

Report for: Staff and Remuneration Committee

Item number: 7

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 Committee is asked to agree to proposed changes to Haringey Council's Smoking Policy, to take immediate effect. The proposed revised Smoking Policy is at Appendix A. These proposed changes include

- Not allowing employees to smoke 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
- Permitting the use of e-cigarettes (vaping) on outdoor Council premises
- Employees who smoke during official unpaid breaks such as lunchtime must do so away from residential properties and not congregate outside other commercial properties to smoke
- 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.

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 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 all the 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.

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 Assistant Director of Corporate Governance has been consulted in the preparation of this report, and makes the following comments.

- 10.1 Council employees do not have a legal right to take extra breaks for smoking, even if they go outside their workplace. There is no requirement to give time for smoking breaks in addition to the breaks to which Council employees have an entitlement under their contract of employment and the breaks from work required by the Working Time Regulations 1998. It is likely that the proposed changes to the Policy are ones the Council is entitled to make as “works rules”, rather than being variations to Council employees’ contracts, and therefore it is likely the Council is entitled under those contracts to make these changes.
- 10.2 The revised Smoking Policy that is proposed complies with current legislation

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