CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

5 July 2007

REPORT OF CORPORATE MANAGEMENT TEAM

COUNCIL DECISION

Housing and Community Safety– Lead Cabinet Member – Councillor Nelson

THE HEALTH ACT 2006 – AMENDMENTS TO SCHEME OF DELEGATION IN RELATION TO ENFORCEMENT OF SMOKEFREE LEGISLATION

1. <u>Summary</u>

To inform Cabinet of the implementation of the Smokefree legislation under the Health Act 2006 and actions required for the authority to be able to undertake its new functions.

2. <u>Recommendations</u>

- 1. That Cabinet note the report and implications.
- 2. That Cabinet recommend to Council the approval of the necessary changes to the Scheme of Delegation.
- 3. <u>Reasons for the Recommendations/Decision(s)</u>

New legislative framework that will impact significantly upon the Council's enforcement activities.

4. <u>Members Interests</u>

Members (including co-opted members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (paragraph 8) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (paragraph 10 of the code of conduct).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting is being held, whilst the matter is being considered; not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (paragraph 12 of the Code).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc.; whether or not they are a member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting, and if their interest is prejudicial, they must also leave the meeting room during consideration of the relevant item.

AGENDA NO

REPORT TO CABINET

5 JULY 2007

REPORT OF CORPORATE MANAGEMENT TEAM

COUNCIL DECISION

THE HEALTH ACT 2006 – AMMENDMENTS TO SCHEME OF DELEGATION IN RELATION TO ENFORCEMENT OF SMOKEFREE LEGISLATION

SUMMARY

To inform Cabinet of the implementation of the Smokefree legislation under the Health Act 2006 and actions required for the authority to be able to undertake its new functions.

RECOMMENDATIONS

- 1. That Cabinet note the report and implications.
- 2. That Cabinet recommend to Council the approval of the necessary changes to the Scheme of Delegation.

DETAIL

- 1. On 1st July 2007 all enclosed public places and workplaces will become Smokefree on the implementation of the Health Act 2006 and associated Smokefree regulations.
- Responsibility for enforcement of the legislation falls on Local Authorities. In Stockton this
 role will be carried out by Officers already involved in enforcement duties in Development
 and Neighbourhood Services.
- 3. Officers from Environmental Health, Trading Standards, Licensing and the Enforcement Team will need to be Authorised to have power of entry, issue fixed penalty notices and take enforcement action.
- 4. Revisions to Part 3 of the Constitution: Responsibility for Functions Scheme of Delegation will be required by the authority in implementing the Health Act 2006. Four powers are identified as functions relating to smoke free premises in The Local Authorities (Functions and Responsibilities) (England) (Amendment) (No. 2) Regulations 2007. These powers as detailed in appendix One will be delegated down to the Director of Development and Neighbourhood Services.

FINANCIAL AND LEGAL IMPLICATIONS

1. The Government have provided funding for implementation of the Smokefree legislation but this will end in April 2008.

COMMUNITY STRATEGY IMPLICATIONS

 To secure a safe and attractive environment for current and future generations; To promote the safety and well being of the community; To further regenerate the Borough and improve the local economy.

Environmental Implications-The implementation of the Health Act 2006 will have a beneficial impact on the enclosed public space environment. However it is likely to have a negative effect on external areas due to congregation of smokers outside Smokefree areas.

Health and well being Implications – The Smokefree legislation will have a significant effect on the health of the community as it protects people from the harmful effects of second hand smoke.

RISK ASSESSMENT

3. It is anticipated that there will be a high level of compliance with the legislation as a consequence of the national, regional and local publicity leading up to 1st July. Extensive enforcement activity is neither anticipated or desired, however will be necessary as a deterrent and to deal with defiance of the legislation. The Risk of damage to the Council's image and reputation and failure to meet stakeholders expectations will be dependant on ensuring effective enforcement is available and not carried out in an over zealous manner. The risk score has currently been assessed as 6, placing the issue in the LOW category, with lead responsibility assigned to the Head of Community Protection.

CONSULTATION, INCLUDING WARD COUNCILLORS

- 4. The Smokefree Implementation Strategy has included the following
 - Consultation with Officers, Corporate Management Team and Cabinet.
 - Training sessions with Officers, Police, PCT staff and other stakeholders.
 - Information distribution to affected premises and briefing sessions to local business.
 - Information distribution to ward councillors and invite to briefing sessions to local business

Corporate Director of Development & Neighbourhood Services

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Background Papers	Health Act 2006
	Smokefree Regulations

No

Education Related Item?

Ward(s) and Ward Councillors: Not Ward Specific

Appendix One Function Decision-Membership **Checks and Balances Delegation of Functions** Making Body All 56 Members of the Authority Corporate Director of Power to enforce Council Development & offences relating to the display of Neighbourhood no-smoking signs. Section 6(5) of the Health Act 2006 All 56 Members of the Authority Corporate Director of Power to enforce Council offences relating Development & to smoking in Neighbourhood smoke-free places. Section 7(4) of the Health Act 2006 Council All 56 Members of the Authority Corporate Director of Power to enforce offence of failing Development & Neighbourhood to prevent smoking in smoke-free places. Section 8(4) of the Health Act 2006 Corporate Director of All 56 Members of the Authority Power to transfer Council Development & enforcement Neighbourhood functions to another enforcement authority. Smoke-free (Premises and Enforcement) Regulations 2006