible but nonetheless with plenty of notice. This limits the amount of time where differing rules apply to tenants.

Extending the process over a prolonged period also defeats the purpose of a smoke-free policy, as individual units are not truly smoke-free until the entire building is indeed smoke-free.

If, as a landlord, you feel it inappropriate to implement a smoking ban in some or all of your buildings, you should consider undertaking modifications to the building to try and prevent smoke from drifting through the building; particularly when one of the tenants reports having such problems.

### **Smoke drift at work**

The smokefree legislation in the UK applies to indoor public and work places but does not cover outdoor areas. As a consequence of people taking smoking breaks outdoors but close to buildings, tobacco smoke may drift into the workplace through open windows, doors or ventilation systems.<sup>11</sup> This can cause discomfort or adverse health effects among people exposed to the smoke.

Employees affected by smoke drift should inform their manager(s) and formally request that the matter be dealt with as a health and safety issue. See also the 'Keeping Records' section for tenants above.

If the smoking is taking place on privately owned land, for example, in the grounds of a company, it is recommended that the company concerned reviews its smoking policy.

One option is for the organisation to consider banning smoking in the outdoor parts of the work premises, although this may prove difficult to enforce. A compromise is to create a designated outdoor smoking area, sufficiently far away from doors and windows to prevent smoke entering the building. The installation of a shelter may prove a further incentive for smokers to comply with the rule. No smoking signs should be affixed to the walls and near to the entrance(s) with signs pointing to the smoking area if appropriate.

If an outdoor smoking policy is adopted, it is the responsibility of the organisation to enforce it. The policy should therefore form part of the contract of employment and breaches of the policy should be treated in the same way as other disciplinary matters.

If the workplace is affected by smoke drift coming from a public place, for example, the street, employers will need to consider other ways of dealing with the problem. This could include speaking to the smokers and asking them to move away from the building; consider moving staff away from the areas of the building where the smoke problem persists; and/or review the ventilation system of the building to see if any modifications can be made to reduce smoke seepage.

## Resources:

### UK

For further information on the health impact of secondhand smoke see [ASH fact sheet on secondhand smoke](#) and [Secondhand smoke in the home](#) (pdf)

[Directory of UK Mediation services](#)

[Scottish Mediation Network](#)

### International

[Secondhand smoke drifting into your apartment](#). American Nonsmokers' Rights Foundation

[Smokefree multi-unit housing](#)

Schoenmarklin S. [Infiltration of secondhand smoke into condominiums, apartments and other multi-unit dwellings](#): 2009. Tobacco Control Legal Consortium, 2009 (pdf)

[Boston Smokefree Homes](#)

[Smoke-Free Housing Canada](#)

[Reasons to Explore Smoke-Free Housing](#), (2009), National Center for Healthy Housing. (pdf)

[Property Management Update: No Smoking Policies in Apartments](#) (Feb. 2008), National Multi-Unit Housing Council (NMHC), p2 (pdf)

## Feedback

ASH welcomes any comments or suggestions you may have to improve this briefing, particularly if you have experienced smoke drift problems. Please send comments to: [enquiries@ash.org.uk](mailto:enquiries@ash.org.uk)



## References

- 1 All figures, unless otherwise stated, are from YouGov Plc. Total sample size was 10238 adults. Fieldwork was undertaken between 3rd to 15th March 2011. The survey was carried out online. The figures have been weighted and are representative of all England adults (aged 18+).
- 2 Price PN, Shehabi A., Chan RW, Gadgil A.J. [Indoor-outdoor air leakage of apartments and commercial buildings](#). Lawrence Berkeley National Laboratory, 2006.
- 3 [The Health Consequences of Involuntary Exposure to Tobacco Smoke](#): A Report of the Surgeon General. US Department of Health and Human Services, 2006.
- 4 [‘Third-hand’ smoke could damage health](#). BBC News, 9 Feb 2010
- 5 [Does the smoke ever really clear? Thirdhand smoke exposure raises new concerns](#). Environmental Health Perspectives 1 Feb 2011
- 6 [Health Act 2006](#) (pdf)
- 7 For example, a clause in the Irwell Valley Housing Association tenancy agreement states that tenants must not “do anything that causes or likely to cause a nuisance or annoyance to anyone in the locality of your home so as to interfere with the quiet enjoyment of their home.”
- 8 [Environmental Protection Act 1990](#).
- 9 For example: [‘Maine becomes first state in nation to protect tenants from secondhand smoke.’](#) Village Soup, 9 Aug 2011
- 10 [Fire Statistics, United Kingdom, 2008](#) Department for Communities and Local Government, table 2.1, p36. 2010.
- 11 Kaufman P et al. Not just ‘a few wisps’: real-time measurements of tobacco smoke at entrances to office buildings. Tobacco Control 2011; 20: 212-218

## Annex 1

### Population exposure to smoke drift

To date, no survey has been carried out in the UK to explicitly measure the extent to which people are affected by neighbours' smoke. However, surveys to measure the proportion of people affected by smoke drift have been carried out in other countries. In Canada, for example, which has similar smoking rates to the UK, surveys have been conducted in the provinces of British Columbia and Ontario.

In British Columbia, the Clean Air Coalition of BC commissioned BC Stats to conduct a survey of renters across the province in February and March 2006. The survey found that:

- 35% of renters living in townhouses or duplexes (semi-detached houses) and 31% of renters living in apartments or condominiums reported occasions when the smell of tobacco smoke drifted into their personal living space. \*
- For those that reported drifting smoke as an issue, 53% of these renters said it happens "often", 29% said it happens "very often" and 24% said it happens "somewhat often".
- 79% who reported drifting smoke said the smell bothers them; and 40% said it bothers them "a lot"

In Ontario, the Ontario Tobacco-Free Network commissioned Ipsos Reid to conduct a survey in March and November 2006. Highlights of the [findings](#) include:

- A majority (64%) of all multi-unit dwellers would likely choose a smoke-free building over one where smoking is permitted
- Almost half (46%) have had tobacco smoke odour enter their unit in the past 12 months from somewhere else in their building
- The tobacco smoke odour usually seeps in primarily via the hallways (47%), windows (41%), shared ventilation (21%), air leaks (18%) and through bathroom or kitchen fans (13%)
- Fifty-seven percent (57%) would support a smoking ban in their multi-unit dwelling

### Cost of redecorating homes occupied by people who smoke

Residual deposits created by cigarette smoke and possible cigarette burns means that re-decoration may need to be undertaken more often and more extensively when the tenant is a smoker.

Data collected in 2009 from housing authorities and subsidised housing facilities in New England, USA, indicate that the cost of redecoration for a unit occupied by a light smoker is more than three times (\$1,810) the cost for flat occupied by a non-smoker (\$560). The figure rises to nearly \$3,000 more for a unit occupied by a heavy smoker. National Center for Healthy Housing, [Reasons to Explore Smoke-Free Housing](#), (2009), (pdf)

According to the National Multi-Unit Housing Council (USA), "Some estimates suggest that cleaning walls, carpets, appliances and fixtures exposed to smoke can add \$400 to \$3,000 to unit turnover costs, depending on the length of residency and how much the resident smoked in the unit." Nat'l Multi-Unit Housing Council (NMHC), Property Mgmt., Update: [No Smoking Policies in Apartments](#) (Feb. 2008)