

EMPLOYMENT MATTERS COMMITTEE

26TH JANUARY 2021

SMOKE FREE POLICY

Report from: Samantha Beck-Farley, Head of HR
author: Ryan Huggett, HR Consultant

Summary

The current Smoke Free Policy has recently been reviewed and updated in light of latest industry guidance including government guidance and changing societal perceptions regarding the use of electronic cigarettes and the practice of vaping and the positive benefits this brings in terms of people quitting smoking.

The current Smoke Free Policy contained limited guidance on electronic cigarettes and did not provide clear guidance on the responsibilities of staff and managers who choose to vape. The policy was also out of date with regards to published industry guidance.

The updated Smoke Free Policy has been consulted upon. The consultation period ran between 14th December 2020 – 28th December 2020. There were no objections to the amendments and updates proposed to be made to the Smoke Free Policy.

1. Budget and policy framework

1.1. The consideration of policies for staff is a matter for the Employment Matters Committee. The Smoke Free Policy is a current Council policy and the recommendations in this report to update the policy are for the Employment Matters Committee.

2. Background

2.1. Medway Council is responsible for the improvement and protection of the health of people living and working in Medway

2.2. In October 2018, Medway Council signed [“The Local Government Declaration on Tobacco Control”](#) to evidence its commitment to ensuring tobacco control is part of mainstream Public Health work ,and taking comprehensive action to address the harm of smoking.

2.3. The UK Government’s ambition is for a smoke free generation (adult smoking rates -5%) by 2030. According to Action on Smoking (ASH) if 30% of smokers

continue to make one quit attempt every year, we will reach 5% by 2043 (Source: ASH 2019 – [The End of Smoking](#)). However, if 50% of smokers made an annual quit attempt, we could get to 5% by 2029 (Source: National Statistics: Statistics on Smoking, England – 2019 - <https://digital.nhs.uk/data-and-information/publications/statistical/statistics-on-smoking/statistics-on-smoking-england-2019>)

- 2.4. All of Medway Council's workplaces (including its vehicles) are smoke free in accordance with the Health Act 2006 and associated regulations. All staff and visitors have the right to a smoke free environment.
- 2.5. In parallel to the UK Government's drive to achieve a smoke free generation by 2030, there has been a rising increase in the development of electronic cigarette devices. The design of e-cigarettes has evolved substantially over time, from the first generation (cig-a-likes), to the most popular second (tank and vape pens), third generation devices (pods) and fourth generation (mods). E-cigarette devices, from the second generation onwards, look entirely different to conventional cigarettes. The second and third more popular devices also emit vapour in smaller volumes than fourth generation models (used mainly by vape enthusiasts).
- 2.6. International peer reviewed evidence suggests that e-cigarettes carry a fraction of the risk of cigarettes and have the potential to drive down smoking rates. According to evidence reviews by Public Health England and recent studies electronic cigarettes are around 95% safer for users than smoking than smoking tobacco (Source: Public Health England (2018) Evidence review of e-cigarettes and heated tobacco products). Available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684963/Evidence_review_of_e-cigarettes_and_heated_tobacco_products_2018.pdf)
- 2.7. The current Smoke Free Policy was benchmarked against updated industry guidance and the UK Government's ongoing drive towards a smoke free generation and it was felt that the current Smoke Free Policy was out of date in a number of areas and was under developed with regards to guidance to staff and managers on vaping and Council expectations. The current version of the Smoke Free Policy is attached as Appendix 1 for comparative purposes.
- 2.8. Medway Council HR are always committed to continuously reviewing policies to ensure that as an employer the Council is up to date with legislation and best practice industry guidance. The draft updated Smoke Free Policy is attached as Appendix 2 to this report.
- 2.9. The updated Smoke Free Policy (Appendix 2) was developed in collaboration between HR and Public Health in order to ensure that the policy contained full coverage of both practical advice for staff and managers and also aligned to recent developments in industry guidance and best practice principles derived from up to date academic sources in the public health industry.

3. Key Changes

- 3.1. As stated above the current Smoke Free Policy is attached as Appendix 1 to this report for comparative purposes. Given that the updated policy represents a fundamental redrafting of the original policy it was not practicable to merely make tracked changes to the current policy.
- 3.2. The Smoke Free Policy has been updated in light of updates to legislation and industry guidance and development in tobacco control evidence and policies.
- 3.3. In particular Public Health England have released several evidence reviews on e-cigarettes and issued guidance for workplaces to inform evidence-based policy making. These can be accessed here:
 - Public Health England (2015)- E-cigarette: an evidence update. Available from:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733022/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf
 - Public Health England - E-cigarettes and heated tobacco products: evidence review (2018) -
<https://www.gov.uk/government/publications/e-cigarettes-and-heated-tobacco-productsevidence-review>
 - PHE - Vaping and lung disease in the US: PHE's advice (2019) -
<https://publichealthmatters.blog.gov.uk/2019/10/29/vaping-and-lung-disease-in-the-usphes-advice/>
 - PHE - Vaping in England: an evidence update (February 2019) -
<https://www.gov.uk/government/publications/vaping-in-england-an-evidence-updatefebruary-2019>
 - Public Health England (2016) Use of e-cigarettes in public places and workplaces: key principles to guide policy making. Available from:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/768952/PHE-advice-on-use-of-e-cigarettes-in-public-places-and-workplaces.PDF
- 3.4. The Definitions section of the Smoke Free Policy has been updated in order to make a clear distinction between vaping and smoking.
- 3.5. The Smoke Free Policy has been majorly updated in relation to e-cigarettes and vaping and now has additional sections containing clear guidance and responsibilities for managers and staff in relation to vaping. These sections are deliberately separate from other sections containing separate guidance and responsibilities for managers and staff in relation to smoking. These sections were purposefully structured separately in the policy as the responsibilities and guidance differs between smoking and vaping. The reason for these sections is to provide clear expectations on etiquette for staff to follow in order to promote encouraging and positive relations amongst staff.

- 3.6 The Smoke Free Policy also contains two additional appendix documents. The first is a Supplementary Guidance document which contains further guidance and research on several areas including the effects of smoking, illicit tobacco, certain tobacco products, e-cigarettes and other areas. This is attached as Appendix 4 to this report.
- 3.7 The second appendix is a specific guidance document with regards to Covid-19 and contains further advice for staff who smoke or vape in order to keep safe and healthy. This is attached as Appendix 5 to this report.
- 3.8 The remaining sections of the policy have also been reviewed and updated where required in light of updated guidance and legislation with the key aim being to ensure that the policy provides current and up to date guidance, advice and support for staff and managers in order to improve their health and to continue to build positive and encouraging relations amongst staff. For example in recent years there have been changes to service provision by the Medway Stop Smoking Service, and therefore the information in the existing policy needed updating to reflect this change.

4. Advice and analysis

- 4.1. Human Resources and Public Health collectively undertook a benchmarking exercise to examine updated legislation, updated industry guidance and updated evidence from academic sources in order to assess what needed updating in the current Smoke Free Policy. All of these sources are referenced clearly and can be accessed via links in the updated Smoke Free Policy but some of them have also been referred to above.
- 4.2. The current Smoke Free Policy was then updated and developed from this benchmarking exercise and the draft updated Smoke Free Policy was then reviewed again by Human Resources and Public Health as a collective before proceeding to consultation with trade unions and staff forums and sent to Legal and Finance for comment.
- 4.3. A Diversity Impact Assessment has also been carried out in relation to the updated Smoke Free Policy and this is attached as Appendix 3 to this report.
- 4.4. The Diversity Impact Assessment concluded that the likely impact of the implementation of the proposed updated Smoke Free Policy would be to foster good relations amongst staff and that no adverse impact is envisaged from the adoption and implementation of the draft updated Smoke Free Policy

5. Risk management

- 5.1. Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community.
- 5.2. Medway Council must adhere to smoke free legislation and the Health and Safety Executive clearly advises that employers should have a specific policy

on smoking in the workplace (Source: Health and Safety Executive, <https://www.hse.gov.uk/contact/faqs/smoking.htm>)

5.3. Updating Medway Council’s Smoke Free Policy is therefore very important in order to ensure that the Council continues to adhere to changes in legislation, industry guidance and can also help to mitigate risk to the organisation and foster good employment relations.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Leaving the policy in its current drafted form risks the policy remaining outdated and not aligned to updated legislation and industry guidance	The current Smoke Free Policy has become outdated due to updated legislation and industry guidance.	Consider the updated legislation and updated industry best practice and adopt the updated version of the Smoke Free Policy	C2
Leaving the policy in its current drafted form also risks the Council missing out on the benefit that e-cigarettes can have in supporting staff wanting to quit smoking and improving their health	It is important that the Council’s Smoke Free Policy reflects Public Health England advice to maximise the benefit that e-cigarettes can have to supporting staff wanting to quit smoking and improving their health, whilst also managing any identified risks.	Consider the updated legislation and updated industry best practice and adopt the updated version of the Smoke Free Policy	C3
Leaving the policy in its current drafted form risks the Council not having clear guidance in place for staff and managers with regards to vaping which could cause employment relations issues.	The current policy lacks clear robust guidance with regards to vaping and there is a risk that leaving the policy in its current form without additional guidance could result in relations issues between staff members	Consider the updated legislation and updated industry best practice and adopt the updated version of the Smoke Free Policy	C2

6. Consultation

6.1. The updated Smoke Free Policy has been consulted upon with the following stakeholders:

- Trade Unions
- BAME Workers Forum
- Gender Forum
- LGBTQI Workers Forum
- Disabled Workers Forum

6.2 The consultation period closed on 28th December 2020.

6.3 The updated Smoke Free Policy and this report have also been shared with Legal and Finance.

7. Climate change implications

7.1. [The Council declared a climate change emergency in April 2019](#) .

7.2. Adopting the updated Smoke Free Policy is unlikely to have any negative or adverse climate change implications.

7.3. Equally, adopting the updated Smoke Free Policy would potentially have positive climate change implications as the air quality could arguably improve if less people smoked as a result of the updated guidance and support provided by the updated policy.

8. Financial implications

8.1. Adopting the updated Smoke Free Policy is unlikely to have any adverse financial implications

8.2. The cost of a communication campaign to promote the updated Smoke Free Policy would be negligible and ultimately minimised by leveraging digital media and other already established communication channels.

9. Legal implications

9.1. The updated Smoke Free Policy has been drafted to adhere to updates in legislation and best practice industry guidance

9.2. If the updated policy is not adopted then there is a risk of the Council's current Smoke Free policy continuing to remain out of date which could in the future have adverse legal implications if the Policy continues to contain outdated guidance to staff and managers on how to adhere to smoke free legislation and industry guidance

9.3. The updated Smoke Free Policy makes reference to key smoke free legislation throughout the Policy

10. Recommendation

10.1 Members are asked to approve the draft updated Smoke Free Policy

Lead officer contact

Ryan Huggett, HR Consultant, Gun Wharf, 01634 332581,
ryan.huggett@medway.gov.uk

Appendices

Appendix 1 – Current Smoke Free Policy

Appendix 2 – Updated draft Smoke Free Policy

Appendix 3 – Diversity Impact Assessment

Appendix 4 – Appendix 1 of Updated Smoke Free Policy – Supplementary Guidance

Appendix 5 – Appendix 2 of Updated Smoke Free Policy – Covid-19 Guidance for Smokers and Vapers

Background papers

None.