



**AGENDA ITEM: 5(I)**

**CABINET: 13 January 2015**

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**Report of: Assistant Director Community Services/Transformation Manager**

**Relevant Managing Director: Managing Directors**

**Relevant Portfolio Holder: Councillor Mrs J. Houlgrave**

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**SUBJECT: ELECTRONIC CIGARETTE USE AND SMOKING POLICIES**

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Wards affected: Borough wide

**1.0 PURPOSE OF THE REPORT**

1.1 To introduce a Policy restricting the use of electronic cigarettes and to update the Smoking Policy in all Council Buildings including communal areas in Sheltered Housing Schemes.

**2.0 RECOMMENDATION**

2.1 That the introduction of the E-Cigarette Use Policy at Appendix (ii) and the updated Smoking Policy at Appendix (iii), be approved.

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**3.0 BACKGROUND**

3.1 Throughout the UK, smoking is prohibited by law in virtually all enclosed workplaces and public places, in vehicles used for work and public vehicles. The Council's Smoking Policy was last reviewed in 2006 and implements the requirements of this legislation accordingly. However, since the Smoking Policy was reviewed, smoking habits, and attitudes to smoking, have changed. In more recent years, the awareness and use of products known as electronic cigarettes (e-cigarettes) has increased significantly.

## **4.0 ISSUES**

4.1 Given the links between the proposed e-cigarette policy and the existing Smoking Policy, the opportunity was taken to review the existing Smoking Policy at the same time. However, other than to update the content of the Smoking Policy, no substantive changes have been made.

4.2 The E-cigarette Policy and updated Smoking Policy are attached at Appendices (ii) and (iii) to this report. The introduction of an E-cigarette policy is recommended for the following reasons:

- The use of e-cigarettes is subject to limited regulation and they are not licensed as a medicine in the UK;
- Given the potential similarities in appearance, it would be difficult to distinguish between a tobacco cigarette and an e-cigarette, making enforcement of the Policies or no smoking legislation problematical;
- There have been issues regarding the safe use of e-cigarettes – for example, there have been reports of fire as a result of USB ports being used to recharge the battery within e-cigarettes;
- It is not appropriate to support a product that normalises the habit and/or practice of smoking (this specifically relates to the way e-cigarettes commonly resemble the appearance of tobacco cigarettes);
- To recognise the importance of the promotion a good role model for children – i.e. the less smoking appears as ‘normal behaviour’ to a child, the less likely they are to smoke. (It should be noted that whilst there is strong evidence to support the effect of a tobacco smoking role model on influencing a child to smoke, there is no current comparable evidence for the use of e-cigarettes. However, a 2013 Trading Standards Survey of 18,000 young people aged 14-17 years in the North West highlighted that 13% had tried e-cigarettes. This could potentially facilitate a life-long addiction to nicotine and provide a route into smoking tobacco cigarettes).

4.3 The Smoking Policy is applied in all Council Buildings including communal areas in sheltered housing schemes. Consultation has now taken place with the Trade Unions in respect of the implications for staff and this is now concluded. A separate consultation exercise has taken place with the residents of sheltered housing schemes and this too has concluded with the majority of respondents in support of the introduction of the E- Cigarette Policy.

## **5.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

5.1 The provision of information and promotion of health related issues will help improve the health of Council employees.

## **6.0 FINANCIAL AND RESOURCE IMPLICATIONS**

6.1 Implementation of both policies could be conducted within existing resources.

## **7.0 RISK ASSESSMENT**

- 7.1 There is insufficient current evidence to support that e-cigarettes are safe and effective for their intended use. Accordingly, it is prudent to produce a policy governing the use of e-cigarettes. This approach will help to support employees' health, but also address the issue within the wider community. A failure to address this issue could lead to some criticism of the Council's approach to health.
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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

There is a direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

### **Appendices**

Appendix (i): Equality Impact Assessment

Appendix (ii): E-Cigarette Policy

Appendix (iii): Smoking Policy

Appendix (iv): Minute of the Landlord Services Committee (Cabinet Working Group held on 8 January 2015 (to follow))

## Appendix (i): Equality Impact Assessment - process for services, policies, projects and strategies

1.	<p>Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people:</p> <p><i>People of different ages – including young and older people;</i>  <i>People with a disability;</i>  <i>People of different races/ethnicities/ nationalities;</i>  <i>Men; Women;</i>  <i>People of different religions/beliefs;</i>  <i>People of different sexual orientations;</i>  <i>People who are or have identified as transgender;</i>  <i>People who are married or in a civil partnership;</i>  <i>Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave;</i>  <i>People living in areas of deprivation or who are financially disadvantaged.</i></p>	No.
2.	<p>What sources of information have you used to come to this decision?</p>	<p>The Council's Equality in Employment Policy.</p> <p>Policies governing smoking and e-cigarette use are imposed uniformly throughout Council premises and operations.</p>
3.	<p>How have you tried to involve people/groups in developing your service/policy/strategy or in making your decision (including decisions to cut or change a service or policy)?</p>	<p>As part of the implementation of the policies at Appendix (ii) and (iii), suitable consultation with trade unions will be conducted.</p>
4.	<p>Could your service/policy/strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010?</p> <p>Duties are to:-          Eliminate discrimination, harassment and victimisation;          Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of people);          Foster good relations between people who share a protected characteristic and those who do not share it.</p>	<p>The actions detailed in this report aim to ensure compliance with the Equality Act 2010, as well as with relevant legislation and national best practice guidance.</p>
5.	<p>What actions will you take to address any issues raised in your answers above?</p>	<p>Such issues will be taken into account on an on-going basis in respect of the potential review of the Council's Smoking Policy and E-cigarette Use Policy.</p>

## **Appendix (ii)**

### **E-CIGARETTE USE POLICY**

The Council operates a No E-cigarette use policy throughout its buildings.

#### **1. INTRODUCTION**

- 1.1 West Lancashire Borough Council is committed to ensuring the health, safety and welfare of its employees, customers and visitors.
- 1.2 Throughout the UK, smoking is prohibited by the Health Act 2006 in virtually all enclosed workplaces and public places, in vehicles used for work and public vehicles. However, recent changes in smoking habits and attitudes have included the increased use of products known as electronic cigarettes (e-cigarettes). At present, there are an estimated 1.3 million users of e-cigarettes in the UK.

#### **2. WHAT IS AN E-CIGARETTE AND WHAT ARE EFFECTS ON HEALTH?**

- 2.1 The term e-cigarette is generic and potentially misleading, as such products are not like a cigarette at all. Whilst some e-cigarettes are designed to look like a cigarette or mimic the action of e-cigarette use (including a release of nicotine vapour into the air as the user exhales) there is no combustion and no smoke is produced. This means their use falls outside the remit of smoking legislation, which is only concerned with smoking tobacco and other lit materials.
- 2.2 A typical e-cigarette consists of 3 components: a battery, an atomiser and a replaceable cartridge containing nicotine. Most replaceable cartridges contain nicotine suspended in propylene glycol or glycerine and water. The level of nicotine in the cartridges may vary and some also contain flavourings. As the user inhales on the device, the nicotine solution is heated which vaporises the solution and delivers the nicotine to the user.
- 2.3 Nicotine is the key component of tobacco which causes addiction to smoking. Whilst nicotine is addictive and can be toxic, it is the other toxins and chemicals found in tobacco which cause the most harm when smoking - both directly and passively. As tobacco is not present in an e-cigarette, they are considered as a potentially safer alternative to smoking. However, whilst the concentrations of the constituents of e-cigarette vapours (propylene, glycol, glycerine, flavouring substances and nicotine) are lower than tobacco cigarettes, they are still potentially harmful to health. Furthermore, the British Medical Association has found evidence that 'passive vaping' can occur with the use of e-cigarettes, although the full health effects of this are unknown at this time.
- 2.4 There is currently insufficient evidence to demonstrate that e-cigarettes are safe, effective or made to a consistent standard of quality. This is because there are many different types of e-cigarette available and they are currently unregulated other than as general consumer products. Accordingly, e-cigarettes are not currently recognised as a smoking cessation aid in the UK by health providers, in

contrast to regulated smoking cessation aids which include gums, lozenges, patches and mouth sprays.

- 2.5 The British Medical Association is encouraging employers to implement organisation wide policies prohibiting the use of e-cigarettes in their workplaces as little is known about the long term health effects of e-cigarettes. Similarly, the World Health Organisation is advising consumers that they should not use e-cigarettes until they are deemed safe by a competent regulatory body.
- 2.6 It is therefore the Council's intention to provide an e-cigarette free environment for all its employees and visitors within all its premises in the interests of health and safety and in conjunction with the existing smoking policy.

### 3. POLICY

- 3.1 **All buildings** operated by West Lancashire Borough Council, except as detailed in paragraph 3.2 below, are e-cigarette prohibited environments. **No provision will be made for separate e-cigarette use areas or e-cigarette use breaks.**
- 3.2 In the case of Sheltered Housing, e-cigarette use will not be permitted in communal areas although residents and employees will still be permitted to use e-cigarettes within their own living accommodation. Employees must not use e-cigarettes in any other part of the building at any time.
- 3.3 In respect of other Council Housing, tenants may of course continue to use e-cigarettes in their 'own home', but neither tenants nor employees may use e-cigarettes in shared corridors, hallways and landings and any other enclosed areas of housing schemes which are shared with other tenants. Employees must not use e-cigarettes in a tenant's home whilst on duty.
- 3.4 Where an e-cigarette use ban is in effect, e-cigarettes are not permitted in any part of the building, or entrances at any time, by any person regardless of their status or business with the Council.
- 3.5 This Policy applies to all elected members, Council employees, contractors and all visitors to and users of Council premises. Accordingly, all 'no smoking' signage used in Council owned and operated buildings and vehicles shall also be deemed to refer to the use of e-cigarettes.
- 3.6 This policy seeks to:
- Promote and achieve a healthy working environment and protect the current and future health of employees, customers and visitors;
  - Accept that there is currently insufficient evidence to demonstrate that e-cigarettes are safe, effective or made to a consistent standard of quality;
  - Acknowledge that the use of e-cigarettes is currently subject to limited regulation and they are not licensed as a medicine in the UK;
  - Address the potential similarities in appearance between a tobacco cigarette and an e-cigarette, which would make it difficult to distinguish between the two, thereby making enforcement of the relevant Council policies problematical;

- Discourage a product that normalises the habit and/or practice of e-cigarette use (this specifically relates to the way some e-cigarettes resemble the appearance of tobacco cigarettes);
- Recognise the importance of the promotion a good role model for children – i.e. the less the act of smoking appears as ‘normal behaviour’ to a child, the less likely they are to smoke or use e-cigarettes;
- Take account of the needs of those who use e-cigarettes and to support those who wish to stop using such devices and/or smoking.

3.7 The Human Resources Team will be responsible for publicising the policy and ensuring that all job applicants are aware of the policy before offers of appointment are made or accepted.

3.8 Heads of Service, through their normal managerial arrangements will be responsible for overseeing the implementation and management of the policy for all areas of their responsibility.

3.9 All employees and elected members will be personally and individually responsible for ensuring that they comply with the policy.

3.10 Employees receiving visitors to Council premises will explain the e-cigarette use policy politely but firmly in order to ensure that visitors comply with the policy.

#### **4. CAR TRAVEL/USE OF OFFICIAL VEHICLES**

4.1 The policy will apply at all times to all Council owned vehicles and also to privately owned vehicles at any time when official passengers are carried. E-cigarettes must not be used in Council owned vehicles at any time.

#### **5. E-CIGARETTE USE BREAKS**

5.1 E-cigarette use breaks are not permitted. Suitable smoking shelters compliant will be provided where the number of employees who smoke / use e-cigarettes justify the investment.

5.2 Employees are obviously allowed to use e-cigarettes in their own lunch breaks, however, this must take place away from Council buildings. E-cigarettes must not be used in the entrance or exit from or to any Council building.

#### **6. OPEN SPACES**

6.1 Employees using e-cigarettes during working time in open spaces (e.g. grounds maintenance staff) will be encouraged to reduce their e-cigarette use. Employees must not use e-cigarettes in open spaces whilst in the presence of children. In addition, employees concerned must not use e-cigarettes in Council premises, vehicles, or their depot/work base.

## **7. SUPPORT TO E-CIGARETTE USERS**

- 7.1 Research shows smokers are four times more likely to quit successfully if they get support from the NHS rather than going it alone.
- 7.2 Advisors are available across Central Lancashire offering free one to one help and advice and group support or telephone consultations to help people who want to stop smoking or e-cigarette use. Employees should call 0800 328 6297.
- 7.3 More information is available at [www.nhs.uk/smokefree](http://www.nhs.uk/smokefree) or by calling the Smokefree Helpline: 0300 123 1044.

## **8. ENFORCEMENT**

- 8.1 It is not the intention of the policy to force employees to give up using e-cigarettes, but to protect others from the potentially harmful effects of their use. Employees who fail to comply with the provisions of the policy will be liable to face disciplinary action and in the case of repeated offences will be dismissed from the Council's employment.
- 8.2 A requirement will be built into all Council contracts requiring contractors to ensure that their employees comply with the Council's e-cigarette use policy.

## **9. REVIEW**

- 9.1 This policy will be reviewed as part of a rolling programme of policy reviews or as a consequence of any legislative changes.



## Appendix (iii)

### SMOKING AT WORK POLICY

The Council operates a No Smoking policy throughout its buildings.

#### **1. INTRODUCTION**

- 1.1 West Lancashire Borough Council is committed to ensuring the health safety and wellbeing of its employees, customers and visitors and acknowledges that smoking and the inhalation of second-hand tobacco smoke is both a public and work place health hazard. The Council recognises that smoking is the greatest preventable risk to health and is estimated to be responsible for more than 120,000 deaths in Britain each year. It is understood that about 70% of smokers say they want to quit and will smoke less if they don't smoke at work which will therefore help improve the health of our employees. This policy should also be read in conjunction with the Council's E-Cigarette Policy.
- 1.2 For a number of years the Council has operated a smoking policy within its premises which in 1991 designated a number of areas as non smoking, allowed individual offices to be designated as smoke free and created a limited number of designated smoking areas. In 1997 the policy was reviewed and further restrictions were placed upon where smoking was permissible which effectively stopped smoking in Council premises except in those designated smoking areas.
- 1.3 The Council provides a tobacco smoke free environment for all its employees and visitors within all its premises in the interests of health and safety and in compliance with the Workplace (Health and Safety) Regulations 1992. In addition this amended policy will ensure compliance with the ban of smoking in all enclosed or substantially enclosed public spaces or workplaces

#### **2. POLICY**

- 2.1 **All buildings** operated by West Lancashire Borough Council, except as detailed in para 2.2 below, are non-smoking environments. **No provision has been made for separate smoking areas or smoking breaks.**
- 2.2 In the case of Sheltered Housing, smoking is not permitted in communal areas, although residents and employees will still be permitted to smoke within their own living accommodation. Employees must not smoke in any other part of the building at any time. In respect of other Council Housing, tenants may of course continue to smoke in their 'own home' but neither tenants nor employees may smoke in shared corridors, hallways and landings and any other enclosed areas of housing schemes which are shared with other tenants. Employees must not smoke in a tenant's home whilst on duty.
- 2.3 Where a smoking ban is in effect, smoking is not permitted in any part of the building, or entrances at any time, by any person regardless of their status or business with the Council.

- 2.4 Tobacco products will not be sold on Council premises.
- 2.5 This Policy applies to all elected members, Council employees, contractors and all visitors to and users of Council premises.
- 2.6 The policy seeks to:
- Promote and achieve a healthy working environment and protect the current and future health of employees, customers and visitors
  - Enforce the right of non-smokers to breathe in air free from tobacco smoke
  - To comply with health & safety legislation and employment law
  - Raise awareness of the dangers associated with exposure to tobacco smoke
  - Take account of the needs of those who smoke and to support those who wish to stop
- 2.7 The Human Resources Team will be responsible for publicising the Policy and ensuring that all job applicants are aware of the policy before offers of appointment are made or accepted.
- 2.8 Heads of Service, through their normal managerial arrangements will be responsible for overseeing the management of the policy for all areas of their responsibility.
- 2.9 All employees and elected members will be personally and individually responsible for ensuring that they comply with the policy.
- 2.10 Employees receiving visitors to Council premises will explain the smoking policy politely but firmly in order to ensure that visitors comply with the non-smoking policy.

### **3 CAR TRAVEL/USE OF OFFICIAL VEHICLES**

- 3.1 The non-smoking policy will apply at all times to all Council owned vehicles and also to privately owned vehicles at any time when official passengers are carried. Council owned vehicles must not be used as Smoking shelters at any time.

### **4 SMOKING BREAKS**

- 4.1 Smoking breaks ceased from 14<sup>th</sup> March 2007 and the smoking rooms were closed. Suitable smoking shelters compliant with legislation will be provided where the number of employees who smoke justify the investment.
- 4.2 Employees are obviously allowed to smoke in their own lunch breaks, however, this must take place away from Council buildings. Smoking must not take place in the entrance or exit from or to any Council building.

### **5 OPEN SPACES**

- 5.1 Employees smoking during working time in open spaces (e.g. grounds maintenance staff) will be encouraged to give up and reduce their smoking. Employees must not smoke in open spaces whilst in the presence of children. In addition employees concerned must not smoke in Council premises, vehicles, or their depot/work base.

## **6 SUPPORT TO SMOKERS**

- 6.1 Employees are urged to visit [www.nhs.uk/smokefree](http://www.nhs.uk/smokefree) or call 0300 123 1044 for advice and support about stopping smoking, including how to contact their local NHS Stop Smoking Service.
- 6.2 Research shows smokers are four times more likely to quit successfully if they get support from the NHS rather than going it alone.
- 6.3 Advisors are available across Central Lancashire offering free one to one help and advice and group support or telephone consultations to help people who want to stop smoking.

## **7 ENFORCEMENT**

- 7.1 Whilst it is not the intention of the smoking policy to force employees to give up smoking, but to protect non- smokers from the effects of second-hand smoke, employees who fail to comply with the provisions of this revised policy will be liable to face disciplinary action and in the case of repeated offences will be dismissed from the Council's employment.
- 7.2 A requirement will be built into all Council contracts requiring contractors to ensure that their employees comply with the Council's smoking policy.

## **8 REVIEW**

- 8.1 This policy will be reviewed as part of a rolling programme of policy reviews or as a consequence of any legislative changes.