Dear Colleague

PROPOSALS FOR RESTRICTIONS ON SMOKING OUTSIDE HOSPITAL BUILDINGS

1. I am writing to let you know about the Scottish Government’s proposals to support NHS Smoke Free Grounds by introducing regulations under the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016. The regulations will bring into force the bans set out in the Act on smoking near hospital buildings.

2. Our intention is to lay draft regulations next year at the Scottish Parliament to introduce a legally enforceable ban. We plan to have these regulations in force in late 2017.

3. The Scottish Government has committed to a limited consultation on specific details before bringing the regulations into effect. So we will shortly be writing to Directors of Public Health, Facilities Managers, Health and Safety Directors and Health Improvement Managers to seek their views on the following four specific details that will be in the proposed regulations. Human Resources, Unions and Board Communications teams will also be included for awareness.

4. The 2016 Act makes it an offence for those managing the no-smoking area around a hospital building to knowingly allow a person to smoke. It also makes it an offence for anyone to smoke in that area. Other offences include any failure by a Health Board to display no-smoking notices at every entrance to hospital grounds, and any failure of managers to display no-smoking notices at every entrance to relevant hospital buildings. The Act specifies that these no-smoking notices must state that it is an offence to smoke in these no-smoking areas or knowingly permit smoking there.
5. To bring these offences into effect we must first regulate for the following four details (which is what we will be consulting colleagues on):

- The perimeter of the no-smoking area around hospital buildings should be at a distance of 15 metres;

- For which, if any, NHS hospitals, individual hospital buildings or specified areas of land should the no-smoking arrangements not be brought into effect;

- Would it be helpful if the Scottish Government regulated for the manner of display, form and content of no smoking notices?

- Should the fixed penalties and maximum fines on conviction be kept consistent with the penalties and fines already in place for smoking inside hospital buildings?

6. The aim of introducing new offences in respect of hospital buildings is to support existing NHS smoking policies in hospital grounds. These offences do not replace the existing ban on smoking in the whole hospital grounds or suggest that people could smoke freely further away from buildings.

7. The new arrangements will be enforced by local authority officers rather than by hospital staff. However, NHS staff will be able to report incidents to these officers. Enforcement officers would then be able to issue fixed penalty notices or refer particularly bad cases to the Procurator Fiscal.

8. The letter we will shortly be sending to the individuals listed above will set out our proposals in more detail. We would welcome your support in raising this with the relevant individuals. We wish to encourage all those who will be involved in implementing the policy to work together to detail responses for each hospital.

9. If you have any questions please contact the Tobacco Control Team.

Yours faithfully

Daniel Kleinberg
Deputy Director, Health Improvement