



Lewes District Council

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MINUTE EXTRACT

Cabinet – 28 March 2007

188 The Health Act 2006 – Smoke-free Premises and Vehicles

The Cabinet considered Report No 60/07 relating to the main provisions and implications of the new Health Act 2006 as it related to the provision of smoke-free premises and vehicles in England, and the funding which had been made available from the Department of Health for implementation of the legislation.

The Act had received Royal Assent in July 2006 and would come into effect on 1 July 2007. It provided for the prohibition of smoking in certain premises, places and vehicles.

The main provisions required virtually all enclosed, or substantially enclosed, places to which members of the public had access in the course of their daily work, business and leisure, to be covered by smoke-free legislation, including pubs, cafes, nightclubs, offices, work vehicles and common parts of housing and factories. However, exemptions could be sought within some of the premises including hotels and care institutions.

The smoke-free provision in the Health Act related to the smoking of tobacco and the smoking of any other substance, including pipes and cigars. The provision had also been extended to cover water pipes which were used for smoking.

The Department of Health had published two sets of regulations covering the definition of 'enclosed' and 'substantially enclosed' premises; enforcement authorities and signage. However, the secondary legislation which covered exemptions and vehicles; penalties and discounted amounts; the format of fixed penalty notices and offences in vehicles; had not yet been published but were summarised in the Report for guidance purposes only.

Paragraphs 9 to 12 of the Report set out details of the anticipated health benefits which would arise from implementation of the new Act which the Department of Health considered as being the most

important legislation with regard to public health since seat belts had been made compulsory in the 1970s.

Smoking was the single most preventable cause of death and disability, and in excess of 3,000 hospital admissions per year from the District were due to the effects of smoking.

Children and non-smokers were particularly vulnerable from the effects of second-hand smoke. The Government therefore aimed to reduce the harm smoking caused to smokers and to other people.

The Council would have responsibilities:

- (a) as an enforcing authority for ensuring smoke-free premises, places and vehicles under Chapter One of the Act;
- (b) as an employer;
- (c) as a provider of accommodation for public use, including residential accommodation (all common parts e.g. lifts in flats might fall within the legislation); and
- (d) as a health improvement partner with the Primary Care Trust which had committed to reduce smoking via the Local Area Agreement .

All buildings which were occupied by Council staff needed to be made smoke-free as they were workplaces, and all vehicles used for the transport of members of the public, or for work, by more than one person (even at different times), needed to be smoke-free and display designated signage.

Details of the Council's roles and responsibilities as a provider of residential accommodation, and as a health improvement partner, were set out in paragraphs 21 and 22 respectively of the Report.

The Department of Health was providing a range of support to prepare for the implementation of the legislation, including training, guidance, the creation of a dedicated website; a free-phone helpline; and had committed to a high profile media campaign to raise awareness. Further details relating to the initiative and the funding provision, were set out in the Report.

In order to support the organisation and co-ordination of the Council's activities, the Report suggested that the short-term appointment of a part-time Project Manager be made who, it was proposed, would also provide and co-ordinate training and associated events.

The compliance and regulatory work would require a more experienced level of practitioner, and the Report therefore suggested that a qualified health and safety inspector be appointed for a short-term period to lead on smoke-free compliance and any associated interventions.

Resolved:

- 188.1** That the approach to smoke-free provisions of the Health Act 2006 and the actions proposed in respect thereof, as set out in Report No 60/07, be approved;
- 188.2** That councillors demonstrate community leadership by giving a public commitment that they will not smoke in any buildings or on any land owned or controlled by the Council;
- 188.3** That the minority of employees and councillors who currently smoke be offered assistance, in partnership with the Primary Care Trust, to help them overcome their smoking addiction;
- 188.4** That, as a first step towards implementing the provisions in the Health Act 2006, the provisions of the Act which relate to the prohibition of smoking in the workplace and vehicles be implemented one month early by the Council namely, commencing on 1 June 2007, subject to the outcome of the normal staff consultation procedures;
- 188.5** That the Council be requested to make its comments to the Cabinet on the following suggestions:
- (a) That the Council work towards the situation that no smoking takes place in any buildings or on any land that it owns or controls, excluding its housing stock;
 - (b) That as a further step towards implementing the provisions in the Health Act 2006 relating to smoking in the workplace, the following arrangements be introduced, subject to the normal staff consultation procedures:
 - (i) No member of staff may absent themselves from their place of work during working hours for the purpose of taking a smoking break;
 - (ii) No councillor may take a smoking break at any time during any Council, Cabinet or Committee meeting, or at any other time whilst on the business of the Council; and
 - (iii) No councillor, or member of staff, may smoke in any buildings, or on any land, that the Council owns or controls; and
- 188.6** That the remainder of the Report be received and noted.

Reason for the Decisions:

To prepare the Council for the imminent implementation of a new legislative regime in respect of smoke-free premises and vehicles.



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MINUTE EXTRACT

Employment Committee – 23 April 2007

24 The Health Act 2006 – Smoke-free Premises and Vehicles

The Committee considered Report No 78/07 which sought to implement the smoke-free provisions in the Health Act 2006.

The Head of Business Services pointed out that the Act came into effect on 1 July 2007 but as an enforcement authority the Council wished to set an example by implementing requirements on 1 June 2007. The Cabinet recognised the benefits afforded to both individual and public health and was making recommendations to Council on 25 April 2007 regarding future arrangements towards no smoking on Council-owned land and property (excluding housing stock).

Employees' side representatives were content with the enforceable legislation and its proposed introduction a month in advance. On the possible future proposals, the Employees' side representatives thought that a review of smoking breaks should be extended to all reasons why employees may leave their place of work but recognised that this might result in restricting the flexibility now enjoyed by all employees. The issue of employees visiting customers in their homes where smoking might take place was covered by the legislation. The Head of Business Services stated that non-statutory enforcement issues such as smoking outside Council buildings would be addressed by management.

Councillors agreed that it was not the business of the Committee to solve enforcement problems. Beyond the implementation of statutory requirements, the Council would work progressively towards solutions of further issues.

Resolved:

- 24.1** That the smoke free provisions in the Health Act 2006 be implemented from 1 June 2007;
- 24.2** That the Head of Business Services be requested to amend the current smoking policy to meet the requirements of the Act and

inform all staff of its contents;

- 24.3** That the actions taken so far, which encourage staff to stop smoking, be noted; and
- 24.4** That the Head of Business Services be requested to bring a further report to the next meeting on proposals to tackle “smoking breaks” and smoking on Council land.



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MINUTE EXTRACT

Council – 25 April 2007

211 A Request From the Cabinet Held on 28 March 2007 and a Recommendation From the Cabinet Held on 17 April 2007

The Chair of the Cabinet, Councillor De Vecchi moved, and Councillor Neighbour seconded, the motion that the recommendation of the Cabinet held on 17 April 2007 contained in Minute 196 relating to the Finance Update, be received and adopted.

The motion was put to the meeting, Declared Carried, and it was

Resolved:

211.1 Accordingly.

Reserved Item

The Health Act 2006 – Smoke-Free Premises and Vehicles

The Lead Councillor for Staff and Corporate Services, Councillor Rogers moved, and Councillor Neighbour seconded, the motion that:

“The Council work towards the situation that no smoking takes place in any buildings or on any land that it owns or controls, excluding its housing stock; and

That as a further step towards implementing the provisions in the Health Act 2006 relating to smoking in the workplace, the following arrangements be introduced, subject to the normal staff consultation procedures:

- (i) No member of staff may absent themselves from their place of work during working hours for the purpose of taking a smoking break;

- (ii) No councillor may take a smoking break at any time during any Council, Cabinet or Committee meeting, or at any other time whilst on the business of the Council; and
- (iii) No councillor, or member of staff, may smoke in any buildings, or on any land, that the Council owns or controls”.

Prior to the Council’s consideration of the above item, the Lead Councillor for Staff and Corporate Services reported that the issue had been considered by the Employment Committee at its meeting on 23 April 2007. At the request of Councillor Rogers, the Head of Democratic Services circulated to all those attending the meeting, a copy of Minute 24 of that Committee which set out its comments on such matters (a copy of which is contained in the Minute Book).

Councillor O’Keeffe moved, and Councillor Livings seconded, an amendment as follows:

“The Council work towards the situation that no smoking takes place in any buildings or on any land that it owns or controls, excluding its housing stock; and

That as a further step towards implementing the provisions in the Health Act 2006 relating to smoking in the workplace, the Council work towards introducing the following arrangements, subject to the normal staff consultation procedures:

- (i) No member of staff may absent themselves from their place of work during working hours for the purpose of taking a smoking break;
- (ii) No councillor may take a smoking break at any time during any Council, Cabinet or Committee meeting, or at any other time whilst on the business of the Council; and
- (iii) No councillor, or member of staff, may smoke in any buildings, or on any land, that the Council owns or controls”.

The amendment was put to the meeting, Declared not Carried.

The motion was put to the meeting, Declared Carried, and it was

Resolved:

211.2 Accordingly.