

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. 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.

2. 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.

3. Reasons for the Recommendations/Decision(s)

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

4. Members Interests

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

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COUNCIL DECISION

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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.
2. 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.

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