

## **EAST AYRSHIRE COUNCIL**

### **CORPORATE GOVERNANCE COMMITTEE 16 FEBRUARY 2006**

#### **SMOKING IN THE WORKPLACE POLICY**

##### **Report by Depute Chief Executive/Executive Director of Corporate Support**

### **1. PURPOSE OF REPORT**

- 1.1** The purpose of the report is to ask the Committee to approve proposed changes to the Council's Smoking in the Workplace Policy, subject to consultation with Trade Unions.

### **2. BACKGROUND**

- 2.1** East Ayrshire Council's Smoking Policy is contained in Per Circular 8/2000 which was introduced on 1 September 2000. Since then there has been an increased awareness and emphasis of the health effects of smoking on both smokers and non-smokers, particularly in relation to passive smoking.
- 2.2** The Smoking, Health and Social Care (Scotland) Act 2005 and The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 come into force on 26 March 2006 and this smoke-free legislation will significantly reduce exposure to second-hand smoke by prohibiting smoking in the majority of enclosed public places.
- 2.3** The law prohibits smoking in certain public places which are "wholly or substantially enclosed" including the majority of workplaces. It will be an offence to smoke in no smoking premises and those in control of the premises will also be committing an offence for allowing that person to smoke. It is important that the consequences of breaking the law are clearly communicated and understood by employees within your department. Vehicles used for business purposes will also be affected by the law.
- 2.4** The impact of this legislation has placed an onus on employers to review their existing policies and practices and a further review of the Smoking in the Workplace Policy has been necessary to ensure that the Council continues to take account of the new legislation and reflects best personnel practice.
- 2.5** A further review of the Smoking in the Workplace Policy has been necessary to ensure that the Council continues to take account of the new legislation and reflects best personnel practice.
- 2.6** The Smoking in the Workplace Policy applies equally to all employees of East Ayrshire Council, elected members, members of the public and visitors to Council establishments and workplaces as well as users of Council facilities.

### **3. REVISED POLICY**

**3.1** With effect from 26 March 2006 the Council's policy is that:

- There will be no designated smoking rooms for employees use in any Council establishment.
- Appropriate No Smoking signs will be prominently displayed in all Council establishments and vehicles to make employees, customers and visitors aware that the premises are no smoking premises, vehicles are smoke free and that they must comply with the law.
- Employees will be made aware that anyone smoking within a Council establishment or Council vehicle will be committing an offence and may be subject to disciplinary action.
- Cars are exempt under the legislation that are used primarily for private purposes. Where any employee uses their private car on Council business and on occasion carries as passengers, colleagues who do not smoke they should respect the wishes of the non-smoker by not smoking during those journeys. The smoker should not seek permission to smoke from the passenger(s) rather he/she should not smoke.
- All external smoking shelters will be removed from their current locations.
- Employees will not be allowed to smoke at entrances and exits to Council establishments.
- Employees who require to smoke will only be allowed to smoke in their own time during recognised breaks. Employees will not be permitted to leave their workplace during working time for the purpose of smoking.
- In Adult Care homes and other residential establishments if designated rooms are established where smoking is permitted, these will be for the use of residents only. They will not be for the use of employees and visitors.

**3.2** Early consideration should be given to the practical aspects of ensuring that Departments meet the requirements of the above legislation from 26 March 2006 particularly in respect of advising appropriate employees of their responsibilities to ensure that employees, customers and visitors do not smoke within council establishments and vehicles as well as ensuring the display of appropriate no smoking signs on all Council premises and vehicles.

**3.3** The Smoking in the Workplace Policy will be referred to the Education Committee in respect of teachers interests.

3.4 Copies of the revised Smoking in the Workplace Policy are available from the Head of Personnel.

#### **4. SMOKING SHELTERS**

4.1 There is no requirement within the legislation for employers to provide an external smoking shelter and the Corporate Management Team has agreed that all external smoking shelters will be removed from their current locations.

#### **5. COUNSELLING/SUPPORT**

5.1 The Council continues to be aware that for some employees, smoking is an addiction and the revised smoking policy recognises and includes the provision of support and counselling for those employees who wish to stop smoking.

#### **6. COMPLIANCE WITH THE POLICY**

6.1 The policy has been revised to ensure that a smoke free environment continues to be enjoyed by all employees.

6.2 Failure to comply with The Smoking, Health and Social Care (Scotland) Act 2005 and The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 is a criminal offence. Individuals may be fined a fixed penalty of £50 for smoking in non-smoking premises. The manager or person in control of any no smoking premises can be fined a fixed penalty fine of £200 for either allowing others to smoke in no smoking premises or for failing to display warning notices in no smoking premises.

6.3 In addition, failure to comply with the Council's smoking policy will be considered as misconduct and will be dealt with in accordance with the Council's Disciplinary Policy and Procedures. Where appropriate, similar supportive arrangements to those existing for other addictions will apply.

#### **7. FINANCIAL IMPLICATIONS**

7.1 Any additional costs arising from the proposed changes to the Smoking in the Workplace Policy will be contained within existing budgets.

#### **8. POLICY/LEGAL IMPLICATIONS**

8.1 The proposed changes will ensure that the Council meets its legislative requirements as an employer and continues to follow best practice guidelines. The proposals meet the Improving Health Action Plan of the Community Plan.

#### **9. TRADE UNIONS**

9.1 The proposed changes are subject to Trade Union consultation.

## **10. RECOMMENDATIONS**

**10.1** The Committee is asked to:

- (a) approve the proposed changes to the Council's Smoking in the Workplace Policy with effect from 26 March 2006, subject to consultation with Trade Unions;
- (b) refer the revised Policy to the Executive Director of Educational and Social Services in respect of teachers interests; and
- (c) otherwise note the contents of the report

Elizabeth Morton  
Depute Chief Executive/Executive Director of Corporate Support  
17 January 2006

### **LIST OF BACKGROUND PAPERS**

1. Report on Review of East Ayrshire Council's Smoking Policy by the Director of Corporate Services to Personnel and Property Sub-Committee of the Policy and Resources Committee of 7 March 2000.

Any person wishing further information should contact Martin Rose, Head of Personnel (Telephone 01563 576092).