

Public Protection - Guide to what is outdoors and indoors?

April the 12th means Step 2 and outdoor hospitality can open up. The question of what is considered outdoors and what is indoors is often asked.

The covid compliance officers in environmental health are working hard to seek compliance and were reminded by the BEIS (Government Department for Business, Energy and Industrial Strategy) that The Health Protection (Coronavirus, Restrictions) (Steps) Regulations 2021 (known as the Steps Regulations) require the implementation of the Smoke-free (Premises and Enforcement) Regulations 2006 (made under the Health Act 2006).

The process of slowly coming out of lockdown can feel painful, many have been vaccinated and the cases being admitted to hospital and dying are falling. There is a need and a feeling to get business back on their feet and our town up and running again but we would agree that this must not be at the cost of public health. The legal framework of the Steps Regulations and the timing of the stages allows the implications of unlocking to be monitored. There is always the possibility of more infectious or deadly variant strains in the UK and so all care must be taken.

Socialising outdoor in low numbers is considered much less risky than socialising indoors (which can take place at Step 3 planned for the 17th May). Infectious aerosols will disperse quicker and more effectively outdoors.

Marquees are being utilised by many to shield customers from some of the wind and rain. However marquees must have more than 50% of their sides open and in accordance with the legislation and the direction given from BEIS the sides **must not be capable of being closed**.

The following are therefore classed as indoors:





In the second image above, even if the sides were rolled up, would be considered indoors because it would be classed as substantially enclosed, just like the last image is classed as substantially enclosed under the smoke free legislation (see below).

The following are outdoors and suitable currently (step 2) for hospitality use:





Above images show that the majority of the sides are open (more than 50%) and that the sides are not capable of easily being enclosed.

It has been reported that many premises are not compliant and officers will be visiting to ensure consistency and safe compliance across Telford & Wrekin.

If you have concerns about your premises you can email coronavirus@telford.gov.uk and Officers will work with you to gain compliance.

Legislation – technical overview

The current legislation applies:

The Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 (no.364) – (Coronavirus Steps Regulations) contents

- <https://www.legislation.gov.uk/uksi/2021/364/contents>

See 'Interpretation' Regulation 2 (5(h))

- <https://www.legislation.gov.uk/uksi/2021/364/regulation/2>

This considers a place as **indoors** if it is **classed as enclosed, or substantially enclosed**, for the purposes of **section 2 of the Health Act 2006**, under the **Smoke-free (premises and Enforcement) Regulations 2006**

Health Act 2006 (c.28) see section 2 (4) &

(5):- <https://www.legislation.gov.uk/ukpga/2006/28/section/2>

This refers to any premises being smoke free if they are enclosed or substantially enclosed.

And reference to **enclosed or substantially enclosed** as above is in the **Smoke-free (Premises and Enforcement) Regulations 2006** (no.3368)

Regulation 2

Regulation 2 states (1) premises are **enclosed** if they – (a) have a ceiling or roof; and (b) except for doors, windows and passageways, are **wholly enclosed either permanently or temporarily**.

And (2) for the purposes of section 2 of the Act (Health Act 2006), premises are **substantially enclosed** if they have a ceiling or roof but there is— (a) an opening in the walls; or (b) an aggregate area of openings in the walls, which is less than half of the area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premises.

In addition:- (3) In determining the area of an opening or an aggregate area of openings for the purposes of paragraph (2), **no account is to be taken of openings** in which there are doors, windows **or other fittings that can be opened or shut**.

(4) In this regulation “roof” includes any fixed or moveable structure or device which is capable of covering all or part of the premises as a roof, including, for example, a canvas awning.