

Report for: Corporate Committee

Item number: 8

Title: Haringey Council Smoking Policy

Report authorised by : Dr Jeanelle de Gruchy, Director of Public Health

Lead Officer: Deborah Millward, Healthy Public Policy Officer

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:**

1. Describe the issue under consideration

1.1 This report seeks agreement from the Committee to proposed changes to the Council's revised Smoking Policy. The revised Smoking Policy is at Appendix A.

2. Cabinet Member introduction

2.1 N/A

3. Recommendations

3.1 The Corporate Committee is asked to agree to proposed changes to Haringey Council's Smoking Policy . The proposed revised Smoking Policy is at Appendix A. All contractors, while on council business will be required to comply with the Smoking Policy. These proposed changes include:

- Not allowing employees to smoking during working hours. If staff wish to smoke they may only do so during unpaid breaks e.g. before and after work and at lunchtime
- Instructing smokers that when smoking during official unpaid breaks they must ensure that they are not identifiable as Council employees e.g. they must not be wearing lanyards and uniform.
- Under the existing policy Smoking is not permitted inside the buildings or within the grounds of all Council premises; this includes outdoor areas such as car parks and surrounding entrances/ exits to buildings (for at least 20 meters). The changes to the Smoking Policy instruct employees who smoke during unpaid breaks to do so away from residential properties and not congregate outside other commercial properties to smoke.

- Permitting the use of e-cigarettes (vaping) on outdoor Council premises.

4. Reasons for decision

- 4.1 The Council has a duty to protect the health of its employees. The evidence that exposure to other people's smoke is dangerous to health is undeniable.
- 4.2 The Council is committed to providing support for employees who smoke and who want help with giving up. Under the terms of this Policy, employees are entitled to access support, which is currently up to six smoking cessation sessions during work time, and will be fully supported by their manager in doing so.
- 4.3 Everyone working and visiting Council premises has a right to be in a smoke-free environment protected from the dangers of cigarette smoke.
- 4.4 There is no 'right to smoke' and this has been confirmed by the Employment Appeal Tribunal in the case of *Dryden v Greater Glasgow Health Board* [1992] IRLR 469 , which confirmed that an employee who had smoked at work for a considerable time did not have an implied term in her contract entitling her to smoke at work, and that a total ban on smoking on the employer's premises was a "works rule" that the employer was entitled to implement.
- 4.5 In February 2016 Haringey's Health and Wellbeing Board and Chief Executive signed the Local Government Declaration on Tobacco Control, committing the Council to take action on tobacco related issues and to act as an exemplar to others.

5 Alternative options considered

- 5.1 As part of a rigorous exercise Public Health developed an options paper and consulted with the Workforce Health and Wellbeing board. The agreed options are embedded in the refreshed Smoking Policy.

6 Background information

- 6.1 The Health Act 2006 and The Smoke-free (Premises and Enforcement) Regulations 2006 mean that from 1st July 2007 smoking is prohibited in all workplaces and enclosed public spaces, including work vehicles.
- 6.2 The Council is committed to improving health, wellbeing and reducing health inequalities for all residents, visitors and employees of the borough ,as part of the Council's Health and Wellbeing Strategy and Corporate Plan 2015- 2018. One of the ambitions in the Council's 's Health and Wellbeing Strategy is to strengthen our tobacco control work to increase healthy life expectancy in the borough. The Corporate Plan also commits to creating a fair and equal borough (Cross-Cutting Theme) by prioritising prevention of ill health and tackling the

key causes of health inequalities through enforcement of the smoke-free workplace legislation. The purpose of this policy is to:

- Demonstrate the Council's commitment to preventing ill health.
- Protect employees, visitors and contractors from the harm of tobacco smoke whilst on y Council premises.
- Promote smoking cessation as a key way of improving health and wellbeing for all.
- Ensure those who smoke are given support, help and encouragement to quit when they choose to do so.
- Limit the negative impacts of smoking on employees' health and productivity.
- Conform to the law around smoke-free workplaces and enclosed public spaces.

6.3 There has been ongoing consultation and engagement during the development of the policy with a number of groups. This includes

- Workforce Health and Wellbeing Board.
- Trade Union and Human Resources Corporate Meeting.
- Services and organisations operating out of Council property. For example Haringey's Clinical Commissioning Group and Homes for Haringey's HR department.

6.4 There has been strong support and proactive engagement for the policy from, Internal Corporate Boards, trade unions and services operating out of our Council property. Further Homes for Haringey have agreed to endorse our Smoking Policy once it is implemented to ensure uniformity across the two organisations.

6.5 On 7th February 2017 the Staff and Remuneration Committee agreed the changes the changes to the Smoking Policy.

7 Contribution to strategic outcomes

7.1 The Smoking Policy is linked to the Council's Corporate Plan, Building a Stronger Haringey Together 2015-18, in particular Priority 2 'Empower all adults to live healthy, long & fulfilling lives' and the cross-cutting themes, specifically: prevention and early intervention as outlined in Objective 1 'Become an organisation focused on prevention and early help'.

8 Comments of the Chief Finance Officer and financial implications

8.1 N/A as there are no financial implications of introducing this policy.

9 Head of Procurement comments

n/a

10 Comments of the Assistant Director of Corporate Governance and legal implications

The policy is compliant with the current legislative activity with regard to the Council's obligations in accordance with section 4 of the 1974 Health and Safety at Work Act. The policy extends to Contractors who work on Council property. Moreover, the policy contains restrictions that are applicable on external Council premises.

The position with the individual contractors is that they are not protected by the employment protection rights with regards to dismissals. The option to terminate the contract is available for any non-compliance with the restrictions set out in the policy, in accordance with the termination provisions of the original agreement with the contractor.

11 Equalities and Community Cohesion Comments

The Council has a public sector equality duty under the Equality Act 2010 to have due regard to the need to :

- Eliminate discrimination, harassment and victimisation of persons and any other conduct prohibited by or under the Act.;
- Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it ;
- Foster good relations between people who share a relevant protected characteristic and people who do not share it
- A "relevant protected characteristic" is . age, disability, gender reassignment, , pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation

We did not proceed with an EqIA as we expect that the revised Policy will have a positive impact for staff who smoke as it will encourage them to quit. We do not envisage any discrimination or inequalities caused by this revised Policy.

12 Policy Implication

13 Use of Appendices

Appendix A – revised Smoking Policy