

November 2021: NICE guidelines PH45 (June 2013) PH48 (November 2013) have been updated and replaced by NG209. The recommendations labelled [2013] or [2013, amended 2021] in the updated guideline were based on these evidence reviews.

See www.nice.org.uk/guidance/NG209 for all the current recommendations and evidence reviews.



**Ministry of
JUSTICE**

National Offender
Management Service

Prison Tobacco Policy Presentation to NICE 30 May 2012

Current policy

In 2007 The Prison Service issued an Instruction in response to Smoke Free Legislation. PSI 09/2007 Smoke Free Legislation: Prison Service Application.

This allowed for the continuation of smoking out of doors, and in cells by prisoners either when alone or in the company of another smoker. Provision is made for staff who need to enter cells. They should inform the prisoner to stop smoking and vent the cell for a period of 20 minutes prior to entry. It is at the Governor's discretion whether to provide smoking areas for staff inside the prison grounds. This varies across prisons. This instruction stated 'the desirability of attaining a 100% smoke free prison estate in the future is acknowledged.'

In 2012 I conducted a review of how the Instruction was working in reality. I visited 8 prisons of various security category, prisoner population and architectural design. I also looked at current research, the legal position, other custodial settings around the world and what our options are. My conclusion was that the current arrangements did not protect the non smoker, whether staff, prisoner or visitor. It is entirely possible to implement the Instruction to the letter and still expose non smokers to Second Hand Smoke (SHS).

I considered whether further monitoring of air quality was necessary. There had previously been a small study done in the North East. I recommended to my Board that it would not be money well spent.

Why change the current situation

There are a few cases pending from staff who feel their health is being affected by exposure to SHS. Staff Associations are beginning to ask questions about exposure to their members. There is a recent case in Romania where a prisoner has won damages of a few thousand Euros for being adversely affected by another prisoner's smoke. Other jurisdictions are going smoke free e.g. New Zealand (July 2011) and Guernsey (January 2013). This all suggests that it is time to address the issue. It has, up until now, been hard to prove that exposure could be attributed to being at work in a prison. However, there are now so few places that a non smoker is exposed to SHS that it will become more likely that a court will rule that exposure happened within the prison. We are probably one of very few employers who routinely expose staff to tobacco smoke.

We acknowledge that we have little choice but to move to a smoke free environment. I say 'smoke free' because that is how the legislation reads but I am calling the policy review 'tobacco free' as there are security implications of allowing other products such as chewing tobacco and snuff into a prison and then trying to stop prisoners

smoking it. We also have some security matters for consideration with the use of Nicotine Replacement Therapy that are being addressed.

Next Steps

I have designed a pilot to run for a period of 3 months across a range of prisons to test how a ban might look in operation and to learn lessons in a controlled way before rolling out across England and Wales. This needs approval by the National Executive Management Committee. I will then start to recruit prisons and engage with them on the detailed planning. Taking any lessons learned from the pilot, the policy will be rolled out across England and Wales.

The review entails working closely with Offender Health, Health and Safety and other interested parties. Fire Safety Advisors are particularly keen to take a collaborative approach to address the level of cell fires which tragically result in injuries and sometimes death.

Research

This must be a rare opportunity to examine the effects of enforced cessation. I imagine that most quitters do so because they are driven to, for many reasons, but ultimately the choice is theirs. I am working through ways of looking at the true 'costs' of smoking in prisons. This includes health interventions, lower productivity from staff and prisoners due to poor health, property maintenance, staff taking frequent breaks to smoke, cell fires that result in visits to outside hospital, fire brigade attendance and disruption to the working day. Prisoners having lighters and matches in their possession increase the risk of fire, removal will not totally eliminate the risk but fires are started by accident, in anger or in protest and I suggest that most would not happen without easy access to lighters. Therefore we have costs involved in criminal damage charges that take time from prison staff, police and the Crown Prosecution Service. I think it would be interesting to examine health, (inc mental health), attitudes and even custodial behaviour before and after a ban. If we add this to the other information we get an idea of the true 'costs' of smoking in prisons.

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