

## REPORT TO COUNCIL

Report No. 7

Date of Meeting	24 <sup>th</sup> April 2007
Title of Report	Smokefree Regulations
Link to Corporate Priorities	This report addresses the Corporate Priority – Healthy Lifestyles
Public Report	Yes

### Summary of Report

This report seeks Council's authority to spend the £ 52,173 allocated to North Wiltshire District Council by the Department of Health to support enforcement of smoke-free regulations during the 2007/8 financial year.

It also seeks delegated authority to be given to the Team Leader, Environmental Health to implement and enforce any and all smoke- free regulations made under the Health Act 2006.

### Officer Recommendations

- 1. That the Environmental Health Team Leader be given delegated authority to authorise officers to carry out enforcement duties on behalf of the Council under Part 1 of the Health Act 2006 (Smokefree Premises, Places and Vehicles) and any Regulations made under that part of that Act. This will include the investigation of potential offences of smoking in smokefree places and failing to prevent smoking in smokefree premises, the issuing of fixed penalty notices under section 9 of the Act and using the power of entry conferred on authorised officers by Schedule 2.'**
- 2. That the Environmental Health Team Leader be authorised to spend up to a maximum of £52, 173 from the grant payable to North Wiltshire District Council as a result of the determination of the Secretary of State for Health on 21 December 2006 for the purposes support of enforcement of smokefree legislation on publicity, education and enforcement activity. That education and enforcement activity to be facilitated by the creation of one dedicated post for a period not exceeding 12 months.**
- 3. That the budget is to be allocated on a "contingent" basis, only to be released on evidence of a programme. The release of the budget would be triggered through the monthly revenue monitor.**

Other than those implications agreed with the relevant Officers and referred to below, there are no other implications associated with this report.

Financial Implications	Legal Implications	Community & Environmental Implications	Human Resources Implications	Equality & Diversity Implications
YES	YES	YES	YES	YES

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## **1. Introduction**

- 1.1 Regulations made under the Health Act 2006 will come into force on the first of July making smoking in enclosed spaces an offence. District Councils have been made responsible for enforcement of this legislation in all premises that it applies to and the Environmental Health Team have been charged with responsibility for implementation of the legislation at North Wiltshire District Council.
- 1.2 As with any other enforcement provision the Council is required to delegate authority to officers to enable them to be able to carry out enforcement work.
- 1.3 The Department of Health has recognised that there will be a significant workload for Local Authorities in preparation for and implementation and enforcement of the new legislation in the period around the 1<sup>st</sup> of July 2007, the date the legislation comes into force. Accordingly, the Secretary of State for health has determined that Local Authorities should receive grant payments for the 2006/7 and 2007/8 financial years in a Local Authority Circular dated 21 December 2006. The allocation for 2006/7 has been received and spent on an information and awareness campaign for businesses and the wider public.

## **2. Options and Options Appraisal**

- 2.1 Option 1: Give delegated authority to the Environmental Health Team Leader to enforce any and all regulations made under that Health Act 2006 appertaining to smokefree premises and allow the Environmental Health Team Leader to spend the grant money from the Department of Health (DOH) on additional enforcement activity and consultation and education of businesses and the wider public.

This will ensure that the legislation is enforced in the way that the Government intended and that as much effort as possible can be directed towards informing and educating.

- 2.2 Option 2: Give delegated authority to the Environmental Health Team Leader to enforce any and all regulations made under the Health Act 2006, but not give authority to spend the DOH grant money.

This will mean that enforcement and education activity will be carried out at the cost of other services now being provided by the Environmental Health Team and there will be no funding for a publicity campaign. However it should be noted that the DOH have indicated they will be monitoring how the grant money is spent.

## **3. Background Information**

- 3.1 Parliament made provision, in the Health Act 2006, for premises used as a place of work or which are open to the public and certain public service vehicles to be made 'smokefree' and made the smoking of tobacco or allowing someone to smoke tobacco in smoke-free premises or vehicles, offences. The Act also allows the Secretary of State to make regulations about exempt premises (in effect) what constitutes a smoking shelter, enforcing authorities, fixed penalty notices and no smoking signs. The premises and enforcing authority regulations are now in place and various others are in the process of being implemented. The Regulations come into force on 1 July 2007.
- 3.2 District and Unitary Authorities have been made responsible for all enforcement including in premises where the Health and Safety Executive are responsible for

other Health and Safety legislation. North Wiltshire DC is, therefore, responsible for enforcement in over 4000 premises. It is anticipated that there will be a need for intensive enforcement and advisory activity around the 1<sup>st</sup> of July and a considerable amount of education and publicity in the lead –up period. Experience from Ireland and Scotland suggests that the level of activity required will reduce significantly after the first three to six months when the legislation will become largely self-enforced. This is why funding is only being provided for the first year.

- 3.3 The Environmental Health team have already done a considerable amount of preparation work in partnership with the other District Councils in Wiltshire and Wiltshire Primary Care Trust. Officers have concluded that the most efficient use of the funding available can be made by pooling our resources where appropriate and by spreading tasks amongst existing staff so that effort is not duplicated. That partnership has already delivered a 110 day radio advertising campaign using the limited grant monies provided for the 2006/7 financial year. North Wiltshire District Council has also produced a guidance leaflet for all businesses which was delivered with the NNDR demands in March.
- 3.4 As a result of a recruitment exercise for an existing post in Environmental Health an individual who has the necessary experience and is immediately available to commence employment has been identified.

#### **4. Financial Implications**

- 4.1 The budget is to be allocated on a “contingent” basis, which means that it cannot be spent unless there is an agreed plan. The budget is only released on evidence of a programme. The release of budget would be triggered through the monthly revenue monitor. Once the programme is agreed and the funding released, there are no financial implications in issuing delegated authority to the Environmental Health Team Leader. This report also addresses how to utilise the grant money paid to the Council to support enforcement of smokefree legislation. It is anticipated that the grant money paid will be sufficient to cover the additional costs incurred by the Council.

#### **5. Legal Implications**

This report addresses the duty placed upon the District Council to enforce smoke free legislation.

#### **6. Community & Environmental Implications**

The purpose of the smoke free legislation is to create a cleaner and healthier environment in all workplaces premises open to the public.

#### **7. Human Resources Implications**

There will be a significant and direct workload impact on Environmental Health Team members and an indirect impact on other staff in the Council. This may involve some additional hours to be worked during the peak period around the 1st of July, but will mainly be addressed by the employment of one additional post.

#### **8. Equalities and Diversities Implications**

There will almost certainly be equalities and diversities implications arising from the implementation of the Act which will only become apparent as it is enforced.

## 9. Risk Analysis

Not accepting the recommendation will seriously compromise the ability of North Wiltshire District Council to enforce Smokefree legislation and to provide the support to businesses that both the Government and the business community expects.

<b>Appendices:</b>	<ul style="list-style-type: none"><li>• <b>Appendix 1 – Local Authority Circular LAC (2006) 17 – Funding to support implementation of smoke free legislation.</b></li></ul>
<b>Background Documents Used in the Preparation of this Report:</b>	<ul style="list-style-type: none"><li>• <b>Health Act 2006</b></li><li>• <b>Smoke free England Website guidance on regulations <a href="http://www.smokefreeengland.co.uk/thefacts/the-regulations.html">http://www.smokefreeengland.co.uk/thefacts/the-regulations.html</a></b></li></ul>

### Previous Decisions Connected with this Report

<b>Report</b>	<b>Committee &amp; Date</b>	<b>Minute Reference</b>
<ul style="list-style-type: none"><li>• <b>None</b></li></ul>		