

REPORT TO: ENVIRONMENTAL SERVICES AND SUSTAINABILITY COMMITTEE
20TH FEBRUARY 2006

REPORT ON: INTRODUCTION OF SMOKING PROHIBITION REGULATIONS

REPORT BY: HEAD OF ENVIRONMENTAL HEALTH & TRADING STANDARDS

REPORT NO. 130-2006

1.0 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek the Committee's approval of the measures which will be put in place to enforce the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006.

2.0 RECOMMENDATIONS

- 2.1 The Head of Environmental Health and Trading Standards or appropriate nominated officer is authorised under the Smoking, Health and Social Care (Scotland) Act 2005 to enforce the provisions of the regulations and to enter and search any non-smoking premises.
- 2.2 Delegate authority to the Head of Environmental Health and Trading Standards or appropriate nominated officer to issue fixed penalties under section 6 of the Smoking, Health and Social Care (Scotland) Act 2005.
- 2.3 Environmental Health and Trading Standards Department follows the "Guidance for Officers involved in the enforcement of provisions of the Smoking, Health and Social Care (Scotland) Act 2005". This document has been prepared jointly by the Royal Environmental Health Institute of Scotland (REHIS), the Society of Chief Officers of Environmental Health (SoCOEH), the Convention of Scottish Local Authorities (COSLA), the Crown Office and Procurator Fiscal Service, the Association of Chief Police Officers in Scotland (ACPOS) and the Scottish Executive Health Department.
- 2.4 The Environmental Health and Trading Standards Department works with partner organisations such as NHS Tayside to raise awareness of the availability of smoking cessation services, thus maximising the success of the smoking prohibition legislation.
- 2.5 The Head of Environmental Health & Trading Standards, or nominee, be delegated the responsibility of hearing appeals, to accommodate the requirement of the Council to hold a Hearing, in relation to any appeal against the issue of a fixed penalty notice. The findings of Appeal Hearings to be reported to the Environmental Services and Sustainability Committee.

3.0 FINANCIAL IMPLICATIONS

- 3.1 The Scottish Executive has announced a total funding package of £6.1 million to enable local authorities to enforce the provisions of the smoking prohibition legislation. The funding has been awarded over a period of three years, 2005/06 (£0.6m), 2006/07 (£3m) and 2007/08 (£2.5m). Dundee City Council will receive 2005/06 (£17,247), 2006/07 (£87,366) and 2007/08 (£73,935).
- 3.2 The establishment of the two Enforcement Officer posts within Tech Grade 3 at an annual cost of £61,649, including employer costs has been considered by the Personnel Committee. The costs of the posts will be met from the Scottish Executive funding.
- 3.3 There will be additional costs for Environmental Health and Trading Standards in preparing for and undertaking this new enforcement role. These costs e.g. training, printing of fixed

penalty notice books, adaptation of the District Court computer system in relation to payment of fixed penalty notices and out of hours working payments. These costs will require to be met from the remainder of the funding monies after the cost of employing two enforcement officers.

- 3.4 The local authority is required under the regulations to keep an account of expenditure in respect of administration and enforcement of this legislation. The regulations require that any surplus shall be applied to purposes connected with the improvement of the amenity of the area of the Council.

4.0 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 This report specifically covers the key theme that health is protected by creating safe, clean, pleasant environments which emphasise prevention of illness.

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 None

6.0 BACKGROUND

- 6.1 Smoking and Health

- Smoking is the biggest single cause of preventable premature death in Scotland, claiming around 13,000 lives each year.
- There is no safe level of exposure to the inhalation of secondhand tobacco smoke.
- Passive smoking kills an estimated 865 life-long non-smokers in Scotland every year.
- In light of these statistics the Scottish Parliament voted to introduce legislation to protect people in Scotland from the harmful effects of passive smoking.

- 6.2 The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 will come into force at 6.00 a.m. on 26th March 2006.

7.0 APPLICATION OF THE REGULATIONS

- 7.1 The regulations apply to public places, work places and work vehicles that are wholly or substantially enclosed premises, as defined in the regulations. "Wholly or substantially enclosed" means a premises or structure with a ceiling or roof that, except for doors, windows and passageways, is either wholly enclosed (whether permanently or temporarily) or is enclosed but for an opening which is less than half the area of its walls.

- 7.2 The regulations are very comprehensive and will apply to premises such as pubs, restaurants, private clubs, offices and factories, buses, taxis and work vehicles. Smoking will be banned entirely at all times inside these premises/vehicles.

- 7.3 Schedule 1 of the regulations lists all no smoking premises.

- 7.4 Domestic premises and private vehicles are exempt from the regulations. Schedule 2 of the regulations lists all the possible exemptions from the regulations.

8.0 EFFECT OF SUCCESSFUL IMPLEMENTATION

- 8.1 In Scotland each year, passive smoking is associated with 865 deaths of life-long non-smokers. The main causes of these deaths are lung cancer, heart disease, respiratory conditions and stroke. Taking into account other diseases known to be related to smoking

and including former smokers who have now quit, estimates reach some 1500-2000 deaths per year. The estimated effect of eliminating exposure to passive smoking in public places is a reduction of over 400 deaths per annum. In addition research evidence suggests that bans on smoking in public places causes smokers to reduce the number of cigarettes they smoke or encourages them to quit altogether.

- 8.2 The success of the smoking prohibition legislation will rely initially on intensive monitoring and enforcement activity by officers from Environmental Health and Trading Standards Department. In due course it is anticipated that the legislation will become, to some extent, self policing and that monitoring and enforcement activity can be reduced accordingly. This has been the experience in the Republic of Ireland where smoking prohibition legislation was introduced in March 2004.

9.0 CONSULTATION

- 9.1 Chief Executive
Depute Chief Executive (Support Services)
Depute Chief Executive (Finance)
Assistant Chief Executive (Community Planning)
Relevant Trade Unions

10.0 BACKGROUND PAPERS

- 10.1 None

Albert Oswald
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Date 10th February 2006