

REPORT OF THE HEAD OF DEVELOPMENT AND PUBLIC PROTECTION

RESPONSIBILITY – PORTFOLIO HOLDER FOR HEALTH AND PROTECTION

NON-KEY DECISION

GENERAL PURPOSES COMMITTEE – 28 JUNE 2007

**THE HEALTH ACT 2006 – DELEGATION OF POWERS**

**Recommendation**

*The Scheme of Officer Delegations within the Council's constitution be amended (as **Appendix A**) to ensure the Head of Development and Public Protection and the Environmental Health Manager have the necessary delegation to enable the discharge of the Council's functions in relation to the Smoke-free legislation.*

Contact Officer: Diane Croucher, Ext 2208

**Reasons why a decision is required**

1. The Health Act 2006 and associated Regulations ban smoking in enclosed public places and workplaces from 1 July 2007 and place new statutory duties on local authorities to enforce the Act. In order to enable relevant officers to carry out the enforcement function they must be suitably authorised. The current scheme of officer delegations therefore requires amendment to include the new legislation and enable the Head of Development and Public Protection and the Environmental Health Manager to subsequently delegate the powers conferred in them to suitably competent officers. **Appendix A** shows the amendment required.

**Evaluation of options available to the Council**

2.
  1. Amend the Scheme of Officer Delegations within the Council's constitution to enable the discharge of the Council's statutory functions in relation to the Smoke-free legislation.
  2. Not amend the Scheme of Officer Delegations within the Council's constitution thereby preventing the Council from discharging its statutory functions in relation to the smoke-free legislation.

**Information to be considered in taking the decision**

3. The Health Act 2006 introduced legislation to protect employees and the public from the effects of second-hand smoke. The Government's objectives for delivering smoke free legislation are to reduce risks to health from exposure to second-hand smoke, recognise a person's right to be protected from harm and enjoy smoke free air, increase the benefits of smoke free enclosed spaces and work spaces for those trying to give up smoking and to save lives by reducing exposure to second-hand smoke and overall smoking rates.

4. The regulations made under the Health Act 2006 come into force at 6.00 a.m. on 1 July 2007 and require smoke-free environments in virtually all workplaces, work vehicles and public transport in England.
5. The legislation covers all premises which are wholly or substantially enclosed and used as a place of work by more than one person such as factories, public houses, offices and restaurants. It also covers vehicles which are used for work purposes by more than one person at a time such as company cars and taxis. The legislation also requires no-smoking signs to be displayed at every public entrance to a smoke-free premises.
6. The legislation sets out three basic offences:
  - Failure to display a smoke-free sign (Fixed Penalty Notice of £200 or maximum £1,000 fine upon conviction).
  - Smoking in a smoke-free place (Fixed Penalty Notice of £50 or maximum £200 fine upon conviction).
  - Allowing smoking in a smoke-free place (Maximum fine £2,500 upon conviction).
7. The Health Act 2006 places a statutory duty on local authorities to enforce the smoke-free legislation. Whilst the Government has stated that it does not expect local authorities to be too heavy handed with enforcement in the early stages of the ban, it does expect Councils to be intolerant of deliberate flouting of the regulations. Activities have already commenced within the Environmental Health Team in terms of advising businesses on smoking cessation etc and funding from Central Government has enabled the recruitment of a Smoke-free Officer on a one year fixed term contract.

#### Background Papers

None

#### Resource Implications

Requirement from Current Budget	Requirement for Additional Budget	
	Current Year	Full Year
No additional expenditure required beyond that provided by Central Government	Nil	Nil

#### Impact on Corporate Objectives

Objective identified within the corporate aim of ensuring a 'safer, cleaner, greener district'.

#### Attachments

Appendix A: Amendments to scheme of Officer Delegations

**Michael G Dawson**

Head of Development and Public Protection