



Guide for Smoke Free Strata Housing in Western Australia

Introduction

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1. Introduction

Aims of this guide:

- To increase awareness about the dangers of exposure to secondhand smoke among the strata community;
- To enable tenants, owners and owners' corporations to increase their skills and confidence to implement non-smoking by-laws in strata-titled properties; and
- To enable Strata Managers to facilitate and support this process.

Smoking is a common source of tension between neighbours living in strata titled properties. Secondhand smoke increases the risk of lung cancer and heart disease in adults; asthma and breathing problems in children; and SIDS in babies. In higher density housing, such as apartment blocks, tobacco smoke is notoriously difficult to contain. In many cases, residents are unsure about their rights and responsibilities when it comes to smoke drift.

This guide is a joint initiative of the Australian Council on Smoking and Health (ACOSH) and Cancer Council Western Australia (CCWA)*. It aims to support residents to introduce a non-smoking by-law that provides clear guidance, reduces exposure to secondhand smoke and makes conflicts easier to manage.

Although it is usually possible and lawful for the owners' corporation (also called 'body corporate') to add a non-smoking by-law, there are several barriers: awareness is low, the procedure is complex and advice may be needed to prepare a by-law that is valid and enforceable.

This guide provides practical assistance in the form of sample non-smoking by-laws and detailed information about the procedure for adding a by-law.

If you would like further information, or have a success story to share, we would love to hear from you:

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Strata Law Reform in Western Australia

This guide is based on the requirements of the legislation current at February 2018. The *Strata Titles Act 1985 (WA)* is being reformed and the drafting of an amendment Bill is underway. ACOSH and CCWA have been advocating for a model by-law on smoking to be included in the new legislation. We have recommended a model by-law that prohibits smoking in common areas, and prohibits smoking within lots where smoke is penetrating to other lots.¹

*ACOSH and CCWA are not able to give legal advice. This guide is not intended to give legal advice and should not be relied upon as advice in dealing with any particular situation. The information contained within this guide is of a general informational nature only.

¹ Bell, J, Dale, B, Kameron, C, Havill M. Sharing the air: the need for start law reform to reduce second-hand smoke exposure in multiunit housing in Australia. *Journal Law and Medicine*. 2018; 25, 465.

What is the issue?

Tobacco smoking is still the leading cause of preventable disease and premature death in Australia.² Two-thirds of Australian smokers are likely to die because they smoked, and smoking will cause the deaths of 1.8 million smokers now alive.³

Secondhand tobacco smoke is a preventable cause of death and disease, and there is no safe level of exposure.⁴ In 2015, 419 hospitalisations and 829 hospital bed-days were registered in Western Australia due to exposure to secondhand smoke.⁵

Within multi-unit housing, secondhand tobacco smoke is not easily contained. Tobacco smoke can contaminate non-smoking units and common areas via open doors and windows, cracks in walls, floors and ceilings, shared ventilation, gaps around plumbing, gaps under doors or through poor insulation.⁶

There is a small but growing body of research suggesting potential health harm from the infiltration of tobacco smoke into the homes of non-smokers. Using air quality monitoring, researchers found that secondhand smoke spreads throughout multiunit residential blocks, contaminating apartments where there is no active smoking.⁷ An Australian study also found that people living in multiunit housing are 19 per cent more likely to report exposure to secondhand smoke inside their home than people living in detached houses.⁸

A survey of Western Australian residents of strata-titled properties in 2016 found that almost 60 per cent had been exposed to secondhand smoke inside their home, and 32 per cent of those smelt cigarette smoke daily. Less than half of the respondents were aware that a by-law could be introduced to prohibit smoking anywhere on the property.⁹

A survey of Western Australian Strata Managers revealed some confusion about the procedures to implement smoke-free by-laws. Most (83 per cent) of the Strata Managers surveyed had experienced multiple smoke drift disputes in the properties they managed, but only 10 per cent had successfully implemented a smoke-free by-law.¹⁰

What are the health effects of exposure to secondhand smoke?

Secondhand smoke is a combination of thousands of chemical compounds, including at least 250 chemicals known to be toxic or carcinogenic. More than 50 known or suspected carcinogens¹¹ have been found in secondhand smoke and include substances known to affect the central nervous system, the immune system, the heart and the liver, and cause eye, skin and respiratory problems.¹²

The World Health Organization recognises that secondhand tobacco smoke is a preventable cause of death and disease, and there is no safe level of exposure. Among adults it is a known cause of cancer, respiratory and cardiovascular diseases, and among infants it has been shown to contribute to sudden infant death syndrome (SIDS), low birth weight, lower respiratory tract illness, middle ear disease and asthma.¹³

Compared with adults, children are particularly susceptible to the effects of secondhand smoke due to their higher breathing rates per body weight, their greater lung surface area relative to adults, and the comparative immaturity of their lungs. Infants and children are also generally unable to control their environment, and therefore cannot take steps to avoid exposure to secondhand smoke.¹⁴

Children are most likely to be exposed to secondhand smoke in the home, and because exposure can be so widespread, even comparatively small increases in disease risk may translate into a substantial burden of disease in infancy and childhood.¹⁵

² Australian Institute of Health and Welfare 2016. Australian Burden of Disease Study: Impact and causes of illness and death in Australia 2011. Australian Burden of Disease Study series no. 3. BOD 4. Canberra: AIHW.

³ Banks E, Joshy G, Weber M, Liu B, Grenfell R, Eggers and Beral V. Tobacco smoking and all-cause mortality in a large Australian cohort study: findings from a mature epidemic with current low smoking prevalence. *BMC Medicine*: 2015; 13(1): 38.

⁴ US Department of Health and Human Services. The health consequences of involuntary exposure to tobacco smoke: a report of the Surgeon General. US Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Centre for Health Promotion, National Centre for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006. <http://www.surgeongeneral.gov/library/reports/secondhandsmoke/fullreport.pdf>

⁵ Epidemiology Branch, Public Health Division, Western Australia Department of Health. Western Australia tobacco and passive smoking related hospitalisation in 2015 and deaths in 2013. Department of Health, Perth, Western Australia; 2016.

⁶ King BA, Travers MJ, Cummings KM, et al. Secondhand smoke transfer in multiunit housing. *Nicotine & Tobacco Research* 2010; 12(11): 1133-41.

⁷ King BA et al. Secondhand smoke transfer in Multiunit Housing. *Nicotine & Tobacco Research* 2010; 12(11): 1133-1141.

⁸ Bonevski B, Paul C, Jones A, et al. Smoky homes: gender, socioeconomic status and housing disparities in second hand tobacco smoke (SHS) exposure in a large population-based Australian cohort. *Prev Med* 2014; 60: 95-101.

⁹ Australian Council on Smoking and Health (ACOSH). 'Smoking in Strata Living'. 2016

¹⁰ Australian Council on Smoking and Health (ACOSH). 'Smoke Drift Disputes in Strata-titled Properties'. 2015

¹¹ US Department of Health and Human Services. How tobacco smoke causes disease: the biology and behavioral basis for smoking-attributable disease. A report of the Surgeon General. Atlanta, Georgia: US Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2010. Available from: <http://www.surgeongeneral.gov/library/tobaccosmoke/report/index.html>

¹² Campbell, MA, Ford, C, & Winstanley, MH. Ch 4. The health effects of secondhand smoke. 4.2 What is in secondhand smoke? In Scollo, MM and Winstanley, MH [editors]. Tobacco in Australia: Facts and issues. Melbourne: Cancer Council Victoria; 2017. Available from <http://www.tobaccoinaustralia.org.au/chapter-4-secondhand/4-2-what-is-in-secondhand-smoke>

¹³ World Health Organization. Tobacco Fact Sheet; 2016; Available from: <http://www.who.int/mediacentre/factsheets/fs339/en/>

¹⁴ Office of Environmental Health Hazard Assessment and California Air Resources Board. Health effects of exposure to environmental tobacco smoke: final report, approved at the Panel's June 24, 2005 meeting. Sacramento: California Environmental Protection Agency; 2005. Available from: http://www.oehha.ca.gov/air/environmental_tobacco/2005setsfinal.html

¹⁵ National Health and Medical Research Council. The health effects of passive smoking: a scientific information paper. Canberra: Australian Government Publishing Service, 1997