HM Prison & Probation Service

Ministry of Justice

Policy name: Smoke Free Policy Framework

Issue Date: 2 November 2026

Implementation Date: 1 May 2018

Replaces the following documents (e.g. PSIs, PSOs, Custodial Service Specs) which are hereby cancelled:

- PSI 09/2007 Smoke free legislation
- PSI 09/2007W Smoke Free legislation Welsh Prisons

Introduces amendments to the following documents (e.g. PSIs, PSOs, Custodial Service Specs):

- Incentives Policy Framework
- Prisoner Discipline Procedures (Adjudications) Policy Framework

Action required by:

☐	HMPPS HQ	☒	Governors
☒	Public Sector Prisons	☐	Heads of Group
☒	Contracted Prisons	☐	Community Rehabilitation Companies (CRCs)
☐	National Probation Service	☐	HMPPS-run Immigration Removal Centres (IRCs)
☐	HMPPS Rehabilitation Contract Services Team	☐	Contract Managers in Probation Trusts
☐	Other providers of Probation and Community Services	☐	Under 18 Young Offenders Institution

Mandatory Actions: All groups referenced above must adhere to the Requirements section of this Policy Framework, which contains all mandatory actions.

For Information:
By the implementation date Governors[1] of Public Sector Prisons and Contracted Prisons must ensure that their local procedures do not contain the following:

Allowance of smoking on prison property in smoke-free prisons

Governors must ensure that any new local policies that they develop as a result of this Policy Framework are compliant with relevant legislation, including the Public Sector Equality Duty (Equality Act 2010).

Audit/monitoring: N/A

[1] In this document the term Governor also applies to Directors of Contracted Prisons.

Resource impact: N/A

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Deputy/Group Director sign-off: Stephen O'Connell, Deputy Director, Prisons

Approved by OPS for publication: Phil Copple, Joint Chair, Operational Policy Sub-board, December 2018

Revisions

Date	Changes
27 January 2020	References to IEP have been changed to the Incentives Policy Framework (IPF), which came into force on 13 January 2020.
2 November 2026	The Framework has been updated to reflect that tobacco smoking is no longer permitted at any prison in England and Wales. This is in line with a change of policy to no longer allow tobacco smoking in open prisons. In line with closed prisons, staff at open prisons are no longer permitted to smoke in designated outside areas.

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1. Purpose

1.1 The Prison Rules 1999 (as amended by the Prison and Young Offender Institution (Amendment) Rules 2018) allow for a smoke free prison estate to improve air quality and to minimise the dangers from passive smoking whilst promoting a healthier lifestyle. All prisons are totally smoke free environments.

2. Evidence

2.1 Air quality testing reports in sample prisons in 2015 indicated higher levels of exposure to second hand smoke in communal areas than had previously been known. HMPPS is committed to creating a healthier environment in our prisons. We have a duty of care to protect staff, prisoners and visitors from the harmful effects of second hand smoke.

2.2 Fire related incidents reduced in early adopter prisons and continued to decrease across the estate as the roll out of smoke free was embedded.

2.3 Medical research confirms that a smoke free environment minimises the risk of second hand smoke related health conditions as well as improving the health of individuals who have previously smoked.

References:

Singleton N, Farrell M & Meltzer H. Substance Misuse among Prisoners in England and Wales. London: Office for National Statistics. 1999
Lester C, Hamilton-Kirkwood L, Jones N. Health Indicators in a prison population: asking prisoners. Health Education Journal 2003; 62:341-349.
Plugge EH, Foster CE, Yudkin PL, Douglas N. Cardiovascular disease risk factors and women prisoners in the UK: the impact of imprisonment. Health Promotion International 2009; 24:334-343.
Public Health England (PHE). Survey of local prisons. Unpublished, 2014.
Public Health England, (PHE) Reducing Smoking in Prisons: Management of tobacco use and nicotine withdrawal, 2015
Air Quality Reports

3. Outcomes

- All prisons are smoke free
- Improved air quality
- Reduction of second-hand smoking risks
- Reduction of fires and arson related incidents
- A fair and consistent approach, including to non-compliance by prisoners, staff and visitors
- The provision of a regime which encourages and supports abstinence from smoking
- The provision of a range of stop smoking support to assist prisoners to abstain from smoking.

4. Requirements

4.1 Rule 25(2) of the Prison Rules 1999 states as follows: “No prisoner shall be allowed to smoke or have any tobacco, except in accordance with any directions of the Secretary of State.”

4.2 Unless specified, this policy applies in England and Wales.

4.3 All prisons in England and Wales are commissioned to provide stop smoking services in partnerships with relevant health providers. (See Guidance on the Minimum Service Offer for prisons in England and the devolved process for prisons in Wales where health provision is governed under a separate process.)

4.4 There is a requirement that all prisoners are identified on reception and recorded on NOMIS as being either a tobacco smoker ("Y"), e-cigarettes/vaping devices user ("V") or a non-smoker ("NS") with a method of updating this status as and when a prisoner changes status relating to smoking. Prisoners will then be offered support in line with the Minimum Service Offer.

4.5 Non-smokers may request not to share a cell with a vaper and this should be accommodated. (A non-smoker in this context does not use vapes or electronic cigarettes whilst in custody whilst a vaper chooses to use vapes / e-cigarettes whilst in custody.) If, due to operational requirements, there is a need to allow a vaper to share a cell with a non-smoker this should be for the shortest period possible and recorded on NOMIS.

4.6 Each prison must ensure that there is a process which allows prisoners access to incense sticks via chaplaincy (according to their religion) and a staff controlled method to light the incense stick. Incense sticks have been deemed by the World Health Organisation to be harmful to an individual's health. Non-incense stick users must not share a cell with an incense stick user unless for operational reasons, in which case the sharing of a cell must be for the shortest period possible and recorded on NOMIS.

4.7 Governors are to ensure that Safer Custody and Substance Misuse Strategies reflect and support the smoke free processes.

4.8 No use of e-cigarettes/vaping devices is allowed inside Mother and Baby Unit buildings. A designated vaping area outside Mother and Baby Unit buildings must be positioned away from any external area which is used by the mothers and their babies. This is in line with NHS guidelines to protect the lungs of babies and infants.

4.9 In line with NHS policy, Governors and healthcare providers will agree a local vaping policy for inpatient units. Such policies should include arrangements for vaping in single occupancy cells and/or designated areas.

4.10 There must be clear signage communicating designated vaping areas for staff, prisoners and visitors. In Wales these signs must be bilingual. Governors are to ensure that smoking policy is clear that e-cigarettes (both disposable & rechargeable) for prisoners can only be used in prison cells. (Except Mother and Baby Units – see Paragraph 4.8 above.)

4.11 Vaping device charging units are only authorised for prisoners' vaping devices.

4.12 Smoking of tobacco is not permitted in any prison, including open prisons. In line with this, tobacco products may not be purchased or used by prisoners.

4.13 Prisons must ensure that there are suitable processes in place to ensure that tobacco, lighters, unauthorised vaping devices and vaping refill cartridges are not brought into the establishment as these are List C items. (See Managing Conveyance of Unauthorised and Illicit Items Policy Framework (Open Prisons) and Managing Conveyance of Unauthorised and Illicit Items Policy Framework (Closed Prisons).)

4.14 Contracted prisons are legally bound by Part 1 of the Health Act 2006 to

ensure that individuals are appropriately challenged for smoking. Under section 8 of the Health Act 2006, a person who controls or manages smoke-free premises is under a duty to cause any person who is smoking there to stop smoking. Failure to comply with this duty is a criminal offence, punishable with a fine on conviction. Section 6 of the Public Health (Wales) Act 2017 contains an offence which is framed in very similar terms.

4.15 The case of R (Black) v Secretary of State for Justice [2017] UKSC 81 reinforced the need to protect people in prisons from the harms of second-hand smoke, supporting the move towards smoke-free public prisons as a public health and workplace safety measure.

5. Constraints

5.1 Governors must ensure that prisoners are not able to purchase tobacco (and associated products to make cigarettes), pipes and pipe tobacco, lighters, matches or cigarettes to use on prison premises.

5.2 Governors must ensure that smoking cessation products, e-cigarettes/vaping devices/NRT are not removed from a prisoner as a form of punishment.

5.3 Access to nicotine replacement products may be controlled where there are reasonable grounds for suspecting that abuse or misuse is suspected or known. Discussions between the prison and healthcare provider, and in line with the Minimum Service Offer or the agreed protocol for Wales, will take place to implement control when it is deemed necessary.

5.4 Governors must ensure that List C items (unauthorised items) are updated locally to reflect the Prison Rules which place tobacco, lighters, matches, e-cigarettes (definition of e-cigarettes includes vaping devices) onto List C and that this is publicised within the establishment. Authorisation to convey List C items into an establishment must be in accordance with the National Security Framework.

6. Guidance

6.1 All prisons in England are commissioned by NHS England to provide a Stop Smoking Service. All prisons will deliver the Minimum Service Offer for Stop Smoking Services and Support in Custody. The approach to cessation support in Wales was agreed by the Prison Health Improvement Network and relevant smoke free project governance groups. It follows similar principles, including:

- Smokers identified as vulnerable and at risk of self-harm or suicide due to smoke free policy will have safer custody processes applied to support them whilst in custody. See the Prison Safety Policy Framework.
- Smokers must be seen by a stop smoking adviser within 48 hours of arrival into custody. In Wales, all prisoners will be advised or assessed for smoking cessation as part of the health screening on reception and in the secondary health appointment. Prisoners will be referred to a smoking cessation programme if they wish to participate.
- Identification of prisoners whose medical condition, emotional wellbeing or medication may be impacted by giving up smoking
- Providing a prison regime that encourages and supports abstinence from smoking
- Provision of a range of stop smoking support, including harm minimisation approaches, to assist prisoners to abstain from smoking
- Developing strategies to address continued smoking seeking behaviour including misuse of nicotine replacement products

- Post implementation review of service models to ensure they remain fit for purpose in the smoke free environment

6.2 The Minimum Service Offer can be found at: https://www.england.nhs.uk/publication/minimum-offer-for-stop-smoking-services-and-support-in-custody/

6.3 In Wales, health services are devolved to the Welsh Government. Local Health Boards (LHBs) are responsible for delivering health services in public sector prisons. In HMP Parc, primary care is provided through a contract. The approach to cessation support in Wales is agreed through the Prison Health Improvement Network (PHIN) and relevant smoke-free governance groups.

6.4 In England and Wales, NHS (or healthcare provider) provision of smoking cessation clinics is to be signposted by prison staff and the healthcare provider on reception for prisoners arriving at an establishment, regardless of their status, and to signpost community based smoking cessation clinics to prisoners prior to their discharge from custody.

6.5 Expectant mothers should be encouraged to access stop smoking services where appropriate. NHS guidance relating to the use of e-cigarettes by expectant mothers is available. No use of e-cigarettes/vaping devices is permitted within mother and baby unit buildings to protect the lungs of babies and young infants. Pregnant prisoners who are not in mother and baby units are to be offered advice on options regarding smoke free and the associated risks relating to continuing to use e-cigarettes/vaping devices whilst pregnant.

6.6 Distraction activities for prisoners who are giving up smoking or who are at risk of self-harm are advised to be available to assist in the reduction of risk of self-harm and risk of failing smoking cessation programme.

6.7 Governors can opt to allow staff to use e-cigarettes/vaping devices within the establishment in a designated area but not inside any buildings. Governors may alternatively opt to allow staff to use e-cigarettes/vaping devices in a designated area outside of the establishment but not in any Ministry of Justice building. Clear signage for vaping areas is required. Staff are not permitted to recharge any staff owned vaping device on MoJ property. Therefore, Governors must ensure that staff do not bring vaping device chargers into the establishment. Vaping devices are only to be used during official designated staff break times. Staff are not permitted to bring tobacco products into the establishment or to smoke on the site.

6.8 Staff are encouraged to access smoking cessation programmes via their own GP services or alternative smoking cessation clinics external to the establishment. In Wales this would include the Public Health Wales Help Me Quit Service.

6.9 The Governor must communicate the possible outcomes for those who fail to comply with the smoke free policy and must ensure all tariffs be displayed on each wing, so prisoners are aware and informed of the range of penalties under their local adjudication tariff for non-compliance where there has been a finding of guilt at adjudication. Governors are advised to treat non-compliance with the Smoke Free Policy Framework on a case-by-case basis with consideration given to alternative measures such as informal warnings and review of incentive level and the prisoner's treatment needs and intention. Dependent upon the circumstances, prisoners may be charged under "having an unauthorised item in possession" or "failing to comply with any rule or regulation". Other charges may be applicable dependent upon the circumstances, especially if damage to electrics or fires have occurred. Please refer to the Prisoner Discipline Procedures (Adjudications) Policy Framework for further detail.

6.10 Reception processes and searching processes need to reflect that tobacco and lighters/matches are unauthorised items and must not be issued to prisoners.

6.11 Establishments are to ensure that their processes regarding prisoner mail communications and searching of mail, including mail sent under Rule 39 (legal correspondence), reflect that tobacco, e-cigarettes, vaping devices, lighters and matches are unauthorised and are List C items. Processes need to include what action staff must follow if they suspect that Rule 39 mail contains any unauthorised items.

6.12 All prisons are to ensure that they have local searching policies in place to prevent the trafficking of vaping devices, e-cigarettes and tobacco related products into the prison estate.

6.13 Equalities considerations must be considered within local equality assessments. Establishments must have monitoring systems in place to ensure that no prisoner is discriminated in gaining access to nicotine replacement services and that appropriate support is provided to individuals.