



**UNISON Scotland response:
Prohibiting Smoking Outside Hospital Buildings
January 2020**

Introduction

UNISON is Scotland's largest health trade union with 60,000 members across Scotland. We are able to collate members' work experiences in order to contribute to improved policy making. UNISON therefore welcomes the opportunity to take part in the consultation on *Prohibiting Smoking Outside Hospital Buildings*. Members have also taken the opportunity to contribute to the consultation through the local area partnerships.

Response

UNISON generally welcomes the principle of introducing new measures to end the practice of smoking on hospital grounds. We agree that the current smoke free policies have had some impact but have not been sufficient to end the practice of smoking around hospital buildings. There is still a highly visible smoking presence particularly round doorways. While UNISON is positive about the aims of the proposals members do have some concerns regarding the detail and practicalities of enforcing any ban.

While there is no opposition to banning smoking in hospital grounds some members feel that rather than a perimeter round buildings it would be clearer and easier to enforce a blanket ban on the whole of the grounds. They felt that this is a clearer "rule" and reduces chances of becoming involved in a debate with a smoker about why it's OK to smoke in one place but not another close by. Those who favoured a full site ban were also concerned about the practicalities of marking out the smoke free zones and whether people would just smoke on the edge of the boundaries.

Views on the use of Nicotine Vapour Products (NVP) in grounds were mixed: some felt that NVPs are less harmful than smoking and so should be encouraged over cigarettes; others believed that the principle of no smoking in hospital grounds should be maintained and so favoured a total ban.

Members have some concerns about what legislation creating an offence of "permitting smoking" could mean for them in terms of their own liability and what actions they would need to take to avoid the offence. There were also concerns about the impact on relationships with patients for those who work directly with them if staff have to stop patients or their families about smoking in the grounds. While members are very supportive of moves to make hospital grounds smoke free, many people are in extremely stressful situation when visiting hospitals and may not react well to being spoken to about smoking at such a difficult time. Not everyone would feel comfortable in talking to smokers about their behaviour. There needs to be clarity about just who would be responsible for dealing with those ignoring the ban and how they should be dealt with in order to make this work.

UNISON would therefore welcome specific guidance/detail regarding the following to ensure that the proposals are effective:

- Will local authority enforcement staff be available to undertake this work in hospital grounds or would health boards be expected to designate staff to undertake these roles?
- Would designated NHS staff have the power to issue a fixed penalty notice or would they just be asking people to follow the rules?

- If specific job roles are not put in place, who will be responsible for preventing smoking in the non-smoking areas?
- Who should patients/staff/visitors report smoking too? If it's the first member of staff they encounter what are staff expected to do in response to a complaint particularly in relation to "knowingly permit"?
- What happens if someone refuses to stop smoking? What are staff/health boards expected to do in response?
- Members raised questions regarding "knowingly permit". Where responsibility would lie? Who could be prosecuted: the chief executive as not enough had been done or individual staff members because they didn't challenge smokers or having challenged a smoker then decided against further confrontation?

Consultation questions

1. the distance from hospital buildings which will form the perimeter of the no-smoking area outside a hospital building should be 15 metres;

UNISON supports the aims of this proposal and some members would prefer a complete ban on hospital grounds. They believe that this would be easier to enforce than a zone round buildings and is a stronger way to support the message that smoking is dangerous. If a no smoking zone is to be put in place then UNISON agrees that 15m is a reasonable distance.

2. the perimeter should be measured from the outside wall of a building and include all land or area under any canopy or overhang even where those extend beyond 15 metres;

UNISON agrees that this is reasonable way to measure the 15m zone.

3. the wording and dimensions of no smoking notices should be as described at question three of this consultation;

The wording seems reasonable but would need to be "equality proofed" by those with appropriate expertise to ensure that no protected group was disadvantaged by the wording/dimensions.

Members raised concerns about where the notices would be placed and how the 15m zone would be identified rather than the content of the notices.

4. no specific hospital or type of hospital should be exempted from the definition of "hospital" in the Act;

Agree

5. no smoking areas will only apply to buildings used wholly or partly as a hospital;

In areas with large grounds some members raised concerns that the exemption of some buildings on the sites could lead to de facto smoking areas being created which is contrary to the aims of the regulations.

6. public footpaths, cycle paths and footways should be considered hospital grounds for the purposes of establishing no-smoking areas outside the doorways of hospital buildings, and that the size of the grounds would extend up to 15 metres from the centre of doorways;

Agree

7. the use of NVPs should be allowed as an alternative to smoking on hospital grounds but not within the no-smoking area outside hospital buildings?

Views were mixed on NVPs with some supporting the use of NVPs outwith the 15m perimeter but others supporting the current ban and not wishing to see that weakened.

In addition, we ask you to consider any potentially positive or negative impacts these proposals may have on equalities for people in Scotland.

UNISON believes that the Scottish government should undertake a full equality impact assessment for these changes. For example people who face socio-economic disadvantage are more likely to smoke and so are more likely to be affected by these changes and people with a range of disabilities will find getting to a smoking area more difficult including those with mobility challenges and the visually impaired.

Conclusion

UNISON is Scotland's largest health trade union with 60,000 members across Scotland. We are able to collate members' work experiences in order to contribute to improved policy making. UNISON generally welcomes the principle of introducing new measures to end the practice of smoking on hospital grounds. We agree that the current smoke free policies have had some impact but have not been sufficient to end the practice of smoking around hospital buildings. There is still a highly visible smoking presence particularly round doorways. While UNISON is positive about the aims of the proposals members do have some concerns regarding the detail and practicalities of enforcing any ban.

UNISON Scotland

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**Mike Kirby, Scottish Secretary
UNISON Scotland,
UNISON House,
14, West Campbell Street,
Glasgow
G2 6RX**

For further information contact:
Kay Sillars: k.sillars@unison.co.uk
0141 342 2819