



Occupational Health & Safety (OHS)



Information Sheet 9 Passive Smoking in the Workplace

A guide to achieving a smoke-free workplace

Employers who allow smoking in their workplace are placing employees at risk and others who may suffer ill health as a result of passive smoking. This guide has been developed to raise awareness among employers and employees of their legal obligations regarding smoking in the workplace.

Smoke-free policies have now been adopted by the majority of workplaces in NSW including all Federal and NSW Government departments and most private companies. Public places such as shopping centres, malls and hospitality venues are also workplaces and are subject to the provisions of the Smoke-free Environment Act 2000.

Passive smoking means to breathe in environmental tobacco smoke (ETS). ETS contains over 4,000 chemical compounds including 43 known carcinogens. ETS is a combination of:

- **Mainstream smoke** is the smoke that smokers inhale directly from their cigarette. Exhaled mainstream is the smoke that smokers exhale.
- **Sidestream smoke** comes from the end of a lit cigarette and contains much higher levels of many of the carcinogens and other toxic substances than exhaled mainstream smoke.

The degree of exposure to ETS by non-smokers is determined by factors such as proximity to a smoker, the tar level of the cigarettes, the number of cigarettes smoked, the size of the room and length of exposure.

Various reports have concluded that passive smoking is a significant health hazard. ETS is an irritant to the eyes and respiratory tract and too many people has an offensive odour.

It also increases the chance of contracting or aggravating a range of illnesses including:

- Cardio-vascular disease
- Lung cancer
- Asthma (particularly in children)
- Acute irritation of the respiratory tract
- Bronchitis, pneumonia and other chest illnesses in children

The higher the level of exposure to ETS the greater the risk of contracting these illnesses.

It could be argued that injury from passive smoking is reasonably foreseeable and that consequently such an injury could give rise to action at common law.

The OHS Act 2000 requires:

- Employers to ensure the health, safety and welfare at work of all their employees and any others in their place of work.
- Employers to take all practical measures to protect workers in relation to their health, safety and welfare.
- Employees to take reasonable care for the health and safety of persons at their place of work who may be affected by their acts.

There are significant fines and penalties not only for employers but for employees as well if they breach the provisions of the OHS Act 2000.

Also under the Workers Compensation Act 1987 workers may be entitled to compensation if it is found that passive smoking has contributed to the development of disease or aggravated an existing condition or disease.

Assessments of the risk of passive smoking should be made on the basis of whether the smoking is indoors or outdoors.

Passive smoking will certainly occur when people smoke indoors. It may also occur in **partly** enclosed areas such as verandahs, terraces, shopping malls, sports stadiums. These areas must be assessed as to whether there is sufficient natural ventilation for them to be considered outdoors.

Controlling passive smoking

To eliminate passive smoking from all indoor areas in the workplace employers should:

- Develop a written non-smoking policy in consultation with employees
- Designate all indoor areas as non-smoking
- Inform staff through meetings, memos and notice boards
- Post signs using the standard symbols clearly indicating to staff and the public that all indoor areas are non-smoking.

Frequently Asked Questions

Are separate smoking areas a solution? - No

Workplaces that provide separate smoking areas for staff or clients are not fulfilling their obligation under the OHS Act 2000 to provide a safe place of work and these areas should be phased out.

Can ventilation prevent passive smoking? - No

Ventilation systems and air conditioning are not adequate to remove all ETS. Even costly high quality ventilation with a high fresh air supply combined with an air cleaning system will not remove all of the:

- Tiny particles, including carcinogens, which are breathed deep into the lungs
- Gaseous components of ETS
- Sidestream smoke
- Odour

Developing a smoke free workplace policy

A smoke free workplace policy should be a written document which is developed in consultation with employees and be posted on notice boards for all to see. It is recommended that the policy states:

- That the aim is to achieve a workplace which is free of ETS.
- When the smoking ban comes into force.
- The precise areas affected.
- That professional advice about coping without cigarettes and quit smoking is available.
- That new employees will be told when applying for a job that the workplace has a non-smoking policy.
- Employees cannot be disciplined because they smoke away from the workplace, during their own time.
- Employees who fail to look after the safety of other people at work by not complying with the no smoking policy can be personally liable to a fine of up to \$3,300 under the OHS Act.
- Those smokers are not entitled to smoke even if staff in a particular area all want to smoke. (This would contravene the obligation on an employer to provide a safe place of work and may affect people in other parts of the building.)
- Those who work in isolation are prohibited from smoking. (They are still likely to affect others who come into their area or through the air-conditioning system.)
- That designated smoking areas must be outdoors with no possibility of contamination of indoor areas.

Practical Tips

- Consult with employees the reasons why you are intending to implement a smoke free workplace;
- Designate all indoor areas as smoke free zones including vehicles;
- Include smoking in your disciplinary procedures;
- Obtain appropriate signage indicating this work site is smoke free;
- Relay this message to all users of your site;
- Negotiate with smokers areas they can access to smoke; and what times.

Please Note: You may get claims that the employer is being 'discriminatory'. The Anti Discrimination Act does not cover such things as smoking and consequently does not apply.

References

Occupational Health and Safety Act 2000

Occupational Health and Safety Regulation 2001

NSW WorkCover Code of Practice: Consultation 2001

NSW WorkCover Code of Practice: Risk Assessment 2001

NSW WorkCover Risk Management at Work Guide 2001

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www.workcover.nsw.gov.au

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