Smoking at Work
(Police Officers and Authority/Police Staff)
Standard Operating Procedure

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1. **Purpose**

1.1. This Standard Operating Procedure (SOP) supports Scottish Police Authority (SPA) / Police Service of Scotland, hereafter referred to as Police Scotland Health, Safety and Wellbeing Policy and guidance in relation to the following legislation:

- Smoking, Health and Social Care (Scotland) Act 2005;
- The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006;
- Tobacco and Primary Medical Services (Scotland) Act 2010.

1.2. The SOP affirms SPA / Police Scotland’s commitment to providing a safe and healthy working environment for all staff.

1.3 The aim of this document is to mitigate against the known effects of tobacco smoke within the workplace, and the potential effects of ‘e-cigarettes’, Personal Vaporizers (PV’s), and Electronic Nicotine Delivery Systems (ENDS).

1.4 With the exception of Section 5.1, it should therefore be interpreted throughout this SOP that all references to ‘smoking’ herein relates and applies also to the use of e-cigarettes, PV’s and ENDS.

2. **Application**

2.1 This SOP applies to all Police Officers, Special Constables and Authority / Police Staff.

2.2 The term individual or member of staff will be used to refer to Police Officers, Special Constables and Authority / Police Staff from this point forward.

2.3 The provisions of this legislation also applies to contractors, visitors and other members of the public while within Police premises or police vehicles.

3. **Scope of SOP**

3.1 The guidance outlined in this SOP can assist in reducing the effects of passive smoking in the workplace. Although the regulations provide an exemption for smoking in designated interview rooms, it is the policy of SPA / Police Scotland that no smoking in any premises is permitted.

3.2 It should also be noted that previous provisions which permitted staff and members of the public to smoke on police premises in ‘exceptional circumstances’, i.e. following involvement in a traumatic or stressful task or duty, no longer apply.
3.3 Police premises are defined as “wholly or substantially closed”, i.e. buildings, temporary or otherwise which have a roof and walls on more than 50% of the perimeter of the premises. Those wishing to smoke must do so out with such locations and in designated smoking areas agreed by local managers.

3.4 The risks of passive smoking cannot be eradicated completely when working with the public, e.g. when staff are attending private dwellings, where residents are smokers. The residents are entitled to smoke. However, in such circumstances, it is reasonable for staff to request that:

- the individual(s) does not smoke during their time at the location;
- that windows or doors be opened, or alternatively;
- depending on the circumstances, the individual(s) may invite the person(s) to attend a police station / station or police vehicle where smoking is not permitted.

4. Responsibilities

4.1 Line managers / supervisors are responsible for ensuring that legislation and procedures are understood and observed by their staff. Everyone has a duty to ensure all contractors / visitors and other members of the public adhere to the provisions of the legislation while in their department or area of responsibility.

4.2 It is the responsibility of Divisional Commanders / Heads of Departments, in consultation with Estates Department and the National Fleet Manager, to ensure appropriate signage is maintained throughout their area of responsibility (See Section 6).

4.3 Instances of non-compliance within police premises or vehicles by any member of staff, contractor, visitor, or other member of the public should be reported to a Line Manager / Supervisor who on receiving such reports must adhere to the procedures detailed.

4.4 Enforcement of the legislation in the wider community is undertaken by Enforcement Officers (EOs), primarily by way of Fixed Penalty Notices.

5. Information

5.1 In relation to tobacco smoking, the Smoking, Health & Social Care (Scotland) Act 2005 and associated Regulations introduced, make it an offence for:

- a person with management or control of “No Smoking” premises to knowingly permit another to smoke there;
- a person to smoke in “No Smoking” premises;
- the person having control of “No Smoking” premises to fail to conspicuously display “No Smoking” signs as directed; and finally
• any person who Enforcement Officers believe is committing or has committed any of the above offences or believes to know information relating to such an offence and fails without reasonable excuse to supply the officer with their name and address when required to supply it.

5.2 Users of ‘e’ – cigarettes, PVs and ENDS will be permitted to use alternative smoking areas, away from tobacco smokers, taking into account the potential health risks of inhaling such fumes. Alternative smoking areas will be agreed by local managers.

5.3 In maintaining the professional image of SPA / Police Scotland, smoking directly outside or adjacent to public entrances of SPA / Police Scotland buildings is not permitted. Furthermore, in reducing as far as possible the effects of passive smoking, smoking out with premises should not be at a point where smoke may drift into premises through air vents, air handling units, air conditioning systems or open windows and doors.

5.4 Divisional Commanders / Heads of Department should ensure areas which are designated smoking areas are clearly marked and have smoking bins provided, use universally recognised symbols and are accessible to people who may have a disability. Members of staff with mobility or sensory disabilities may require further assistance and instructions. Local managers should ensure smoking areas are assessed for suitability.

5.5 The provisions of legislation also extends to all police vehicles, both marked and unmarked. No smoking is allowed in any police vehicle by staff or members of the public. This includes vehicles hired on an ad hoc basis by SPA / Police Scotland.

5.6 Private vehicles or vehicles on a car leasing scheme which are used by members of staff for business purposes are however exempt from the Smoking, Health and Social Care (Scotland) Act 2005.

6. **Signage**

6.1 The legislation also introduces a requirement for appropriate signage to be displayed in premises and within vehicles. All marked police vehicles will have the appropriate signs displayed which can be obtained from the Fleet Department. Unmarked police vehicles, however, will not display any overt signage due to the operational risk that this may present. The prohibition of smoking still applies regardless of the absence of signage.

6.2 Divisional Commanders / Heads of Department are responsible for ensuring all such signage is appropriately displayed. The signage and location of the designated smoking areas should take into account people with disabilities and the fact that English may not be the first language.

6.3 Importantly, the signage will specify where and to whom infringements of the no smoking provisions can be reported. In particular, the signage in premises
will direct persons wishing to make such reports to a supervisor; while the signs within police vehicles will detail the appropriate Contact Centre number via 101.

7. **Non-Compliance Sanctions**

7.1 The introduction of legislation and regulations create specific offences. As such, police officers and members of staff who fail to comply with the legislation will be committing a criminal offence. In addition, the provisions of The Police Service of Scotland (Conduct) Regulations 2014 and the Disciplinary SOP (for members of staff) may apply.

7.2 In respect of offences committed by SPA / Police Scotland staff whilst on duty, guidance on how such matters should normally be reported, is included in the Complaints about the Police SOP.

7.3 Guidance should be sought from Professional Standards Department for appropriate action when a complaint is received in breach of a contravention of stated legislation.

7.4 In respect of off duty complaints, the current procedures detailed in the Complaints about the Police SOP should be followed and where members of Police Scotland / SPA are subject to a Fixed Penalty Notice or report to the Procurator Fiscal in relation to smoking offences, they must inform SPA / Police Scotland.

8. **Occupational Health / Employee Assistance Programme Support**

8.1 A referral to Occupational Health may be necessary where health concerns which may be smoking related, are impacting on work, and advice and guidance may be required.

8.2 Staff can also make use of the Employee Assistance Programme (EAP) provided by the healthcare provider by telephone, or by visiting their website for advice on stopping smoking.

9. **Enforcement – Operational Guidance**

9.1 It is not the expectation of the Scottish Government that the police will enforce the provisions of the legislation. The Scottish Government “Enforcement Guidelines and Protocols for Smoke Free Public Places” sets Authorising Officers of the Councils, such as Environmental Health Officers and Licensing Officers, in a central role as Enforcement Officers to ensure that controls over smoking in public places are introduced effectively and maintained consistently.
9.2 However, as it is conceivable that members of the public and managers / controllers of premises may envisage that the police will enforce the legislation, SPA / Police Scotland requires to respond to such enquiries in a consistent and corporate manner.
Appendix ‘A’

List of Associated Legislation

- Smoking, Health and Social Care (Scotland) Act 2005
- The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006
- Tobacco and Primary Medical Services (Scotland) Act 2010
Appendix ‘B’

List of Associated Reference Documents

Policy
- Health, Safety and Wellbeing Policy

Standard Operating Procedures
- Complaints about the Police SOP
- Disciplinary SOP

External guidance is also available at:
- The Police Service of Scotland (Conduct) Regulations 2014

Contact Details
- Employee Assistance Programme (AXA PPP)
  - www.axabesupported.co.uk
  - AXA PPP 0800 531 6091
Appendix ‘C’

Glossary of Terms

ENDS - Electronic Nicotine Delivery Systems
EO’s - Enforcement Officers
EPS - Environmental Protection Services
LAUTO - Local Authority Liaison Officer
PV - Personal Vaporiser