

# EAST AYRSHIRE COUNCIL

## EDUCATION COMMITTEE - 21 MARCH 2006

### SMOKING IN THE WORKPLACE POLICY

#### Report by Executive Director of Educational & Social Services

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

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

#### **2. BACKGROUND**

- 2.1** The Smoking in the Workplace Policy has been referred from the Corporate Governance Committee in respect of teachers' interests. 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 all educational establishments. It will be an offence to smoke in no smoking premises and heads of establishments 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. 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** 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 or within school playgrounds or within their cars if they are parked in school playgrounds.
- 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.

#### **3.2** Heads of Educational establishments will be advised of their responsibilities under the above legislation by 26 March 2006 to ensure that employees, customers and visitors do not smoke within educational establishments, school playgrounds or in vehicles within school grounds from that date. No smoking signs will be displayed in all educational establishments and at the entrance(s) to school playgrounds.

#### **3.3** 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 therefore all external smoking shelters in educational establishments 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.
- 5.2** The Council will liaise with the local NHS provider of cessations services to make employees aware of the services available and encourage them to access them. In addition, employees will be advised of the national smokeline telephone number – Freephone 0800 848 488 and relevant web sites e.g. [www.nosmokingday.org.uk](http://www.nosmokingday.org.uk) and [www.clearingtheairscotland.com](http://www.clearingtheairscotland.com).

## **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 Head of the Educational Establishment 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.
- 7.2** Any funding made available from the Health Board to assist in providing support to employees who want to stop smoking will be made use of.

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

- 8.1** The proposed changes will ensure that the legislative requirements are met and that best practice guidelines continue to be followed.

## **9. COMMUNITY PLAN**

The proposals fully support the Improving Health Action Plan of the Community Plan.

## **10. TRADE UNIONS**

**10.1** The proposed changes have been discussed and approved by the Informal JCC (Teachers).

## **11. RECOMMENDATIONS**

**11.1** The Committee is asked to:

- (i) approve the proposed changes to the Council's Smoking in the Workplace Policy with effect from 26 March 2006
- (ii) otherwise note the contents of the report

John Mulgrew  
Executive Director of Educational & Social Services  
28 February 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.

Members wishing further information should contact John McCarney, Head of Service, School Support (Telephone 01563 576126) or Janice Shaw, Personnel Manager (Schools) (Telephone 01563 578114)

**Implementation Officer: John McCarney, Head of Service: Schools Support**