

THE HEALTH ACT 2006 - DELEGATION OF POWERS**1. PURPOSE OF THE REPORT**

- 1.1 To seek approval for the authorisation of the appropriate officers under the Health Act 2006 and the Smoke free regulations in order that the Council can be effective in its enforcement of the smokefree requirements.

2. BACKGROUND

- 2.1 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 workplaces for those trying to give up smoking and to save lives by reducing exposure to second-hand smoke and overall smoking rates.
- 2.2 The regulations made under the Health Act 2006 require smoke free environments in virtually all workplaces, work vehicles and public transport in England. The legislation comes into force at 6.00 am on 1 July 2007. The responsibility for enforcement will be as set out in the table below.
- 2.3 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, pubs, offices and restaurants. It also covers vehicles, which are used for work purposes by more than one person at any time such as company cars and taxis. The legislation also requires no-smoking signs to be displayed at every public entrance to a smokefree premises.
- 2.4 The regulations set out a three basic offences these are: -
- Failure to display a smoke free sign
 - Smoking in a smokefree place
 - Allowing smoking in a smoke free place
- 2.5 The regulations propose that a maximum fine upon conviction for failure to display a no smoking sign will be level 3 on the standard scale (currently £1000.00). Where a fixed penalty option is used for failure to display no smoking signs the penalty is £200.00 which may be discounted to £150.00 if the penalty is paid within 15 days of the date of issue.
- 2.6 The regulations propose that the maximum fine for smoking in a smokefree place will be level 1 (currently £200.00). There will be a fixed penalty option of £50.00 reduced to £30.00 for early payment.

2.7 The person who controls or is concerned in the management of smokefree premises has a duty to cause a person to stop smoking in a smoke free place. The maximum fine for conviction for failing to prevent smoking in a smoke free place is standard scale 4 (currently £2500.00). There are no fixed penalty options.

3. REQUEST FOR DELEGATION OF POWERS

3.1 To ensure that appropriate officers are suitably authorised to enforce the new smoke free legislation before the 1 July 2007 in order to allow a clear and consistent approach to enforcement.

Source	Power Delegated	Delegated To
The Health Act 2006	Part 1, Chapter 1 paragraphs 1 to 12 and Schedules 1 and 2	Assistant Director (Environmental Health), Assistant Director (Customer Services), Environmental Health Manager (Commercial), Environmental Protection Manager, CCTV and Licensing Manager, Housing Technical manager, Senior Environmental Health Officers, Operations Manager(housing improvements), Environmental Health Officers, Environmental Health Technicians and Building Surveyors(improvement).
	Smoke free (Premises and Enforcement) Regulations 2006	
	Smokefree (Exemptions and Vehicles)Regulations 2007	
	Smoke free (Penalties and Discounted Amounts)Regulations 2007	
	Smoke free (Vehicle Operators and Penalty Notices) Regulations 2007	
	Smoke free (Signs) Regulations 2007	
	Any replacement legislation	

4. FINANCIAL IMPLICATIONS

4.1 The Authority has been awarded by the Department of Health £14162 for 2006/2007 and £69.450.00 for 2007/2008 to assist in the enforcement and education of the smoke free legislation.

5. ENVIRONMENTAL IMPLICATIONS

5.1 None other than those identified in the report.

6. CRIME AND DISORDER IMPLICATIONS

6.1 None other than those identified in the report.

7.1 EQUALITY AND DIVERSITY IMPLICATIONS

7.1 None other than those in the report.

8. RECOMMENDATION

8.1 That the officers be delegated powers as set out in Section 3 of this report.

For Further Information Please Contact:

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Background Papers:

None