

## NORTH LINCOLNSHIRE COUNCIL

### POLICY AND RESOURCES CABINET MEMBER

#### SMOKING POLICY

##### 1. OBJECT AND KEY POINTS IN THIS REPORT

1.1 To outline and seek approval for the council's revised Smoking policy.

##### 2. BACKGROUND INFORMATION

2.1 The Smoke Free Regulations 2006/7 require the council to ensure that its buildings and vehicles are smoke free. The regulations also provide guidance around appropriate signage that must be displayed by law.

2.2 In 2007 the council introduced a Smoking policy to provide detailed guidance in relation to the new smoke free regulations.

2.3 Recently electronic cigarettes (ecigarettes) have been introduced. Ecigarettes are battery powered products which release a visible vapour that contains liquid nicotine which is inhaled by the user. Ecigarettes fall outside the scope of the smoke free legislation but are very similar in appearance to regular cigarettes. We have recently received a number of queries regarding the council's position on this matter.

2.4 The revised policy seeks to make explicit that the use of ecigarettes on council premises is prohibited. This was felt necessary because:

- The council has been a smoke free environment since 2007 to support a healthy environment for customers, visitors, employees and councillors;
- the potential impact on the image of the council and;
- because of the similarity of appearance with regular cigarettes makes enforcement of the policy more difficult.

##### 3. OPTIONS FOR CONSIDERATION

3.1 To approve the revised policy.

- 3.2 To reject the revised policy.
- 3.3 To recommend amendments to the revised policy.

#### **4. ANALYSIS OF OPTIONS**

- 4.1 Accepting the revisions will mean that the council has a clear position on the use of ecigarettes in its buildings and vehicles and the Smoking policy is easier to enforce.
- 4.2 Rejecting the revisions will mean that the council's position remains unclear on the use of ecigarettes.
- 4.3 Recommending amendments to the policy will mean that further consultation would be necessary and could delay implementation.

#### **5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

- 5.1 All employees will be updated on the revised policy via the council's corporate communications.

#### **6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)**

- 6.1 An integrated impact assessment has considered the diversity implications of these revisions (see attached).

#### **7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED**

- 7.1 The trade unions have been consulted and are in agreement with the proposed changes.

#### **8. RECOMMENDATIONS**

- 8.1 That the revised policy be approved and adopted.

DIRECTOR OF POLICY AND RESOURCES

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**Background Papers used in the preparation of this report - None**

## **1.0 Introduction**

- 1.1 North Lincolnshire Council accepts that all individuals should have the right to breathe smoke-free air.
- 1.2 The law protects employees and the public from the harmful effects of second hand smoke. As a responsible employer the council is required to ensure the health, safety and welfare of its employees, councillors, the public it serves and others who are affected by its activities.
- 1.3 It is against the law to smoke in virtually all enclosed public places, work places and public and work vehicles. The legislation applies to anything that can be smoked including cigarettes, pipes (including water pipes such as shisha and hookah pipes), cigars and herbal cigarettes.
- 1.4 In addition to this, the council does not permit the use of electronic cigarettes (ecigarettes) on council premises or in council vehicles. Ecigarettes are battery powered products which release a visible vapour that contains liquid nicotine which is inhaled by the user. Ecigarettes fall outside the scope of the smoke free legislation but some models can, particularly from a distance, look like real cigarettes, making this policy difficult to enforce. This may also create an impression for visitors, customers or other employees that it is acceptable to smoke.
- 1.5 This policy applies directly to all employees of the council including those employed by schools with delegated powers. Furthermore the policy encompasses councillors, members of the general public, contractors and service users of the council and relates to all council premises and their immediate vicinity, together with council vehicles, except where expressly stated.

## **2.0 Statement of principles**

- 2.1 All council buildings and their immediate vicinity will be smoke free areas. This includes all work areas, public areas, committee rooms, the council chamber,

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waiting rooms, corridors, entrances, toilets, lifts, meeting rooms, recreation areas, mess rooms and common rooms. All such areas will have appropriate signage that meets regulatory standards.

- 2.2 The immediate vicinity of the buildings is defined as all entrance/exit areas and attached hard standings.
- 2.3 All enclosed operational council vehicles will be smoke free and will carry appropriate signage.
- 2.4 Council employees' tied accommodation is excluded from this policy. Any other exception must be expressly stated and approved by the council. Employees working from home are also excluded.
- 2.5 The council recognises some employees, councillors and others may have difficulty in complying with the legislation and this policy. It also acknowledges not all smokers will wish or feel able to quit. However, any employee or councillor considering stopping smoking can access the support of the Confidential Staff Welfare and Counselling Service. This support may take a variety of forms including; counselling, the provision of information and guidance and referral/signposting to the local NHS Stop Smoking Service. Where appropriate and with the support of the employee or councillor's GP these services can help facilitate the provision of prescription of nicotine replacement therapy (patches/gum etc.) to support a quit attempt.

### **3.0 Employees and councillors**

- 3.1 Employees and councillors must not smoke in council buildings or the immediate vicinity at any time.
- 3.2 Employees are not permitted to smoke in enclosed operational council vehicles at any time.

*Note 1: Operational vehicles are defined as those used wholly or mainly for council business. Privately owned or employee's leased cars are excluded from the legislation.*

- 3.3 Drivers must not smoke while travelling on council business, if so requested by a passenger in that vehicle. This is defined as any journey for which mileage may be claimed. The driver may also request passengers not to smoke.
- 3.4 Employees who hire a council vehicle must not smoke and are responsible for ensuring passengers do not smoke in the vehicle. This statement will form part of the published conditions of hire. Each vehicle will display a 'No Smoking' sticker.
- 3.5 Substantially enclosed smoking rooms are no longer permitted.

*Note 2: Enclosed or substantially enclosed is defined as a building, room, shelter or entrance which has a roof and an opening in the walls (excluding doors and windows) which are less than half of the total area of the walls. Put simply, a roof and three or more walls and more than 50% enclosed.*

- 3.6 Employees will not be allowed to take smoking breaks.
- 3.7 Managers involved in recruitment are responsible for informing all job applicants of this policy before offers of appointment are made or accepted. Also, the council's recruitment material will seek to promote this policy and make all potential employees aware of its application at an early stage.
- 3.8 Information on the policy will be included as part of the induction for all employees and councillors.
- 3.9 All contractors entering into a contract with the council must abide by the policy. This will be made clear in contract documentation prior to any contract being agreed.

## 4.0 Members to the Public

- 4.1 Members of the public will not be permitted to smoke on council premises and will be discouraged from smoking in their immediate vicinity.

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- 4.2 Signs prohibiting smoking will be displayed prominently in all council buildings and a copy of this policy will be readily available.
  - 4.3 Public buildings owned by the council and designed for entertainment events, leisure purposes, eating or shopping will be subject to a total ban on smoking.

## **5.0 Residential Accommodation**

- 5.1 In order to protect the rights and individual choices of adult service users in council residential accommodation, an area of each establishment may need to be designated as a smoking area in strict accordance with the legislation. The council must approve the designation of any smoking area for the use of service users in residential accommodation through a process of consultation, which ensures the rights of service users, visitors and employees who do not smoke are upheld. A written record of the designation process must be retained and made available for inspection if required. Service users under the age of 18 are not permitted to smoke.

## **6.0 The council as a community leader**

- 6.1 The council will not approve the use of any of its buildings, outdoor facilities, vehicles or advertising space including publications, for any purpose which is promoted or sponsored, by any firm or organisation directly engaged in the sale of tobacco or tobacco products.
- 6.2 Tobacco products will not be sold at any council building.
- 6.3 Where possible and appropriate the council will work in partnership with and actively support other agencies and community groups who are promoting non-smoking.

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- 6.4 Employees of the council involved in educational, promotional, outreach or enforcement roles will advise on the dangers of passive smoking and promote the advantages of non-smoking policies.

## **7.0 Enforcing the policy**

- 7.1 Managers of enclosed premises and operational vehicles have a legal responsibility to prevent people from smoking in them. Employees and councillors who are in breach of the smoking policy will initially be advised that their behaviour breaches legislation and council policy and they will be reminded of/offered the use of the previously identified support that is available to them and warned that further breaches may result in formal disciplinary action.
- 7.2 Employees and councillors are reminded of their responsibility to dispose of all cigarette waste in a safe and appropriate manner. Failure to properly dispose of cigarette waste could result in individuals being issued with a fixed penalty notice.
- 7.3 Managers will be responsible for promoting the policy, ensuring compliance with the policy, its effective implementation and consistent application.
- 7.4 Failure to comply with the legislation is a criminal offence and employees should be aware that smoking in smoke free premises or enclosed work vehicles can attract a £50 fixed penalty, or if an individual is prosecuted, a maximum fine of £200. Failure to display no smoking signs can also lead to a fixed penalty of £200 or if prosecuted and convicted by a court, a maximum fine of £1000. Failure by management to prevent smoking in a smoke free place can lead to a maximum fine on conviction of £2,500.