

DUNDEE CITY COUNCIL

REPORT TO: Personnel Committee - 9 May 2005
REPORT ON: Review of Policy on Smoking in the Workplace
REPORT BY: Assistant Chief Executive (Management)
REPORT NO.: 786-2004

1 PURPOSE OF REPORT

- 1.1 To review and propose amendments to the Council's Policy on Smoking in the Workplace.

2 RECOMMENDATIONS

It is recommended that:-

- 2.1 Dundee City Council reaffirms its commitment to no smoking in Council premises, encouraging employees and citizens to stop smoking and promoting a clean environment and health for all in Dundee;
- 2.2 the Council adopts the "Policy on Tobacco and Smoking" attached as Appendix 1. (Guidance on interpretation and application in the form of questions and answers are attached as Appendix 2);
- 2.3 the following measures be adopted to facilitate the effective operation of the policy:-
- (a) appropriate signs prohibiting smoking displayed in the vicinity of all doorways and entrances to Council buildings and premises;
 - (b) the removal of ash/cigarette bins to a reasonable distance away from doorways and entrances to Council premises;
 - (c) appropriate and consistent action by management across all departments to stop unofficial smoke breaks in the same way as any other unauthorised absences from the workplace;
 - (d) the encouragement of employees to report breaches of the policy to management or the Helpline, particularly if they are subjected to pressure to tolerate smoking by colleagues. Harassment Support Officers to be available to advise and assist;
 - (e) educational programmes promoting non smoking for all children through nursery, primary and secondary school stages;
 - (f) the current discretion exercised by the Head of Communities to allow exemption from the smoking ban in Council premises let for social events to cease;
 - (g) employees seconded to, or based in, other agencies to be entitled to the full rights and protections provided by the policy;

- (h) the smoking policies of organisations funded by the Council to be reviewed and taken into account when awarding or renewing funding;
 - (i) each department to nominate an officer to promote smoking cessation within the department. (This could be done in conjunction with departmental SHAW activities and departments could consider contributing towards any costs);
 - (j) departments, where employees come into regular contact with clients or citizens smoking, to produce risk assessments and operational instructions to cover such situations;
- 2.4 the amended policy on tobacco and smoking be relaunched with appropriate publicity and a renewed campaign to encourage employees to stop smoking including arranging and part funding a pilot smoking cessation course by the Allan Carr Organisation.

3 FINANCIAL IMPLICATIONS

- 3.1 No additional costs will arise from amending the Policy.
- 3.2 The use of external smoking cessation services will result in additional costs, which will be met from the existing budgets of individual departments eg the proposed Allan Carr pilot course will cost a maximum of £2,600 for 40 employees to be met on a pro rata basis by departments whose employees attend.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 The Policy on Tobacco and Smoking supports Local Agenda 21 key themes, preventing air pollution by tobacco smoke and creating safe, clean, pleasant environments in the workplace, which protect health and prevent illness.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 None.

6 BACKGROUND

- 6.1 In 1998, the Personnel and Management Services Committee approved Report No. 309/1998 "Policy on Smoking in the Workplace", which examined the medical and legal positions and recommended that the Council adopt a policy prohibiting smoking in all Council premises, valuing a healthy environment and encouraging people to stop smoking. By and large, the policy has been well observed, with only a few reported problems over the years.

- 6.2 There have been significant shifts in public opinion and society's attitude towards smoking and health, since the Council's policy was introduced. Medical opinion on the harmful effects of smoking and passive smoking has strengthened as a result of continuing research. It is now established absolutely that smoking results in ill health, reduced quality of life and earlier death. Half of all smokers die as a direct result of smoking. Non smokers exposed to passive smoking are also subject to increased health damage. The BMA has recently urged the UK Government to prohibit smoking in all public places.
- 6.3 An audit of local authority smoking policies was carried out in 2001 by COSLA, the Health Education Board for Scotland and Action on Smoking and Health (Scotland). The audit recommended that:-
- (a) local authorities as public health organisations should include action on tobacco control in community plans and health improvement plans;
 - (b) local authorities should be leading the way as employers in developing tobacco policies which protect the health of their staff and clients;
 - (c) all local authority services need to address smoking in the context of employees and clients;
 - (d) local authorities' smoking/tobacco policies should be implemented consistently, monitored, provide support for those who wish to stop smoking and be reviewed regularly.

Following on from the audit, NHS Scotland, ASH Scotland and COSLA jointly published "Tobacco at Work - Guidelines for Local Authorities" to encourage and assist Councils to develop and implement comprehensive workplace tobacco policies.

- 6.4 As a result of the Scottish Executive's extensive public consultation exercise on smoking which attracted almost 54,000 responses, the First Minister announced on 10 November 2004 that a comprehensive ban on smoking in all enclosed public places in Scotland should be in place by spring 2006. In addition, the Chief Executive is leading a Best Value review of smoking across Angus, Dundee and Perth and Kinross Councils. The Assistant Chief Executive (Management) was also a member of a working group comprising representatives from the 3 Councils and NHS Tayside, which was asked to bring forward recommendations in relation to the banning of smoking in public places.
- 6.5 Many countries already have restrictions on smoking. Notably, smoking is banned in the pubs and restaurants of New York and the Republic of Ireland. Norway has banned smoking in public places, Sweden is about to do the same and the California State Assembly is considering fining motorists, who smoke in cars carrying children.
- 6.6 Health and care is a strategic theme of the Council Plan (2003-2007) and the City Council is committed to becoming a health improvement organisation working jointly with NHS Tayside and other community planning partners and agencies. Smoking has been identified as one of a number of health improvement priorities. The Dundee population profile shows:-
- (a) twice as many people in poorer areas of Dundee smoke compared with elsewhere in Tayside;

- (b) almost half the population of Dundee and more than half of the City's children live in areas of high deprivation. (The average smoker spends around £1,500+ per year on cigarettes, which can increase child poverty in already disadvantaged homes.)
 - (c) 2 out of 5 mothers-to-be in Dundee City smoke during pregnancy;
 - (d) rates of admission for children with asthma are considerably higher in Dundee City than in other local authority areas in Tayside;
 - (e) men in Dundee City die 3 years younger, on average, than those in Angus and 4 years earlier than those in Perth and Kinross;
- 6.7 The promotion of non smoking and smoking cessation is not only desirable on health grounds. There are also sound economic and business reasons. Although there may be individual exceptions, medical research shows that, in general, non smokers enjoy better health and life expectancy than smokers. In the work situation, smoking related illness affects attendance and consequently productivity. Helping employees to stop smoking is, therefore, likely to have a positive effect on their health, work and quality of life and benefit both employees and Council.
- 6.8 Against this background and as part of the review of the Smoking Policy, an article was published in "Feedback" and all employees were invited to contribute their views. In addition, departmental Scotland's Health at Work (SHAW) groups were asked to consult on a departmental/service basis and report back. The trade unions were also advised of the review and invited to comment.
- 6.9 Those SHAW groups that responded did not specify how many employees' opinions had been canvassed. A number of employees responded individually. The points raised most frequently (number of references in brackets) were as follows:-
- (a) **Praise for Policy (9)** - The Policy was referred to as "a good idea" and "one of the Council's best policies" which should not be reversed or relaxed.
 - (b) **Request for Designated Smoking Areas (6)** - One suggestion from a non smoker was that designated smoking areas would be preferable to smokers congregating at doorways and dropping litter. Another suggestion was for outdoor shelters.
 - (c) **Cessation (11)** - The majority of responses were in favour of cessation opportunities, although one felt that information and cessation advice were freely available to anyone who wanted them and cessation classes were unnecessary. One suggestion was for more innovative cessation approaches, such as hypnotism with the Council and the employee sharing the cost.
 - (d) **Management failure to implement/enforce the policy (25)** - Unsurprisingly perhaps, views on this were expressed strongly and focussed on a number of areas:-
 - i Smokers allowed unofficial smoke breaks (6) - Comments included "management turns a blind eye"; "4/5 fag breaks a day"; "several times a day"; "non smokers have to cover for them"; "I have to let my staff go as all my colleagues do"; "need to allow comfort/ciggy breaks during long meetings". One recently started employee referred to the "smoke break allowance".

- ii Smoking at doorways and entrances (5) - Respondents objected to having to walk through smokers and their smoke to get to workplaces. There were also objections on behalf of the public and to the litter and impression created. One person said that the incidence of smokers on unofficial smoke breaks at the back door to Tayside House meant that smoke penetrated the internal stairwell and could be smelled at the level of his workplace on Floor 7. It was also suggested that the provision of large "smokers ashtrays" at doorways, encouraged people to congregate around them.
 - iii Smoking in Council buildings (8) - Specific areas mentioned included buckies ("buckies stink"; "20/30 butts in the ashtray"; "non smokers told to go outside if they want fresh air"), Residential Units, including homes for the elderly, young persons units, and units for homeless people. One respondent made the non specific allegation that "the smokers have gone underground" and another alleged that "other departments" had not adopted the policy and "that people freely smoke and ashtrays are present".
 - iv Employees have to breathe clients' smoke (6) - Situations specifically mentioned included Housing Homeless Units, Social Work Residential Units, Schools Home Support Service, Environmental Health Officers, Community Home Care and Social Care Officers. Indeed, any situation where employees have to go into service users' homes.
- (e) **The Wider Community (3)** - Support was expressed for promoting non smoking in the community, with specific mention of pubs, restaurants, schools and young people in general.
 - (f) **Secondments (1)** - Employees seconded to or based in the premises of another agency, where smoking is permitted lose out on the protection of the policy.
 - (g) **Smoking and Children (3)** - Children in care were mentioned in a couple of responses from different points of view. One was concerned for the children themselves, seeing and being influenced by employees in Residential Units smoking at the back door and perhaps even on the premises; children being fostered out to the homes of smokers for up to 17 years, leaving the Council open to future claims for health damage. Litigation might also result from "allowing" young people in care to smoke, which can also be to the detriment and discomfort of employees in Residential Units. There was also reference to pupils smoking in school toilets.

7 PROPOSALS

7.1 As a result of the review, it was concluded that some amendment of the Council's Policy on Smoking in the Workplace was necessary in view of developments since its introduction in 1998 and to take account of points raised in the consultation exercise. Particular aspects which were thought necessary to be covered included:-

- (a) The effectiveness and credibility of the policy depends upon consistent implementation across all departments of the Council. In particular, the issue of unofficial smoke breaks requires to be addressed in the same way as any other unauthorised absences from the workplace.

- (b) Employees should be encouraged to make use of the Employee Helpline and the existing network of Harassment Support Advisers, to advise the Council of smoking violations and to seek support if they are being imposed upon by smoking colleagues.
- (c) The employee/client interface is difficult, but the Council has recognised the right of employees to breathe air free of tobacco smoke at work and this has to be managed. Service departments must develop practices and guidelines to address smoking in the context of their operations and activities.
- (d) Encouraging employees to stop smoking is good for their health, good for productivity and good for the Council. Increased efforts should be made to encourage employees to quit the habit by providing information and setting up cessation classes, including consideration of more innovative approaches, which have been demonstrated to help some people, such as acupuncture, hypnosis, etc. The Council has been approached by the Allen Carr Organisation, which is reported to have a greater success rate than other methods of cessation. A pilot exercise of this method has been carried out for employees of the Scottish Executive. Allen Carr is a commercial enterprise and charges people £195 to attend a course. There is a money back guarantee for individuals who have attended the prescribed course and follow up sessions and are still smoking after 3 months. As a pilot exercise, Allen Carr has offered to run an introductory 45 minute session or sessions for around 30-40 employees who smoke and wish to attend, with the object of signing them up for a full course.

As there are benefits for the Council, it is proposed that the Council should agree to a pilot exercise, contribute £65 towards the cost and offer employees the facility of paying the balance of £130 on their behalf and recovering it through wage deductions over a period of 1 year.

Further courses could be considered, subject to the results of the pilot.

- (e) The position of children in care and smoking, whether by them or by others, and the Council's responsibilities and long term liabilities require to be examined. The Licensing Committee has already made a decision to issue children's licences only to public houses where completely smoke free separate rooms are provided.
- (f) It is a Council objective to exert an influence on the community and in so doing bring about improvements in the health of the people of Dundee.

7.2 The policy has been amended as outlined above and has been retitled "Policy on Tobacco and Smoking" to reflect the wider health and community aspects. It is attached as Appendix 1 and question and answer guidance on interpreting and applying the policy is attached as Appendix 2.

7.3 If the amended policy is adopted, it is proposed to relaunch it with appropriate publicity and new smoking cessation initiatives.

8 CONSULTATION

8.1 Consultation has taken place with the Chief Executive, all Chief Officers, employees and trade unions.

9 **BACKGROUND PAPERS**

9.1 None.

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28 April 2005

DUNDEE CITY COUNCIL

POLICY ON TOBACCO AND SMOKING

POLICY STATEMENT

Dundee City Council recognises that it has a duty to ensure the health and safety of its employees and others and to protect them from exposure to harmful tobacco smoke. The Council, along with Tayside Health Board and other partner agencies, is also committed to maintaining a clean environment and promoting health for all in the community. To this end, it will not be associated with the advertising or sale of tobacco products and has adopted the following measures in respect of tobacco and smoking. These measures will apply equally to all employees, councillors, visitors, contractors, service users and members of the public, where appropriate.

Fundamental to this policy is the absolute right of employees to breathe air free of tobacco smoke at work and not to be subject to any pressure or persuasion to waive this right.

Council Buildings

Smoking is not permitted in Council premises. This covers all workplaces, e.g. offices, schools (including playgrounds, etc), workshops, huts, canteens, garages, etc, and includes immediate access areas, e.g. walkways, entrances, doorways, etc. It also includes short term lets of premises and facilities to external organisations or individuals, but excludes Council houses and other properties held under a tenancy agreement.

Vehicles

Smoking is not permitted in any Council vehicles. This includes contract hire cars and employees' private vehicles while in use on official Council business transporting service users or non smoking employees

Employees

All employees have a responsibility to comply with the policy and to respect and protect the health of other workers.

Employees are not permitted to smoke in Council buildings and vehicles as detailed above. They are not entitled to leave their workplaces during paid time for the purpose of smoking. Employees must not smoke while delivering services directly to members of the public or while responsible for service users, e.g. Social Work clients, pupils, etc. This includes accompanying service users on public transport or in other public places.

Employees who become aware of breaches of the Policy, or who are subject to pressure or persuasion to tolerate smoking, are encouraged to report this to their line manager or the Employee Helpline. Harassment Support Officers may also be approached for help.

Any repeated refusal by an employee to comply with this policy will be regarded as a breach of discipline and dealt with in accordance with the Council's disciplinary procedure.

Health

The City Council, in co-operation with Tayside Health Board and other agencies, will support public health and awareness campaigns in relation to smoking and encourage employees, who wish to give up smoking, by offering smoking cessation classes and any other appropriate help. The City Council will mount educational initiatives to discourage and prevent children and young people from smoking. It will also make sustained efforts using its statutory powers to prevent the sale of tobacco products to children under 16.

Environment

The City Council will set an example and encourage other organisations to provide smoke free environments in all workplaces and premises used by the citizens of Dundee.

QUESTION AND ANSWER GUIDE TO DUNDEE CITY COUNCIL'S POLICY ON TOBACCO AND SMOKING

1.Q *Can Chief Officers exercise any discretion on the Policy on Tobacco and Smoking?*

A No.

2.Q *Does the ban on smoking cover huts, "buckies", portacabins and other temporary buildings, etc?*

A Yes.

3.Q *What is meant by immediate access areas, e.g. walkways, entrances, doorways, etc?*

A This is really a matter of common sense. Members of the public and other people entering Council buildings should not have to negotiate their way around smokers or walk through smoke in order to gain entry. Similarly, there should be no concentration of smokers' litter in the immediate vicinity of doorways and entrances. Taking the City Square as an example, it is inappropriate for employees to smoke in the immediate vicinity of their office entrance at any time. However, whilst the Council encourages employees not to smoke at all, for health reasons, someone sitting on one of the seats provided or on one of the stepped areas in their own time, may exercise individual choice.

4.Q *What is the position regarding smoking and the walkway over to Olympia?*

A The walkway is an extended entrance to Council facilities. It is an enclosed space and it is inappropriate for Council employees to smoke in it.

5.Q *Can an employee working out of doors smoke?*

A The Council encourages employees not to smoke for health reasons but in these circumstances it is a matter for individual choice, provided the act of smoking does not affect the person's ability to carry out his/her duties and there are no other health and safety restrictions in operation at the time, e.g. while using flammable liquids, etc.

6.Q *If employees' duties require them to go from one office or location to another, can they smoke on the way, i.e. in the open air in the street?*

A The Council encourages employees not to smoke for health reasons but in these circumstances it is a matter for individual choice, provided that the journey is necessary and approved by management and the route/time taken is not deliberately extended.

7.Q *Are employees allowed to smoke in school playgrounds?*

A No. It is inappropriate for employees to smoke in areas of the school provided for children's play and recreation.

8.Q *What is the position regarding smoking in yards, gardens, grounds, etc., attached to Council buildings?*

A The Council encourages employees not to smoke for health reasons but in these circumstances, provided there are no particular reasons militating against it, such as the use of school playgrounds by children, or health and safety or fire regulations, employees with outdoor duties or in their own time, may exercise their own individual choice.

9.Q *If a non-smoking employee goes on official business in a car belonging to or leased to and driven by an employee who smokes, what is the position?*

A The non-smoker has an absolute right to breathe air free of tobacco smoke at work and to be free of any pressure or persuasion to waive this right. Even if travelling with three (or more) colleagues, who are smokers, the non smoker's right is paramount.

Employees who are smokers have a duty not to expose a colleague to any recognised risk and they are not permitted to smoke in these circumstances.

If the Council has authorised the use of the car on official business, and the driver is entitled to claim the appropriate mileage rate, the Council's health and safety rules must apply.

10.Q *If an employee is going alone on company business in his/her own car or lease car, can they smoke?*

A The Council encourages employees not to smoke for health reasons but in these circumstances it would be a matter for individual choice.

11.Q *Can employees leave the workplace during their teabreak to have a smoke?*

A Where permitted, a teabreak is paid working time and is taken subject to there being no disruption of the service, i.e. phones still have to be answered and situations involving clients, members of the public, etc., still have to be dealt with. Employees must not leave the premises during paid working time for any reason, without specific permission.

12.Q *Can an employee on flexi-time clock out and in for unpaid smoke breaks during non-core time?*

A No. The flexitime system permits start and stop times to be varied, subject to adequate cover being maintained and the needs of the service being met. It was never intended to accommodate frequent short duration comings and goings, which would be disruptive to work continuity and service delivery.

13.Q *What is the position regarding employees (e.g. Home Helps, Housing Officers, Maintenance Trades, Environmental Health Officers, etc.) whose duties require them to call on clients or members of the public who are smoking in their own homes or premises?*

A This is a complex and delicate area, but all reasonable steps must be taken to safeguard the right of employees to breathe air free of tobacco smoke at work. It is appropriate for employees faced with such situations to raise the problem for discussion with their managers. In the case of services delivered at pre-arranged times, service users, who smoke, could be advised that services will be subject to their agreement to provide a smoke free working environment for the employees concerned. This would involve adequate ventilation of their homes or premises prior to and refraining from smoking during service deliverers visits. However, many visits are not pre-arranged and in some situations, the householder or client may be unwilling to co-operate. Where smoke filled homes or premises are an obstacle (whether by accident or design) progress might have to be made via correspondence or by prevailing on individuals to attend meetings at Council offices. Departments affected may have to develop alternative ways of pursuing their business in order to protect their employees.

14.Q *What is the position on smoking in respect of clients or service users, who effectively live in Council premises and require care or support from employees, e.g. in residential accommodation for young or elderly people?*

A Two aspects have to be reconciled. One is that in such situations, clients are encouraged to regard the Council accommodation as "home". In the case of elderly people who have smoked all their lives, it could be considered inhumane to cut them off from smoking. Young people may also be habitual smokers. In both cases, complete prohibition could create tensions and be counterproductive to the "home" ethos and working with the clients. There would also be the possibility of "secret" smoking and the attendant risk of fire.

The second aspect is that employees in residential settings are also covered by the policy on tobacco and smoking and are as entitled to its protections as any other employee.

Essentially, departments affected must assess the conflicting requirements and manage both. If it is deemed appropriate to provide some sort of smoking facilities for clients, arrangements must be in place to ensure employees' rights to breathe air free of tobacco smoke are respected. External areas, separate rooms, double doors, adequate ventilation, CCTV supervision, etc., are possible elements.

15.Q *If an employee is subjected to passive smoking by a colleague or colleagues and pressured to keep quiet, what should he/she do about it?*

A Under the Council's policy, employees have the right to breathe air free of tobacco smoke at work and not to be subject to any pressure or persuasion to waive this right. Deliberate breaches of the policy with no regard for the health and comfort of others should be reported to Management or the Helpline. (Write to or telephone the Council Helpline on extension 4800, anonymously if preferred.) Assistance and support may also be sought from the trade unions and the Council's network of Harassment Support Officers.

16.Q *Will an employee refusing to comply with the Policy on Tobacco and Smoking be disciplined?*

A Provided that the Policy is treated sensibly, there is no reason to anticipate conflict. If individual employees object to or have problems complying with the policy, they should raise them with their managers, with the assistance of their trade unions, if required, to be dealt with via the appropriate procedures. However, at the end of the day, an employee, who wilfully disregards any workplace policies or rules agreed by the Council and/or refuses to carry out the reasonable instructions or requirements of management, will eventually be subject to disciplinary proceedings.

17.Q *What assistance, if any, will be available to employees, who wish to stop smoking?*

A The Employee Support Adviser in the Personnel Department can provide advice and assistance to smokers wishing to stop. The Personnel Department pages on the Council Intranet also provide information on hospital based services, voluntary/community support groups and health centres and GP practices in Dundee that offer services to those registered at these practices.

The Health Board can provide smoking cessation classes by arrangement and/or training for nominated employees to enable them to conduct smoking cessation classes within their own organisations (this might be attractive to departments with larger numbers of smokers wishing to quit).