

Smoke Free Procedure

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Owner:	Brian Gunn	Job Title:	H&S Adviser
To be issued to:		Board of Management ARK Management All Staff	
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Version Control

Date	Owner	Version	Reason for Change
May 2021	Brian Gunn	V5.0	Cyclical review

Summary of Changes

Section	Change
1.0	Changes to smoking in Ark boundaries for staff
2.0	Updated procedure for exposure to passive smoking



Smoke Free Procedure

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1.0 Employees

All employees have a responsibility to ensure that they are complying with the health and safety control measures and requirements appropriate to their job. To achieve this in relation to smoking and eliminating exposure to second hand smoke, employees should not smoke any types of smoking material/ other smoking devices (including e-cigarettes) in the following circumstances:

- indoors in all Ark workplaces, which includes offices, supported people's homes and external boundaries, rest areas etc.;
- when supporting people in the community during support time as this type of support is also classed as a workplace;
- in ARK workplace external boundaries owned by Ark or leased properties (gardens , car parks, back doors etc.);
- sites where construction, refurbishment or maintenance is being carried out;
- in the workplace during sleepovers and waking nights if no cover for breaks
- in other employers' workplaces while present on behalf of Ark, e.g. attending meetings, seminars etc.;
- in vehicles whilst passengers for Ark work activities are present;
- in private cars used to transport colleagues, supported people or visitors in relation to ARK business (please note: smoking whilst driving may be considered as driving without due care and attention under the Road Traffic Act); and
- any other location while an employee is at work.
- Any Ark employee who wishes to smoke must do so outside Ark boundaries and outwith Ark support time or during agreed breaks in any place that is not covered by the smoking ban. Employees should comply with Arks fire safety policy; comply with the local workplace arrangements made for smoke breaks;
- dispose of cigarettes ends responsibly out with workplace boundary and not leave on the ground at workplace entrances and exits;
- attend any training related to workplace smoking;
- liaise with their manager regarding potential control measures in relation to supported people who smoke;
- contact their manager if a supported person, or people associated to them, is having difficulties in complying with identified control measures; and
- advise their manager of any non-compliance with any identified control measures by staff, supported people and third parties.

2.0 Supported Person

2.1 Good Life Plans

As part of a supported person's initial and reviewed Good Life Plan, smoking habits should be considered. The supported person should be asked about their smoking habits, i.e. if they smoke, how many a day, if they could refrain from smoking for periods of time, etc.

If a supported person asks about giving up smoking then this should be recorded in their plan. They should be encouraged to seek medical advice to discuss this lifestyle change. They could also be referred to the National No Smoking organisations (see 5.0). Support Workers should assist supported people, where appropriate, if required.

2.2 Supported Living – Control Measures

As part of the Good Life Plan a major consideration will be what identified control measures are required to provide a smoke free environment during support time.

- Supported people will be informed by staff, using various forms of communication, to advise them of Ark's policy on staff supporting them in a smoke free environment.
- Asking supported people who smoke to refrain from smoking for 1 hour before a Support Worker is present, and thereafter during support time, should be the first course of action. However, this might not be the choice of the supported person, particularly where the support provided is for long periods of time, or is provided for up to 24 hours a day, 7 days a week. Appendix 1 has information on control measures that can be used to eliminate exposure to second hand smoke for Ark staff during support time. Appendices 3 and 4 also have letters which can be shared with supported people, to alert them to Ark's policy and procedure, and to support discussion and agreement in relation to control measures.
- Where a supported person is either unable to refrain from smoking for the timescales asked of them or is unwilling, then other means to prevent or reduce passive smoking by employees may have to be considered. These will include the provision of extractor fans, smoking in another room and smoking outside.

- The terms of this procedure also apply to the supported person's family and visitors, albeit ARK accepts that there are no circumstances where Ark can require a supported person's family or visitors to refrain from smoking during support time. The Key Team should use local knowledge or ask who smokes while visiting the supported person .
- Staff must report all incidents where supported people do not comply with smoke free control measures to their manager and not enter areas where agreed controls have not been met by the supported person or others.

2.3 Care Home and House of Multiple Occupancy – Control Measures

- Where support is being provided in shared accommodation the needs of the supported people should be considered and they should have some freedom to smoke. Separate smoking facilities should be provided for supported people. The best option is to have a separate smoking lounge. However, where there is no second lounge available other facilities should be considered. In shared accommodation where there is only one lounge this should not be used for smoking.
- Rooms used for smoking such as lounges will require extraction equipment as well as regular checks to ensure that the risk from fire is reduced. The frequency of the checks will depend on the supported person's capability to follow basic fire prevention rules.
- Smoking in bedrooms should be discouraged where a smoking lounge is provided. Where smoking in bedrooms is permitted these bedrooms should have windows that open, smoke alarms fitted that comply with current fire legislation and ARK policy for staff exposure to second hand smoke is followed.

2.4 Employees' Rights in Relation to Supported People Who Wish to Smoke

In relation to supported people who wish to smoke in their homes whilst Ark staff are present, Ark supports the right of all employees to refuse to enter to provide support where it has not been possible to agree relevant control measures with the supported person or their guardian, or measures have been agreed and put in place and are not being followed. This right can only be exercised by staff after all relevant control measures (which may or may not include relevant measures set out above, have been attempted, or put in place and subsequently not followed and after discussion with the relevant Ark manager.

The decision not to enter a supported person's home could have implications for the delivery of a service to them, and would require in all cases to be carefully considered, and only implemented as a measure of last resort.

2.5 Ark staff and contractors visiting mainstream /non supported people tenancies

ARK staff and our contractors that need to visit tenancies for Housing / Maintenance / Safety issues should make tenants aware of Ark procedures to eliminate exposure to second hand smoke if there are known people that smoke in these tenancies.

Ark staff and contractors can refuse to enter a property if the tenant does not agree to eliminate or reduce exposure to second hand smoke pre and during an arranged visit.

An agreement to re-visit a property should be arranged to allow any Ark related works to be completed in a smoke free environment.

Ark will follow housing and maintenance procedures for gaining access if a tenant refuses to agree to our smoke free procedures.

3.0 Visitors to Ark workplaces

Visitors including family members, friends, contractors, medical professionals, other professionals and other associates who are not Ark employees will be expected to conform to any agreed control measures on smoking at Ark workplaces. It is likely that most visitors will respond automatically to the smoking restriction notices and signs on display but Ark staff etc. may have to draw visitors' attention to the arrangements.

ARK staff should report any incident pre or during support work where they are exposed to second hand smoke to their manager and where agreed control measures are not being followed.

4.0 Recruitment of Potential Employees

All potential employees will be informed of these procedures and made aware of the non - smoking obligations which will be placed on them and Ark's commitment to provide a smoke free workplace for staff should they become ARK employees.

5.0 Cessation Support

Quit Your Way Scotland is a free telephone helpline offering counselling and written materials on smoking and how to stop. There is one number which will then direct you to local information and other agencies which may help - these agencies are usually available via your Health Board.

Quit your Way is open 9am to 4pm weekdays and from 9am to 5pm

Their number is: **0800 84 84 84**

Other websites

www.healthscotland.com/tobacco

www.ashscotland.org.uk

www.quit.org.uk

6.0 Implementation and Review

6.1 Implementation

The Chief Executive is responsible for ensuring that this policy, and the procedures that support it, are followed by all employees and Board Members.

6.2 Review

The Chief Executive will ensure that this procedure is reviewed at least every three years, and that any amendments required are submitted to the Board of Management for approval.

Appendix 1- Workplace Control Measures

If a supported person either cannot or will not stop smoking when the support worker is present then workplace control measures will have to be communicated and agreed. The choice will depend on various factors and will be made entirely on an individual basis to suit the supported person, the support being provided, the home environment etc.

Below are examples of the most common controls which could be considered. These are not the only control measures and other individual arrangements could also be made.

Workplace Precaution	Benefits	Drawbacks
Cessation of Smoking	Staff not exposed to second hand smoke	May be against supported person wishes
Cessation of smoking 1 hour prior to support starting	Staff not exposed to second hand smoke	Supported person may not apply timescales
Extraction Fans	Can be positioned in the room most commonly used for smoking while the Support Worker is present.	Can be noisy and look cumbersome.
Smoking in one room	Support Worker rarely or never needs to enter this room.	Restricts the supported person in their own home.
De-ionisers	Can remove smoke and other impurities from the air	Initial cost, running costs (though quite minimal). Needs regular servicing.
Not entering workplace if supported person is smoking and not following agreed control measures	Staff not exposed to second hand smoke	Supported person may be at risk if unsupported.

Appendix 2 – Questions and Answers

Q1 Can an Ark employee smoke in a supported person's home?

A1 **No.** Ark has designated supported people's homes as no-smoking areas for employees as they are their workplace.

Q 2 Can Ark insist that supported do not smoke in their home?

A 2 **No.** The Association cannot prohibit service users from smoking in their own home. However, we can advise supported people not to smoke 1 hour prior too, and when employees are in their homes during support time. Ark will advise supported people that smoke of our policy on eliminating second hand smoke exposure by letter and support planning to work out the best way to manage the risk to staff during support time. Supported people who wish to stop smoking can be advised of the agencies available to assist smokers to stop.

Where the passive smoking is assessed as being high risk and the supported person does not wish to assist by using identified workplace precautions then the Area Manager will have to withdraw support if all controls and attempts to eliminate second hand smoke exposure to staff fail.

Q3 What responsibility does ARK have regarding removing the risk of passive smoking to employees?

A3 Ark has a duty of care to provide smoke free environments whilst at work. The risk of passive smoking remains if the supported person is unable or unwilling to refrain from smoking whilst actively being supported. Workplace precautions are, therefore required. These will include persuading the supported person to refrain from or reduce smoking, installation of extractor fans, or the supported person smoking in other rooms, etc. Care should be taken not to overwhelm or upset the supported person during either the initial stages of discussing and implementing control measures to eliminate the risk to staff being exposed to second hand smoke.

Q4 Can an Ark employee refuse to work in a supported persons home if they do not follow agreed control measures

A4 Yes – Ark has a legal obligation to provide smoke free environments while at work. ARK managers and staff will make every effort to listen to concerns on an individual basis and to put workplace precautions in place to reduce the risk if a supported person decides to continue smoking. Ultimately, as supported people's homes are the place of work for support workers, Ark staff can refuse to provide support when control measures are not being followed by the supported person.

Q5 If an employee works in one of Ark's Care Home`s or HMO`s which provides facilities for supported people who smoke, can an employee smoke with them?

A5 **No.** Care Home`s and HMO`s are an employee's place of work so they are unable to smoke on the premises. Employees are required to comply with the local arrangements made for smoke breaks.

Q6 Can an employee smoke an electronic cigarette in a workplace?

A6 No, although these don't come under the smoking legislation they do come under the general duty of care under the Health and Safety at Work Act 1974. Electronic cigarettes emit nicotine which is a harmful substance, and will also cause confusion in the workplace.

Q7 Does a supported person smoking an electronic cigarette count as smoking?

A7 Yes it does, for the same reason as Q6

Q8 If an employee is in a café/pub/restaurant with a supported person, can an Employee smoke.

A8 **No.** Employees should note the legal restrictions imposed by the law on smoking in public places.

Q9 If I am an Ark employee and I smoke, can I leave the supported persons home to have a smoke in my break?

A9 **No.** Employees are required to comply with the local arrangements agreed with an Ark manager for breaks during support time.

Q10 Can I smoke in my own car if I am on Ark business?

A10 ARK staff must not smoke for 1 hour prior to supporting people in their vehicle or when using a vehicle for transporting employees.

Q11 If a supported person smokes can they request that a smoker is recruited specifically to support them?

A11 **No.** This would be perceived as an act of discrimination.

Q12 What happens if an employee does not comply with this policy?

A12 While it is our belief that most people will respect this policy, any acts of non-compliance will be dealt with in accordance with Ark's Disciplinary Procedures. The severity of discipline will reflect the fact that non-compliance breaches not only Ark's Smoke-Free Policy but also the Health and Safety Policy and the law. In accordance with Scottish Government guidance, a refusal to comply will be treated as anti-social behaviour and will attract the appropriate level of discipline. This measure is to ensure the provision of a safe working environment as well as compliance with the law.

Q13 Can I smoke in my car that is parked in ARK owned or leased car parks.

A13 **No.** if the car is parked within an external boundary, this is classed as an Ark workplace and the vehicle will have to park on the public highway if staff want to smoke in a vehicle.

Q14 Can I smoke beside the supported person when I am supporting them in outside public areas

A14 **No,** Staff are not to smoke when supporting people in public areas.

Q15 What support will Ark provide if an employee wishes to give up smoking?

A15 Quit Your Way is a free telephone helpline organised by NHS Scotland offering counselling and written materials on smoking and how to stop. There is one number which will then direct you to local information and other agencies which may help – these agencies are usually via your Health Board.

Quit Your Way is open from 8am – 4pm on weekday and 9am till 5pm at weekends and their number is 0800 84 84 84 or you can web chat with an adviser on their website.

Appendix 3 – Letter to Supported Person



Date ()

Dear (Tenant /Supported Person /Guardian).

This letter is to inform you of Ark`s Smoke Free Policy and how this will affect you, as someone who smokes when you are being supported by Ark Care & Support staff.

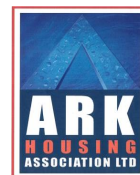
The main aim of the policy is to provide a smoke free workplace for our staff prior to, and during your support time.

1. Ark`s Smoke Free Policy states that support workers should not be exposed to second hand smoke when supporting you at home, in a vehicle or when supporting you in the community as these are considered our workplaces .
2. Ark support staff will work with you to provide a safe environment for them by involving you in the process of how to achieve a smoke free workplace and agreeing what has to be in place prior to, and during support time.
3. Any changes to your smoking habits will be documented in your Good Life Plan and regularly reviewed with you and your key worker.
4. If you cannot change your smoking habits after agreeing to changes you must discuss this with your key worker as Ark staff may refuse to enter your home to support you when they are exposed to second hand smoke.
5. Ark promotes discussion and regular reviews to resolve any problems with providing a smoke free workplace for our staff, but ultimately if an agreement cannot be reached a decision on whether to continue with supporting you will need to be considered by Ark managers.

Key Team Member –

ARK Manager –

Appendix 4 – Letter to Supported person (Easy Read)



Dear (Tenant/Supported Person/Guardian)

Date -



This letter is to let you know about Ark's new Smoke Free Policy.

A policy is a set of rules that Ark staff have to follow.



The new Ark Smoke Free policy makes some changes that may affect you as you are a smoker.

It is Ark's duty to give our staff a healthy workplace free of smoke.

When Ark's support workers come to your home to support you, your home becomes their workplace.

If you smoke in your home, in a vehicle or in the community during your support time, you're exposing Ark's staff to second hand smoke. Second hand smoke is very dangerous.

Ark is asking you to help us to give our staff a healthy workplace by changing some of your smoking habits.



What happens now?



1. Ark staff will work with you to agree what changes you can make so that staff are not exposed to second hand smoke prior to, and during support time.

For example you could open your windows or smoke outside your home.



2. Any changes to your smoking habits will be written down in your Good Life Plan. Your plan will be reviewed every 6 months with you and your key worker.



3. If you are struggling to make changes to your smoking habits, you should talk with your key team.



4. Ark staff may refuse to enter your home to support you if they are going to be exposed to second hand smoke.



5. Ark understands that these changes might be difficult for you.

We are open to discussion and we want to resolve any problems you might have with these changes.



6. However, if you cannot make these changes, Ark Managers might have to decide that we cannot continue your support.

Key Worker –

ARK Manager -

Appendix 5 – Generic Risk Assessment

Risk Assessment – Ark staff exposure to passive smoking during work activities (includes e-cigarettes).

Project/Department			Date		
Work Task	Hazards	Risks		Workplace Precautions	
Ark staff supporting service users that smoke during support time.	Ark staff breathing in unfiltered cigarette smoke that contains harmful chemicals such as benzene, carbon monoxide, cyanide and formaldehyde.	<p>Eye, nose, throat and throat irritation.</p> <p>Lung cancer, heart problems and makes worse any existing respiratory conditions such as asthma.</p> <p>Unpleasant smell of cigarette smoke that clings to clothing and hair.</p> <p>Exposure to passive smoking for pregnant workers</p>		<p>Discuss with supported person on ways to stop smoking with support from Ark staff and update the good life plan.</p> <p>Discuss with supported person on ways to prevent staff being exposed to passive smoking and update plan.</p> <p>Supported person to stop smoking in the support area 1 hour before support and open windows, use equipment such as fans and ionisers to make area smoke free.</p> <p>Supported person to smoke in another area of the home away from where Ark staff are providing support.</p> <p>Ask the supported person to smoke outside when Ark staff are providing support.</p> <p>Staff that require an extra duty of care risk assessment should not be exposed</p>	

			<p>to passive smoking if identified in extra duty of care assessment.</p> <p>Staff can refuse to provide support if control measures are not implemented, Ark staff have to report any failure to comply to the Ark manager immediately.</p> <p>Ark may refuse to provide support if a supported person or others fail to comply with agreed control measures to eliminate staff exposure to second hand smoke after mediation attempts. Any decision to cancel a support package will be the decision of the Area Manager and Director after all attempts to eliminate staff exposure to be unsuccessful.</p>
Work Task	Hazards	Risks	Workplace Precautions

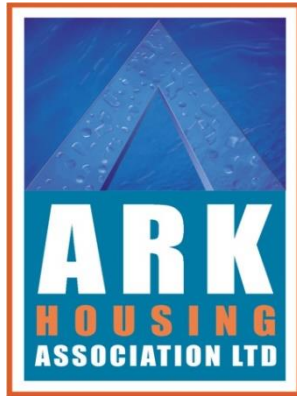
<p>Ark staff who are exposed to passive smoking when supported peoples' friends and family smoke when visiting service user`s home.</p>	<p>Ark staff breathing in unfiltered cigarette smoke that contains harmful chemicals such as benzene, carbon monoxide, cyanide and formaldehyde</p>	<p>Eye, nose, throat and throat irritation.</p> <p>Lung cancer, heart problems and makes worse any existing respiratory conditions such as asthma.</p> <p>Unpleasant smell of cigarette smoke that clings to clothing and hair.</p> <p>Exposure to passive smoking for pregnant workers</p>	<p>Remind visitors to observe no smoking signs and workplace prohibition rules.</p> <p>Visitors to stop smoking in the support area at a designated time before support and open windows and use equipment such as fans and ioniser to make area smoke free.</p> <p>Visitors to smoke in another area of the home away from where Ark staff are providing support.</p> <p>Ask the service user family and friends to smoke outside when Ark staff are providing support.</p> <p>Staff that require an extra duty of care risk assessment should not be exposed to passive smoking if identified in extra duty of care assessment.</p> <p>Staff can refuse to provide support if control measures not implemented, Ark staff have to report any failure to comply to the Ark manager immediately.</p>
<p>Work Task</p>	<p>Hazards</p>	<p>Risks</p>	<p>Workplace Precautions</p>

<p>Staff members that smoke during breaks at Ark workplaces.</p>	<p>Ark staff and service users breathing in unfiltered cigarette smoke that contains harmful chemicals such as benzene, carbon monoxide, cyanide and formaldehyde</p>	<p>Eye, nose, throat and throat irritation.</p> <p>Lung cancer, heart problems and makes worse any existing respiratory conditions such as asthma.</p> <p>Unpleasant smell of cigarette smoke that clings to clothing and hair.</p> <p>Exposure to passive smoking for pregnant workers</p>	<p>Ark staff that smoke should smoke only in designated break times outside Ark workplace boundaries and not at doorways or entrances- See HS17 smoke free policy.</p> <p>Staff to be advised of smoke cessation services that are available.</p>
<p>Ark staff exposed to passive smoking in vehicles.</p>	<p>Ark staff and supported people breathing in unfiltered cigarette smoke in an enclosed space that contains harmful chemicals such as benzene, carbon monoxide, cyanide and formaldehyde</p>	<p>Eye, nose, throat and throat irritation.</p> <p>Lung cancer, heart problems and makes worse any existing respiratory conditions such as asthma.</p> <p>Unpleasant smell of cigarette smoke that clings to clothing and hair.</p> <p>Exposure to passive smoking for pregnant workers</p>	<p>Supported people to agree not to smoke during support time when travelling in own or staff vehicles.</p> <p>Staff prohibited to smoke in vehicles owned by staff or supported people..</p> <p>Vehicles owned by staff must not smoke in vehicle 1 hour prior to using vehicle for Ark business.</p> <p>Smoking prohibited in public transport</p>

Assessment carried out by:

Assessor's Signature		Employee's Signature	
Name (Print)		Name (Print)	
Job Title		Job Title	
Date		Date	

Appendix 6 – Prohibition Notice



It is against the law for people and visitors connected to ARK`s work activities to smoke in these premises



It is also a breach of ARK`s smoke free policy to smoke in external boundaries for people