

# Health and Safety Code of Practice WCP3 Smoking and Vaping

## Responsible for this policy

Registrar and Chief Operating Officer.

## People who need to read this policy

University staff, students, users of and visitors to the University

## Date the policy was introduced

January 1999.

## Date(s) when the policy was modified

January 2001, June 2007, February 2008, November 2012, April 2013, March 2014, April 2014, June 2016, November 2018, March 2020, December 2022.

## Next review date

December 2024.

## Date policy approved

University Health and Safety Committee, 09 November 2023.

## Responsible for reviewing this document

Associate Director, Safety, Health and Environment.

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## Relevant documents

- Health and Safety at Work etc. Act 1974.
- Management of Health and Safety at Work Regulations 1999.
- Health Act 2006.
- Smoke-free (Signs) Regulations 2012.
- Public Health England: use of e-cigarettes in public places and workplaces 2016.
- Fire Protection Association: Government warns of e-cigarette fire risks, November 2014.

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## Related policies and documents

- Liverpool John Moores University Health and Safety Policy Statement.
- MCP1 Organisation for the Implementation of the Health and Safety Policy.
- MCP2 Arrangements for the Implementation of the Health and Safety Policy.

- SCP5 Electrical Safety.

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# Health and Safety Code of Practice WCP3

## Smoking and Vaping

### Important

This code of practice forms part of the university's health and safety policy and replaces all previous issues

## 1. Introduction

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The Health Act 2006 protects employees and the public from the harmful effects of second hand smoke. It is against the law to smoke in virtually all enclosed public places, workplaces, public and work vehicles.

The university has a legal obligation to comply with the Health Act 2006, the Health and Safety at Work etc. Act, 1974 and associated Regulations to ensure, so far as is reasonably practicable, that the working environment is healthy. Thus, it must protect non-smokers against involuntary inhalation of the chemicals in tobacco smoke.

Accordingly, the university undertakes to prevent smoking of tobacco or other products including electronic cigarettes (vaping) in all university buildings and vehicles, except where there are external designated smoking areas, which are clearly signed.

Nicotine replacement therapy aids (NRT) that disperse a vapour in the mouth such as Nicorette inhalator, mouth or nasal spray are exempt from this Code of Practice.

## 2. Background

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Tobacco smoke contains chemicals that cause cancer and there is no known threshold dose below which the cancer risk is completely absent. Smoking tobacco is also directly responsible for other serious illnesses, disease and death. There is increased evidence that 'passive smoking' (i.e., breathing other people's tobacco smoke) is also a health risk.

Passive smoking is a serious health hazard, and there is no safe level of exposure. Every time someone breathes in passive smoke, they breathe in over 4,000 chemicals. Many are highly toxic. More than 50 are known to cause cancer.

Medical and scientific evidence shows that exposure to passive smoking increases the risk of serious medical conditions such as lung cancer, heart disease, asthma attacks, childhood respiratory disease, sudden infant death syndrome (SIDS) and reduced lung function.

Scientific evidence also shows that ventilation does not eliminate the risk to health of passive smoking in enclosed places. The only way to provide effective protection is to prevent people breathing in passive smoke in the first place.

Electronic cigarettes for (vaping) are battery powered products designed to replicate smoking without the use of tobacco. Some look like conventional cigarettes, while others appear more like an electronic device. E-cigarettes consist of a cartridge containing nicotine,

an atomiser (heating element), a rechargeable battery and some are fitted with an LED that glow when in use. They contain nicotine and non-nicotine products that turn into vapour that is inhaled by the user. E-cigarettes are used as an alternative to a conventional cigarette and can also be used to aid smoking cessation.

Whilst there are no reported passive smoking effects associated with e-cigarettes (vaping), there have been no long-term health effect studies and some products do look very much like a conventional cigarette. For these reasons, the use of e-cigarettes is prohibited in all university buildings and vehicles.

### **3. Aims and objectives**

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The aims and objectives of this Code of Practice are to:

- protect the health of staff, students and visitors to university premises
- comply with the legal requirements of the Health Act 2006
- prevent smoking of tobacco or use of other products including electronic cigarettes (vaping) in all areas of the university
- reduce the associated risk of fire caused by smoking
- reduce the associated risk of fire caused by using unregulated illegal charging devices that do not meet UK standards
- prevent the activation of smoke/optical fire detection systems

### **4. Responsibilities**

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The Vice-Chancellor will have absolute responsibility for the effective discharge of the provisions within this Code of Practice.

As with other aspects of health and safety, ELT members and Directors shall be responsible to the Vice-Chancellor for ensuring, so far as is reasonably practicable, that this Code of Practice is observed.

Enforcement of this legislation lies with Government agencies that have the power to issue an individual, or the organisation, with a fine for infringement of the Health Act 2006. It is a requirement that all employees, students and visitors should follow this Code of Practice.

This Code of Practice is not intended to be over-prescriptive. It is hoped that colleagues or managers of smokers or staff using electronic cigarettes who ignore the Code of Practice will intervene sensitively to address the situation. An individual who continually flouts the legislation can be reported and subsequently fined, as can the university. Clearly, therefore, it is a line management responsibility to ensure that, should smoking or vaping be permitted during the working day, it is done responsibly. Practical guidance is contained in the Appendix to this Code of Practice.

In the case of visitors and other members of the public, the person responsible for them being on university premises must ensure that they comply with this Code of Practice.

The responsibility for the provisions and installation of signage, as per Section 6 of this Code of Practice, rests with Campus Services.

Every member of the university has a duty under the Health Act 2006 and under the Health and Safety at Work etc. Act 1974 to safeguard themselves and others who may be affected by their acts and omissions.

## 5. General provisions

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### 5.1 University buildings and grounds

Smoking of tobacco, or use of other products including electronic cigarettes, is not permitted in **all areas of the university**. This includes internal and perimeter grounds such as gardens and car parks. Smoking, therefore, can only take place outside the perimeter of a building and any associated grounds. The exception to this is where there are external designated smoking areas, which will be clearly signed.

If designated smoking areas are not provided (which will be in the majority of cases) smoking has to be outside the perimeter of the building and its grounds and will be far enough away to prevent smoke re-entering buildings through windows and doors. Main entrances should remain clear to prevent obstructions and the inhalation of smoke. A reasonable distance of 3 metres from entrances and windows should be observed by people who smoke. Users of electronic cigarettes should also observe the 3-metre distance from all windows and entrances to prevent tobacco smokers believing it is acceptable to smoke tobacco products in such areas. Users of electronic cigarettes do not have to use the designated smoking areas that are provided for tobacco smokers.

Some examples of how the Code of Practice takes effect, if designated smoking areas are not provided, are as follows.

- People working in Egerton Court/Rodney House cannot smoke in the garden at the rear of Rodney House.
- People studying/working in the John Foster Building or surrounding buildings to the John Foster Garden cannot smoke anywhere, other than in the designated smoking area.
- People studying/working at IM Marsh cannot smoke anywhere on campus, other than in the designated smoking area, even if it is outside one of the campus buildings or on a sports field.
- People studying/working at Byrom Street cannot smoke anywhere on campus, other than in the designated smoking area, even if it is outside one of the campus buildings, on the car park, or on one of the grassed areas.

### 5.2 University vehicles

Vehicles are required to be smoke free at all times if they are used:

- to transport members of the public

- in the course of paid or voluntary work by more than one person – regardless of whether they are in the vehicle at the same time.

Smoking of tobacco or use of other products including electronic cigarettes is not permitted, therefore in any university vehicles.

### 5.3 University premises occupied by others

This Code of Practice shall also apply to those parts of university premises that are let to and occupied by other parties, for example the John Moores Students' Union, and. LJMU International Study Centre.

### 5.4 Other premises used by the university

Staff and students in other buildings, for example, Exchange Station, must follow the local smoking policy.

## 6. Signage

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All smoke free premises and vehicles will display no-smoking signs that meet the requirements of the Smoke-free (Signs) Regulations 2012.

### 6.1 The required signs for smoke-free premises

No-smoking signs are displayed in a prominent position at every entrance to smoke free premises. Since 1st October 2012, at least one legible no-smoking sign must still be displayed, but the university is now free to decide the size, design and location of the signs under the Smoke-free (Signs) Regulations 2012.

Signs will meet the following minimum requirements.

- Display the international no smoking symbol.
- Carry the following words in characters that can be easily read: **'No smoking. It is against the law to smoke in these premises'**.

A smaller sign consisting of the international no-smoking symbol may instead be displayed at entrances to smoke free premises that are:

- only used by members of staff
- located within larger smoke-free premises, such as a shop within a building

### 6.2 The required signs for smoke-free vehicles

Smoke-free vehicles will need to display a no-smoking sign in each compartment of the vehicle in which people can be carried. This must show the international no smoking symbol, at least 70mm in diameter.

## 7. Performers

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Where the artistic integrity of a performance makes it appropriate for a performer to smoke, the part of the premises in which that person performs will not be required to be smoke free for the performer only during the performance. **This exemption does not apply to rehearsals.** Where there is an intention for a person to smoke during a performance, a risk assessment must be undertaken by the School, which gives consideration to passive smoking as well as to fire safety.

The performer and any person that controls or manages the premises are liable for meeting the requirements of the law.

## 8. Enforcement

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Local councils are responsible for enforcing the Health Act 2006.

### 8.1 Penalties for breaking the law

Anyone who does not comply with the smoke free law will be committing a criminal offence. The fixed penalty notice and maximum fine for each offence are set out below.

#### Smoking in a smoke-free place

**Those liable:** Anyone who smokes in a smoke-free place.

**Fixed penalty notice (if paid in 15 days):** £30.

**Fixed penalty notice (if paid in 29 days):** £50.

**Court awarded fine:** Up to £200.

#### Failing to display required no-smoking signs

**Those liable:** Anyone who manages or occupies the smoke-free premises or vehicle.

**Fixed penalty notice (if paid in 15 days):** £150.

**Fixed penalty notice (if paid in 29 days):** £200.

**Court awarded fine:** Up to £1,000.

#### Failing to prevent smoking in a smoke-free place

**Those liable:** Anyone who manages or controls the smoke-free premises or vehicle.

**Fixed penalty notice (if paid in 15 days):** N/A.

**Fixed penalty notice (if paid in 29 days):** N/A.

**Court awarded fine:** Up to £2,500.

## 9. Information, Education and support

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This Code of Practice is available to all members of the university via the Policy Centre and the Safety, Health and Environment website. It will be communicated on induction to all staff and students.

The university will give support to smokers who wish to give up smoking by providing advice and assistance for staff and students through the Occupational Health Unit. Contact will be made with Health Promotion agencies and Smoke Free Liverpool to provide adequate and

up to date provision for those who want to give up. There is free support available from the NHS: <http://smokefree.nhs.uk/>. This includes:

- **Local NHS Stop Smoking Services** – to find a local service, individuals may contact the NHS Smoking Helpline free on 0800 169 0 169 or visit: <http://smokefree.nhs.uk/waysto-quit/local-nhs-stop-smoking-service/> or ask at a local GP practice, pharmacy or hospital
- **NHS Smoking Helpline** – individuals can speak to a specialist adviser by calling 0800 169 0 169 (lines are open daily from 7am to 11pm)
- **Together** – this support programme is free to join, and is designed to help individuals stop smoking using both medical research as well as insights from ex-smokers. Individuals can choose to receive emails, text messages, mailing packs and phone calls. They may call the NHS Smoking Helpline on 0800 169 0 169.

Where appropriate, guidance from the National Institute for Health and Clinical Excellence (NICE) will be taken by the Occupational Health Unit on how to help employees stop smoking.

## 10. Batteries and charging devices

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Batteries used for e-cigarettes can sometimes suffer a 'short' due to metal touching both the negative and positive terminals, normally due to the casing of the battery being defective or the protective ring at the positive end of the battery being defective. This 'short' can result in a thermal runaway and fire. On a regulated mod system, if the wrap around two of the three batteries is defective and two metal casing - 'cans' - of the batteries touch each other there will be a short and potential fire.

A number of incidents have also been reported across the UK, involving electronic cigarettes that have exploded or ignited while recharging. Incidents have also occurred in premises and vehicles. Recharging modes include connection to a computer USB port, car cigarette lighter/accessory socket, and connections to a main charger. Electronic cigarettes should not be recharged in university premises or vehicles. Regulated mods are recommended, these being charged using separate chargers rather than the in-built charger, off the premises. For further information, see SCP5 Electrical Safety:

<https://policies.ljmu.ac.uk/UserHome/Policies/PolicyDisplay.aspx?&id=235&l=1>

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# Appendix

## Practical guidance for when someone smokes in a smoke free place

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Where an employee observes a colleague, student, visitor, member of the public walking across university grounds or contractor breaching this policy they should politely approach the individual (if they feel comfortable in doing so) in the first instance to remind them of the university's smoking policy.

- Draw the person's attention to the no-smoking signs and ask them to stop smoking or vaping.
- Point out that they are committing a criminal offence by smoking in a smoke free premises or vehicle.
- Remind the person that, under the law, you have responsibilities to prevent smoking and that you could both receive a fine.
- Remind the person of the reasonable 3 metre distance from all entrances and windows

Staff and students who repeatedly breach the smoking policy should be reported to their Line Manager/Head of Department/Faculty. Taking disciplinary action against staff or students is an option.

If a client, visitor or contractor continues to smoke, you can ask them to leave the premises. If physical violence is threatened by a person smoking or vaping, you should notify Security Services and/or seek assistance from the police.

Full compliance of this policy is difficult to implement, as not all staff are comfortable approaching people who are smoking/vaping.

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END OF POLICY