Do I need to provide a smoking shelter?

There is no requirement under the legislation to provide a shelter. If you decide to provide one it needs to comply with Regulation 2 of Smoke-free Premises etc (Wales) Regulations 2007 which deals with “enclosed and substantially enclosed premises”.

If I want to provide a shelter what should I do?

Before spending money on expensive smoking shelters you must ensure that it complies with the regulations. If you are in doubt about the design of a shelter please seek further guidance from an architect and independent legal advice or contact:

Environmental Health Department - Health and Safety Team
Wrexham County Borough Council
Public Protection Service
Housing and Public Protection Department
Ruthin Road
Wrexham
LL13 7TU

Tel: 01978 292049
Email: public_protection_service@wrexham.gov.uk
What do ‘enclosed’ and ‘substantially enclosed’ mean?

Premises are enclosed if they have a ceiling or roof and, except for doors, windows and passageways, are wholly enclosed, whether on a permanent or temporary basis. Premises are substantially enclosed if they have a ceiling or roof but there are permanent openings in the walls or an aggregate opening in the walls, which is less than half the total area of the walls, including other structures which serve the purpose of walls and constitute the perimeter of the premises. This is called the 50 per cent rule.

Are doors and windows excluded?

No. Doors, windows or other fittings that can be opened or shut are included as part of the structure.

What is classed as a roof?

It is any fixed or moveable structure or device capable of covering all or part of the premises and can include things like canvas awnings, temporary covers etc.

What counts as a smoking shelter?

For a smoking shelter to be legal it has to have 50 per cent of the walls or more missing. If more than 50 per cent of the walls are present then it is illegal to smoke in that area.

How can I calculate whether the shelter complies?

1. Establish the perimeter of the smoking shelter, this is the area under the roof. Once you know the perimeter, ignore the roof, this is not part of the calculation.

2. Work out the Total Area (TA) around the perimeter (include all wall, windows, doors and open spaces).

3. Work out the Enclosed Area (EA). (Don’t forget to include walls, windows and doors).

4. Subtract the Enclosed Area (EA) from the Total Area (TA), this gives you your Open Area (OA).

5. If your Enclosed Area (EA) is greater than your Open Area (OA), then your shelter does not comply.

If your Open Area (OA) is equal to or greater than your Enclosed Area (EA), then your shelter complies.

See the worked examples on the following page:
Calculating whether a shelter complies

EXAMPLE 1

1. Work out the total area (TA):

\[ \text{TA} = 36 \text{m}^2 \]

2. Work out the total 'enclosed area' (EA):

\[ \text{EA} = 18 \text{m}^2 \]

Work out the difference:

\[ \text{Total Area - Enclosed Area = Open Area} \]

\[ 36 \text{m}^2 - 18 \text{m}^2 = 18 \text{m}^2 \]

If the Open Area (OA) is greater or equal to the Enclosed Area (EA), the shelter complies.

As the OA in this example is equal to the EA, the shelter \textbf{would be compliant}. 

Calculating whether a shelter complies

EXAMPLE 2

1. Work out the total area (TA):

![Diagram of shelter with dimensions]

2. Work out the total 'enclosed area' (EA):

![Diagram of shelter with dimensions]

3. Work out the difference:

\[
\text{Total Area} - \text{Enclosed Area} = \text{Open Area}
\]

\[
32\text{m}^2 - 26\text{m}^2 = 6\text{m}^2
\]

If the Open Area (OA) is less than the Enclosed Area (EA), the shelter will not comply. As this OA in the example is less than the EA, the shelter would not be compliant.
Calculating whether a shelter complies

**EXAMPLE 3**

1. Work out the total area (TA):

   \[
   A = 3\text{m} \times 2\text{m} = 6\text{m}^2 \\
   B = 3\text{m} \times 2\text{m} = 6\text{m}^2 \\
   C = 5\text{m} \times 2\text{m} = 10\text{m}^2 \\
   D = 5\text{m} \times 2\text{m} = 10\text{m}^2 \\
   \text{Total: } 32\text{m}^2
   \]

2. Work out the total 'enclosed area' (EA):

   \[
   A = 3\text{m} \times 1\text{m} = 3\text{m}^2 \\
   B = 3\text{m} \times 1\text{m} = 3\text{m}^2 \\
   C = 5\text{m} \times 2\text{m} = 10\text{m}^2 \\
   D = 2\text{m} \times 1\text{m} = 2\text{m}^2 \\
   E = 2\text{m} \times 1\text{m} = 2\text{m}^2 \\
   \text{Total: } 20\text{m}^2
   \]

3. Work out the difference:

   \[
   \text{Total Area} - \text{Enclosed Area} = \text{Open Area} \\
   \downarrow \hspace{1cm} \downarrow \hspace{1cm} \downarrow \\
   32\text{m}^2 - 20\text{m}^2 = 12\text{m}^2
   \]

If the Open Area (OA) is less than the Enclosed Area (EA), the shelter will not comply. As this OA in the example is less than the EA, the shelter would not be compliant.

However, should the two smaller walls (D & E) be removed, you shift 4m² of enclosed space (EA=16m²) to open space (OS=16m²), thus making the shelter compliant.
How close can it be to another premises wall, fence or hedge?

The legislation does not specify a distance and each shelter will be assessed for compliance on an individual basis. However shelters need to be effectively ventilated and this all depends on their position to other walls, its height, width and construction. As a rough guide any shelter with an open side which is too close to another wall or other obstruction (including natural hedging etc) could mean that it does not comply. Because a non connecting adjacent wall close to the shelter could be deemed to be part of the shelter, each situation will have to be determined on its own merits.

Remember if you site a shelter too close to another building, wall or structure it may prove to be a costly mistake if it is deemed not to comply.

What other things do I need to know or do?

You will probably need planning permission and building control consent if you decide upon a shelter or awning.

In the case of a licensed bar/restaurant etc its sitting may affect the licensing conditions if customers are drinking outside.

Watch out for potential smoke infiltration through doors, windows, ventilation grilles, air intakes etc. Also consider potential nuisance by smoke to residential and/or commercial properties.

Think about the noise that will come from the shelter and who it may affect

You will not be able to provide temporary covers for the open areas of the shelter.

A shelter will need to be fit for its purpose, electrically compliant and resistant to wind (EN13561 class 2)

Provide a suitable bin for your customers' litter.

Please note:

This leaflet is for guidance only and only provides limited basic advice in helping you decide if you need a shelter, what type of shelter would suit you best and where you may want to site it. It is your responsibility to ensure that your shelter complies with the smoke-free regulations before you build or buy it. It is recommended that you discuss your proposal with the appropriate council staff at the earliest opportunity.