

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Leader and Cabinet 8 March 2007  
**AUTHOR/S:** Executive Director/ Corporate Manager Health & Environmental Services

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### STAFF TO IMPLEMENT THE HEALTH ACT 2006 (SMOKE FREE REGULATIONS)

#### Purpose

1. To seek agreement to temporarily increase the staffing establishment by employing two additional members of staff (1½ FTE) to implement the requirements of the Health Act 2006 (Smoke Free legislation).

#### Background

2. The Health Act 2006 enacts smoke free legislation applying to England only (Scotland and Ireland have already adopted smoke free legislation). The regulations mean new enforcement responsibilities for the Council, which becomes the enforcing authority for smoke free legislation in:
  - All substantially enclosed workplaces and public places, including those enforced for health and safety by the Health & Safety Executive.
  - All public transport, including private hire vehicles and taxis
  - All communal areas in housing, e.g. stairs and lifts in blocks of flats, both Council owned and private.
  - All vehicles used as a workplace e.g. delivery vehicles, lease cars, and private cars used for work.
3. The smoke free regulations introduce three main requirements/offences:
  - A requirement to display the correct no smoking signs at all public entrances to the building
  - A prohibition of smoking in any enclosed or substantially enclosed workplace or public place
  - A requirement on the management of the workplace/public space not to allow smoking

#### Considerations

4. The regulations made under the Health Act provide important details on the law to be applied. These have been slow to materialise and even now formal publication of the complete set of Smoke Free Regulations and the associated guidance is awaited.
5. In addition, until recently, it was unclear as to how much funding the Government would be providing to support Local Authorities implement the smoke free legislation. It has therefore not been possible to bring a report to Members regarding the staffing requirements until this time, which in turn has shortened the timescale for approval of these posts and their subsequent recruitment. The Department of Health (DoH) has now confirmed that South Cambridgeshire D.C. will be receiving (as a special formula grant) £11,159 for 2006/07 and £55,035 for 2007/08.

6. Learning from the experience in Scotland, the Government has indicated that it expects the approach to enforcement to be non-confrontational, focusing on raising awareness and understanding to ensure compliance and enforcement officers are expected to work closely with businesses to build compliance through education, advice and support before and shortly after the legislation comes into force. Initially legal enforcement would be a measure of last resort. This expectation fits with the stance being adopted in Cambridgeshire.
7. It is likely that the amount of media scrutiny and public interest in the regulation of this new piece of legislation will continue to build. This is especially true of the period immediately after the provisions come into force, when inconsistencies and anomalies in enforcement will be highlighted.
8. The regulations are due to come into force on the 1 July 2007 and it will be necessary to support the very many affected business in the district on the run up to the 1 July to give the educational/awareness arising message. The experience from Scotland, which went smoke free in March 2006, is there needs to be upfront education with little enforcement, as after the initial 6 months the legislation becomes almost self-enforcing.
9. In order to implement these new legal responsibilities additional capacity within Health and Environmental Services is needed. It is therefore proposed to employ 2 additional members of staff: 1 FTE for 12 months and 1 FTE for 6 months using the funding in paragraph 5. These posts will need to commence employment as soon as possible before the 1 July 2007.

### Implications

10.	Financial	<p>The implementation of the Health Act 2006 (smoke free regulations) has been included within the 2007-08 Environmental Health Portfolio estimates as being cost neutral – with the cost borne by the Council being offset by Government Grant.</p> <p>Members will be aware that the latest updated Medium Term Financial Strategy (MTFS) is based on the 2007-08 base budget as set out in the General Fund Summary reported to Cabinet on 8<sup>th</sup> February 2007. The cost neutrality of implementing the new Act has therefore meant that the inclusion of these two temporary post onto the staffing establishment for a period of up to twelve months will not have any effect on the overall financial position of the Council as set out in the MTFS</p>
	Legal	As detailed in the report. As South Cambridgeshire District Council is the enforcing authority for the Health Act 2006, the additional staff will require authorisations under the Health Act to act as officers of the Council.
	Staffing	As per report

Risk Management	There is a risk of negative press coverage regarding how the Council enforces the legislation particularly regarding consistency across Cambridgeshire. The Council is part of a Countywide group (Cambridgeshire and Peterborough Tobacco Control Alliance) coordinating our enforcement strategies to aid consistency. There have already been enquires from the press on how the Council is spending its grant from the Department Of Health
Equal Opportunities	There are diversity implications for the Council when enforcing the regulations. Smoking is endemic in some cultures and account will need to be taken of the best method to ensure compliance. The Department of Health has produced information in other languages, which the Council is free to and will use.

### Consultations

11. The Council is part of the Cambridgeshire and Peterborough Tobacco Control Alliance and as such has been part of countywide discussions on the approach to be taken to enforcement and the recruiting of staff.

### Effect on Annual Priorities and Corporate Objectives

12.

Affordable Homes	None, although the Council will become the enforcing authority for the common parts in any affordable homes which are built
Customer Service	By taking an educative rather than enforcement approach the council can deliver a customer orientated service in the implementation of the Act
Northstowe and other growth areas	None
Quality, Accessible Services	As Customer Service above
Village Life	The implementation of the Health Act will help achieve a better quality of life for residents of, workers in, and visitors to South Cambs through a better quality smoke free environment.
Sustainability	Health and sustainability go “hand in hand” and educating business and the public on the importance of second hand smoke and by enforcing the Health Act, not only can we help to improve the quality of peoples health but it will also lead to a quality of life which is supportable and sustainable
Partnership	The Council is a full participant in the Local Strategic Partnership and works with a range of organisations to set and achieve a vision for a better future. The Community strategy already contains several aims on smoking reduction, including a Countywide Local Public Service Agreement (LPSA) on smoking in the workplace. This is in addition to the work of the Cambridgeshire and Peterborough Tobacco Control Alliance, whose membership consists of: officers from each local authority including the County Council (Trading Standards and Education), NHS via the Cambridgeshire Primary Care Trust,

### **Conclusions/Summary**

13. On the 1 July 2007 the Smoke Free Regulations under the Health Act 2006 come into force. The Council will become responsible for enforcing the regulations and as such further resources in the form of 2 additional posts (1½ FTE) are needed. These posts are to be financed from monies received from the Department of Health for the implementation of the Health Act 2006.

### **Recommendations**

14. It is recommended that Cabinet agrees
  - (a) to an increase in the Staffing Establishment by one FTE for a 12 month period and one FTE for a six month period, and
  - (b) that in order that appointments are not delayed, delegated approval be given to Senior Management Team to agree the salary scale and post titles to be applied with the Human Resources Manager following the outcome of job evaluations.

**Background Papers:** the following background papers were used in the preparation of this report:

Health Act 2006, Smoke Free (General) Regulations 2007

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