



DERBY CITY COUNCIL

COUNCIL CABINET
20 MARCH 2007

Cabinet Member for Enforcement

ITEM 13

Policy Implementation of Smoke-Free Legislation

SUMMARY

- 1.1 From 1 July 2007, virtually all enclosed public places and workplaces in England will become smoke-free. The Government have introduced legislation to implement this and have indicated that these new provisions will be administered by local authorities. Limited funding has been provided to implement the new provisions.
- 1.2 Subject to any issues raised at the meeting, I support the following recommendation.

RECOMMENDATION

- 2.1 To note the new provisions relating to smoke-free legislation and the resources needed to ensure they are implemented successfully in Derby.
- 2.2 To approve the way in which the Council proposes to implement the smoke-free legislation.

REASONS FOR RECOMMENDATION

- 3.1 In order to comply with its statutory duties, the Council must ensure that the provisions contained in the new smoke-free legislation are implemented correctly.



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Report of the Director of Environmental Services

Policy Implementation of Smoke-Free Legislation

SUPPORTING INFORMATION

- 1.1 From 1 July 2007, virtually all enclosed public places and workplaces in England will become smoke-free. This will include offices, factories, shops, pubs, bars, restaurants, membership clubs, public transport and work vehicles that are used by more than one person.
- 1.2 The law will also mean that indoor workplace smoking rooms will disappear, so anyone wishing to smoke will have to go outside.
- 1.3 The smoke-free legislation will ensure a healthier environment, allowing people to socialise, relax, travel, shop and work free from second hand smoke.
- 1.4 The new legal requirements are set out in Part 1 of the Health Act which was passed by Parliament in 2006. The Act sets out the broad provisions for smoke-free legislation, and also provides a number of legal powers to enable the more detailed aspects of smoke-free legislation to be dealt with in smoke-free regulations.
- 1.5 The Government has now made or published the final draft versions of the five sets of smoke-free regulations that are intended to be made under the Health Act 2006:
 - The Smoke-free (Premises and Enforcement) Regulations
 - The Smoke-free (Signs) Regulations
 - The Smoke-free (Exemptions and Vehicles) Regulations
 - The Smoke-free (Penalties and Discounted Amounts) Regulations
 - The Smoke-free (Vehicle Operators and Penalty Notices) Regulations
- 1.6 All smoke-free premises and vehicles will be required to display no-smoking signs. Guidance on signage and specifications for where signs will need to be displayed will be made available in the near future. The Department of Health have indicated that they will make no-smoking signs freely available in the lead up to the new legislation coming into force.
- 1.7 Those who do not comply with the legislation may be liable to a fine or face prosecution. The levels of fines will be set out in Regulations. Offences will include:
 - Smoking in a smoke free place or vehicle
 - Failing to display a no-smoking sign
 - Allowing smoking in a smoke-free place or vehicle

- 1.8 The Department of Health has provided grant funding to local authorities for the remainder of this financial year and for the 2007/08 financial year. In total, the Council will receive £131,539 which has to be used for the smoke-free provisions; the Department of Health have indicated that they will be requesting information on how this money has been spent.
- 1.9 In order to successfully implement the smoke-free legislation in Derby, it is proposed that the funding is used to:
- Create three fixed term posts within the Environmental Health and Trading Standards Division to run from April 2007 to March 2008. These posts will work alongside existing officers providing help and support to local businesses in complying with the smoke-free legislation and carrying out enforcement action where necessary
 - Provide workshops and educational materials for local businesses
 - Fund additional out-of-hours tobacco control work by existing officers.
- 1.10 Derby City Council, with the support of members, officers and trade unions, became 'smoke-free' in March 2005. We continue to offer 'stop smoking' support to staff who wish to give up.
- 1.11 Within the East Midlands, the Council has taken a key role in taking the smoke-free agenda forward and continues to work closely with colleagues at both regional and county levels. We have also actively participated in the Smoke-free Derby partnership, liaising closely with our Primary Care Trusts to co-ordinate smoke-free services.

OTHER OPTIONS CONSIDERED

- 2.1 As a statutory function, not implementing the new smoke-free legislation is not an option.
- 2.2 Attempting to enforce the new legislation without additional resources was considered but there is insufficient enforcement capacity to achieve this satisfactorily. The Department of Health's decision to fund the additional enforcement requirements until March 2008 supports this view.

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Background papers: None

List of appendices: Appendix 1 – Implications

IMPLICATIONS

Financial

1. The Government has provided grant funding to local authorities for implementing the new smoke-free legislation. The Council will receive £22,331 for the remainder of this financial year and £109,208 for 2007/08. In subsequent years, local authorities will be expected to absorb any associated costs.

Legal

2. The new smoke free legislation has been implemented under the Health Act 2006 and local authorities have a duty to implement it.

Personnel

3. The additional fixed term posts will deal with the extra workload created during the introduction of the new smoke-free legislation. Once this transitional period is over, it is anticipated that any workload can be absorbed by existing staffing resources.

Equalities impact

4. The smoke-free legislation will benefit everyone by removing the health risks associated with exposure to second-hand smoke.

Corporate objectives and priorities for change

5. The smoke-free legislation will contribute to the Council's priority of **helping us all to be healthy, active and independent** by improving the health and well-being of our communities.