

## Freedom of Information request 406-17

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### Request

I wish to use the Freedom of Information legislation to find out the number of occasions patients and visitors have been caught smoking or attempting to smoke cigarettes, cigars, pipes or other tobacco products inside Scotland's hospitals in 2014, 2015 and 2016.

I'd like to know the name of the hospital and the type of ward the smoking incidents took place and whether in any occasion the incidents sparked an emergency response from Fire and Rescue Service and/or led to patients, staff and visitors being evacuated.

In addition to the above I'd like to know what sanctions are in place to handle patients and visitors who ignore current legislation and proceed to smoke or attempt to light up inside hospital premises in your health board area.

### Response

Please find below the number of occasions where patients and visitors have been caught smoking within NHS Borders' hospitals:

Year	Hospital	Number of incidents	Emergency response
2014	Kelso Community Hospital - Community ward	1	No
	Borders General Hospital -Medical ward	1	No
2015	Knoll Community Hospital - Community ward	1	No
	Hawick Community Hospital -Community ward	1	No
2016	Borders General Hospital -Orthopaedic ward	1	Yes

### Sanctions:

Policy:

#### 6.3.1 Fines – for smoking within no smoking premises

Under the Public Health (The Prohibition of Smoking in Certain Premises) Scotland Regulations 2006, failure to comply with the law is a criminal offence. Individuals may be fined a fixed penalty of £50 for smoking in any no-smoking premises. The manager or person in control of any no-smoking premises could be fined a fixed penalty of £200 for either:

- allowing others to smoke in a no-smoking premises
- failing to display warning notices in no-smoking premises
- refusal to pay or failure to pay may result in prosecution and a fine of up to £2,500

The Environmental Health Department, Scottish Borders Council, are the enforcing authority for the regulations and will impose any fines and initiate any prosecutions.

### 6.3.2 What to do if someone ignores the policy

We hope that the majority of people will respect the policy requirement not to smoke. However, it is important that we know what to do if someone does continue to smoke:

- If smoking within a building - Draw the person's attention to the 'No Smoking' signs and remind them that they're committing an offence. Politely ask them to stop smoking.
- Advise the person that it's also an offence for NHS Borders to let anyone smoke. Explain to them that NHS Borders has a no smoking policy in buildings and grounds to ensure a safe working environment for all staff, patients and visitors.
- NHS Scotland is committed to improving the health of the Scottish people and promotes a healthy life style where no smoking is the norm. For this to be successful our local community must support this commitment by not smoking whilst on our premises.

Guidance to staff to address a patient who is smoking inappropriately:

If the person is a patient:

- At the appropriate time explain the NHS Borders restricted smoking policy and ask them to stop smoking. Consider any alternatives that may be offered; how to access appropriate advice and support from the Smoking Cessation Service. In extreme and dangerous circumstances e.g. patient on oxygen or in shared ward, smoking materials may have to be removed for safe keeping and returned at discharge. At the appropriate time explain the legal implications and that this could affect the ability of NHS Borders to continue providing them care in healthcare buildings. If they continue or repeatedly break the legal requirements. In some cases this may require an exploration of how the needs of the patient may be met in light of the legal requirements and this policy, and will require written confirmation to the patient.
- If the patient is, at the time of inappropriately smoking, unable to recognise their actions as being unlawful then other means of legal compliance must be explored at the first opportunity.
- These situations should be referred to ward managers and clinical service managers.

If you are not satisfied with the way your request has been handled or the decision given, you may ask NHS Borders to review its actions and the decision. If you would like to request a review please apply in writing to, Freedom of Information Review, NHS Borders, Room 2EC3, Education Centre, Borders General Hospital, Melrose, TD6 9BS or [foi.enquiries@borders.scot.nhs.uk](mailto:foi.enquiries@borders.scot.nhs.uk).

The request for a review should include your name and address for correspondence, the request for information to which the request relates and the issue which you wish to be reviewed. Please state the reference number **406-17** on this request. Your request should be made within 40 working days from receipt of this letter.

If following this review, you remain dissatisfied with the outcome, you may appeal to the Scottish Information Commissioner and request an investigation of your complaint. Your request to the Scottish Information Commissioner should be in writing (or other permanent form), stating your name and an address for correspondence. You should provide the details of the request and your reasons for dissatisfaction with both the original response by NHS Borders and your reasons for dissatisfaction with the outcome of the internal review. Your application for an investigation by the Scottish Information Commissioner must be made within six months of your receipt of the response with which you are dissatisfied. The address for the Office of the Scottish Information Commissioner is, Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife.