

COMMITTEE	Finance, Policy and Resources
DATE	7 June 2016
INTERIM DIRECTOR	Richard Ellis
TITLE OF REPORT	Smoke Free at Work Policy
REPORT NUMBER	CG16/028
CHECKLIST COMPLETED	Yes/No

1. PURPOSE OF REPORT

To seek approval to implement the attached revised Smoke Free at Work Policy within the organisation.

2. RECOMMENDATION(S)

It is recommended that the Committee:

- (i) Approves the implementation of the revised Smoke Free at Work Policy within the organisation (Appendix 1)

3. FINANCIAL IMPLICATIONS

3.1 Resource will be required to advertise and communicate the revised Smoke Free at Work Policy and implementation of the extended smoke free grounds.

3.2 Assessment of each site signage needs will be required to address siting issues prior to the policy coming into force. There will be a cost associated with the provision of workplace signage to be borne by Community, Housing and Infrastructure (Asset Management).

3.3 This proactive health and wellbeing initiative has the potential to avoid the financial costs of ill health in the workplace the wider community and to other public sector organisations.

4. OTHER IMPLICATIONS

4.1 The implementation of the revised Smoke Free at Work Policy is in line with The Creating A Tobacco-Free Generation – A Tobacco Control Strategy for Scotland and COSLA's action on all Local Authorities to implement fully smoke-free policies across their properties and

surrounding grounds by 2015, including setting out appropriate enforcement measures.

- 4.2 Currently the organisation is open to challenge should an employee decide to contest verbal instruction regarding the use of e-cigarettes in ACC workplaces. To remove the potential for such a scenario clear arrangements for the use of e-cigarettes within our workplaces has been included in the revised Smoke Free at Work Policy.
- 4.3 As part of the implementation plan, active support to promote healthy lifestyle choices will be provided. Programmes of free smoking cessation will continue to be offered to employees for those who wish to quit. The local Tobacco Alliance may also be able to provide extra support to employees and issues that may arise around tobacco control.
- 4.4 The policy applies to all Aberdeen City Council wholly or substantially enclosed workplaces (enforced by Communities, Housing and Infrastructure - Environmental Health) and all parts of Council's premises and surrounding grounds. The latter is to be enforced by line management in conjunction with Communities, Housing and Infrastructure - Facilities colleagues. To ensure that individual service users rights are not removed, as previously enforcement officers can provide dispensation in Council's residential homes for adults and older people as these are considered to be dwelling places. Arrangements are as previously required to reduce employee exposure to passive smoke in such workplaces and service user's homes. Active support will be provided to promote healthy lifestyle choices in these environments. Non – compliance with the revised Smoke Free at Work Policy will be regarded as a conduct issue.

5. BACKGROUND/MAIN ISSUES

- 5.1 The Creating A Tobacco-Free Generation – A Tobacco Control Strategy for Scotland details that COSLA and all Local Authorities should implement fully smoke-free policies across their properties and surrounding grounds by 2015, including setting out appropriate enforcement measures. At the time Aberdeen City Council were in negotiations with COSLA with a view of terminating membership thus influencing the need to comply with the COSLA imposed target timescale.
- 5.2 Recent feedback from other Scottish local authorities on implementing the requirements of Tobacco Control Strategy for Scotland is:
 - 3 have approved and implemented a fully smoke free policy across their properties and surrounding grounds;
 - 9 are in the process / being reviewed; and
 - 3 are not currently implementing (1 aware that they need to consider soon).

- 5.3 Aberdeen City Council recognises its duty to protect the health, safety and welfare of its employees. We recognise that the adverse impact of passive smoking is a health and safety issue and acknowledge the importance of eliminating it from the workplace and the wider community for health improvement. The Smoke Free at Work Policy sets out how this can be taken forward with the focus on supporting employees in positive lifestyle choices.
- 5.4 Two separate consultations have been held to engage both employees and trade union colleagues to collate opinions on the revised Smoke Free at Work Policy. Trade unions assisted in the initial employee consultation process. In summary, individual opinions are mainly supportive of the spirit of the Directive and COSLA target. Trade unions are also supportive. Feedback has also been sought on the best way to communicate related information; this has been used to shape a balanced, respectful implementation plan via a phased approach to support employees in the transitional period.
- 5.5 A possible four phased approach over a 6 month period for: Corporate Offices and buildings; Infrastructure sites; Schools and Leisure sites; Health and Social care sites and any remaining sites is proposed. Vehicles are already covered in the existing policy.
- 5.6 There is value in taking a similar approach to defining arrangements for outdoor workplace locations such as cemeteries, parks and roads with Aberdeenshire Council as our neighbouring local authority. Through joint working this will ensure a consistent approach.
- 5.7 The implementation and related communication plan will cover a number of means to reach employees alongside active support to promote healthy lifestyle choices. Programmes of free smoking cessation will continue to be offered to employees who wish to quit.

6. IMPACT

Improving Customer Experience –

Benefits include:

- Happier, healthier and better motivated employees;
- Improved service delivery through improved use of resource; and
- Smoke free ACC workplaces and surrounding grounds.

Improving Staff Experience –

Benefits include:

- Happier, healthier and better motivated employees delivering services;

- Additional support for those employees who wish to quit smoking;
- Application of working day Consistent treatment of all employees smokers and non-smokers; and
- Smoke free ACC workplaces and surrounding grounds.

Improving our use of Resources –

Benefits include:

- Lower employee ill health absence;
- Increased productivity, because employees are healthier, happier and better motivated; and
- Employees smoking outside working hours or within authorised designated break times.

Corporate –

Benefits include:

- Joint working with neighbouring local authority Aberdeenshire Council on aligned implementation and defining “outdoor workplaces”;
- Implementation of The Creating A Tobacco-Free Generation – A Tobacco Control Strategy for Scotland in relation to:
 - Prevention – creating an environment where young people choose not to smoke.
 - Protection – protecting people from second hand smoke.
 - Cessation – helping people quit smoking.

Public –

An equalities and human rights impact assessment has been completed although there will be no differential impact as a result of the report recommendations on people with protected characteristics.

It is likely that there may be media interest in the application of this policy owing to recent neighbouring local authority coverage.

7. MANAGEMENT OF RISK

Future Impact

- By not implementing the Smoke Free at Work Policy there is the potential of negative feedback from COSLA and NHS in relation to the Creating A Tobacco-Free Generation - Tobacco Control Strategy for Scotland.

- There is an opportunity to improve health benefits for employees implementing this policy and as part of the wider community to support healthier lifestyle choices reducing the demand on public sector services.
- The inclusion of the use of e-cigarettes in the workplace and surrounding workplace grounds in the Smoke Free at Work Policy will reduce the potential of employee challenge around their use.
- To avoid reputational damage smoke free workplace grounds will be defined and communicated to employees as part of the phased implementation.

8. BACKGROUND PAPERS

- The Creating A Tobacco-Free Generation – A Tobacco Control Strategy for Scotland
- Smoke Free at Work Policy (revised)

9. REPORT AUTHOR DETAILS

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ABERDEEN
CITY COUNCIL

Smoke Free at Work

Policy

(HS.1.18)



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SECTION 1: SMOKE FREE AT WORK POLICY

1.0 Introduction

- 1.0.1 Under The Smoking, Health and Social Care (Scotland) Act 2005 a person is taken as smoking if they are “holding or otherwise in possession or control of lit tobacco, of any lit substance or mixture which includes tobacco or of any other lit substance or mixture which is in a form or in a receptacle in which it can be smoked.”
- 1.0.2 Tobacco smoke contains over 60 carcinogenic (cancer causing) chemicals and irritants which are released into the air as particles and gases. These maybe inhaled by persons other than the smoker and exposure to this second-hand smoke is known as passive smoking.
- 1.0.3 Passive smoking increases the risk of lung cancer, heart disease, asthma attacks, childhood respiratory disease, sudden infant death syndrome and reduced lung function. This policy aims to protect all Aberdeen City Council employees and customers including temporary and agency staff and contractors.
- 1.0.4 Aberdeen City Council recognises our duty to protect the health, safety and welfare of our employees. We recognise that the adverse impact of passive smoking is a health and safety issue and acknowledge the importance of eliminating it from the workplace.

1.1 Legislation, Council Policies and Guidance

- 1.1.1 Where smoking occurs in an enclosed workplace, there is a clear risk to the health of all employees, and employers are required to act in order to reduce that risk.
- 1.1.2 This policy has been developed in conjunction with the requirements of:
- Health and Safety at Work, etc. Act 1974
 - The Smoking, Health and Social Care (Scotland) Act 2005
 - The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006
 - Safety and Health of Pregnant Workers Directive (92/85/EEC)
 - Tobacco Products Directive – European Commission expects new legislation to be adopted 2014 to come into effect in UK 2016
 - Creating a Tobacco Free Generation – Tobacco Control Strategy for Scotland come into effect 2015
- 1.1.3 The Smoking, Health and Social Care (Scotland) Act 2005, and the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006, prohibit smoking within ‘wholly or substantially enclosed’ workplaces such as buildings or service vehicles.

The phrase ‘wholly or substantially enclosed’ refers to an area with a ceiling or roof that (except for doors, windows and passageways) is either wholly enclosed (whether permanently or temporarily) or is enclosed but for an opening which is less than half the area of its walls.

The 2005 Act also requires:

- No smoking signs to be displayed in all premises and all work vehicles giving the name of the person to whom complaints should be made;
- Managers to be empowered to stop people smoking in enclosed workplaces and work vehicles;
- No smoking in all wholly or substantially enclosed workplaces, and all work vehicles.

The phrase “work vehicle” includes private vehicles used by staff for work when carrying passengers.

1.1.4 This policy should be read in conjunction with the:

- ACC Corporate Health and Safety Policy
- ACC Risk assessment procedure and
- Any other supporting guidance.

2.0 Policy aim

2.0.1 Provide an environment where good health is promoted for all.

2.0.2 To ensure, so far as is reasonably practicable, that a smoke free working environment exists for all employees.

2.0.3 All ACC owned premises will be designated smoke-free with adequate signage to inform employees and visitors of the smoke free status of the enclosed workplace.

2.0.4 Support healthier communities as employees take the opportunity provided by smoke free workplaces and public places as an opportunity to stop smoking.

3.0 Scope

3.0.1 This policy aims to protect all employees of Aberdeen City Council and applies to all Council enclosed workplaces.

3.0.2 This policy will apply to all employees, councillors, agency staff, visitors, contractors and members of the public using Council premises.

3.0.3 This policy is not intended to replace any of the Council’s obligations under Health and Safety legislation.

3.0.4 This policy applies to the use of electronic and e-cigarettes. The use of such electronic cigarettes is prohibited where ever smoking is prohibited.

4.0 Management of smoke free at work

4.1.0 Smoking Restrictions

4.1.1 A complete ban on smoking in all Council wholly or substantially enclosed workplaces will be applied. This includes (but not exclusive to):

- All offices, corridors and lifts
- All meeting rooms and committee rooms
- All waiting rooms, foyer areas, rest areas/rooms, staff rooms, toilets and washrooms
- All kitchens/food preparations or serving areas
- All Council owned vehicles
- All vehicles privately owned when used on Council business and when carrying approved Council passengers
- All workshops and stores
- All teaching/training areas including educational establishments
- All parts of the Council's premises and surrounding grounds, including all access doorways, surrounding areas (outside buildings if smoke is likely to drift through open windows/doors and ventilation systems), and employee carparks. Smoking inside vehicles is not permitted on site.

4.1.2 The **only** exception to this policy will be designated smoking areas in the Council's residential homes for adults and older people, as these are considered to be dwelling places. Such exemptions must be approved by committee in line with the legislation on humanitarian grounds – so residents, visitors and employees are not exposed to second hand smoke. Such approved designated smoking rooms are only for residents. Active support will be provided to promote healthy lifestyle choices in these environments.

4.1.3 This policy will apply equally to all future premises and will be taken into account at the design stage of any new build, refurbishment or relocation project.

4.1.4 Smokers should be mindful of the impact of their breaks on both their work and work colleagues. As such employees who wish to smoke may do so in their own time outside working hours or within authorised designated break times. Employees will not be permitted to smoke whilst carrying out their duties and responsibilities.

4.1.5 The Council will not condone the use of smoking shelters on their grounds.

4.2.0 Visits to external premises

4.2.1 Employees are sometimes required to work in designated smoking areas or are required to visit other places where people smoke such as client's homes.

4.2.2 Employee exposure to second hand smoke must be reduced by adopting a safer system of work as identified in a risk assessment.

- Advise visitee when arranging a visit of ACC Smoke Free at Work policy.
- Employees should agree that the visitee arranges for a non-smoking area to be provided for the duration of the visit. Where this is not possible employees should ask the visitee to refrain from smoking inside the premises or meeting area for one hour before the visit. The visitee must not smoke during the visit.
- All reasonable steps should be taken to protect them from exposure to second hand smoke.

4.2.3 Heads of Service should send a letter to clients or heads of establishment not within the control of Aberdeen City Council requesting their co-operation in maintaining a smoke free environment for ACC employees who may visit these establishments (see appendix 1).

4.3.0 Risk assessment

4.3.1 Risk assessments must be undertaken of those areas that expose or may potentially expose employees to second hand smoke. As a means of reducing the risk this must consider, for example:

- elimination (reduced exposure)
- avoidance, e.g. work rotation;
- employees' pre-existing conditions exacerbated by second hand smoke eg asthma;
- ventilation within smoky areas, or
- smoking restrictions prior to visits.

4.3.2 All risk assessments must be completed in accordance with ACC Risk assessment procedure. Identified actions to control and or minimise the risk to employees must be addressed and implemented.

4.4.0 Signage

4.4.1 'No Smoking' signs are required to be displayed by law at all entrances/exits to smoke-free premises and smoke-free vehicles. They must be obviously displayed and protected from tampering, damage, removal or concealment.

4.4.2 All signs must be appropriately completed with the name of the person to whom complaints can be addressed.

5.0 Organisation and responsibilities

- 5.0.1 Directors will be responsible for the promotion and implementation of the policy within their Services and for monitoring, in consultation with the relevant trade unions, its effectiveness.
- 5.0.2 Employees greeting new employees or temporary staff and visitors will inform them of the Smoke Free at Work Policy and arrangements.
- 5.0.3 Everyone has a responsibility to bring the Policy to the attention of anyone who is smoking on Council premises.
- 5.0.4 Staff will be authorised to ask non-employees who breach the policy to leave the premises.
- 5.0.5 In the event of an employee, agency staff, customer, visitor or contractor failing to adhere to non-smoking on the premises then the Commercial Team within Environmental Health must be contacted if enforceable under the legislation (eg smoking in wholly or substantially enclosed workplaces). Smoking on Council's premises and surrounding areas is enforceable by Operational Line Management.
- 5.0.6 Operational line management are responsible for monitoring employee smoking times at a local level and to bring any concerns to the attention of the individual.
- 5.0.7 If a manager is aware of an employee ignoring the policy this should be discussed with the employee and smoking cessation offered.
- 5.0.8 Repeated breach of the policy will result in action being taken on the employee's behaviour under the terms of the Council's agreed Disciplinary Procedure.
- 5.0.9 Any employees with smoking concerns must raise these with their line manager in the first instance for action.

6.0 Fines by Enforcing Authorities

- 6.0.1 Individuals may be served a Fixed Penalty Notice of £50 for smoking on/in no-smoking premises/vehicles. Refusal or failure to pay the Fixed Penalty Notice within the required timescales may result in the individual being prosecuted and fined up to £1000.
- 6.0.2 The Operational Line Manager or person in control of any smoke-free premises could be served a Fixed Penalty Notice of £200 or prosecuted and fined up to £2,500 for allowing others to smoke in smoke-free premises. Failure to comply with the law will be a criminal offence.
- 6.0.3 Failure to display a 'No Smoking' notice could result in a fixed penalty fine of £200, or prosecution and fine of up to £1,000.

6.0.4 Environmental Health will enforce the legislation within Council workplaces and sites.

7.0 Support and Guidance

7.0.1 The organisation wishes to support employees who want to reduce and stop smoking and help individuals adjust to smoke free at work.

7.0.2 In addition to regular organisation health promotion events including free employee smoking cessation classes free smoking cessation advice and local support groups can be gained by contacting:

- The NHS smoking helpline on 0800 169 0 169
- Smokeline on 0800 84 84 84
- Speak to your GP or practice nurse
- Grampian smoking advice service 0500 600 332

7.0.2 For further information on the national no smoking day campaign and to take up the challenge, visit www.nosmokingday.org.uk.

7.0.3 For further information on the health benefits of stopping smoking, visit <http://www.bbc.co.uk/health/conditions/addictions/treatmentaddictiontoptips.shtml>

7.0.4 Licensed Nicotine replacement Therapy is recommended to help people cut down and quit smoking. Regulating nicotine containing products (NCP) as medicines is the best way to meet public health goals of reducing the harm of smoking. Currently there is insufficient evidence to recommend the use of unlicensed electronic cigarettes.

8.0 Sponsorship

8.0.1 Aberdeen City Council will not support or solicit any sponsorship from tobacco product manufacturers.

8.0.2 The Council supports a ban on all tobacco advertising. To this aim the Council will not allow any advertising of tobacco within the premises.

8.0.3 Any existing and legally binding sponsorship or advertising agreements with tobacco manufacturers will not be renewed.

8.0.4 The Council will not support tobacco sales in any Council premises.

9.0 Monitor and Review



9.0.1 This policy will be reviewed regularly in line with changes to legislation and best practice.

DRAFT



Appendix 1

Draft letter for use when employees visit premises which are outwith the control of Aberdeen City Council.

Dear Sir/Madam

I am writing with regard to a home/office visit due to take place on (date) with (name of employee). In line with the Health and Safety at Work etc Act 1974 Aberdeen City Council has a duty to take reasonable care to protect the health of employees and to provide and maintain a safe working environment.

Furthermore, the Smoking, Health and Social Care (Scotland) Act 2005 makes it a criminal offence for smoking in workplaces, subject to some limited exceptions.

Second-hand smoke or passive smoking has been found by the Governments Scientific Committee on Tobacco and Health to be detrimental to people's health. We ask that you do everything possible to provide a smoke-free environment when our employees visit your home/office. Taking the following action will help protect our employees from exposure to second-hand smoke:

- * Refrain from smoking inside the part of the premises in which the visit is due to take place, for at least an hour before the employee arrives. You must not smoke during the visit, and you must ensure that other people do not smoke in the area during the visit, preferably by going outside to smoke.
- * Open windows and doors before the visit to clear the smoke.

We ask our employees to assess whether any environment they enter is safe for them to provide their services. If a smoke-free environment cannot be provided, future arrangements will be made to conduct the meeting in a smoke-free environment. Thank you in advance for your co-operation.

Yours faithfully