

Care Homes Briefing

Number 51A

Smoke Free Legislation To Affect Care Homes

On the 31st January 2007 the Government laid the Smoke free (Exemptions and Vehicles) Regulations before Parliament. While the Regulations will be subject to Parliament's approval, the laid Regulations represent the Government's finalised position on exemptions from smoke free legislation.

In July 2006, the Department of Health published a consultation on the smoke free regulations to be made under the Health Act 2006, including proposals for residential care homes.

The majority view from respondents to the consultation was that, either there should not be any exemption to permit smoking within residential care homes, or that any exemption should be time limited.

The view was shared by stakeholders including the Royal College of Psychiatrists, Cancer Research UK, the Royal College of Physicians, the British Medical Association and many NHS organisations that responded to the consultation. This view has only been adopted in the Regulations in a limited manner. Smoking will still be permitted in designated areas of care homes.

The Regulations provide that a "designated room" used as accommodation in a care home is not smoke free and thus smoking is permitted in such rooms (Reg 5(1)).

These designated rooms could either be bedrooms or rooms used only for smoking and must meet specific conditions. Rooms designated for smoking must:

- Be designated in writing by the person in charge of the care home as being a room in which smoking is permitted.
- Have a ceiling and except for doors and windows, be completely enclosed on all sides by solid, floor to ceiling walls.
- Not have a ventilation system that ventilated into any other part of the premises (except any other designated smoking room).
- Be clearly marked as a room in which smoking is permitted; and
- Not have any door that opens on to smoke free premises that is not mechanically closed immediately after use.

The wording of Regulation 5(1) does create some doubt about whether staff who do not live in a care home at least on a temporary basis will be entitled to smoke in the "designated rooms".

A range of support exists to care homes to become smoke free so far as the areas that are not "designated" are concerned:

- In 2005, the Health Development Agency published *Guidance for Smoke free Hospital Trusts* (available to download at www.nice.org.uk/page.aspx?o=502903.)
- In October 2006, Smoke free London in collaboration with Wandsworth Teaching PCT published *Smoke free Policy and Interventions in*

Mental Health Settings: A toolkit (available to download at www.smokefreelondon.org/article.php?id=106).

- The Tobacco Control Centre (TCC) has also developed resources, including a Support Pack for *Smoke free Mental Health Services* (available by contacting the TCC by email at tcc@tobaccocontrolcentre.org.uk or by telephone on 01926 490190).

Smoke free health will help to ensure that care home residents receive treatment in an environment that is equal to that to be provided for other patients in the NHS.

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Out of office emergency advice available 24hrs on 07802 506 306.

Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

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