

Shisha at Commercial Premises – Guidance for Businesses

- Westminster City Council is committed to reducing the harm caused by shisha smoking, both to the people that smoke it and to the wider public.
- As a business which offers shisha smoking, you have a responsibility to help us do this.
- This means ensuring that you provide your shisha services in a way that complies with the law and reduces the risk of nuisance to others. This guidance tells you how.
- Failure to comply with the various regulations relating to when, where and how shisha smoking occurs may in certain circumstances constitute an offence, which can lead to significant penalties, including fines.

The law:

A range of pieces of legislation set out if, when and how shisha smoking can be permitted at public premises, and what the role of the local authority is in enforcing the rules:

The Health Act 2006

Town and Country
Planning Act 1990

City of Westminster Act
1999

Environmental
Protection Act 1990

Regulatory Reform (Fire
Safety) Order 2005

The Health and Safety at
Work etc Act 1974

Useful contacts and further information:

Planning Permission

If you have questions or need advice in advance of submitting an application for planning permission, you are encouraged to use the council's 'pre-planning application advice' service which can be accessed at the following address: <https://www.westminster.gov.uk/get-pre-application-advice>

You can apply for planning permission online via the planning portal.

Planning Enforcement

If you have a planning enforcement related query, the Team can be contacted at the following address:

PlanningEnforcementTeam@westminster.gov.uk

Licensing

LINK: Guidelines for the placing of Tables and Chairs on the Highway

LINK: Temporary licence application form

Fees

Planning application fees: www.westminster.gov.uk/planning-application-fees

Licensing application fees: **LINK**

	You must...	We will...	Find out more...
Smoking indoors	<p>Since 2006, smoking inside public premises has been illegal. This applies to all types of smoking, including shisha.</p> <p>Owners and managers of premises must make sure no one smokes in an 'enclosed space' on their premises.</p> <p>Anyone failing to comply with the regulations is committing an offence.</p>	<p>It is the council's responsibility to enforce the regulations of the Health Act.</p> <p>Individuals can be fined up to £200 and anyone in control of a Smoke Free space who fails to prevent smoking within their premises can be prosecuted and receive fines up to £2500. Failure to display a 'no smoking sign' will also lead to a fine of up to £1000.</p>	<p>Your responsibilities under the Health Act are summarised on the council's website, here: [LINK]</p> <p>There is also a useful fact sheet available from Action of Smoking and Health: http://ash.org.uk/files/documents/ASH_119.pdf</p>
Planning permission	<p>There are no permitted development rights which allow someone to begin using their premises solely for shisha smoking purposes. It is likely therefore that you will require planning permission.</p> <p>If you want to add any form of shelter, tent, marquee, gazebo or similar structure to facilitate shisha-smoking, you will almost definitely need planning permission for these structures. Building control regulations may also apply.</p>	<p>If you start using a premises for shisha smoking without planning permission, you may be at risk of formal enforcement action.</p> <p>Failure to comply with the requirements of an enforcement notice may result in a fine of up to £20,000 upon conviction in the Magistrate's Court, and an unlimited fine if convicted by the Crown Court. An Enforcement Notice is also entered on the Local Land Charges records which could make the future sale or financing of the property more difficult.</p>	<p>If you are in any doubt as to whether the use of the property for shisha smoking requires planning permission, you are advised to use the Council's 'pre-application planning' service. You are advised not to commence the use or to erect a structure to facilitate the smoking of shisha prior to obtaining the relevant permission from the City Council.</p>
Tables & chairs outside	<p>You normally need planning permission to place tables and chairs on the street outside your premises. You will also need to obtain a Tables and Chairs licence. Both the planning permission and the licence will specify the specific hours the tables and chairs can be placed on the public highway.</p> <p>Your planning and licensing applications must be submitted together and with all the necessary documentation attached.</p>	<p>The council will determine your applications for planning permission and for the temporary licence together.</p> <p>The council's enforcement teams carry out inspections to ensure planning and licensing conditions are observed to at all times.</p>	<p>The following documents explain the planning policies which we use to help us to make a decision on applications and provide advice on how to apply.</p> <p>Westminster Way: Public Realm Strategy</p> <p>Guidelines for the placing of Tables and Chairs on the Highway</p> <p>You can apply for planning permission and temporary licences online.</p>
Noise and nuisance	<p>Shisha smoking outdoors can lead to complaints from neighbouring premises about noise, smoke and odours if consideration isn't given to your neighbours. You can help ensure that complaints are not received by ensuring your staff and customers do not cause disturbance.</p>	<p>The Council operates a 24hr enforcement team which will respond to complaints about noise and other nuisances.</p> <p>If any statutory nuisance is found, the council can take enforcement action, which can result in a fine of up to £20,000. This may also have implications upon any future Planning or Licensing applications.</p>	<p>There's advice on how you can minimise the risk of noise and nuisance at your premises on the council's website: [link – new page on 'Issues Relating to Shisha Smoking' – includes H&S, carbon monoxide info also]</p>
Fire safety	<p>The law says that you must take precautions to prevent fire at your premises. A fire risk assessment must be carried out.</p> <p>You must also make an emergency plan to say what your employees and other people in the premises should do in the event of a fire.</p>	<p>The council has a Health & Safety team, which can advise you on fire safety at your premises if you need help.</p>	<p>Information and advice on fire safety at premises can be found here: https://www.gov.uk/workplace-fire-safety-your-responsibilities/who-is-responsible</p>
Health & Safety	<p>Any person who is in control of the work premises has a duty to ensure, so far as is reasonably practicable, that the premises and any equipment or substance used is safe and without risk to staff or the public.</p> <p>You must carry out a risk assessment of the hazards relating to shisha smoking, including the risk posed by carbon monoxide.</p>	<p>The council's Health & Safety team provides advice and carries out inspections and enforcement as necessary, to ensure any risks to employees and the public are minimised.</p>	<p>The council's website gives some further advice on specific health and safety considerations relating to shisha: [link – new 'Issues Relating to Shisha' web page]</p>