

Compliance and Enforcement of the Smoke-free Environments Act: Training for Smoke-free Enforcement Officers

This training standard was developed for the National Training Service (NTS) Alliance in consultation with subject matter experts. The standard also aligns with the Ministry of Health Smokefree Compliance and Enforcement Manual.

The purpose of this training standard is to provide a benchmark for knowledge and skills that should be included when providing training on compliance and enforcement of the Smoke-free Environments Act 1990 (SFE Act). This is to help ensure consistency in training content and alignment with best practice.

This standard is not designed to be prescriptive of how, when, or in what format training is delivered.

Training Standard:

Compliance and Enforcement of the Smoke-free Environments Act 1990: Training for Smoke-free Enforcement Officers

The following information outlines benchmarks or competencies for those working in compliance enforcement roles enforcing the Smoke-free Environments Act 1990 (SFE Act) and is aligned with the Ministry of Health Smokefree Compliance and Enforcement Manual 2016.

What: The need for Compliance Enforcement standards	Those involved in monitoring and enforcement of the Smoke-free Environments Act 1990 (SFE Act) must be trained in a systematic and measurable way in order to work effectively and consistently in their roles
Who: The intended audience	Smoke-free enforcement officers working in roles inside agencies, departments and communities are covered by these standards. The majority of Smoke-free enforcement officers are employees of the Ministry of Health or District Health Boards although the Act allows for the appointment of other persons as Enforcement Officers including inspectors appointed under the Health and Safety in Employment Act 1992.
Where: The location of services	Smoke-free enforcement officers work with in the community to ensure that there is compliance with the SFE Act, including sale and supply of tobacco, advertising and smokefree environments are trained inside their organisations throughout New Zealand
When: The time the services are offered	Smoke-free enforcement officers provide a year-round service.
How: The way the process is delivered	Smoke-free enforcement officers have specific duties that are governed by statute.

Benchmarks for Knowledge:

The Smoke-free Enforcement Officer is able to:

- Describe the purpose of the Smoke-free Environments Acts 1990 (SFE Act)
- Describe the need for accuracy and the impact of inaccurate data collection
- Describe the importance of acting inside the statutory powers of an enforcement officer and the consequences if this is not maintained
- Describe what constitutes a conflict of interest and the actions to take
- Describe the concept of legal personality and how to identify each including:
 - Corporate persons as legal persons
 - Legal persons in business
 - Human beings in business
 - Companies in business including the identification of companies and trading names
 - Partnerships
 - Incorporated societies
- Describe the range of legal persons in New Zealand workplaces and their legal duties including:
 - Employer
 - Employee
 - Volunteer
- Describe the difference between the principal/contractor and employer/employee relationship and how these impact the requirements under the SFE Act including determining the real nature of the relationship
- Describe the elements of an offence and their importance to the work of Enforcement Officers including:
 - Workplace elements, how to prove them and exceptions allowed
 - Licensed premises elements and how to prove them
 - Sale of tobacco products and herbal smoking products to people under the age of 18 Prohibited elements and how to prove them

Benchmarks for Knowledge:
(cont'd)

- Describe the powers and processes of an enforcement officer who has identified themselves and may have to show evidence of their Instrument of Appointment as an Enforcement Officer including:
 - Powers of entry and inspection
 - Requirement to give identifying information
 - Purposes for which powers may be used
 - Laying of an information
- Describe the steps and requirements to uphold the complaints process including:
 - Receiving complaints
 - Planning the visit
 - Using the correct equipment
 - Conducting the initial visit
 - Completing paper work and follow up activities and letters
 - Handling further complaints
- Describe the processes required and benefits gained from effective monitoring including:
 - Using a risk assessment approach
 - Completing a compliance checklist as required for different workplaces/locations
- Describe the interview process including:
 - Planning an interview
 - Having a witness
 - Being the duty holder
 - Collecting a witness statement
 - Conducting an interview under caution
 - Having other people attend interviews including:
 - Lawyers
 - Interpreters
 - Person authorised to speak on behalf of another
 - Verifying and signing statements and avoiding further statements

**Benchmarks for Knowledge:
(cont'd)**

- Define exhibits and describe the procedure to use these
- Describe the use of the enforcement officer notebook including:
 - Recording anything of significance
 - Providing a reference source for records of interviews
 - Acting as a memory prompt in court
- Describe the purpose and processes to monitor and enforce the SFE Act relating to the sale of tobacco and herbal smoking products to minors (Controlled Purchase Operations – [CPO]) including:
 - The law
 - Defences
 - Penalties
 - Volunteers
 - Briefing volunteers and parents
 - Planning the CPO
 - Conducting the CPO including interviews and completing paperwork
- Describe the process to prepare file forms (templates)
- Describe open and internal areas and the procedure to follow for each
- Describe the Guidelines for Prohibiting the Display of Tobacco Products
- Describe e-cigarettes, their risks, Ministry of Health advice, current legislation and importation requirements
- Describe the SIPHAN information database and how it is used

Benchmarks for Skills:

The Smoke-free Enforcement Officer is able to:

- Enforce the SFE Act through the investigation of complaints and collection of evidence acting inside the statutory powers of an enforcement officer
- Complete all necessary documentations with accuracy in a timely manner
- Determine the correct legal personality including:
 - Corporate persons as legal persons
 - Legal persons in business
 - Human beings in business
 - Companies in business including the identification of companies and trading names
 - Partnerships
 - Incorporated societies
- Determine the correct legal persons in New Zealand workplaces and their legal duties including:
 - Employer
 - Employee
 - Volunteer
- Determine the difference between the principal/contractor and employer/employee relationship and how these impact the requirements under the SFE Act including determining the real nature of the relationship
- Determine the elements and proof of an offence including:
 - Workplace elements and exceptions allowed
 - Licensed premises elements
 - Sale of tobacco products and herbal smoking products to people under the age of 18 Prohibited elements

**Benchmarks for Skills:
(cont'd)**

- Apply the powers of an enforcement officer correctly and use the processes allowed including:
 - Using the powers of entry and inspection
 - Giving identifying information
 - Following the powers that can be used
 - Laying of information
- Follow the steps and requirements to correctly uphold the complaints process including:
 - Receiving complaints
 - Planning the visit
 - Using the correct equipment
 - Conducting the initial visit
 - Completing paper work and follow up activities and letters
 - Handling further complaints
- Monitor the processes correcting including:
 - Using a risk assessment approach
 - Completing a compliance checklist as required for different workplaces/locations
- Plan, conduct and record effective interviews with the required people, using correct authorisations, and valid documents and collect detailed notes.
- Identify necessary exhibits and document these correctly.
- Monitor and enforce the SFE Act relating to the sale of tobacco and herbal smoking products to minors (Controlled Purchase Operations – (CPO)) using the prescribed procedures and documents with the correct individuals
- Assess, measure and determine open and internal areas correctly and follow the required procedures
- Ensure the Guidelines for Prohibiting the Display of Tobacco Products are correctly interpreted
- Determine the compliance of any use of e-cigarettes
- Use the SIPHAN information database correctly

<p>Existing training:</p>	<p>Compliance enforcement officers are trained by attending a Ministry of Health tobacco enforcement course and completing a written test with a pass mark of 70%</p>
<p>Training and assessment consideration:</p>	<p>All training should include measurable learning outcomes and be delivered in a way that best suits the needs to the audience.</p> <p>Attendees should be actively engaged in the learning rather than just sitting listening. This could include, for example, discussion groups, case studies, and problem solving card sorts etc. where the learner is actively learning rather than passively listening. Trainers may need to take into consideration that many trainees are busy people and need engaging and efficient training options.</p> <p>Any programme should have a mechanism to check the measurable learning outcome was met or provide a reference tool the attendee can use in future.</p> <p>The verb of the learning outcome dictates what the learner is able to do, e.g. <i>Describe three reasons for</i></p> <p>In this case the assessment should have learners each being able to <i>describe the three reasons for ...</i> and this could be achieved in group discussions, a multiple choice quiz (which has the learner identify the three correct descriptions), a take home handy reference card etc.</p> <p>An important aspect to remember is that training has not worked unless learning has been checked.</p>