

Shisha smoking – a guide for you and your business

What does the law say?

The smokefree legislation for England (1997) makes it a criminal offence to allow smoking, which includes shisha, in virtually all enclosed public places and all workspaces. Indoor workplace smoking is a criminal offence and anyone wanting to smoke has to go outside in an open area to smoke.

Which places must be smokefree?

It is against the law to participate or allow smoking in any bars, clubs, pubs, entertainment venues, hotels, guest houses, takeaways, restaurants, offices or in other enclosed public places. Allowing smoking in an enclosed public place carries the risk of a fine and prosecution.

Who is responsible?

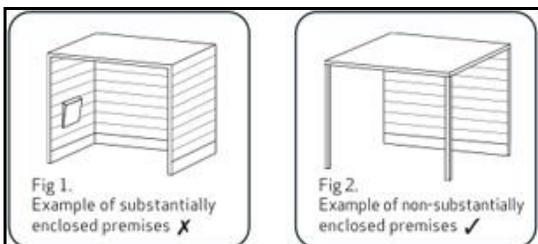
The smokefree law applies to business managers, owners or lease holders who have legal responsibilities to prevent people from smoking in virtually all 'enclosed' or 'substantially enclosed' public places and workplaces.

What is 'enclosed'?

Areas you provide for use by smokers with a ceiling or roof and (except for doors, windows or passageways) are wholly enclosed either on a permanent or temporary basis. Shelters too close to other structures may be considered enclosed.

What is 'substantially enclosed'?

Areas you provide for use by smokers with a ceiling or roof but have an opening in the walls, which is less than half the total area of the walls. The area of the opening does not include doors, windows or any other fittings that can be opened or shut. Temporary awnings, umbrellas, canopies, shutters, doors or windows are assumed closed or fully extended when calculating the 50 per cent rule.



Area MUST be more than 50% open.

Tobacco and under age sales

The Children and Young Persons Act (1933) makes it an offence to sell tobacco products to anyone under the age of 18. If you sell a shisha product to a person less than 18 years of age the maximum fine on conviction is £2500. You MUST display the warning sign shown below. You MUST always ask for proof of age.

It is illegal to sell tobacco products to anyone under the age of 18

The size of the warning statement should be no less than A3 and the letters must be at least 36mm in height.

What is a 'tobacco product'?

'Tobacco' includes cigarettes and any products containing tobacco and intended for oral or nasal use, and smoking mixtures intended as a substitute for tobacco. 'Cigarettes' include cut tobacco rolled up in paper, tobacco leaf, or any other material in such form as to be capable of immediate use for smoking.

Product labelling

All of the tobacco and non tobacco products that you sell for use to smoke in shisha pipes **must** be labelled with the health warnings. **"Smoking Kills"** or **"Smoking seriously harms you and others around you"**, and a **(picture)** health warning. This label must be labelled on every package which includes any box, package, container, wrapping or other receptacle which contains the product. This means if shisha is supplied to the customer in a bowl, a notice at time of sale must display the warning.

Tobacco advertising and promotion

The advertising of tobacco products must be a single A5 size sign at the point of sale. The advert must include the warning: 'Smoking Kills' or 'Smoking seriously harms you and others around you' **and** 'NHS Smoking Helpline 0800 1690169'. Posters that carry a shisha brand or logo that advertise tobacco products are all prohibited.

You MUST pay your tax and duty charges

You must provide HM Revenue and Customs (HMRC) the documentation or invoices showing all tobacco products are legitimately sourced. Import VAT and excise duty also applies to products imported from outside the EU. If you cannot satisfy HMRC to the legitimacy of the shisha product, you could face penalties including the seizure of the product and prosecution.

You MUST comply with fire and safety procedures

The Regulatory Reform Fire Safety Order (2005) states it is your duty to make sure a fire risk assessment has been carried out for the premises. Ensure all safety precautions are put in place in relation to lighting coals. You must not block fire escapes and access to equipment.

You MUST comply with health and safety rules

The Health and Safety at Work Act (1974) requires so far as reasonably practicable, that the premises and any equipment or substance used is safe and without risks to health of staff and customers. Ensure that all shisha equipment is safe and adequately maintained. Ensure all staff are trained to help minimize the health risks from the harmful effects of second-hand smoke and mouth piece hygiene etc.

You must comply with noise prevention measures

It is your duty to make sure noise from all external areas is kept to a minimum. Your smoking premises should be sited away from private housing where smoke and noise may affect your neighbours.

You MUST comply with planning and building control guidelines

To construct a smoking and/or shisha smoking area on your premises, you must firstly obtain planning permission under the **Town and Country Planning Act 1990** and prior to commencing work on site, approval under the **Building Regulations (2000)**.

Do you need a premises licence?

Regulated entertainment, which may include the serving of hot food or hot drinks, requires a licence. Please contact Licensing on 01582 546040 for further details.

Where can I get more information?

If you are a business that supplies shisha to your customers to smoke on the premises and would like more information about compliance with legislation, contact Luton Borough Council smokefree officers on 01582 546169

As the owner of a business, it is your responsibility to show the Council that you are complying with the requirements set out above.