

## **SMOKING AND VAPING AT WORK POLICY**

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### **1. Introduction**

- 1.1 The Council has a statutory duty under the Health Act 2006 to ensure that all enclosed public places and workplaces are “smoke free” (see Appendix 1). In addition, the Council has a duty of care to ensure, so far as is reasonably practicable, the health, safety and welfare of its employees whilst they are at work. It also has a responsibility to provide safe places and systems of work. The risks to health from smoking and of breathing in other people’s tobacco smoke (passive smoking) are now accepted.

The aim of the Council’s policy on smoking is statutory compliance with the Health Act 2006 and associated smoke free legislation. The objectives are:

- a) To improve the health of employees and Members by providing help to those smokers who wish to stop smoking.
  - b) To protect employees, Members and the public from the effects of breathing in other people’s tobacco smoke.
  - c) To protect the Council from the threat of prosecution or litigation as a result of smoking in the workplace or enclosed public place.
  - d) To heighten awareness of the health risks associated with smoking through the distribution of health education literature on giving up smoking and the health risks associated with smoking.
  - e) To contribute to a healthy and safe environment for the Council’s employees and Members by encouraging smokers to stop smoking.
  - f) To protect non-smokers from the dangers of environmental tobacco smoke by the provision of a healthy and safe environment, free from tobacco smoke.
  - g) To provide encouragement, assistance and support to those employees and Members who wish to give up or cut down smoking through classes and counselling organised through local cessation support services.
  - h) [To promote the aims of Public Health and to support the Council’s Public Health Strategy and the health of the Council’s employees by encouraging them to stop smoking.](#)
  - i) To prevent adverse public perception being formed by preventing groups of BMBC employees or Members or public congregating at the entrance or exits of Council buildings, to smoke.
- 1.2 The Council’s Smoking at Work Policy is not about whether or not people smoke but rather concerns protecting non-smokers from the effects of smoke and where and when people smoke on Council property, in enclosed public places, in workplaces or in vehicles. It also supports the council’s vision of creating a smoke free generation and making smoking invisible to children.
- 1.3 Whilst it is hoped the Council’s policy will encourage smokers to cut down or stop smoking, its primary concern is about smoking during the working day and where and when people smoke on Council property, in enclosed public places, in workplaces or in vehicles.

- 1.4 Given the increased/increasing prevalence of the use of electronic cigarettes these are considered further below in section 2.

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## 2. E-cigarettes, 'vaping' and 'vapers'

- 2.1 E-cigarettes are electrical devices that mimic real cigarettes but produce a vapour that is *potentially* less harmful than tobacco smoke. E-cigarette use is often known as 'vaping' and e-cigarette users are often known as 'vapers'. This section is based on Public Health England's document '*Use of e-cigarettes in public places and workplaces - Advice to inform evidence-based policy making*<sup>1</sup>.
- 2.2 Whilst the Council acknowledges Public Health England's statements that e-cigarettes carry a fraction of the risk of cigarettes; have the potential to help drive down smoking rates; improve public health; and help to denormalise smoking; and accept that *current* evidence indicates that the risk to the health of bystanders from exposure to e-cigarette vapour is extremely low, the use of e-cigarettes in the workplace:
- Is a matter of professional etiquette and projection of a clean and healthy image for our premises
  - May lead to 'lookalikes' (e-cigarettes made to resemble cigarettes) being misconstrued as cigarettes
  - May have an impact on public perception of the Council and its employees
  - May affect people with asthma and other respiratory conditions who can be sensitive to a range of environmental irritants, which could include e-cigarette vapour.
  - May be a distraction for those vaping and also a nuisance or distraction for people nearby.
  - Would be contrary to the Council's aim of inspiring a 'smokefree generation' in the borough.
- 2.3 Public Health England advise that managers of child and youth settings such as schools have a particular responsibility in managing the risk of youth uptake of e-cigarettes and might want to treat e-cigarettes as they would any other age-restricted product. The Council as a whole has an obvious role in demonstrating leadership in this area and the promoting a good role model to children and young people.
- 2.4 Therefore based on the above this Policy fully applies to the use of e-cigarettes and versions/variations of, both available now and in future.

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## 3. Policy Provisions

- 3.1 With effect from 1<sup>st</sup> July 2007 smoking was and will not be permitted by any employee, Member or member of the public; and in addition from November 2013 and reconfirmed from May 2017 vaping was and will not be permitted by any employee, Member or member of the public:
- a) In/on any designated Council workplace.
  - b) At or in the immediate vicinity of the entrance or exit of any Council workplace where they could be in view of the public.
  - c) In Council vehicles.

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/534586/PHE-advice-on-use-of-e-cigarettes-in-public-places-and-workplaces.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534586/PHE-advice-on-use-of-e-cigarettes-in-public-places-and-workplaces.PDF), accessed 11/11/2016

- d) In enclosed public places (including public buildings) owned by the Council.

The entrance of all enclosed public places or workplaces will display appropriate signage in line with the provisions of the Smoke-Free (Signs) Regulations 2007. Further details on signage requirements are provided in Appendix 2 of this Policy.

- 3.2 In addition employees will not be permitted to smoke and/or vape anywhere whilst at work. This includes in a client's home and in a public place. **Smokers/vapers will therefore need to smoke/vape in their own time. To ensure equitable treatment of all employees, employees **MUST ENSURE** that smoking breaks are fully and accurately recorded when taking smoking/vaping breaks during the working day. In addition, smoking/vaping are permitted in recorded official lunch/rest breaks. For any/all smoking/vaping breaks employees must:**
- a) Ensure that they sign out and in recording the break on their time sheet – the Council reserves the right to question smokers as to whether they have accurately recorded their smoking break any occurrences where breaks, in the first instance, are not accurately recorded will be investigated and action taken as necessary. Any breaks taken for smoking must be recorded from 'desk to desk', i.e. the break starts when leaving the work area and finishes on return to the work area and therefore includes the time taken to travel to/from the area the employee smokes/vapes.
  - b) Ensure that the frequency of smoking/vaping breaks is reasonable and in line with the needs of their service (this will be monitored by managers).
  - c) Remove their Council ID card and lanyard so they cannot be immediately associated with the Council.
  - d) Not be wearing a Council uniform.
  - e) Ensure that they do not drop litter (as necessary littering enforcement will be carried out by relevant Council services).
  - f) Not smoke/vape within the curtilage of Council premises (i.e. we have smoking/vaping free sites) or in such places that may cause a nuisance to neighbouring premises/properties (such as adjacent to the open/openable windows of premises or the entrances to neighbouring shops etc.) or reasonably associate the employee with Council premises.
  - g) Not smoke/vape in public thoroughfares thus exposing the public/residents/visitors to secondary smoke/vapour.
- 3.3 The Council recognises its statutory duty under the Health Act 2006. However, the Council may need to make exceptions to the policy in relation to some clients in long-term residential care. These exceptions will be considered on a case by case basis following a full risk assessment and taking into account the individual client's care plan. Where the possible need for an exemption to this Policy is identified, the risk assessment must be carried out as soon as practically possible to ensure neither employees or other clients are put at risk.

It is expected that in exceptional cases any area designated as a smoking/vaping room must be fully ventilated and will only be available to residential clients. Staff will not be allowed to smoke/vape in these areas nor will they be expected to accompany clients. In addition, members of the public (e.g. visitors or contractors) will not be allowed to smoke/vape in these areas.

- 3.4 The Council recognises that many of its services/functions involve visiting residential premises. It is the Council's policy not to expose its staff to any tobacco smoke. It is recognised that staff working in residential premises may be subject to passive smoke and clients/carers will be asked to provide a smoke free environment. Further information on the provision of Council services/functions in residential premises is provided in Appendix 3 of this Policy.

Where Council employees are required to visit members of the public in their own home and where a client refuses to provide a smoke free environment within their home, arrangements will be made to offer an appointment in a smoke free building. The Council reserves the right to withdraw its staff from working in such an environment.

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#### 4. Support and Assistance for Smokers/Vapers

- 4.1 The Council is committed to providing a range of support, advice and assistance for employees and Members to comply with the policy, and where requested, cut down or stop smoking/vaping.
- 4.2 The Council will actively promote stopping smoking/vaping and will, through Public Health distribute health education messages on giving up smoking and the health risks associated with smoking. In addition, advice and support is available via the Yorkshire Smoke Free by:
- Calling 0800 612 0011 (free from landlines) or 0330 660 1166 (free from most mobiles)
  - Visiting advice and support via <http://yorkshiresmokefree.nhs.uk/>
  - Visiting a local cessation support group/service or a GP or pharmacy
- 4.3 To provide additional support for smokers/vapers based on the removal of the provision for smoking breaks, the Council will allow employees up to 4.5 hours of special leave over a maximum 12 week period to attend smoking/vaping cessation support when the employee agrees to sign up to a stop smoking/vaping programme.

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#### 5. Implementation

- 5.1 Managers are required to identify, as soon as possible, those employees who may genuinely need assistance in adhering to the policy, and draw to their attention the support and assistance outlined in section 4 of the policy.
- 5.2 Managers are responsible for the implementation of this policy within their services in particular as it relates to where and when employees are permitted to smoke/vape and the monitoring of the frequency and recording of smoking/vaping breaks by employees.
- 5.3 Human Resources will ensure access to this Policy through its intranet websites. Directorates/Business Units/Services are responsible for the dissemination and enforcement of this Policy and are responsible for making and distributing sufficient copies for the access of all employees at all work locations. Further information on the enforcement of this Policy is provided in Appendix 4.

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#### 6. Enforcement

- 6.1 Any breach of this policy may be dealt with in accordance with the agreed disciplinary procedures.
- 6.2 Any employee or Member who observes a breach of this policy by an employee must contact the Health, Safety and Emergency Resilience Service (ext. 2274) with details.

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## Appendix 1 A Quick Guide to the Smoke Free Legislation

### 1.1 Introduction

The new law was introduced to protect employees and the public from the harmful effects of secondhand smoke. The key points are:

- From 1<sup>st</sup> July 2007 it is against the law to smoke in virtually all enclosed and substantially enclosed public places and workplaces (see below for definitions).
- Public transport and work vehicles used by more than one person will also need to be smoke free.
- No-smoking signs will have to be displayed in all smoke free premises and vehicles.
- Staff smoking rooms and indoor smoking areas will no longer be allowed, so anyone who wants to smoke will have to go outside.
- Managers of smoke free premises and vehicles will have legal responsibilities to prevent people from smoking.
- If you are uncertain where you can or can't smoke, just look for the no-smoking signs or ask someone in charge.

### 1.2 Penalties and fines for breaking the smoke free law

If you don't comply with the new smoke free law, you will be committing a criminal offence. The fixed penalty notices and maximum fine for each offence are:

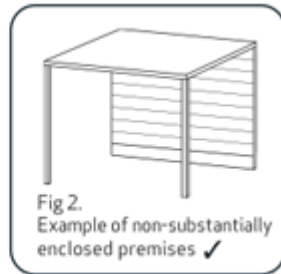
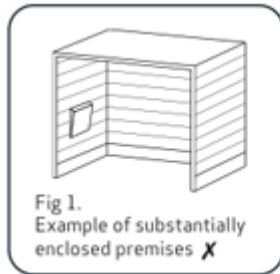
- **Smoking in smoke free premises or work vehicles:** a fixed penalty notice of £50 (reduced to £30 if paid in 15 days) imposed on the person smoking. Or a maximum fine of £200 if prosecuted and convicted by a court.
- **Failure to display no-smoking signs:** a fixed penalty notice of £200 (reduced to £150 if paid in 15 days) imposed on whoever manages or occupies the smoke free premises or vehicle. Or a maximum fine of £1000 if prosecuted and convicted by a court.
- **Failing to prevent smoking in a smoke free place:** a maximum fine of £2500 imposed on whoever manages or controls the smoke free premises or vehicle if prosecuted and convicted by a court. There is no fixed penalty notice for this offence.
- **Failing to prevent smoking in cars and other vehicles with someone under 18:** Since 1<sup>st</sup> October 2015 it is illegal to smoke in a car (or other vehicle) with anyone under 18. The law changed to protect children and young people from the dangers of secondhand smoke. Both the driver and the smoker could be fined £50. The law applies to every driver in England and Wales, including those aged 17 and those with a provisional driving licence. The law applies:
  - to any private vehicle that is enclosed wholly or partly by a roof
  - when people have the windows or sunroof open, or the air conditioning on
  - when someone sits smoking in the open doorway of a vehicle

The law does not apply to:

- e-cigarettes (vaping)
- a driver who is 17 years old if they are on their own in the car
- a convertible car with the roof completely down

Local councils are responsible for enforcing the law in England.

### 1.3 Definition of enclosed and substantially enclosed



Premises will be considered '**enclosed**' if they have a ceiling or roof and (except for doors, windows or passageways) are wholly enclosed either on a permanent or temporary basis.

Premises will be considered '**substantially enclosed**' if they have a ceiling or roof, but have an opening in the walls, which is less than half the total area of the walls. The area of the opening does not include doors, windows or any other fittings that can be opened or shut.

## Appendix 2 Smoke Free Signage

All smoke free premises and vehicles need to display no-smoking signs that meet the requirements of the legislation. Signs must make it clear which premises and vehicles are smoke free and demonstrate that the Council has taken the necessary steps to meet the requirements of the legislation.

No-smoking signs need to be displayed in a prominent position at every entrance to smoke free premises. Signs must meet the following minimum requirements:

- be a minimum of A5 in area (210mm x 148mm)
- display the international no-smoking symbol at least 70mm in diameter
- carry the following words in characters that can be easily read: 'No smoking. It is against the law to smoke in these premises'.



Under the statutory provisions the Council is free to personalise its signs by changing the words 'these premises' to refer to the name or type of premises – such as 'this school' or 'this day centre'.

A smaller sign consisting of the international no-smoking symbol at least 70mm in diameter may instead be displayed at entrances to smoke free premises that:

- are only used by members of staff – providing the premises displays at least one A5 area sign
- are located within larger smoke free premises, such as a shop within an indoor shopping centre.

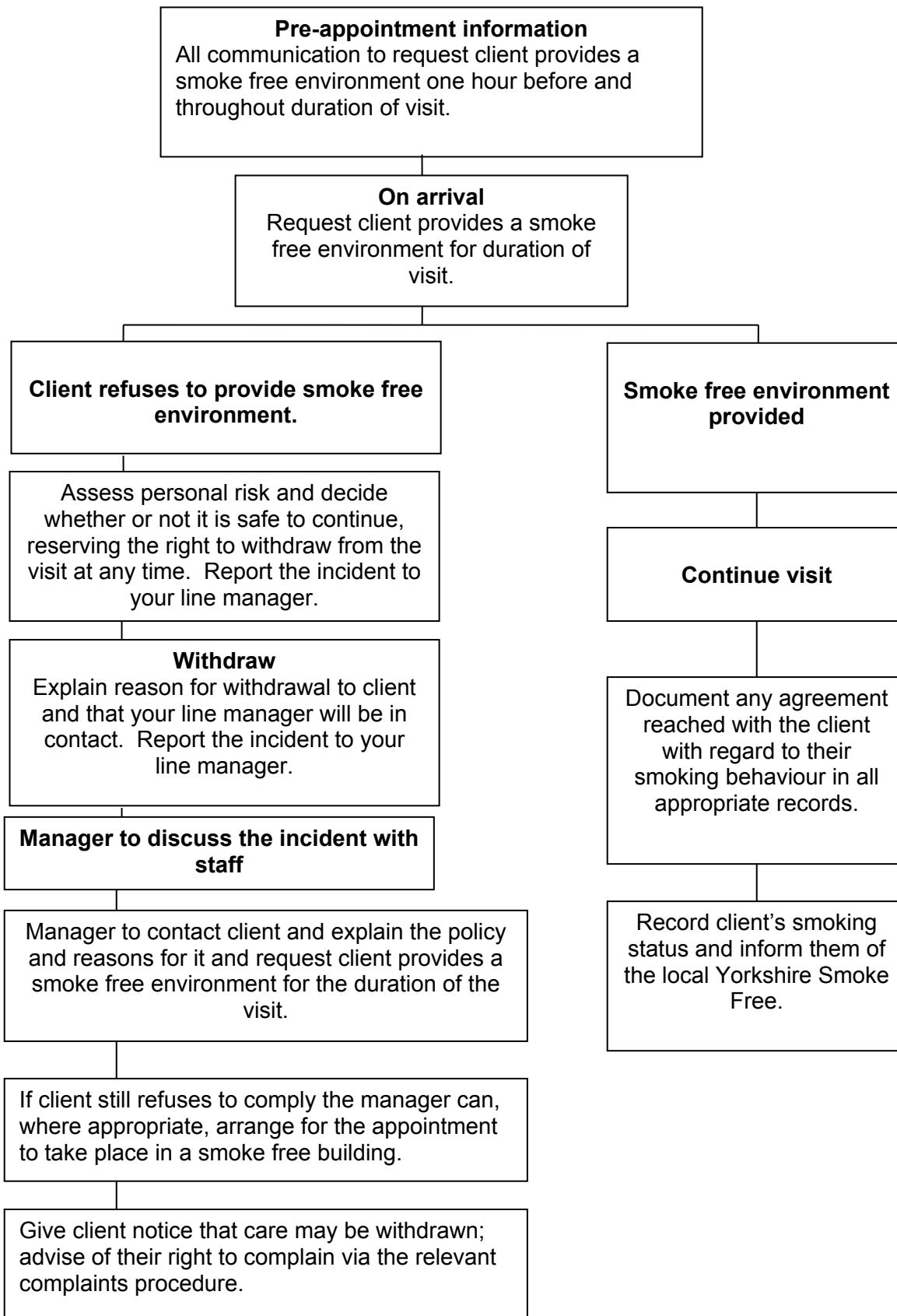
Smoke free vehicles also need to display a no-smoking sign in each compartment of the vehicle in which people can be carried. This must show the international no-smoking symbol at least 70mm in diameter.



### **Appendix 3 Provision of Council Services/Functions in Residential Premises**

- Appendix 3a – Flow chart for services/functions in residential premises
- Appendix 3b – Template smoke free information for clients/service users receiving home visits (to be printed double sided)
- Appendix 3c – Template smoke free letter for clients/service users receiving home visits
- Appendix 3d – Template smoke free telephone script for clients/service users receiving home visits

**Appendix 3a – Flow chart for services/functions in residential premises**



**Appendix 3b – Template smoke free information for clients/service users receiving home visits (to be printed double sided)**

## **Useful contact details**

### **Yorkshire Smoke Free**

- 0800 612 0011 (free from landline)
- 0330 660 1166 (free from most mobiles)

**This leaflet was revised November 2016**



## **Smoke Free information**

## **Information for people receiving home visits**

### **We need your help...**

Please consider the needs of our staff and provide them with a smoke/vapour free environment whilst they visit you.

Second-hand smoke or passive smoking has been found by the Government Scientific Committee on Tobacco and Health to be detrimental to people's health. It can cause heart disease, stroke and lung cancer in adults. Being exposed to second-hand smoke even for a short time can cause eye irritation, headache, cough, sore throat, dizziness and nausea.

We therefore ask if you would do everything possible to provide a smoke/vapour free environment when our staff visit you in your own home.

### **How to protect staff from exposure to second-hand smoke**

- Refrain from smoking/vaping in the room of the visit for at least one hour before they arrive
- Open windows and doors to fully ventilate the area
- Try to keep one room smoke/vapour free at all times.

### **During the visit**

- Please do not smoke/vape or allow anyone in the house to smoke/vape in the area.
- Wherever possible, when a member of Council staff is in your house, please ask other smokers/vapers to go outside to smoke/vape.

### **The Council's smoke/vapour free policy**

We ask our staff to assess whether any environment they enter is safe for them to provide their services. If a smoke/vapour free environment cannot be provided, a risk assessment will be required in order to reduce risk to a level that is as far as is reasonably practicable. We will support staff to leave an environment they deem to be unsafe. If necessary, you will be offered alternative service provision options.

### **Our commitment to you**

All routine visits will be pre-booked and you will be given a time for the visit. If the staff member is delayed, you will be contacted as soon as possible.

### **If you would like help to stop smoking please contact Yorkshire Smoke Free on**

- 0800 612 0011 (free from landline)
- 0330 660 1166 (free from most mobiles)

**Appendix 3c – Template smoke/vapour free letter for clients/service users receiving home visits**

Dear Sir/Madam,

**Important information for clients/service users receiving home visits**

In line with the Health Act 2006, a smoke free policy has been implemented within Barnsley Metropolitan Borough Council. As a result, there has been no smoking allowed in any Council buildings from 1<sup>st</sup> July 2007. The smoke free policy was developed in line with national guidelines from the Department of Health.

To support our objective of protecting staff from the effects of smoke, we would also be grateful if you could arrange for your home visit to take place in a smoke/vapour free room for the duration of the appointment. We are not asking people to stop smoking/vaping in their own homes but hope you will understand the equal importance of providing a safe smoke free environment for our employees.

Thank you for your support.

Yours faithfully,

PS. If you are interested in giving up smoking, we are happy to help you access **Yorkshire Smoke Free available on 0800 612 0011** (free from landline) or 0330 660 1166 (free from most mobiles). Yorkshire Smoke Free provides information about the range of support services available to people living in Barnsley.

Enc. Smoke free information for clients/service users receiving home visits.

### **Appendix 3d – Template smoke/vapour free telephone script for clients/service users receiving home visits**

#### **1) For people visiting Council premises:**

A smoking and vaping policy is in operation within all of Barnsley Metropolitan Borough Council's premises. As a result of the smoke/vapour free policy no smoking/vaping is allowed in any Council buildings. For service users who will be resident in Council buildings, a risk assessment will be conducted either prior to the visit or as soon as you arrive, which will determine if you can smoke/vape during your stay. If, following the risk assessment you are able to smoke/vape, please follow the guidance from staff who will show you where you can smoke/vape. If you are unsure about the smoking/vaping rules, you will be able to ask a member of staff for more information. We hope you will understand and support the importance of providing a safe smoke/vapour free environment for our staff to work in. The smoking and vaping free policy has been developed in line with national guidelines from Public Health England and included consultation with our staff and elected members. Thank you.

#### **2) For patients receiving a home visit:**

A smoking and vaping policy is in operation within Barnsley Metropolitan Borough Council that also applies to our work in the community. We would be grateful if you could arrange for your home visit to take place in a smoke/vapour free room for the duration of the appointment, as you will understand, this is for the protection of our employee who is providing your service. We are not asking people to stop smoking/vaping in their own homes but hope you will understand the equal importance of providing a safe smoke/vapour free environment for our staff. The smoking and vaping policy has been developed in line with national guidelines from Public Health England and included consultation with our staff and elected members. Thank you for your support.

**Appendix 4 How to deal with smoking in a smoke free place**

The Council has a statutory duty to prevent people from smoking in its premises or vehicles. In addition the Council’s smoking and vaping policy applies to the use of e-cigarettes. If someone does smoke/vape in any premises or vehicle the following steps should be taken:

