

Corporate Policy and Strategy Committee

10.00am, Tuesday, 6 December 2016

Smoke Free Policy Review

Item number 7.3
Report number
Executive/routine
Wards

Executive Summary

In September 2015, the Corporate Policy and Strategy Committee approved the Smoke Free Policy (Policy). The Policy takes full cognisance of the Scottish Government document 'Creating a Tobacco-Free Generation – A Tobacco Control Strategy for Scotland' which requires Local Authorities to have a well implemented 'Smoke Free Policy'.

The Policy also introduced smoking restrictions to the use of e-cigarettes (vaping).

An update was subsequently provided to Members in December 2015 on developments in relation to evidence on the health risks of e-cigarettes as it relates to the Policy.

Since December 2015, whilst no new material information in relation to evidence on the health risks of e-cigarettes has been published, Public Health England have reported that whilst debate continues about the level of safety, there is growing consensus that e-cigarettes are significantly safer for users than smoked tobacco.

In addition, the Tobacco and Related Products Regulations 2016 came into force in May 2016. These regulations are in relation to consumer protection and set out requirements

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for packaging and labelling, and volume & concentration of nicotine. In summary, whilst there now appears to be growing consensus that e-cigarettes are safer for users than tobacco products, there is no new material information that would justify a change to the Policy at this time. Given the relatively short time e-cigarettes have been in widespread use, there is still a lack of conclusive data on the long term effects of their use and for public health. This will remain under review.

Smoke Free Policy Review

1. Recommendations

- 1.1 The Corporate Policy and Strategy Committee is requested to approve the recommendation to maintain the restrictions set out in the current Policy. Also, to note that any material changes which develop, such as Scottish or UK Government advice or significant public health research findings, will be reported to Committee, together with any implications for the Policy.

2. Background

- 2.1 By law, Local Authorities are responsible for ensuring that all its enclosed or substantially enclosed public places are smoke free, maintaining a safe, healthy working environment, protecting the health of clients, staff, visitors and contractors from hazardous environments, and making sure that staff understand their responsibilities to take reasonable care of the health and safety of themselves and others.
- 2.2 The 2013 Scottish Government document 'Creating a Tobacco-Free Generation – A Tobacco Control Strategy for Scotland' requires *all Local Authorities to have a well implemented Smoke Free Policy, covering buildings and grounds by 2015*. The aim of the National Strategy is based on evidence that an effectively implemented Smoke Free Policy shows good leadership and demonstrates an exemplar role in supporting the public health of local communities in relation to preventable diseases and ill health caused by smoking.
- 2.3 The Council recognises its role in exemplifying Scotland's smoke free ambitions. For the purposes of this policy, restrictions were also applied to the use of e-cigarettes. Smoking is not permitted in enclosed areas including Council premises and vehicles used on Council business, nor in surrounding areas for Council premises (including entrances areas, car parks, playgrounds and courtyards). In addition, smoking restrictions apply in outdoor areas under the Council's jurisdiction such as play parks.
- 2.4 The Policy was approved by the Corporate Policy and Strategy Committee on 1 September, 2015. The implementation date was 1 December, 2015.
- 2.5 An update was subsequently provided to Elected Members in December 2015 on developments in relation to evidence on the health risks of e-cigarettes as it relates to the Policy.

- 2.6 Members requested an update on any subsequent developments in relation to evidence on the health risks from the inhalation of e-cigarettes.

3. Main report

- 3.1 The Policy takes full cognisance of the Scottish Government document 'Creating a Tobacco-Free Generation – A Tobacco Control Strategy for Scotland' which requires Local Authorities to have a well implemented 'Smoke Free Policy'.
- 3.2 The Policy places restrictions on the use of e-cigarettes (vaping).
- 3.3 E-cigarettes are not covered by smoke free legislation.
- 3.4 There is still a lack of conclusive data on the long term effects of the use of e-cigarettes and for public health. Since December 2015, whilst no new material information in relation to evidence on the health risks of e-cigarettes has been published, Public Health England have reported that whilst debate continues about the level of safety, there is growing consensus that e-cigarettes are significantly safer for users than smoked tobacco.
- 3.5 The Tobacco and Related Products Regulations 2016 came into force in May 2016. These regulations are in relation to consumer protection and set out requirements for packaging and labelling, and volume and concentration of nicotine.
- 3.6 There is no new material information that would justify any change to the current restrictions in the Policy at this time. This will remain under review.

4. Measures of success

- 4.1 A safer, healthier environment in all Council owned properties and designated external areas under the jurisdiction of the Council.

5. Financial impact

- 5.1 No impact.

6. Risk, policy, compliance and governance impact

- 6.1 No impact is envisaged.

7. Equalities impact

- 7.1 No impact is envisaged.

8. Sustainability impact

8.1 No impact is envisaged.

9. Consultation and engagement

9.2 Full consultation with our recognised Trade Unions has been undertaken.

10. Background reading/external references

10.1 Creating a Tobacco-Free Generation for Scotland, Scottish Government, March 2013.

10.2 Smoke Free Policy – Report to [Corporate Policy and Strategy Committee](#), 1 September 2015.

10.3 E-cigarettes (vapourisers) - update on health considerations - [Report to Corporate Policy and Strategy Committee](#), 1 December 2015.

10.4 Public Health England – Use of e-cigarettes in public places and workplaces. Advice to inform evidence-based policy making. Public Health England: advice for employers and organisations. 6 July 2016.

10.5 Tobacco and Related Products Regulations 2016.

Hugh Dunn

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Appendices

Smoke Free Policy

Smoke Free Policy

Implementation date: 1 December, 2015

Control schedule

Approved by

Approval date

Senior Responsible Officer Susan Tannahill, Council Health and Safety Manager

Author Ron Young, Council Health and Safety Manager

Scheduled for review September, 2016

Version control

Version	Date	Author	Comment
0.1	June, 2015	Ron Young	
0.2	August, 2015	Susan Tannahill	Scope extended to include contractors; scope of Nicotine Delivery Devices clarified; clarification on scope of external areas to be designated as smoke free.
0.3	November, 2016	Susan Tannahill	Policy reviewed – no changes recommended.

Committee decisions affecting this policy

Date	Committee	Link to report	Link to minute
1 2015	Sept Corporate Policy and Strategy Committee		
6 2016	Dec Corporate Policy and Strategy Committee		

Smoke Free Policy

Introduction

- 1.1 The scope of this policy is designed to include employees, elected members, visitors, clients, contractors and members of the public.
- 1.2 It is widely recognised that smoking is the largest single cause of serious ill health and premature death in Scotland. Similarly, the health effects of people breathing in other people's tobacco smoke, i.e. passive smoking, have emerged as an important health concern.
- 1.3 E-cigarettes (vapourisers) are increasingly being used by smokers who view them as a 'healthier' alternative to cigarettes or tobacco. For the purposes of this policy, smoking includes the use of e-cigarettes.
- 1.4 Whilst the Council supports the view that whether people smoke or not is a matter of personal choice, where they smoke is restricted by the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006. Smoking is therefore not permitted in enclosed areas including Council premises and vehicles used on Council business.
- 1.5 The Council recognises its role in exemplifying Scotland's smoke free ambitions. Smoking is therefore not permitted in surrounding areas for Council premises including entrance areas, car parks, playgrounds and courtyards within the boundary of Council premises. In addition, smoking restrictions will be applied to other outdoor areas within the Council's jurisdiction likely to be frequented by children such as play parks. Smoking restrictions may also be applied at outdoor family events organised by the Council.

Policy Aims and Objectives

- 2.1 The Council, as an employer, is committed to ensuring, so far as is reasonably practicable, the health, safety and welfare of all employees, and others, whilst at work and will ensure that a working environment free from tobacco smoke is maintained in all enclosed Council workplaces.
- 2.2 The Council recognises its role in exemplifying Scotland's smoke free ambitions as recommended by the Scottish Government's 'Creating a Tobacco-Free Generation – A Tobacco Control Strategy for Scotland'.

- 2.3 In seeking to achieve the aims in 2.1 and 2.2, the purpose of this policy will be to:
- (a) comply with the Smoking, Health and Social Care (Scotland) Act 2005 and the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006;
 - (b) support the 2013 Scottish Government recommendation that Local Authorities consider scope for extending smoking restrictions to outdoor areas within their jurisdiction (including vehicles parked on the grounds of Council property);
 - (c) promote the health of all employees by means of discussion and support on key issues surrounding smoking, and encouraging and supporting employees who currently smoke to change their smoking behaviour;
 - (d) reduce the risks associated with passive smoking by prohibiting smoking in all Council owned premises and designated outdoor areas within their jurisdiction;
 - (e) to prohibit smoking in any Council owned or hired fleet vehicle; and
 - (f) whilst private cars are exempt under the legislation, smoking shall not be permitted in privately owned or leased cars during authorised journeys on Council business.
- 2.4 Managers should also be aware that they could individually face a fixed penalty fine for either:
- allowing others to smoke in no smoking premises; or
 - failing to display warning notices in no smoking premises.
- 2.5 This policy will apply to all Council employees and does not make any provision for smoking rooms or areas for use by employees. There is no entitlement to smoke breaks.

Operating the Policy

- 3.1 Directors will be responsible for implementing, operating and monitoring this policy in respect of all Council workplaces and vehicles that fall within their control, including supporting smoking restrictions in designated outdoor areas.
- 3.2 Directors will ensure that:
- (a) All employees are informed of the policy and how it will be implemented and applied;

- (b) All employees are informed that failing to adhere to the controls set out in the policy will be viewed seriously and will be dealt with in accordance with the Council's Disciplinary Procedures;
- (c) All employees are reminded that unauthorised absence from work (e.g. leaving the workplace without permission) is viewed as misconduct;
- (d) All potential employees are informed of the non-smoking obligations which will be placed on them should they be offered employment with the Council (e.g. job information packs and selection interview);
- (e) No-smoking signs must be prominently displayed in all Council premises that are affected by the smoking restrictions, so that they can be seen by people in the premises and approaching the premises;
- (f) No-smoking signs must also be displayed in all Council owned or hired fleet vehicles;
- (g) Managers will need to ensure that action is taken if any cases of persons smoking are reported to them (e.g. reminding employees of the content of this policy);
- (h) Managers will need to ensure that suitable records are kept as appropriate to demonstrate compliance with the legislation (e.g. record of complaints and action taken); and
- (i) No smoking signs must be prominently displayed in outdoor areas where smoking restrictions apply, i.e. surrounding areas for Council premises including entrances, car parks, playgrounds and courtyards within the boundary of Council premises. In addition, other outdoor areas within the Council's jurisdiction likely to be frequented by children such as play parks. Smoking restrictions may also be applied at outdoor family events organised by the Council.

Employee Responsibilities

- 4.1 In line with the Council's Health and Safety Policy, all employees are reminded of their responsibilities to act in the course of their employment with due care for their own safety and welfare and that of others who could be affected by their acts or omissions.
- 4.2 It is the responsibility of employees who smoke to adhere to the controls set out in this policy.
- 4.3 Failure to comply with the law is a criminal offence and employees will be individually liable for any penalty that may result.

Promoting Health

- 5.1 The Council is committed to promoting the health of all employees regardless of whether they work indoors or outdoors and will seek to work in partnership with health professionals in encouraging and supporting employees who currently smoke to change their smoking behaviour.
- 5.2 The Council will seek to ensure that employees are provided with support by:
- (a) Making available on request general information regarding health and smoking, including sources of help, for employees who wish to reduce or stop smoking; and
 - (b) Working with health partners for the provision of voluntary smoking cessation help, encouraging employees who wish to stop smoking to access group or one to one support sessions where these are considered appropriate.

Visitors to Council Premises

- 6.1 In order that the Council fulfils its legal obligations, visitors, including contractors, will be required to conform to the smoking controls applying to employees.
- 6.2 Anyone found smoking will be informed that they are committing an offence and will be asked to extinguish their smoking material immediately or leave the premises.

Special Arrangements

Meetings and Events

- 7.1 Any organisation or person granted the use of Council premises for meetings or events will be informed that smoking is not permitted in any part of the building.

Residential Care Homes

- 7.2 Residential Care Homes are regarded as being the homes of those residents there. In these special circumstances the legislation allows for the provision of a specific room(s) to be designated as places where residents can smoke. Such rooms must be adequately ventilated with appropriate signs 'for resident use only'.

Day Care Centres

- 7.3 In accordance with the legislation, there is no provision for smoking rooms in Day Care Centres. Therefore, clients attending such centres will be informed that smoking is not permitted in any part of the building.

Community Education Centres

- 7.4 In the case of Community Education Centres, the Management Committees will need to adopt the position that smoking will not be permitted, in compliance with the legislation

Working in the Community

- 8.1 It is recognised that a significant number of employees work away from Council premises, providing services to people in their own homes that are not covered by the legislation, or in other indoor workplaces where the Council does not have control.
- 8.2 Mindful of the Council's statutory duties regarding service provision, e.g. Domiciliary Care, managers will need to apply the principles of risk management when assessing and controlling the risks to employees, to ensure that an appropriate level of service continues to be provided.
- 8.3 The risk management process should include consideration of the following:
- a) Identification of client homes occupied by smokers;
 - b) Encouraging clients not to smoke prior to and during times when Council employees are in their homes;
 - c) Opening windows to ventilate the home;
 - d) Employees with particular health conditions that could be affected by tobacco smoke; and
 - e) Where practicable, avoiding consecutive visits to homes where employees are likely to be exposed to tobacco smoke.
- 8.4 All such risk assessments should be recorded and reviewed periodically to ensure that they remain valid.

Review

- 9.1 This policy will be reviewed by the Council in the light of experience and changes in circumstances.