

Aberdeenshire Licensing Board. 03
North Division

Scottish Executive

A Consultation on Reducing Exposure to Second-Hand Smoke

Smoking in Public Places

RESPONSE FORM

1. Having considered the health risks associated with passive smoking, do you think that further action needs to be taken to reduce people's exposure to second hand smoke? *(Please tick one box only)*

YES

Please provide any other comments here.

2. Would you support a law that would make enclosed public places smoke-free? **(Public places includes workplaces and public transport)** *(Please tick one box only)*

YES

Please provide any other comments here.

Smoking should not be permitted at any public event.

3. If a law was introduced, do you think there should be any exemptions to it? **(i.e. any enclosed public places where smoking should be allowed)** *(Please tick one box only)*

NO

Please provide any other comments here.

- 4. If we decide not to introduce a law, what more could be done to encourage individual businesses to take voluntary action to become smoke-free or to provide more smoke-free provision?**

Please provide any suggestions or other comments here

It should not be left to individual businesses to decide, there should be a law. "Smoke-free" requires to be defined otherwise it is unenforceable.

- 5. What else could we do to reduce people's exposure to second-hand smoke?**

There should be a law preventing people's exposure to second-hand smoke.

- 6. Please let us know about any other views you have about smoking in public places.**

Please refer to the answer at question 2.

- 7. Are your views personal or are you representing those of an organisation?**
(Please tick one box only)

On behalf of a group or organisation

- 8. Do you smoke? (Please tick one box only)** YES – 1 person
NO – 11 persons

9. Are you? (Please tick one box only)

MALE – 9 persons
FEMALE – 3 persons

10. What age are you? (Please tick one box only)

Under 16

16-24

25-59

60 and over

**PLEASE COMPLETE THE RESPONDEE INFORMATION FORM OVERLEAF
RESPONDEE INFORMATION FORM**

Please complete the details below. This will help ensure we handle your response appropriately:

1. Name **Aberdeenshire North Divisional Licensing Board**

Address: **St. Leonards, Sandyhill Road, Banff, AB45 1BH**

2a. IF YOU ARE RESPONDING AS AN INDIVIDUAL:

Do you agree to your response being made available to the public (in SE library and/or SE website)?

YES (go to 2b below)

~~No, not at all~~

2b. **Where confidentiality is not requested**, we will make your response available to the public on the following basis (please tick one of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

2c. IF YOU ARE RESPONDING ON BEHALF OF A GROUP OR ORGANISATION:
Your name and address as respondees *will* be made available to the public (in the SE library and/or on SE website). Are you content for your response to be made available also?

THANK YOU FOR COMPLETING THIS CONSULTATION DOCUMENT

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YES

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**LICENSING (SCOTLAND) ACT 1976
ABERDEENSHIRE LICENSING BOARDS – NORTH DIVISIONAL
LICENSING BOARD**

**APPLICATIONS FOR LICENCES
GUIDELINES RELATIVE TO THE SETTING UP OF 'CLEAN AIR' LICENSED
PREMISES WITH DESIGNATED SMOKING AREAS**

The Licensing Board considers it appropriate to have in place guidelines which would assist in the process of carrying out the requirement on the Board under the Licensing (Scotland) Act 1976, to determine whether premises are suitable or convenient for the sale of alcoholic liquor in terms of Section 17(1)(b) of said Act with specific regard to the measures put into place by the applicant to ensure the air within the premises is kept clean and the controls implemented for designated smoking areas within premises to prevent the spread of smoke throughout the premises.

The Board took into account the following factors in determining the necessity for and the substance of its guidelines in this regard, namely:-

- To place a total ban on smoking in licensed premises was not right and would not work.
- The majority of members of the public do not smoke and therefore it was right that the emphasis should be on smoke free licensed premises with designated smoking areas rather than, as is more usual, smoke free areas within areas where smoking is permitted.
- On 14th September 1999, the Hospitality Industry signed up to a Public Places Charter on Smoking. The Board are keen to encourage Licensees to bring licensed premises within the North Board Area in line with this Charter, particularly in respect of designated areas for smoking and non-smoking and the use of the Charter's signage system to advise Members of the Public of the policy used within licensed premises.
- In terms of the Health and Safety at Work Act 1974, all employers have a duty to ensure the welfare of all their employees.
- The Health and Safety Commission are investigating the possibility of an Approved Code of Practice to tackle the issue of passive smoking in the workplace, one of the areas they are focussing on is the hospitality trade.
- There is increasing evidence being produced confirming the injurious effects of passive smoking, which caused the Board concern, particularly in relation to premises regularly providing meals and licensed premises with children's certificates.

Board Members seek to promote a safe and suitable social environment within licensed premises, which can be enjoyed by all members of the community within the

regard to the particular circumstances pertaining to any application before reaching its decision on the suitability of the premises for the sale of alcoholic liquor.

The Board appreciates that there will inevitably be costs involved in bringing licensed premises up to the standards required and that it will take time to do so.

The Board expects all licensed premises to meet the standards set out in these guidelines by June 2003 at the very latest.

1. The applicant shall include a written policy on clean air within the risk assessment to be produced with his/her application. The policy shall include the following:-
 - A policy dealing with tobacco smoke;
 - Areas where there are restrictions on smoking and banned areas;
 - Air-quality equipment that is or is to be used in the premises;
 - A system of record keeping for cleaning and maintenance of equipment.
2. The applicant shall ensure that the policy is known and understood by all staff and that staff are trained in the proper use of any equipment provided.
3. The applicant shall comply with the following guidelines from the Health and Safety Executive "Workplace Health, Safety and Welfare Approved Code of Practice 1992."
 - a) Enclosed workplaces should be sufficiently well ventilated so that stale air, and air which is hot and humid because of the processes or equipment in the workplace, is replaced at a reasonable rate.

Planning Your Non-Smoking and Smoking Areas

1. Applicants should allow for increased use of smoking areas.
2. Internal and external signage shall be put into place indicating the clean air policy used within the premises.
 - a) External signage shall comply with the Public Charter. [Application form attached]
3. Internal signage shall be
 - a) clear, visible and simple
 - b) placed in a prominent position so customers know exactly where they can and cannot smoke.
 - c) Durable
 - d) Permanent
4. Air-cleaners do not replace the need for ventilation fans. There is a statutory duty to provide adequate ventilation in terms of the Building Regulations.
5. Air-cleaners shall be sited where maximum efficiency can be achieved.
6. All controls shall be behind the bar and shall be automated as far as is possible.
7. Staff shall be trained in how to use the equipment properly.
8. The applicant shall ensure that there are permanent instructions for the equipment.
9. The applicant shall ensure that the equipment is maintained in accordance with the manufacturer's instructions and that a record is kept of all cleaning and

Equipment Overview

Supply and Extract Fans

Manufacturers	Airflow, Greenwood, Vent-axia, Vortice, Xpelair
Purpose	Bring in oxygen to breathe, dilute carbon dioxide and other contaminants, and extract smoke and smells
Guidelines	At least 8 litres/person/second of fresh or purified air (30m ³ /person/hour)
Advantages	Relatively cheap, durable; easy to clean and maintain; simple to use; easy to install; usually variable speed
Disadvantages	Can be noisy if run on 'high'. Poor siting can cause draughts, bring in pollution from outside and cause some heat loss
Remember	Have fans on supply and extracts. Blow air away from non-smoking areas/eating areas and barstaff

Air Cleaners

Manufacturers	Aircare. Euromate. Honeywell, Kleenair (Media), Trion (electrostatic)
Purpose	To clean air already in the pub
Guidelines	None
Advantages	Can be very effective if well maintained, especially against smoke; easy to install
Disadvantages	Can be noisy if run on 'high'. Need regular filter changes. Can seem expensive
Remember	Site near the bar, on the customers' side first. Always switch on an hour before opening. Use in conjunction with ventilation. Always organise a maintenance contract

Air-conditioning

Manufacturers	Various
Purpose	To keep the air temperature pleasant
Guidelines	None
Advantages	Customers feel the air is fresher and cleaner
Disadvantages	Often does not bring in fresh air; relatively energy hungry; not good at cleaning air; often expensive; and involves major work to install
Remember	Always make sure you're getting sufficient fresh air into your pub as well as just chilling/warming it. Consider running it only when it is really needed, to save energy

- Keep fans and aircleaners running to stop smoke building up; turning them up as the pub gets busier
- Site aircleaners in the smokiest parts of the pub
- Test them on 'high' for noise before you buy
- Always get a reliable cleaning and maintenance contract for aircleaners
- Avoid putting aircleaners near beams. Beams will disrupt the airflow and affect the performance
- ALWAYS TRAIN YOUR STAFF IN HOW TO USE EQUIPMENT AND MANAGE YOUR NON-SMOKING AREA

Equipment Suppliers (Note: This list is not exhaustive and is intended only as an information aid for applicants)

Fan Manufacturers

Airflow	Tel: 019494 525252	Fax: 01494 461073
Greenwood	Tel: 01903 776711	Fax: 01903 782398
Vent-axia	Tel: 01293 530202	Fax: 01283 612143
Vortice	Tel: 0118 940 4211	Fax: 0118 940 3787
Xpelair	Tel: 01733 456701	Fax: 0121 328 3345

**Aircleaner
Manufacturers**

Honeywell	Tel: 0800 909000	Fax: 01698 481307
Kleenair	Tel: 01202 479007	Fax: 01202 475578
Sifan	Tel: 01993 702929	Fax: 01993 705035
Trion	Tel: 01264 364622	Fax: 01264 350983

Ventilation Installers

The Fan Centre	Tel: 0181 893 3316	Fax: 0181 8933315
Aircleaner Installers		
Airgene	Tel: 01793 514055	Fax: 01793 433735
Inn-House Technology	Tel: 0800 731 3276	Fax: 01206 794426
HIS	Tel: 0121 377 7959	Fax: 0121 377 7763
Sheppingden	Tel: 0800 731 2716	Fax: 0161 428 3012






Public Places Charter Signage

Order Form

Please send me:

- 1) FREE 'More Profits From Clean Air' Guide Number of copies.....
- 2) Further copies of the Public Places Charter on Smoking guide Number of copies.....

I would like to order:

	Policy option	Signage (put number required in the relevant box)		
		Plastic (240 x160mm)	Brass (240 x160mm)	Sticker (135 x 99mm)
		@ £8.00	Price on order	@ £1.50
	'Smoking allowed throughout'			
	'Separate areas'			
	'No smoking'			
	'Ventilated premises smoking allowed throughout'			
	'Ventilated premises with separate areas'			
Total		£	£	£

I enclose a cheque for: £ _____ payable to 'AIR Services'

Name:	
Telephone:	
Fax:	
E-Mail:	

Signed: _____

Date: ____ / ____ / ____

*Please fill in this form and return it to: AIR, Freepost, Lon8895, London NW1 1YU
Or alternatively you can fax the form to us on: 0207 267 6177*

You can download further information from our website: www.airinitiative.com

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AND COMPLETE THE QUESTIONNAIRE AS REQUIRED**

Risk Assessments, generally

A “risk assessment” is an organised look at (a) your premises and (b) the activities carried on in your premises, to see what could cause harm to people.

This allows you to weigh up whether you have taken enough precautions or should do more to avoid harm. You must decide whether a “hazard” is significant and whether you have covered it by satisfactory precautions so that the “risk” is acceptably low. See below for the important difference between a “hazard” and a “risk”.

This leaflet is designed to help you carry out a risk assessment, with emphasis on compliance with the Board’s Clean Air Guidelines. It can be carried out as part of a risk assessment to comply with the Health and Safety legislation. (see below)

General Duties

- The **Health and Safety at Work Act 1974** requires employers and the self-employed to ensure, so far as is reasonably practicable, the health and safety of employees and of other persons who may be affected by work activities.

The Management of Health and Safety at Work Regulations 1999 (MHSWR) require employers to carry out a suitable and sufficient assessment of all risks to the health and safety of employees and others, arising at or from a work activity – in other words, a risk assessment.

Other health and safety legislation, such as the Fire Regulations may also contain requirements to do risks assessments.

The Purpose of a General Risk Assessment

- Regulation 3 of MHSWR states that a risk assessment must identify the measures that employers or self-employed persons must take in order to comply with their duties under all applicable health and safety legislation.

Competency

It is your responsibility to ensure that those carrying out assessments are competent to do so. The assessor should have

- an understanding of the workplace,
- an ability to make sound judgements, and
- knowledge of the best practical means to reduce those risks identified.

Competency does not mean having a particular qualification. Rather, it means having a combination of knowledge, skills, experience and personal qualities, including the ability to recognise the extent and limitation of his own competence.

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Hazard and Risk

- A hazard is something with the physical potential to cause harm or injury.
- A risk is the likelihood of that hazard actually causing harm or injury.

An example might illustrate this:

- Cigarette smoke pollutes the air. That is a hazard. Staff and customers may be subjected to the effects of passive smoking. That is a risk.

The extent of the risk (low, medium or high) can only be assessed by examining your existing control measures, to see if they are adequate. In the example above, factors that would make the risk higher include -

- extractor fans or ventilation units being switched off,
- no clean-air equipment in place,
- smoking areas situated where smoky air is blown across non-smoking areas,
- staff not knowing how to work ventilation equipment, or
- staff being unaware of the policy operated within the premises.

Those particular risks can be effectively reduced by means of control measures such as ensuring that employees have sufficient training and equipment is installed that is suitable for the task.

Scope and Extent of an Assessment

A suitable and sufficient risk assessment should:

1. Identify a hazard correctly and accurately.
2. Disregards trivial risks associated with life in general.
3. Determine the likelihood of harm or injury arising.
4. Quantify the severity of the consequences and the numbers of people who would be affected.
5. Take into account any existing control measures.
6. Identify any specific legal duty or requirement relating to the hazard.
7. Remain valid for a reasonable period of time.
8. Enable the employer to decide upon appropriate control measures, taking into account the latest scientific developments and advances.
9. Enable the employer to prioritise remedial measures.

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A risk assessment does not have to be duplicated to satisfy an identical requirement under a different set of Regulations.

An assessment must be reviewed when necessary, such as when there is a significant change in work or the work environment, or in the light of subsequent experience. However, in practice regular review and monitoring will be necessary to ensure that control measures are being used and that these are fully effective.

It is not necessary to produce extensive paperwork to confirm the limited extent of an unlikely and inconsequential event.

The industry guidance booklet "Five Steps to Risk Assessment" IND(G)136(L) [available free from Environmental Health Offices] suggests that the significant risks should be emphasised, and that trivial tasks - everyday risks associated with life in general can be ignored. So, the time and effort spent on a risk assessment should reflect the nature and seriousness of the risk.

Assessments can be of a particular task or activity, or may be more general. For example, a risk assessment for Clean Air may then lead to more detailed assessments for specific risks, to staff and customers in licensed premises.

Reducing Risks

The employer is under a general duty to reduce risks, "so far as is reasonably practicable." In this instance, the risk is passive smoking from inhaling smoke-contaminated air.

There are a number of options available to reduce or remove the risk:

1. Prevent exposure by discontinuing the hazardous activity altogether – a total ban
2. Enclose the hazardous activity, or separate the activity from the people by other means – separate smoking areas
3. Reduce the numbers of people exposed to the hazard – make smoking areas smaller than non-smoking
4. Reduce the period of exposure – consider time-limited smoking

These steps should be considered as part of what Health and Safety law calls "a safe system of work".

RECORDS

Records should contain at least the following information:

- A description of the process/activity assessed

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CLEAN AIR GUIDELINES – ASSESSMENT

(these sheets can be photocopied as required)

COMPILED BY: DATE:

AREA OF PREMISES: ****PUBLIC BAR/LOUNGE BAR/DINING ROOM/FUNCTION ROOM/OTHER AREA (PLEASE STIPULATE)**

****An assessment should be completed for each area. Delete as inapplicable.**

Hazards

Is the area completely non-smoking?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Is the area smoking and non-smoking?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
What percentage of the area is smoking? (Compliance rough guide: 75% smoke free, 25% smoking – at least 51% of the premises should be non-smoking)	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Is the area a smoking area?			
Where in the area is smoking allowed – refer to plan attached.			
Where is smoking heaviest?			
When is smoking heaviest?			

Persons Affected

Are staff affected?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
When are staff affected?			
Where are staff affected?			
Are customers affected?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
When are customers affected?			
Where are customers affected?			
Is food served in the area?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Where is food served?			
Does it pass through a smoking area into a non-smoking area?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>

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<p>If food passes through a smoking area, is it covered?</p> <p>When is food served?</p> <p>Are children present in the area?</p> <p>When are they present?</p> <p>Where are they located in the area?</p>	<p>YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/></p> <p>YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/></p>
<p>Risk</p>	
<p>Is there a risk?</p> <p>Is the risk high, medium or low?</p>	<p>YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/></p> <p>HIGH <input type="checkbox"/> MEDIUM <input type="checkbox"/> LOW <input type="checkbox"/></p>
<p>Existing Measures</p>	
<p>What existing measures are in place?</p> <p><u>Air-Cleaning Equipment</u> Make (this information must be supplied) If necessary, you should provide certification from the supplier that the equipment is capable of cleaning the air in a designated area.</p> <p>Model (this information must be supplied)</p> <p>When is the equipment on?</p> <p>How often is the equipment serviced?</p> <p>By whom?</p> <p>Is a record kept?</p> <p><u>Ventilation/Air Conditioning</u> Make (if known)</p> <p>Model (if known)</p> <p>When is the equipment on?</p> <p>How often is the equipment serviced?</p> <p>By whom?</p> <p>Is a record kept?</p>	<p>YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/></p> <p>YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/></p>

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<p><u>Extraction</u> Make (if known) Model (if known) Fresh Air Inlets and their size When is the equipment on? How often is the equipment serviced? By whom? Is a record kept?</p>	<p align="center">YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/></p>
<p>Is there appropriate signage in use in the area in compliance with the Public Charter on Smoking? (see page 9)</p> <p>Is there appropriate signage in use outside the area in compliance with the Public Charter on Smoking?</p>	<p align="center">YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/></p> <p align="center">YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/></p>
<p>Does the area comply with the Clean Air Guidelines?</p>	<p align="center">YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/></p>
<p>Is further action required? If Yes, please list below the action you intend to take and time scale for completion. (all premises must comply by June 2003)</p>	<p align="center">YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/></p>
<p align="center"><i>Action Required</i></p>	<p align="center"><i>Time scale</i></p>

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Have you recorded your findings?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Have you informed your staff of the findings?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Has your staff seen the formal report?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
If you share the premises with other people/companies, are they aware of the risks you have identified?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
If you are not the owner/do not have direct control over the area, have you made your findings known to the owner or landlord?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
How often will you review this risk assessment?			
Date:	Signature:		

You may wish to keep a record of your findings. Notice to staff of your findings should form part of your written training records.

This assessment requires to be used to produce a Policy on Smoking, which must be displayed within the premises at all times.

The following is an extract from the Public Charter on Smoking as a guide to text within signs (it is an example only):

- “ Please note that this outlet provides separate areas for smoking and non-smoking customers.
- The bar area is a designated non-smoking area
- All staff have been trained on the operating of this policy in line with the public places charter on smoking
- For further information on the operation of this policy please ask to speak to the licensee.”

Further information on the public charter can be obtained from:-

Public Charter on Smoking
Campaign Office
1A Abercromby Place
Edinburgh EH3 6JX

telephone: 0131 476 8810
www.smokecharter.co.uk