

Provision of outside smoking areas

There is no legal requirement to provide dedicated external areas for customers who wish to smoke.

However, if considering the need, or not, for provision of an outside area for customers, an initial assessment of the likely impacts to local residents and the adjacent environment should be made. This will typically address issues such as noise, litter, smoke, light pollution and fire safety. The following document highlights some of the issues that will require consideration and help determine whether provision of such a facility is feasible and in the best interests for your business.

In the event of justified complaints concerning individual premises, it is important to highlight that in cases where an adequate resolution is not achieved, the most appropriate course of action may be to seek review of a premises licence.

Use of outdoor areas

You will need to consider the implications of bringing into use an outdoor area for smoking **and/or** the erection of a smoking shelter in an outdoor area:

- Does your premises licence issued under the Licensing Act 2003 or planning permission have any time restrictions on the use of outdoor areas?
- Will you need to vary your premises licence or planning consent? You will need to ensure that your premises licence covers the outside area if it is to be used for the consumption of alcohol. A Pavement Café Licence will also be required if you wish to use an area of the highway.
- You may need planning permission to erect a shelter outside the premises (see separate planning guidance note)
- How will you supervise outdoor areas?
- If you have CCTV installed, will you need to extend the system to cover the outside area? You may need to discuss this matter with your Police Licensing Officer.
- If you wish to use an adjacent pavement area for tables and chairs you will need permission to operate a pavement café from the City Council.

“Pass outs” for smoking

For some licensed premises where an entrance fee is charged, licensees will need to consider how to deal with individuals who may wish to go outside for a smoke, where there is no access to any outside smoking area from within the premises. If procedures are put in place to allow customers to leave and return, the following matters will need to be considered.

- Does your licence permit pass outs at all times? A variation to your licence may be

required.

- Will customers be able to take drinks outside with them? Be aware of safety, public disorder and glass considerations. The impact of the Designated Public Places Order – the Police have powers to confiscate alcohol being consumed on the streets where there are public order issues will also require consideration.
- Is there likely to be conflict between smokers requiring re-entry and people queuing to enter the venue?
- Is it possible to ensure that the prescribed maximum capacity for your premises is not exceeded with customers coming outside to smoke and then requiring re-entry to the premises?

Noise nuisance issues

The requirement for smokefree enclosed public places will have a knock-on effect with regard to noise nuisance. This will be especially likely where licensed premises such as pubs, bars and clubs are located close to residential properties. Licensed holders are responsible for noise emanating from their premises, and should control noise to avoid complaints from neighbouring residents.

A restriction on smoking in enclosed public spaces will more than likely result in customers wanting to smoke in an outdoor garden or patio area or on the street outside a premises. This will coincide with the business opening hours for the premises, which may be until late at night. The number of people congregating could be significant and the resulting impact of noise from talking and shouting could become quite disturbing to local residents. Open doors used for access and egress from smoking areas could result in the additional break out of entertainment noise from within a premise.

Suggestions for licensees for reducing noise disturbance

- A licensee may wish to create a designated 'smoking' area on their premises. A designated smoking area should be located as far away as possible from the nearest noise sensitive neighbour to minimise the impact of use of this area.

Appropriate location of a smoking area will reduce the potential for smoke to enter residential properties.

- Signs should be placed near the exits of premises requesting people to be quiet out of consideration for neighbouring properties whilst smoking outside.
- Licensees should ensure that external doors to smoking areas are kept closed to prevent noise breakout.
- Canopies over smoking areas are unlikely to contain crowd noise.
- Licensees should supervise smokers to ensure they do not cause a disturbance to local residents. In addition management of the number of people using a smoking area at any one time will need to be addressed.

The Noise Team within Environmental Health can provide advice to licensees concerning noise control both from customer and entertainment noise. Please contact us to arrange an appointment to visit your premises. (Tel :0191 211 6116)

'Beer gardens'

Outdoor garden areas are ideal for smokers. Consideration for the adequate provision for non-smokers (including children) in outdoor garden areas, who do not wish to be surrounded by smoke, should be addressed. Smokefree garden areas or designated seating could be considered, complete with receptacles for cigarette litter.

Litter

Where people are smoking outside of premises, consideration will need to be made for the adequate provision for the disposal of cigarette ends. You may need to provide a receptacle at the entrance to your premises as well as in the outside designated smoking areas. It will be necessary to ensure that the resulting access at your property is not compromised when deciding where to locate such a receptacle. Wall mounted ashtrays may require planning permission.

Light pollution

The positioning of any additional lighting to external smoking areas may give rise to complaint if directed towards adjacent residential properties.

General queries

These can be directed to the Smoke Free Project Office who are able to offer support and advice to businesses. Tel : 0191 2774442 or 0191 2777443