

1. **REVIEW OF THE WORKPLACE NO-SMOKING POLICY**

**Submitted by:** Executive Management Team

**Portfolio:** Finance and Resources

**Purpose of the Report**

To obtain approval for a proposed revised Workplace No-Smoking Policy

**Recommendation**

**That the revised policy at Appendix B be approved.**

1. **Background**

- 1.1 The Council's current Workplace No-Smoking Policy was introduced in June 2005. In effect, the Policy prohibits smoking by any person at any time in any part of council premises or within the cartilage of council property including car parks and yards, entrances/exits and in council-owned vehicles/vehicles being used on council business.
- 1.2 A copy of the full policy is attached at Appendix A.
- 1.3 The recent availability of 'Electronic Cigarettes' ('e-cigarettes') has necessitated a review of the Policy and a revised Policy which incorporates prohibiting the use of e-cigarettes in the workplace was endorsed by the Health and Safety Committee on 17 December 2013.
- 1.4 The rationale for a ban on e-cigarettes in the workplace are as follows:
  - Although they do not produce smoke, e-cigarettes produce a vapour that could provide an annoyance or health risk to other employees;
  - Some e-cigarette models can, particularly from a distance, look like real cigarettes, making a smoking ban difficult to police and creating an impression for visitors/customers/other employees that it is acceptable to smoke;
  - Although the toxic compounds found in regular cigarette smoke are absent, e-cigarettes still deliver nicotine to the user which is in itself considered harmful;
  - The view of the British Medical Association (BMA) is that the existing smoke-free legislation should be extended to e-cigarettes. Whilst acknowledging the electronic cigarettes may help some smokers to give up, the BMA cites the lack of evidence of the health risks they pose to the individuals using them and those in close proximity;
  - While e-cigarettes are not 'lit' by a flame, they contain a heating element which may carry a risk of igniting flammable material;
  - As an employer, the Council has a statutory and a common law duty to protect the health and safety of its employees. Given the current uncertainty regarding the harmfulness of second hand vapour from e-cigarettes, a workplace ban is the best way to ensure this duty is met in respect of all employees.

2. **Issues**

- 2.1 The proposed revised policy was considered and endorsed at the Employees Consultative Committee on 17 January 2014 subject to it being clear in the policy that non-compliance by employees would be likely to result in disciplinary action being taken rather than a fixed penalty or a fine being imposed by the Council as enforcing authority.
- 2.2 Your Officers would advise that each case would need to be considered on a case by case basis with a view to ensuring consistency of approach in respect of enforcement of the Health Act 2006.
- 2.3 The proposed policy is attached at Appendix B.

3. **Legal and Statutory Implications**

- 3.1 As an employer, the council has a statutory and a common law duty to protect the health and safety of its employees. It is also required to comply with workplace smoke-free legislation.

4. **Equality Impact Assessment**

- 4.1 The policy applies equally to all employees, elected members, tenants of premises where council staff are employed, sub-contractors, customers and visitors at council premises.

5. **Financial and Resource Implications**

- 5.1 None

6. **Major Risks**

- 6.1 None.

7. **Earlier Cabinet/Committee Resolutions**

Health and Safety Committee	December 2013
Employees Consultative Committee	January 2014

8. **List of Appendices**

Appendix A – Current Workplace No-Smoking Policy  
Appendix B – Proposed Workplace No-Smoking Policy