



Government of **Western Australia**  
Department of **Health**

# Implementation of the partial exemption for involuntary mental health inpatients

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## Purpose

The Department of Health allows that some patients, in certain circumstances, may be exempted from specific aspects of the Smoke Free Policy (MP 0158/21) (the Policy) at the discretion of Health Service Providers. This partial exemption will only be available until 1 July 2022; after this time no exemption will be available.

This document details the circumstances which are required to be met in making an exemption.

## Criteria

To apply the partial exemption to the Policy within mental health service facilities, the following criteria must be met:

- patients must be involuntary mental health inpatients;
- patients must be aged 18 years and over;
- there is evidence of a nicotine dependency assessment and treatment care plan or similar documented in the patient's record;
- nicotine replacement therapy or other treatment options have been fully considered as part of the patient treatment pathway, in consultation with the client and/or their carers;
- options to support patients to quit or to reduce smoking will be revisited and encouraged throughout the duration of the patient's involuntary status;
- an appropriate outdoor designated smoking area is available;
- smoking will not interfere with the patient's treatment regime and/or safe operation of the service;
- appropriate observation, which is in accordance with an agreed patient/clinical management plan, is available for when the patient chooses to smoke;
- patient has his/her own supply of tobacco/cigarettes; and
- staff, patients, visitors and contractors are protected from exposure to environmental tobacco smoke.

## Smoking area specifications

The outdoor smoking area must:

- not be within an enclosed workplace as per the [Occupational Safety and Health Regulations 1996](#) (regulation 3.44AA);
- meet the infrastructure requirements of a secure area;
- meet fire precaution requirements;
- be a minimum of 5 metres from doorways and 10 metres from ventilation inlets;
- include the provision of shade, minimising ligature points;
- be clearly signed as being a designated smoking area for those who have been given permission to smoke under the partial exemption of the Policy; and
- allow for sufficient space to be available for non-smoking involuntary patients.

The smoking area should:

- ideally allow for natural observation without exposure to environmental tobacco smoke of staff;
- offer wall mounted cigarette lighters, wherever possible;
- include appropriate provisions for the safe waste disposal of cigarettes (cigarette receptacle); and
- encourage patients to dispose of their cigarettes in a safe manner after use.

## Occupational Safety and Health issues

Implementation of the partial exemption to the Policy must adhere to Occupational Health and Safety legislation requirements under the [Occupational Safety and Health Act 1984](#).

The operation of the exemption does not override occupational safety and health considerations for employees. Staff cannot be compelled to come into contact with patients in designated smoking areas, where there is evidence of tobacco smoke.

A risk assessment must be conducted before allowing patients to smoke which considers the following:

- that the smoking area meets site specifications;
- the risk of staff moving through or accessing the area during their work;
- availability of sources of ignition and the proximity to fuels in the area (e.g. dry leaves, rubbish, furniture and other flammable items);
- emergency evacuation and emergency warning signs in the area;
- availability of fire extinguishers;
- whether there is an increased risk to building occupants in an emergency (for example persons at greater risk such as babies or children, elderly, people with disabilities);
- patients' risk of aggression whilst utilising the smoking area, including the potential mix of patients in the area;
- the ability of "early response teams" or "code black teams" to access the area; and
- the ability of the required observation to be provided.

The following must also be carried out for each site:

- provide and implement procedures for a safe system of work for staff;
- consult with occupational safety and health (OSH) representatives and staff in conducting risk assessments for areas where involuntary patients may potentially smoke; and
- provide staff with appropriate training and information as it relates to management of designated smoking areas.

## Environmental considerations

Consideration must be given to the environmental circumstances and the dynamics of the ward, including personalities, ages, and patient cohorts within a ward.

It must be ensured that allowing the partial exemption would not:

- cause extreme disruption to the ward;
- risk the safety of other patients or staff; or
- greatly affect the capacity of the service to ensure treatment of the patients as the main priority.

## Developing site-specific instructions

Each site must develop their own protocols for how the partial exemption will be implemented locally.

Development of the protocols must include wide consultation with the appropriate people (staff, OSH reps and if appropriate patients and visitors).

Site specific implementation must be developed in a way that minimises all risks identified in the OSH Risk Assessment, as far as practicable.

## Managing frequency of smoking

The following factors must also be considered in implementing the partial exemption:

- therapeutic activity times;
- availability of staff to supervise the area;
- availability of staff to provide the patient with their smoking supplies (where these are held by staff);
- use of smoking area by non-smokers, where the smoking area is within a confined area and is the only accessible outdoor area for a group of patients; and
- in the evening when visibility and supervision may be compromised.

Suitable strategies must be developed with the patient to enable them to manage their nicotine cravings during those times when they are unable to access the designated smoking area or where there is no available designated smoking area.

Smoking must not be a social event and opportunities for this to occur must be minimised.

## Supervision of smoking patients

The level of supervision available to monitor the designated area must be at levels required for the patient. There will be no additional resources to monitor outdoor areas.

Staff members cannot be directed to put themselves in direct contact with environmental tobacco smoke as per s107F(2) of the [Tobacco Products Control Act 2006](#) and s26(1) of the [Occupational Safety and Health Act 1984](#).

Natural observation from inside buildings or from a sufficient distance is encouraged where it meets the surveillance requirements of the patient care plan.

## Management of smoking materials

The responsibility for the supply of cigarettes, tobacco, and/or associated smoking materials will lie with the patient. Patients should be encouraged to look after their own cigarettes, tobacco, and/or associated smoking materials/storage key in a way that promotes personal responsibility.

Services must consider availability of storage facilities for patients' smoking materials and whether individual patients can take responsibility for their own material. The availability of wall mounted lighters in the designated smoking area must also be considered.

Patients should be encouraged to clean up after themselves to maintain the area at a suitable standard for everyone to use.

The following issues must be considered when implementing the management of materials:

- impact on staff time;
- identification/separation of individual patients' property;
- managing fire risk; and
- enabling access to materials when required.

## Assessment and management of smoking

It is recommended that all mental health services refer to:

- *Guidelines for supporting involuntary mental health inpatients*
- *Guidelines for the implementation of the Smoke Free Policy*

**This document can be made available in alternative formats on request for a person with disability.**

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