



Housing and Community Safety Select Committee

Review of Tobacco Control



11 JULY 2013

Housing and Community Safety Select Committee, Stockton-on-Tees Borough Council, Municipal Buildings, Church Road, Stockton-on-Tees TS18 1LD

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Select Committee – Membership

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Councillor Derrick Brown (Vice-Chair)

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ACKNOWLEDGEMENTS

The Committee thank the following contributors to this review:

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Foreword

On behalf of the Housing & Community Safety Select Committee I am pleased to present this Review of Tobacco Control for consideration.

The review has taken over twelve months to complete which demonstrates the importance members have given to the issue.

My thanks go to the Vice Chair, Cllr Derrick Brown who took on chairmanship of stage 1 of the review whilst I was unavailable.

Evidence has been received from a wide range of organisations as listed on page 2 and thanks are also due to Graham Birtle, Scrutiny Officer, for the vast amount of help he has been to the Committee over the year.

The fact is that Stockton Borough is significantly higher than the national average for the number of smoking related deaths each year.

Fantastic work is being carried out by the Stop Smoking Service (SSS) but, as the report shows, more can and should be done to help those who wish to stop smoking.

The review contains 21 recommendations ranging from local to regional and national actions. Some will be simple to implement, some will require legislation but we hope that Cabinet will endorse each and every one.

Cllr Julia Cherrett



Councillor Cherrett Chair – H&CS Select Committee



Councillor Brown Vice-chair – H&CS Select Committee

Original Brief – Phase 1 (Enforcement/Regulatory)

Which of our strategic corporate objectives does this topic address?

Safer Communities – Protect consumers Health and Well-being – Improved health and well-being

What are the main issues?

Smoking remains the single preventable cause of premature death in the UK today. Around half of long-term smokers will eventually die as a result and approximately 15 people a day die in the North East alone. Stockton is significantly higher than the national average for the number of smoke related deaths each year.

The overall aim / objectives of this review is:

To examine the supply of tobacco including: Enforcement measures against illegal trading in tobacco; Under-age sales and the sales of smuggled and counterfeit cigarettes

Provide an initial view as to how this review could lead to efficiencies, improvements and/or transformation:

Examination of the value for money of enforcement activity (statutory and proactive) Assessment of indirect costs (anti-social behaviour, Care for Your Area) Economic impact on businesses

Link Officers	Dave Kitching, Trading Standards and Licensing Manager.		
Finance Officer	Andy Bryson, Finance Manager, Resources		

Original Brief - Phase 2 (Public Health)

Which of our strategic corporate objectives does this topic address?

Safer Communities – Protect consumers Health and Well-being – Improved health and well-being

What are the main issues?

Smoking is the single biggest preventable cause of premature death in Stockton

- 18% of deaths in adults over 35 are a result of smoking (approx. 290 deaths per yr in Stockton)
- 28% of premature deaths in Stockton are smoking attributable (Approx. 291 each year)
- Smoking accounts for over half of the difference in risk of premature death between social classes
- Smoking costs Stockton approx. £56 million each year

19.6% of adults in Stockton smoke (approx. 35,000 people)

- •Massive inequalities in smoking prevalence across Stockton wards
 - strong correlation between smoking & deprivation
 - 48% smoking prevalence in Stockton town centre
- Young people:
 - no robust mechanisms for measuring prevalence

The overall aim / objectives in doing this work is to:

Prevent smoking uptake by young people

Refocus/Strengthen stop smoking services

- greater focus on smoking in pregnancy
- greater focus on vulnerable groups and reducing health inequalities

The possible outputs/outcomes are:

Reduction in the number of smoking related deaths each year.

Reduction in morbidity figures

Increased uptake of smoking cessation services/increased quit levels/initiatives especially in wards with greater deprivation levels

What specific value can scrutiny add to this topic?

Forum for investigation (including workplace health and schools – PHSE effectiveness) Non-political recommendations/decisions taken

Raised awareness of issue

Engaging new organisations with Tobacco Alliance

Link Officers	Peter Kelly, Director of Public Health
Finance Officer	Andy Bryson, Finance Manager, Resources

1.0 Executive Summary and Recommendations

PHASE 1 - REGULATORY SERVICES

- 1.1 Stockton Council's Trading Standards contribute to the tobacco control agenda through:
 - Undertaking regular test purchasing
 - Ensuring retailers comply with relevant legislation
 - Tackling the supply of illicit products i.e. counterfeit/smuggled tobacco
 - Monitoring the supply and use of niche tobacco products
 - Ensuring compliance with tobacco product labelling requirements
 - Monitoring the advertising of tobacco products
 - Working in partnership with other agencies to tackle tobacco related issues
- 1.2 HM Revenues and Customs (HMRC) are responsible for seizing illicit cigarettes which were brought into the country without paying the appropriate duties. The majority of illicit cigarettes found in Stockton were those smuggled into the country without paying duties or cheap whites (brands not available in this country) which were sold mainly from 'Tab Houses'. The remainder of the stock would be distributed at other premises or vehicles. Trading Standards worked closely with the Police and HMRC in dealing with this problem.
- 1.3 The illicit cigarette supply chain altered its behaviour to the action taken against it, and the cost of enforcement for surveillance and magistrates needed to be taken into account. Most of those who were prosecuted would plead they had insufficient funds to pay any charges when found guilty.
- R1 That Stockton Borough Council approach ANEC and the Northern Group of MPs to lobby for legislation requiring the positive licensing of wholesalers/retailers before they can supply tobacco products and for the licensing regime to allow for the full recovery of costs for the licensing authority.
- 1.4 Environment Services found that Stockton premises were nearly 100% compliant since the introduction of Smokefree legislation in 2007 due to effective national publicity and officer led leaflet drops, seminars, meetings and visits with local businesses.
- 1.5 Noise and litter were both highlighted as secondary issues resulting from Smokefree legislation due to people congregating outside premises such as bars and pubs, increasing noise levels and dropping litter.
- R2 That Stockton Borough Council approach ANEC and the Northern Group of MPs to lobby for legislation to require a no smoking zone around the entrance to all public access buildings and areas in particular pubs, clubs, hospitals, schools, shopping centres, parks and play areas.
- R3 That Stockton Borough Council introduce a voluntary code of smokefree practice in and around designated children's play areas.
- 1.6 During the review Alex Cunningham MP for Stockton North had attempted to introduce a private member's Bill to ban smoking in cars when children are passengers warning that 300,000 UK children are taken to their GP with smoking-related illnesses every year. This was killed off due to lack of parliamentary time.

- R4 That Stockton Borough Council lobby the Government to reconsider its position and support the introduction of a ban on smoking in cars.
- R5 That the Smokefree Stockton Alliance explore the development of a local campaign to raise awareness of the dangers of smoking in cars especially the harmful effects on children.
- 1.7 It was expected that the Government would introduce plain packaging legislation to follow the position taken by Australia but this was removed from the Queen's speech in 2013 and it is understood that further analysis of the plain packaging in Australia will be taken before any action is taken by the UK Government.
- R6 That Stockton Borough Council lobby the Government to reconsider its position and support the introduction of plain packaging for tobacco products.

PHASE 2 - PUBLIC HEALTH

- 1.8 The scope of this phase included:
 - Preventing smoking uptake by young people
 - Refocusing/Strengthening stop smoking services
 - greater focus on smoking in pregnancy (18.4% of pregnant mothers in Stockton smoked (national average - 13%)).
 - greater focus on vulnerable groups and reducing health inequalities
- 1.9 The North East approach to tobacco control is with the Fresh team leading on a comprehensive regional programme working in close partnership with key regional bodies and supporting localities in each of the 12 local authority areas in the north east. The North East Tobacco Control Partnership has provided strategic leadership and guidance to the programme and been an effective champion for tobacco control.
- 1.10 The local programme delivery is carried out under the banner of the Stockton Smoke Free Alliance a multi-agency steering group comprising core members that represent a wide range of partnerships with the stated aim of working collaboratively to reduce tobacco related harm.
- 1.11 The Committee was particularly keen to discuss the approach the NHS takes for patients admitted into hospital who smoke and how they could be encouraged to stop. The North Tees and Hartlepool NHS Foundation Trust supported the smoking cessation pledge, which included a commitment to encourage staff to stop smoking and allowed staff to attend smoking cessation services during work time with no loss of pay. Members felt this principle should extend to employees of Stockton Borough Council in conjunction with the NHS.
- R7 Stockton Borough Council support people to stop smoking by distributing a Chronic Obstructive Pulmonary Disease (COPD) screening questionnaire to all staff and councillors and provide a pathway to smoking cessation services if required.
- R8 Stockton Borough Council encourage staff and Council Members to stop smoking by providing work-time access to smoking cessation services.

- 1.12 The Committee learned that pharmacy cessation medication was offered to smokers in hospital but the Stop Smoking Service (SSS) suggested that Nicotine Replacement Treatment was not routinely offered to all patients on admission who smoke. This may also reduce the prevalence of smokers directly outside hospital premises.
- R9 Nicotine Replacement Treatment be offered routinely to all patients on admission who smoke.
- 1.13 An audit of SSS dealing with diabetic patients suggested that 70 per cent of information relevant for intervention to take place was not recorded. SSS receive 3 per cent of referrals although it is known that 30 per cent of people smoke. When patients are seen they will be asked if they smoke but the hospital forms used do not record whether stop smoking intervention would be accepted or given.
- R10 The NHS Foundation Trust forms, when recording the smoking status of patients, also record if stop smoking brief intervention is given to smokers and if referral is accepted.
- 1.14 Officers from the Stop Smoking Service asked the Committee for assistance from Stockton Council to improve the service and increase the number of non-smokers within the borough. The Committee as a result supported the following suggested recommendations:
- R11 Explore improved and increased partnership working with Schools, Colleges, Youth Service and Fire Service to promote the Stop Smoking Service.
- R12 Explore improved access to workplaces in partnership with the Environmental Health Service to promote the Stop Smoking Service.
- R13 Explore increased opportunities for brief intervention training with Housing and Social Care staff to promote the Stop Smoking Service.
- R14 Stockton Borough Council work towards achieving the North East Better Health at Work Gold Award and register the Council's commitment to tobacco control as part of the Public Health Responsibility Deal (H5).
- R15 Stockton Borough Council ensure the inclusion of publicity for the Stop Smoking Service to the wider community both on its website and in the key public health campaigns planned for this year.
- R16 Stockton Borough Councillors consider promoting the dates, times and venues of the Stop Smoking Sessions on their web page/website.
- 1.15 Smoking whilst pregnant was a major concern to the Committee as 12.9% of woman smoke at time of delivery in England whilst in Stockton it was higher at 15.9%.
- 1.16 Members were informed that nicotine replacement in pregnancy was safe. NRT contains only nicotine and none of the damaging chemicals found in cigarettes, so it is a much better option than continuing to smoke. It helps by giving nicotine when it would have been sought from a cigarette. The Committee was informed that smoking prevalence was recorded at antenatal classes but this might not capture all pregnant women.

- R17 The smoking status of pregnant women should be recorded when scans are being taken. This will capture smoking status of women not attending the antenatal classes and increase opportunity to offer stop smoking intervention.
- 1.17 Following regional research into barriers faced by midwives when discussing smoking with pregnant women, the North East implemented a co-ordinated approach to reducing maternal smoking levels across the region.
- 1.18 babyClear provides training and resources to front-line staff, supporting a quality, structured pathway for pregnant women to receive stop smoking support from first booking appointment, through subsequent midwifery appointments, and includes the provision of Stop Smoking Service support.
- R18 The Director of Public Health consider an additional 2 days of midwifery time to enable midwives to provide specialist support for those women who declined the stop smoking support and to implement the babyClear project in 2013.
- 1.19 During the review the issue of Teesside Pension Fund investment in tobacco companies was raised. A referral from Council and then Executive Scrutiny Committee asked the select committee to consider incorporating evidence and recommendations in the scrutiny review final report.
- 1.20 The Committee suggested that consultation take place with Teesside Pension Fund members asking if there were any objections to the fact that their pension funds were invested in the tobacco industry.
- R19 The Teesside Pension Fund seek the views of fund members (current, past and retired and including the other local authorities who are part of the fund) on divesting from tobacco.
- R20 Stockton Council's Director of Public Health to seek and record the views of other Directors of Public Health regarding pension fund investment in tobacco companies.
- 1.21 Stockton Council's Cabinet Member for Adult Services and Health was especially interested in the discussion that the Committee had with the Teesside Pension Fund and its investment in the tobacco industry.
- R21 Stockton Council's Chair of the Health and Wellbeing Board work with the ANEC Chairs' of Health and Wellbeing Boards to explore local authority pension fund disinvestment in tobacco companies.

2.0 Evidence and Findings

- 2.1 The difficult and complex issue of dealing with people's addiction to cigarette smoking was taken with great resolve by Stockton Council's Housing and Community Safety Select Committee during 2012/3. Members understood that great effort was being enacted by a variety of officers and organisations and this review set out to get more understanding and as a result provide assistance to achieve the Director of Public Health's desire to see smoking eradicated in Stockton Borough and elsewhere.
- 2.2 To help understand the scale of the task the Committee was provided with the following information at the outset of the review:

2.3 In general -

- Smoking accounts for over half of the difference in risk of premature death between social classes.
- Smoking has been identified as the single biggest cause of inequality in death rates between rich and poor in the UK.
- Death rates from tobacco are two to three times higher among disadvantaged social groups than among the better off.
- Long-term smokers bear the heaviest burden of death and disease related to their smoking. Long term smokers are disproportionately drawn from lower socio-economic groups. People in poorer social groups who smoke, start smoking at an earlier age: of those in managerial and professional households about one third start smoking before age 16 compared with almost half of those in routine and manual households.
- Smoking causes 90% of deaths from lung cancer, 80% of deaths from bronchitis and emphysema, and 17% of deaths from heart disease.
- Smoking is causally associated with a range of diseases including Cardiovascular Disease (CVD), Respiratory diseases including Chronic Obstructive Pulmonary Disorder (COPD) and asthma and Cancer
- Smoking in pregnancy increases risk miscarriage, premature births and a range of other health outcomes. There is also a high chance that the child will become a smoker themselves when grown up.

2.4 In Stockton Borough -

- Smoking is the single biggest preventable cause of premature death.
- Estimated that smoking costs approximately £56 million per year, including NHS and non NHS costs (sick days, lost productivity, domestic fires & smoking litter)
- 18% of deaths in adults over 35 are a result of smoking (approx. 290 deaths per year)
- 19.6% of adults (18+) smoke, this equates to approximately 35,000 people. Based on the 10/11 household survey which surveys approx. 1,600 residents.
- Although there has been a recent reduction in prevalence there are still
 massive inequalities in smoking prevalence across the wards in Stockton.
- Some of the more deprived wards have a smoking prevalence which is 2 times the Stockton average.
- Young people no robust mechanisms for measuring prevalence in this group. Stockton Social Norms Project provides a proxy and identified that approx. 15% of college students in sample of 922 smoked, with 38% taking up smoking at 14 years of age.

- Pregnancy: 18.4% (England 13.5% and Northeast 21.1%) of pregnant mothers in Stockton were reported as smokers at time of delivery. Data for Q4 10/11
- Higher prevalence of smoking in those with mental health problems Up to 70% smoking prevalence among inpatients in mental health units.
- Prevalence of smoking in probation and prison services are high approx. 80% of prisoners smoke. 5 stop smoking clinics per week are currently running in HMP Holme House. Care UK staff trained to provide SSS in HMP Kirklevington
- 2.5 The Committee's approach was to tackle the issue of smoking from two angles. Firstly to examine the supply of cigarettes and then to address the health issues that result from tobacco consumption.

PHASE 1 - REGULATORY SERVICES

2.6 The Committee supported by Dave Kitching, Trading Standards and Licensing Manager, received evidence over four meetings which gave the Committee the following information resulting in Members' opinions.

TRADING STANDARDS

- 2.7 Since 1st October 2007 it is illegal to sell tobacco products to anyone under 18 years of age this includes cigarettes, cigars, roll-your-own and pipe tobacco as well as cigarette rolling papers. Selling any of these products to someone under 18 years of age could result in a fine of £2,500.
- 2.8 Any store caught selling tobacco to young people under 18 three times within a two year period, one of which results in a criminal conviction, will face a restricted premises order (RPO) or a restricted sales order (RSO). An RPO penalises the store for up to one year, while an RSO penalises the person who made the sale prohibiting them from selling tobacco in any premises for up to one year. Breaching the terms of either order could result in a fine of £20,000. Written warnings of cautions will be counted as two of a store's three "strikes".
- 2.9 All retailers of tobacco products are required to display a statutory notice visible at the point of sale. Failure to display the correct notice can attract a fine of £1,000.
- 2.10 Ensuring implementation is the responsibility of Stockton Council's Trading Standards and Licensing Service which contribute to the tobacco control agenda as recognised in the Joint Strategic Needs Assessment through:
 - Undertaking regular test purchasing
 - Ensuring retailers comply with relevant legislation
 - Tackling the supply of illicit products i.e. counterfeit/smuggled tobacco
 - Monitoring the supply and use of niche tobacco products
 - Ensuring compliance with tobacco product labelling requirements
 - Monitoring the advertising of tobacco products
 - Working in partnership with other agencies to tackle tobacco related issues e.g. Participation in regional and local campaigns to raise awareness of illegal sales, smuggling, counterfeiting and tobacco advertising and promotion through partnership working with HMRC and Police.

- 2.11 Members were supportive of all ways to reduce tobacco promotion including the already implemented regulation at the point of sale in the larger shops and supermarkets as well as the planned plain packaging of tobacco products.
- 2.12 The selling of tobacco products to young people was of particular concern to the Committee. Members learned that test purchases to identify retailers selling cigarettes to children under the legal age had reduced significantly in 2011/12 because of a loss of external funding. A similar number of prosecutions were however achieved due to the targeted work of Trading Standards.
- 2.13 Between 2009 and 2011 85 test purchase attempts (each visit to a premise where a person under the age of 18 makes a request to buy cigarettes) were made due to successful bids for external funding for which 8 sales received either a simple caution or written warning. With no additional funding during 2011/2 17 attempts were made with 4 sales achieved. Two written warnings and two prosecutions resulted in one instance of a fine of £800, plus £800 costs for the shop owner and £150 fine plus £200 costs for the sales assistant whilst in the second the owner was given a conditional discharge and ordered to pay £500 costs.
- 2.14 The cost of an attempted test purchase was approximately £100. The typical cost of a prosecution was £2,500 but the Council is unlikely to recoup full costs as the courts consider the impact on the seller when recovering costs. In respect of the above prosecutions applications were made for investigation costs of £880 and £646 respectively. The costs awarded also included an additional element for the costs of instituting proceedings (Legal services charges etc).
- 2.15 The Committee heard that prosecution cases had been strengthened since 2005 when training for shop staff had been available and prosecutions are pursued when it is in the public interest to do so and not purely to recover costs.
- 2.16 FRESH NE representatives informed the Committee that regional resources were required to tackle issues involving the sales of cigarettes to children. Evidence had been gathered highlighting single cigarettes were being sold to children for as little as 25 pence each as well as being supplied with matches and lighters making it easier for children to smoke.
- 2.17 Ice Cream van vendors had also been reported for selling cigarettes and although this was not illegal it was if selling to children and if selling illicit cigarettes. Vendors caught doing so could be prosecuted and lose their vans.
- 2.18 It is noted from "The Illicit Trade in Tobacco Products and How to Tackle It" published by the International Tax and Investment Center that "...the illicit trade in tobacco products is a global phenomenon, covering high and low income countries alike. The primary drivers for illicit trade are said to be:
 - A desire by consumers to save money by willingly purchasing cheaper illicit products; and
 - The potential for criminals to make high profits.

2.19 Cigarettes, being highly taxed, widely consumed, easy to transport and possessing an attractive weight-to-value ratio, are one of the most illegally trafficked goods in the world."

HM Revenues and Customs

- 2.20 The Committee met with a representative from HM Revenues and Customs (HMRC) responsible for seizing illicit cigarettes which were brought into the country without paying the appropriate duties. The majority of illicit cigarettes found in Stockton were those smuggled into the country without paying duties or cheap whites (brands not available in this country) which were sold mainly from 'Tab Houses'. The remainder of the stock would be distributed from other premises or vehicles. Trading Standards worked closely with the Police and HMRC in dealing with this problem.
- 2.21 The work HMRC was involved with in relation to the illicit and counterfeit tobacco market included:
 - undertaking criminal prosecutions to make it harder for 'tab houses' to operate.
 - seizing approximately 145,000 illegal cigarettes in Stockton. HMRC was also targeting those who were operating further up the supply chain.
- 2.22 The number of illegal cigarettes seized in Stockton Borough shows that some trade could have been made locally. When asked 71% of smokers in Stockton-on-Tees said they did not buy illegal tobacco. Of those that did buy illegal tobacco in the Borough, 88% of smokers agreed it enabled them to smoke when they could not afford to do so otherwise. The perceived and inherent dangers from illegal cigarettes were recognised with 86% of people in Stockton-on-Tees saying they were a danger to children as they could buy them easily and cheaply.
- 2.23 Contributing factors for the illicit trade of tobacco products therefore included the government's fiscal policy, (i.e. tax levels), and public tolerance of the illicit trade. Consumers showed interest in saving money irrespective of criminal actions taking place.
- 2.24 HMRC was finding that suppliers of illegal cigarettes were becoming more sophisticated when storing their stock. In the past stored goods were hidden in and around the home, however houses now tend to store the minimum stock which could limit the action undertaken. Remaining stock now tends to be stored remotely i.e. lock ups, garages, trading estates to avoid association and/or detection.
- 2.25 The Committee was informed that as the supply chain altered its behaviour to the action taken against it, the cost of enforcement for surveillance and magistrates needed to be taken into account. Most of those who were prosecuted tend to plead they had insufficient funds to pay any charges when found guilty.
- R1 That Stockton Borough Council approach ANEC and the Northern Group of MPs to lobby for legislation requiring the positive licensing of wholesalers/retailers before they can supply tobacco products and for the licensing regime to allow for the full recovery of costs for the licensing authority.

Environment Services

- 2.26 Environment Services provided information regarding Smokefree legislation which began in 2007. Virtually all enclosed public places and workplaces in England became smokefree which included offices, factories, shops, pubs, taxis and work vehicles that are used by more than one person. Stockton premises were nearly 100% compliant on the introduction of the legislation due to effective national publicity and officer led leaflet drops, seminars, meetings and visits with local businesses. Smokefree legislation included work vehicles including taxis and this was seen by FRESH NE as an area that was still to be fully addressed.
- 2.27 Enforcement of the legislation in Stockton Borough is undertaken by the Council's Environmental Health Service in partnership with fellow Community Protection enforcement officers in Trading Standards, Licensing and the Neighbourhood Enforcement Service (NES). Environmental Health Officers also support the enforcement of legislation by taking a role in educating retailers of tobacco products and working in partnership with these groups.
- 2.28 Noise and litter were both highlighted as secondary issues resulting from Smokefree legislation due to people congregating outside premises such as bars and pubs, increasing noise levels and dropping litter. Some public houses were extending the pub atmosphere in to beer gardens including providing music, which also had an impact on noise pollution.

Secondary issue enforcement:

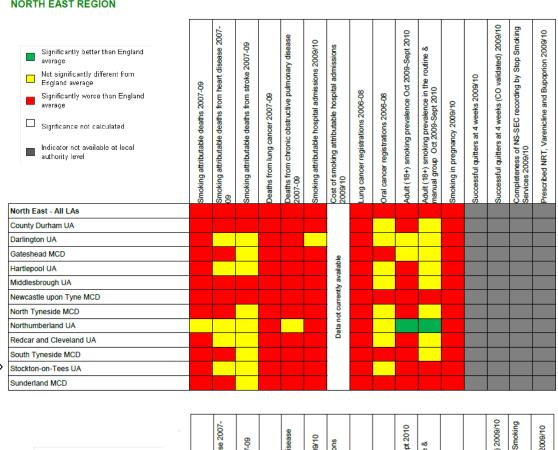
- Noise: In some cases the consequences of the Smokefree legislation results in conflict with other legislation. Noise from outdoor smoking areas of pubs is the most common nuisance complaint and can be difficult to resolve using statutory nuisance provisions under section 80 of the Environmental Protection Act 1990. Licensing and Planning legislation, where applicable has been used to impose conditions to limit disturbance but maintain compliance with Smokefree legislation.
- Litter: Litter issues are enforced by NES and since the smoking ban they have seen an increase in the amount of complaints from members of the public in relation to litter in and around entrances to bars and pubs in the town centres. To impact these direct enforcement operations in partnership with town centre CCTV have been on-going since 1st May 2012 and has resulted in several fixed penalty notices for littering being issued. Premise landlords are also being challenged by Neighbourhood Enforcement Officers regarding litter levels around their premises. Officers have used S92(A) of the Environmental Protection Act to have all the litter cleared at their expense as well as provide preventive measures such as litter bins, litter sweeps and monitoring. Failure to adhere to orders from officers can result in first a fixed penalty notice of £110 and/or prosecution in court with maximum penalties of £2,500.
- Smoke infiltration: This has not been a major source of complaint, however, since Smokefree implementation a greater degree of intolerance to tobacco smoke has resulted in complaints even where smokefree does not apply.
- Health and safety concerns do arise from congregations of smokers blocking access and egress to premises or illicit smoking in inappropriate areas or the use of unsafe heaters in smoking shelters. Such measures can be dealt with using Health and Safety legislation.

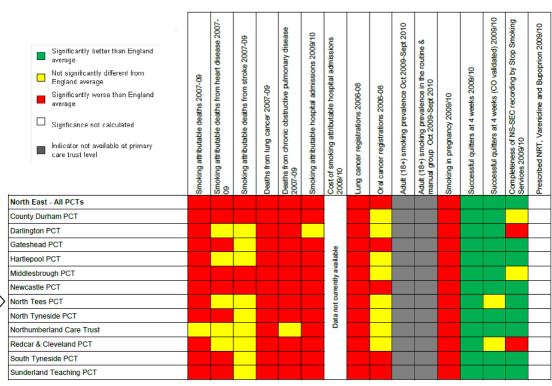
- R2 That Stockton Borough Council approach ANEC and the Northern Group of MPs to lobby for legislation to require a no smoking zone around the entrance to all public access buildings and areas in particular pubs, clubs, hospitals, schools, shopping centres, parks and play areas.
- R3 That Stockton Borough Council introduce a voluntary code of smokefree practice in and around designated children's play areas.
- 2.29 During the review Alex Cunningham MP for Stockton North had attempted to introduce a private member's Bill to ban smoking in cars when children are passengers warning that 300,000 UK children are taken to their GP with smoking-related illnesses every year. This was killed off due to lack of parliamentary time. However, the prime minister has now agreed to "look carefully" at the proposal along with other possible measures to further curb smoking in public places. Anna Soubry, the health minister, has also been reported as saying that "I would ban smoking in cars where children are present." (Northern Echo 27.2.13)
- R4 That Stockton Borough Council lobby the Government to reconsider its position and support the introduction of a ban on smoking in cars.
- R5 That the Smokefree Stockton Alliance explore the development of a local campaign to raise awareness of the dangers of smoking in cars especially the harmful effects on children.
- 2.30 Also, since December 2012 Australia legislated that cigarettes must be sold in uniform drab olive-green packets with graphic health warnings. The only marker of difference between products is the brand name written on the packet in a uniform style. New Zealand has promised to follow the Australian lead.
- 2.31 The Department of Health started a consultation in March 2011 on plain packaging which ended August 2012. Research for the department by the University of Stirling found that "plain pack colours have negative connotations, weaken attachment to brands, project a less desirable smoker identity, and expose the reality of smoking".
- 2.32 The study also found that non-smokers tended to find plain packaging less appealing than smokers, and younger respondents tended to find it less appealing than older respondents. Around two thirds of smokers say they started smoking before they were 18.
- 2.33 It was expected that the Government would introduce legislation to follow the position taken by Australia but this was removed from the Queen's speech in 2013 and it is understood that further analysis of the plain packaging in Australia will be taken before any action is taken by the UK Government.
- R6 That Stockton Borough Council lobby the Government to reconsider its position and support the introduction of plain packaging for tobacco products.

PHASE 2 - PUBLIC HEALTH

Local Tobacco Control Profiles for England - Regional Summaries July 2011 London Health Observatory

NORTH EAST REGION





- 2.34 The Committee received support from Peter Kelly, Director of Public Health and other public health officers to address the second phase of this review.
- 2.35 The scope of this phase included:
 - Preventing smoking uptake by young people
 - Refocusing/Strengthening stop smoking services
 - greater focus on smoking in pregnancy (18.4% of pregnant mothers in Stockton smoked (national average - 13%)).
 - greater focus on vulnerable groups and reducing health inequalities
- 2.36 Ailsa Rutter, Director FRESH NE, Alan Foster, CEX North Tees and Hartlepool NHS Foundation Trust, and the trust's Stop Smoking Service were amongst those invited to give evidence.

FRESH NE AND STOCKTON SMOKE FREE ALLIANCE

- 2.37 The Director of FRESH NE provided the Committee with information on the work the organisation had undertaken since it began.
- 2.38 The North East approach to tobacco control is with the Fresh team leading on a comprehensive regional programme working in close partnership with key regional bodies and supporting localities in each of the 12 local authority areas in the north east. The North East Tobacco Control Partnership has provided strategic leadership and guidance to the programme and been an effective champion for tobacco control.
- 2.39 By delivering multiple actions working together to shift the social norms around tobacco use at national, regional, local and community levels through partnership, the North East model is delivering results faster than anywhere else in England.
- 2.40 Although the vast majority of young people did not smoke, most smokers started in childhood. The need to enable young people to stop smoking and preferably never start was still required.
- 2.41 It was recognised that smoking was the biggest killer in the North East and the area had had the highest percentage of smokers in the UK, and the best stop smoking services available.
- 2.42 The North East had seen double the national decline in smokers in recent years and no longer had the highest rate of smoking in England.
- 2.43 Much progress had been made in the reduction of smoking related mortality, in particular Coronary Heart Disease had seen a drop of 32.2% from 2005 to 2010 and Acute Myocardial Infarction had seen a 38.6% drop during the same period.
- 2.44 There was a risk that when the level of smokers had dropped below 20% it could be perceived that FRESH NE had completed a successful programme. It was stressed that the programme must focus and continue locally, as there would still be too many people suffering from smoking related illnesses.
- 2.45 That local programme delivery is carried out under the banner of the Stockton Smoke Free Alliance a multi-agency steering group comprising core members that represent a wide range of partnerships with the stated aim of working

collaboratively to reduce tobacco related harm. Its local tobacco control approach is based on 8 key themes:

- 1. Developing infrastructure, skills & capacity
- 2. Reduce exposure to second-hand smoke (including providing second-hand smoke training to staff and volunteers in a wide variety of organisations/settings; Children's centres actively promote second-hand smoke messages; supporting national and regional campaigns; and Cleveland Fire Brigade reinforcing second-hand smoke messages through Home Fire Safety Checks)
- 3. Helping people to stop smoking (Increasing capacity in local stop smoking services; increasing awareness of and referral to stop smoking services; and implementing the smoking in pregnancy action plan)
- 4. Media, communication, social marketing and education
- 5. Reduce the availability and supply of tobacco products.
- 6. Tobacco regulation
- 7. Reduce tobacco promotion
- 8. Research, monitoring & evaluation
- 2.46 Throughout this review Members enquired about local pension arrangements and investment into tobacco companies. The Director of Fresh NE highlighted that there was an international treaty, the 'Framework Convention on Tobacco Control', in relation to tobacco which stated that Central and Local Government should not invest in tobacco. The Committee pursued the issue and more information about this can be found on page 23.

NORTH TEES AND HARTLEPOOL NHS FOUNDATION TRUST

- 2.47 The Committee was particularly keen to discuss the approach the NHS takes for patients admitted into hospital who smoke and how they could be encouraged to stop.
- 2.48 The Chief Executive of North Tees and Hartlepool NHS Foundation Trust highlighted opportunities and actions needed to address smoking and tobacco control from a hospital trust perspective.
- 2.49 The Trust supported the smoking cessation pledge, which included a commitment to encourage staff to stop smoking and allowed staff to attend smoking cessation services during work time with no loss of pay. Members felt this principle should extend to employees of Stockton Borough Council in conjunction with the NHS.
- R7 Stockton Borough Council support people to stop smoking by distributing a Chronic Obstructive Pulmonary Disease (COPD) screening questionnaire to all staff and councillors and provide a pathway to smoking cessation services if required.
- R8 Stockton Borough Council encourage staff and Council Members to stop smoking by providing work-time access to smoking cessation services.
- 2.50 Information was actively advertised in and around hospital premises, with telephone numbers and website addresses offering support to those wanting to give up smoking.
- 2.51 Health professionals were trained to give advice and promote stop smoking to patients. In addition a standard letter would be sent to patients, asking them

- not to smoke in their homes when receiving home visits from health professionals, supporting the message that smoking was not considered as acceptable as it may have once been.
- 2.52 There was a current drive to promote benefits of stopping smoking in pregnancy although evidence suggested that younger women were less likely to stop. The Chief Executive highlighted that more needed to be done in this area and any help from the wider community would be gratefully accepted.
- 2.53 The Committee raised its concern regarding the smoking shelter located close to the entrance of North Tees Hospital and discussed the possibility of moving it. Due to past experience officers explained that this would not solve the problem as patients and visitors would smoke outside the nearest exit/entrance they could find. The Trading Standards and Licensing Manager informed the Committee that if the entrance was more than 50% enclosed statutory enforcement could be applied, which could help resolve the issue of smokers smoking around the entrance. The Chief Executive was happy to investigate improving the frontage of North Tees Hospital.
- 2.54 The Committee learned that pharmacy cessation medication was offered to smokers in hospital but the Stop Smoking Service (SSS) suggested that Nicotine Replacement Treatment was not routinely offered to all patients on admission who smoke. This may also reduce the prevalence of smokers directly outside hospital premises.
- R9 Nicotine Replacement Treatment be offered routinely to all patients on admission who smoke.
- 2.55 Members suggested that to lead by example, separate smoking shelters should be provided for staff. It was noted that the effect of the new policies had on uptake of smoking cessation services etc. would be monitored.
- 2.56 The Committee was informed that the University Hospital of North Durham had adopted new, 'Healthier Greener Cleaner' signage in and around the hospital grounds. The Chief Executive requested that Stockton Borough Council look into acquiring the same signs as they sent out a positive message for a better cleaner environment
- 2.57 The Stop Smoking Service (SSS) staff found it difficult to share data electronically with other services within the health service due to their current database being old and out of date. A new more sophisticated system had been introduced within the Darlington and Durham Service called, 'QuitManager', which had improved performance dramatically. Officers from the Stop Smoking Service expressed their interest to arrange a visit with Commissioners to look at how the system worked. Following discussion with the Chief Executive of the Foundation Trust the Committee was informed that this had been actioned.
- 2.58 The FEV1/FVC ratio is a calculated ratio used in the diagnosis of obstructive and restrictive lung disease. Microspirometry can detect reduced FEV1 values in cigarette smokers, i.e., subjects at high risk for chronic obstructive pulmonary disease (COPD). The SSS believe that microspirometry would provide early indication system for smokers at high risk of lung health problems and would like to progress their work in early detection of lung ill health. It is hoped that this can be agreed through a

- variation to contract in the service level agreement with the Foundation Trust for April 2013.
- 2.59 An audit of SSS dealing with diabetic patients suggested that 70 per cent of information relevant for intervention to take place was not recorded. SSS receive 3 per cent of referrals although it is known that 30 per cent of people smoke. When patients are seen they will be asked if they smoke but the hospital forms used do not record whether stop smoking intervention would be accepted or given.
- R10 The NHS Foundation Trust forms, when recording the smoking status of patients, also record if stop smoking brief intervention is given to smokers and if referral is accepted.
- 2.60 Officers from the Stop Smoking Service asked the Committee for assistance from Stockton Council to improve the service and increase the number of non-smokers within the borough. The Committee as a result supported the following suggested recommendations:
- R11 Explore improved and increased partnership working with Schools, Colleges, Youth Service and Fire Service to promote the Stop Smoking Service.
- R12 Explore improved access to workplaces in partnership with the Environmental Health Service to promote the Stop Smoking Service.
- R13 Explore increased opportunities for brief intervention training with Housing and Social Care staff to promote the Stop Smoking Service.
- R14 Stockton Borough Council work towards achieving the North East Better Health at Work Gold Award and register the Council's commitment to tobacco control as part of the Public Health Responsibility Deal (H5).
- R15 Stockton Borough Council ensure the inclusion of publicity for the Stop Smoking Service to the wider community both on its website and in the key public health campaigns planned for this year.
- R16 Stockton Borough Councillors consider promoting the dates, times and venues of the Stop Smoking Sessions on their web page/website.

SMOKING AND PREGNANCY

- 2.61 Every cigarette smoked contains over 4,000 chemicals, so smoking when pregnant can harm an unborn baby. Cigarettes can restrict the essential oxygen supply to a baby, so its heart has to beat harder every time a pregnant woman smokes. Smoking whilst pregnant was a major concern to the Committee as 12.9% of woman smoke at time of delivery in England whilst in Stockton it was higher at 15.9%.
- 2.62 The NHS web site actively promotes smoking cessation highlighting the benefits that stopping smoking will provide immediately:
 - less morning sickness and fewer complications in pregnancy
 - more likely to have a healthier pregnancy and a healthier baby

- reduce the risk of stillbirth
- cope better with the birth
- less likely to be born too early and have to face the additional breathing, feeding and health problems that often go with being premature
- less likely to be born underweight: babies of women who smoke are, on average, 200g (about 8oz) lighter than other babies, which can cause problems during and after labour, for example they are more likely to have a problem keeping warm and are more prone to infection
- reduce the risk of cot death, also called sudden infant death
- 2.63 Stopping smoking will also benefit a baby later in life. Children whose parents smoke are more likely to suffer from asthma and other more serious illnesses that may need hospital treatment.
- 2.64 It is also important for the partner or anyone else who lives with in the same house who smokes to stop or reduce their smoking as this can affect the mother and baby both before and after birth. It may also be more difficult to stop if someone close regularly smokes as second-hand smoke can also reduce birthweight and increase the risk of cot death. Babies whose parents smoke more likely be admitted are to to hospital for bronchitis and pneumonia during the first year of life. More than 17,000 children under the age of five are admitted to hospital every year in England because of the effects of second-hand smoke.

(http://www.nhs.uk/conditions/pregnancy-and-baby/pages/smoking-pregnant.aspx)

- 2.65 The NHS web site advises that pregnant women who smoke should try to stop without using nicotine replacement therapy (NRT) if they can, as this is much better for them. NRT should only be used if stopping without it fails.
- 2.66 Members were informed that nicotine replacement in pregnancy was safe. NRT contains only nicotine and none of the damaging chemicals found in cigarettes, so it is a much better option than continuing to smoke. It helps by giving nicotine when it would have been sought from a cigarette. The Committee was informed that smoking prevalence was recorded at antenatal classes but this might not capture all pregnant women.
- R17 The smoking status of pregnant women should be recorded when scans are being taken. This will capture smoking status of women not attending the antenatal classes and increase opportunity to offer stop smoking intervention.
- 2.67 Following regional research into barriers faced by midwives when discussing smoking with pregnant women, the North East implemented a co-ordinated approach to reducing maternal smoking levels across the region. The approach, "babyClear", was developed by the Tobacco Control Collaborating Centre (TCCC) and funded by the Fresh regional programme budget, which is itself funded by PCTs/LAs. Additional project funding was secured from the NE Strategic Health Authority.
- 2.68 babyClear provides training and resources to front-line staff, supporting a quality, structured pathway for pregnant women to receive stop smoking support from first booking appointment, through subsequent midwifery appointments, and includes the provision of Stop Smoking Service support.

- 2.69 It was suggested that an additional 2 days of midwifery time would enable midwives to provide specialist support for those women who declined the stop smoking support and to implement the babyClear project from May/June 2013.
- R18 The Director of Public Health consider an additional 2 days of midwifery time to enable midwives to provide specialist support for those women who declined the stop smoking support and to implement the babyClear project in 2013.

SMOKING AND YOUNG PEOPLE

- 2.70 It is estimated that every year more than 200,000 children in the UK start smoking. Among adult smokers, about two-thirds report that they took up smoking before the age of 18 and over 80% before the age of 20.
- 2.71 The proportion of children who have ever smoked continues to decline. In 2011, 25% of 11-15 year olds had smoked at least once, the lowest proportion since the survey began in 1982 when 53% had tried smoking.
- 2.72 Previously, girls had been more likely than boys to have ever smoked and to be regular smokers. However, in 2011, a similar proportion of boys and girls said they had tried smoking (25% and 26% respectively.)
- 2.73 Smoking initiation is associated with a wide range of risk factors including: parental and sibling smoking, the ease of obtaining cigarettes, smoking by friends and peer group members, socio-economic status, exposure to tobacco marketing, and depictions of smoking in films, television and other media.
- 2.74 Children who live with parents or siblings who smoke are up to 3 times more likely to become smokers themselves than children of non-smoking households. It is estimated that, each year, at least 23,000 young people in England and Wales start smoking by the age of 15 as a result of exposure to smoking in the home.
- 2.75 Research suggests that knowledge about smoking is a necessary component of anti-smoking campaigns but by itself does not affect smoking rates. It may, however, result in a postponement of initiation.

(From: ASH Fact Sheet on: Young people and smoking)

- 2.76 Officers from Stockton Borough Council presented the Committee with information relating to the prevention of smoking in young people in Stockton Borough.
- 2.77 The Youth Support Service, worked in partnership working with organisations such as the Joint Action Group (J.A.G) and the Anti-Social Behaviour (ASB) Team, to deliver diversionary activities for young people, as well as working closely with the Police, Enforcement, Substance Misuse Team, Child and Adolescent Mental Health Services, et al.
- 2.78 Smoking awareness was delivered to young people using the 'this is me' toolkit, risk taking behaviour road shows, involvement in No smoking day, Stoptober and health events.
- 2.79 Members were informed of the future plans to review the content of the Risk Taking Behaviour Road Show taking into account young peoples' opinions.

There were also plans to roll the Road Show out to college based settings.

2.80 The Committee asked if more could be done to stop parents smoking at school gates, officers explained that smoke free policies were in place in school however consultation with parents was difficult. It is hoped that support for recommendation 3 will assist to reduce or remove instances of people smoking outside school premises.

TEESSIDE PENSION FUND INVESTMENT IN TOBACCO COMPANIES

Local Authority	Annual deaths from smoking	Tobacco Investment Shares & Bonds (£m)	Size of pension fund (£b)	Proportion of pension fund
Durham	1126	50.8	1.89	2.7%
Teesside	1136	70.4	2.44	2.9%
Tyne and Wear	2435	46.4	4.82	1.0%
Total	4697	167.6	9.15	1.8%
Northumberland	630	pooled funds only	0.8	

(North East Tobacco Investments – from Making Smoking History Conference 21.3.13)

- 2.81 During the review the issue of Teesside Pension Fund investment in tobacco companies was raised. A referral from Council and then Executive Scrutiny Committee asked the select committee to consider incorporating evidence and recommendations in the scrutiny review final report.
- 2.82 Evidence was obtained from the Chair of the Pensions and Investment Panel, the Director of Resources, and the Head of Investments as representatives of the Teesside Pension Fund to investigate the ethical issues raised regarding investment in the tobacco industry.
- 2.83 Middlesbrough Borough Council is the administering authority for the Teesside Pension Fund (the Fund). To manage and administer the Fund, Middlesbrough Council set up the Teesside Pension Fund & Investment Panel (the Panel). The Panel has plenary powers to make decisions and set policies without reference or interference from Middlesbrough Council. The Panel has 15 voting members, 11 from Middlesbrough Council, one from each of the other local authority employers and one representative from the other Fund employers.
- 2.84 The Fund complies with the Local Government Pension Scheme Governance Compliance Statements (Statutory Guidance November 2008). Members have a responsibility for the effective stewardship and management of the Fund. The Members of the Panel are acting as trustees of a trust-based private sector pension fund would; as fiduciaries of the Fund.
- 2.85 As fiduciaries, Members of the Panel must avoid conflicts of interest when making decisions and setting policies for the Fund. These policies and decisions must solely be in the best interests of the Fund, and ignore all other

matters concerning Panel Members either personally or professionally. It is for this reason the Panel has plenary powers, so the Fund's policies and Panel decisions are protected, and the Administering Authority and other employers cannot over-rule or change these policies or decisions.

- 2.86 The Fund delegates all investment decisions to the Head of Investments, giving the Panel the ability to review, scrutinise and criticise the performance of the Fund with independence.
- 2.87 The Committee was informed that members of the Panel therefore have a responsibility for the prudent and effective stewardship of the Fund. This includes protecting against employer-led actions which are not in the best interests of the Fund. As such, Members of the Panel cannot allow the public health responsibility of Local Authorities interfere with the running of the Fund, otherwise they are in breach of their fiduciary duty.
- 2.88 However, there is recognition of the impact of public health promotion on the tobacco industry and the potential impact on future investment returns. The Fund is also an active member of the Local Authority Pension Fund Forum (LAPFF), a grouping of Local Authorities with overall investments of over £100 million. The LAPFF was attempting to get a better understanding of the tobacco industry and how it was working with public health officials prior to deciding if the fund should be withdrawn.
- 2.89 The 1984 case of Cowan v Scargill challenged specifically investing in certain industries but the court upheld that this was a breach of fiduciary duty. The representatives of the Fund stated they acted on their fiduciary duty requiring them to maximise returns and no specific consideration had been taken regarding investment in tobacco companies.
- 2.90 The Committee had learned from the Action on Smoking and Health and FairPensions briefing document "Local authority pension funds and investments in the tobacco industry" that a responsible investment approach could be taken.
- 2.91 It states that...

"Trustees may also decide that excluding a particular investment would have a positive impact on the fund's long-term performance. It is now widely accepted that environmental, social and governance (ESG) issues can affect company performance. [A] landmark 2005 report...concluded that considering these factors is well within the scope of investors' fiduciary duties: indeed, "it may be a breach of fiduciary duties to fail to take account of ESG considerations that are relevant and to give them appropriate weight."

On this basis, there are various reasons why trustees might conclude that tobacco is a risky long-term investment [overvaluation of tobacco investments, long-term decline in sales in UK and Europe, countries across the globe introducing measures to meet the World Health Organization's Framework Convention on Tobacco Control requirements which include widespread legislation for smokefree workplaces and advertising bans, substantial increases in tobacco taxation, plain packaging].

All of this suggests that the law does not oblige pension funds to dismiss the ethical concerns of their members out of hand. Rather, the appropriate response is to analyse whether those concerns could be accommodated without compromising the performance of the fund. Moreover, non-financial

- issues which could affect the performance of the fund should be considered by funds as part of their normal investment analysis."
- 2.92 The Committee suggested that consultation take place with Teesside Pension Fund members asking if there were any objections to the fact that their pension funds were invested in the tobacco industry.
- R19 The Teesside Pension Fund seek the views of fund members (current, past and retired and including the other local authorities who are part of the fund) on divesting from tobacco.
- R20 Stockton Council's Director of Public Health to seek and record the views of other Directors of Public Health regarding pension fund investment in tobacco companies.
- 2.93 The Committee considered whether Stockton Council could unilaterally request the panel to disinvest in the tobacco industry as Teesside Pension Fund was made up of four local authorities. It was suggested a review of the Fund's statement of investment principles (SIP) would be possible although the Fund did not at the time see the need for one. If the four authorities made senior representation from an appropriate level and through the correct channel to the Chair of the Panel to request a review to change the SIP and disinvest in the tobacco industry this would be considered. If a review did go ahead there was no guarantee it would be successful and the decision would be the Panel's to make.
- 2.94 Stockton Council's Cabinet Member for Adult Services and Health gave evidence to the Committee regarding his work in tackling the public health issues of smoking tobacco.
- 2.95 As Chair of the newly formed Health and Wellbeing Board Councillor Beall was able to confirm to the Committee the close working relationship he had with the Director of Public Health and their shared perspective in adopting priorities to tackle smoking and its consequential effect on the health of individuals.
- 2.96 Councillor Beall was especially interested in the discussion that the Committee had with the Teesside Pension Fund and its investment in the tobacco industry. Supportive of the views of the Committee the Cabinet Member was keen to provide assistance independently meeting with the Chair of the Teesside Pensions and Investment Panel to try to influence the approach of the pension fund.
- 2.97 Councillor Cook, the Leader of Stockton Council had also undertaken written correspondence with the Mayors and Leaders of the regional local authorities to begin to determine whether a North East view was possible regarding local authority investment in tobacco companies. In addition the ANEC Chair of Health and Wellbeing Boards was looking to see how a regional approach could be taken with assistance from Fresh NE.
- R21 Stockton Council's Chair of the Health and Wellbeing Board work with the ANEC Chairs' of Health and Wellbeing Boards to explore local authority pension fund disinvestment in tobacco companies.

3.0 Conclusion

- 3.1 The seriousness of this topic was met by the time and consideration given to it by the Committee. In meeting with experts and professionals for both the regulatory and public health elements the Committee is indebted to those who both give their time to providing evidence as well as those who have direct dealings with helping people to give up smoking.
- 3.2 The Committee has endeavoured to produce a report which contains recommendations that will go some way to assisting the reduction of smoking within Stockton Borough as well as provide information and guidance for other local authorities that wish to tackle this particular public health problem.
- 3.3 To this end the Committee Members wish to thank all the contributors to this review for their hard work and dedication to reduce the prevalence of smoking and thereby help everyone to have a healthier life.

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