



**Unite/CPHVA
Profession Team**
33-37 Moreland Street
London EC1V 8HA
Telephone 020 7780 4090
Fax 020 7780 4040
professional.team@
amicustheunion.org
www.amicus-cphva.org

Advice Sheet – Smoke Free Legislation and Community Practice

On July 1st 2007, England introduced a new law to make virtually all enclosed public places and workplaces in England smoke free. This followed introduction of smoke free legislation in Scotland¹ in March 2006, and Wales² and Northern Ireland³ in April 2007. The purpose of this legislation was to ensure a healthier environment, so everyone can socialise, relax, travel, shop and work free from second hand smoke⁴.

As part of the new law there are certain exemptions with one specifically relating to community practitioners' and health visitors roles, namely "(2a) there is excluded...all work that is undertaken solely to provide personal care for a person living in the dwelling⁵."

It could therefore be argued that those people who carry out personal care for a person living in the dwelling don't have the benefit of the law that has been introduced, i.e. they are not able to work in an environment that is free from second hand smoke.

Some employing organisations have taken the stance of ensuring that employees have the same rights by notifying any clients that expect a home visit that they should not smoke for a certain period of time prior to the visit., e.g. Liverpool City Council has asked residents to open windows and refrain from smoking 30 minutes before being visited by one of its employees. If residents insist on smoking during the visit, then the visit will be finished and the resident asked to attend a council office for the meeting⁶. This stance however needs to be equated with the need to engage clients in any care and the possible detrimental effects that this might have. Further information can be accessed from the TUC who have published the following guidance sheet; "Negotiating smoke free workplaces: Visiting clients in their home⁷".

Unite/CPHVA advises members that discussions need to be held between staff and managers, and a policy agreed upon which keeps the health and safety of staff paramount. This could be done by discussing with the local accredited representative who in turn can discuss this with managers in the trust. It should however be highlighted that the NMC Code of Conduct states; "*As a registered nurse, midwife or specialist community public health nurse, you must respect the patient or client as an individual...reporting to a relevant person or authority, at the earliest possible time, any conscientious objection that may be relevant to your professional practice. You must continue to provide care to the best of your ability until alternative arrangements are implemented*"⁸. Therefore if staff feel that they cannot visit clients due to their health and safety being put at risk they should report this to their line manager at the earliest opportunity. It is also important that members

understand their duty of care if they delegate work to colleagues, where they will have responsibility for ensuring that the environment they are sending them into is safe.

Members should also take this as another important opportunity to support clients to give up smoking, particularly where there are young children living in the household. Community practitioners and health visitors are in an excellent position to deliver simple and effective public health messages to their clients, using the NICE public health intervention guidance on brief interventions and referral for smoking cessation in primary care and other settings.⁹

¹ Clearing the Air Scotland <http://www.clearingtheairscotland.com>

² Smoking Ban Wales <http://www.smokingbanwales.co.uk>

³ Space to Breathe, Northern Ireland <http://www.spacetobreathe.org.uk>

⁴ Smoke free England (2007) <http://www.smokefreeengland.co.uk>

⁵ Statutory Instrument 2007 No. 765 The Smoke -free (Exemptions and Vehicles) Regulations 2007
<http://www.opsi.gov.uk/si/si2007/20070765.htm>

⁶ No Smoking Policy, Liverpool City Council 2007.

[http://councillors.liverpool.gov.uk/published/c00000935/m00006979/ai00036568/\\$finaldraftnosmokingpolicy.doca.ps.pdf](http://councillors.liverpool.gov.uk/published/c00000935/m00006979/ai00036568/$finaldraftnosmokingpolicy.doca.ps.pdf)

⁷ TUC Negotiating smoke free workplaces: Visiting clients in their home.

http://www.smokefreeengland.co.uk/files/guidance_for-people-working-in-the-home.pdf

⁸ NMC Code of Professional Conduct 2004 <http://www.nmc-uk.org/aDisplayDocument.aspx?DocumentID=201>

⁹ Public health intervention guidance March 2006 <http://guidance.nice.org.uk/phi1>