

# **National response to passive smoking in enclosed public places and workplaces**

## **Guiding Principles for Smoke-Free Public Places and Workplaces Legislation**

National Public Health Partnership

Legislation Reform Working Group

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National response to passive smoking:  
Guiding Principles

## Guiding principles for smoke-free public places and workplaces legislation

Principle	Key points
<p>1. People have a right to participate in the life of the community without risks to their health from environmental tobacco smoke exposure.</p> <p>This right can be most effectively safeguarded in enclosed and confined public places where nonsmoking is the normal practice.</p>	<ul style="list-style-type: none"> <li>Legislative requirements should be designed to allow people to go about their daily lives and to participate fully in the life of the community without risks to their health from exposure to tobacco smoke.</li> <li>The most effective way to protect people from the adverse health effects of environmental tobacco smoke (ETS) is to provide a nonsmoking environment.</li> <li>In enclosed public places, including those in which goods or services are offered, a nonsmoking environment should be regarded as normal practice.</li> <li>In confined outdoor spaces, such as sport and entertainment venues, a nonsmoking environment may also be the preferred option.</li> <li>Areas designated for smoking may be located outdoors or in areas in which employees and other persons would not be exposed to ETS. ETS exposure at building entrances and exits may also be minimised by discouraging smoking in these immediate areas.</li> </ul>
<p>2. There is no 'right' to smoke in an enclosed public place or workplace.</p>	<ul style="list-style-type: none"> <li>Legislation should not seek to create or preserve the 'right' of a person to smoke in an enclosed public place or workplace.</li> <li>Where legislation does not specifically require smoking to be prohibited entirely in particular premises, employers and proprietors should not be constrained from applying no-smoking policies, as long as such policies are consistent with other common law and statutory responsibilities.</li> </ul>
<p>3. Nonsmoking requirements should be designed to apply equally to all premises within a given industry sector in order to facilitate equal treatment of premises, and to promote community awareness, understanding and compliance.</p>	<ul style="list-style-type: none"> <li>Clear, unambiguous nonsmoking requirements, with few or no special provisions, will help establish a 'level playing field' within given industry sectors, ensuring that smoking arrangements are consistent for all premises involved in the same primary activity.</li> <li>Simple, uniform requirements help to reduce potential confusion and misunderstanding among proprietors, staff and patrons.</li> <li>Exemptions which are based on building/ventilation design or other criteria which may be available to some, but not all, premises may have the effect of distorting an otherwise 'level playing field'. If exemptions result in different smoking arrangements in similar types of premises (ie, those with the same primary activity), they may also make it more difficult for proprietors and customers to understand and to comply with the arrangements.</li> <li>If exemptions are provided, these should apply only to specified types of premises (such as areas used primarily for gaming and for the consumption of alcohol). Occupational health and safety obligations should be taken into account. Strict, health-based criteria for ETS protection should apply where smoking is not prohibited. (See discussion of exemptions in Section 8 of 'Smokefree public places legislation: examples of core provisions'.)</li> <li>Ideally, exemption criteria should specify that smoking is limited to areas which: <ul style="list-style-type: none"> <li>are separately enclosed from nonsmoking areas;</li> <li>have a separate ventilation system from nonsmoking areas;</li> <li>have negative air pressure so that tobacco smoke does not flow out of the area;</li> <li>do not exceed more than a specified proportion of the total public area used for that activity, and no employees are required to perform work-related activities.</li> </ul> </li> </ul> <p>Consideration should be given to making any exemptions transitional rather than permanent.</p> <p>Where smoking is not specifically prohibited within an enclosed public place or workplace, nothing in the legislation should be taken to remove the risk of legal liability borne by employers and proprietors for passive smoking-related claims.</p>

## Guiding principles for smoke-free public places and workplaces legislation (cont.)

Principle	Key points
4. A successful transition to 'nonsmoking as the norm' may involve phasing-in arrangements for some types of premises.	<ul style="list-style-type: none"> <li>• Systematic nonsmoking arrangements may be introduced for certain types of premises within a fairly short time. These include premises for which community support for smoke-free environments is already strong and/or for which nonsmoking has largely been adopted as normal practice (examples may include retail shops and shopping centres, recreational facilities, and dining areas).</li> <li>• Premises where smoking is more widespread and more firmly entrenched may need more time to move to nonsmoking. For these premises, a 'phased' or incremental approach may be appropriate. However, unlike a completely nonsmoking environment, the simple separation of smoking and non-smoking areas within the same physical environment, even with the use of air handling systems, will not provide complete ETS protection.</li> <li>• It should be regarded as a priority to provide a smoke-free environment in enclosed public places:               <ul style="list-style-type: none"> <li>– in which people have no choice but to go in order to conduct business or to participate in the normal life of the community;</li> <li>– which are accessible to or are regularly frequented by children; and</li> <li>– which consist of common areas where the segregation of smoking and nonsmoking facilities would be ineffective or otherwise problematic.</li> </ul> </li> <li>• A phased approach may involve:               <ul style="list-style-type: none"> <li>– introducing nonsmoking arrangements in different types of premises at different times, and/or</li> <li>– increasing the extent of nonsmoking provision over time in particular types of premises, and</li> <li>– providing a clear timetable for each stage of the approach.</li> </ul> </li> <li>• A phased approach should ensure that all affected premises introduce some form of nonsmoking arrangements as soon as possible (usually within a matter of months of the legislation being gazetted).</li> <li>• Arrangements which allow for smoking and nonsmoking areas within the same common area may form part of a phased approach but should be avoided as a long-term practice.</li> </ul>
5. Compliance systems should be based primarily on awareness, education and community support.	<ul style="list-style-type: none"> <li>• Legislation should be designed to achieve a high level of compliance supported by community awareness, education and prevailing social norms. Enforcement protocols should emphasise the need to achieve outcomes supportive of public health, including a focus on achieving voluntary compliance rather than on the imposition of punitive measures.</li> <li>• Compliance is enhanced where the law clearly states the obligations of both proprietors and customers.</li> <li>• Compliance is enhanced where the law is supported by:               <ul style="list-style-type: none"> <li>– the display of appropriate signage at public entrances to and within places where smoking is prohibited or restricted, and</li> <li>– education and information programs which aim to increase awareness of the law among proprietors, employers, customers and patrons.</li> </ul> </li> <li>• Legislation should clearly identify and allocate implementation and enforcement responsibilities.</li> <li>• Legislation should be supported by a commitment to adequately resource an information, implementation, monitoring and enforcement program designed to ensure continuing high levels of compliance.</li> </ul>

## Additional principles for legislative approaches to smoke-free workplaces

Principle	Key points
1. Public areas of workplaces should be nonsmoking.	<ul style="list-style-type: none"><li>• All areas of indoor workplaces which are used by or are accessible to members of the public or to other non-employees should be designated as nonsmoking.</li><li>• ETS exposure at entrances and exits to workplaces may also be minimised by discouraging smoking in these immediate areas.</li></ul>
2. A nonsmoking work environment should be regarded as the norm.	<ul style="list-style-type: none"><li>• A work environment in which employees are not exposed to ETS should be regarded as the norm.</li><li>• If areas in which smoking occurs are to be provided in a workplace, arrangements for these areas should not conflict with obligations and protection provided under occupational health and safety legislation. In addition,<ul style="list-style-type: none"><li>– such areas should be regarded as transitional, rather than permanent;</li><li>– such areas should be separately enclosed from nonsmoking areas, have negative air pressure and be separately ventilated (preferably directly outdoors) so that tobacco smoke does not enter nonsmoking areas; and</li><li>– no employees should be required to perform work-related activities in such areas.</li></ul></li></ul>

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