

LONDON BOROUGH OF BRENT

General Purposes Committee - 23 March 2005
Executive - 23 May 2005

Report from Director of Human Resources & Diversity

For action

Wards affected:
All Wards

Report Title: Review of No Smoking Policy

Forward Plan Ref: Cor-05/06-87

1.0 Summary

- 1.1 This report considers a review of the Council's No Smoking policy and puts forward recommendations to reduce the health risks to employees and members of the public caused by smoking.

2.0 Recommendations

It is recommended that the General Purposes Committee agrees:

- 2.1 to withdraw the entitlement for employees to take smoking breaks and to smoke within working hours (paragraph 3.5)
- 2.2 where employees do wish to smoke before or after work and at lunch time that this is done outside Council buildings. (the existing provision to use smoking rooms to be withdrawn) (paragraphs 3.5 and 3.6)
- 2.3 Employees who wish to stop smoking are given help and support as provided by the Brent Primary Care Trust, Stop Smoking Service and that service areas reimburse employees at a maximum cost of £12.80 for Nicotine Replacement Therapy (NRT) for each employee. (paragraph 3.8)
- 2.4 that the Council invite each governing body to adopt this variation to the policy in their own schools.

It is recommended that the Executive agrees:

- 2.5 that the Council stop smoking in the Town Hall in all areas including the foyer area of the Paul Daisley Hall. (paragraph 3.9) with effect from the 1st July 2005

3.0 Detail

- 3.1 A review of the Council's existing No Smoking policy was recently carried out by the Strategic Human Resources and Organisational Development Group and the Corporate Management Team. As a result it was felt that the current policy should be revised in view of the increasing evidence of the adverse effects on health to smokers and the effects of passive smoking to those who share the same room as smokers. It was also felt that the Council should be leading the way as examples to the community.

Existing no smoking policy

- 3.2 The Council's No Smoking policy, which has been in existence since 1991, prohibits smoking in all Council buildings and vehicles. The exception to this is that smoking is permitted in the Foyer at the Town Hall and areas of common use, ie stairwells and landings, where the building is occupied by an outside organisation. The current policy also permits staff to take smoking breaks, the duration of which should be monitored and controlled by their line manager.
- 3.3 At the time the policy was introduced some provision was made in Council buildings for separate smoking rooms for staff. Over the passage of time many of these facilities have been removed due to shortage of accommodation council-wide and health problems created from smoke drifting into adjacent rooms.

Impending UK legislation

- 3.4 The UK Government announced on 15 November 2004 that through a White Paper on Public Health that cigarette smoking would be outlawed in all workplaces, restaurants and 90% of pubs which prepare and serve food. The smoking ban will be applied in stages, with all Government departments and the NHS leading the way – all being smoke-free by the end of 2006. By the end of 2007, all enclosed public places and workplaces will be smoke-free, and by the end of 2008 arrangements will be in place for licensed premises also to be subject to legislation. It is therefore quite timely for the Council to be considering a review of the existing No Smoking policy.

An overview of international trends in smoke-free provision is set out at Appendix 1.

Proposals as a result of the review

- 3.5 As a result of this review the main proposal is that the Council should withdraw the provision for staff to:
- take smoking breaks and
 - smoke during working hours

and that the Council should withdraw the provision for staff and the public to smoke in the Town Hall foyer.

It is also proposed that where staff are permitted to smoke in smoking rooms, that this provision is withdrawn as there is an expectation that in subsequent years a local authority best value indicator will be agreed for the provision of smoke free buildings.

- 3.6 The effect of this proposal would therefore mean that staff would only be able to smoke before and after work and at lunch time outside Council buildings. In such case staff would be asked to exercise a degree of sensitivity and to smoke away from public view and in a place that would prevent smoke drifting back into the building.
- 3.7 If the above proposal is agreed by your Committee, employees will be given two months' notice of the changes and the reasons for this, setting out arrangements to help employees who wish to stop smoking.
- 3.8 During this notice period advice and assistance will be given to employees who wish to stop smoking through the Brent Stop Smoking Service (Brent Primary Care Trust) who are able to provide a range of services for employees including:
- Running smoking cessation groups at the workplace for 6 consecutive weeks, each of 1 hour in duration. Staff would be allowed paid time off to attend. It has also been agreed that service areas will reimburse the prescription costs for employees for NRT. The NRT can be obtained from trained Stop Smoking Pharmacists for up to a maximum of 12 weeks. (A prescription charge (£6.40) is payable at the beginning and end of the treatment.) It is, therefore, recommended that the financial support for NRT be limited to a maximum of £12.80 for each employee. The running costs and information leaflets are provided free of charge by the Brent Stop Smoking Service.
 - Setting up an email network for employees over a 6 week period to enable them to receive practical support and advice by email.
 - A quit and get fit package where a holistic health programme for employees is provided.
 - Drop in sessions set up on employers' premises.
- 3.9 The foyer area in front of the Paul Daisley Hall is used as a smoking area by staff at the moment. In addition, staff who pass through that area are exposed to smoke from members of the public smoking in that area. It is therefore proposed that smoking no longer be permitted in any part of the Town Hall, including this area, by staff or by members of the public. This will also reduce the exposure to smoke of members of the public using this area.

Consultation with trade unions

- 3.10 Formal consultation on the above proposals has been carried out with the Council's recognised trade unions.
- 3.11 GMB state that whilst they are unable to agree to any proposal which seeks to withdraw rights from their members, they are in agreement

with any proposal which would seek to reduce the health risks to employees. The current national policy for GMB states that where employers are seeking to introduce no smoking arrangements in the workplace, that appropriate provision should be made for staff to smoke in designated smoking areas. However, they recognise that some of the current facilities and in particular public places, are not suitable to be designated as smoking areas.

- 3.12 Following wide discussions on the matter with their members and a decision of their general meeting Unison state that they welcome the intention of the Council to introduce measures to help employees who wish to give up smoking, by granting paid time off to attend no smoking group therapy sessions and by reimbursing the prescription cost of Nicotine Replacement Therapy.

The union also note the growing concern about the effects of smoking on health, including the effects of passive smoking and agree that the fewer people who smoke, the better this will be for overall public health.

Unison are also in agreement with the proposal to prohibit smoking within all Council buildings, but do not agree with the outlawing of smoking throughout the whole working day.

4.0 Financial implications

- 4.1 As set out in paragraph 3.8, service areas have agreed to reimburse the prescription costs for NRT for employees who wish to stop smoking. The cost to the service area will be £12.80 for each employee that wishes to participate in the smoking cessation groups or who wish to receive this form of support to help them stop smoking. It is intended that these relatively minor costs will be met from existing Service Area budgets.
- 4.2 A complete ban on smoking in the Town hall including the foyer area could impact on the number of future lettings for the Paul Daisley Hall and some current bookings may be cancelled. There is a financial risk that cannot be quantified. However, it is considered that some events will need additional stewarding to ensure that the ban is upheld, this additional staffing cost is estimated at £7,500 per annum in a full year. This will need to be met from the income from lettings.

5.0 Legal implications

- 5.1 It appears that there is a long-standing and settled custom and practice whereby smoking breaks are permitted. Arguably as a result of this custom and practice staff have a contractual right to take smoking breaks. However, it is unlikely that removing the right to take smoking breaks would be a fundamental breach of contract permitting an employee to resign and claim constructive unfair dismissal against the Council. It would still be possible for an employee to smoke outside the Council building just before starting work, during their lunch break and just after work.

- 5.2 It seems unlikely that there is any contractual right for employees to smoke in the Town Hall Foyer. Since 1991 there have been variations to the permitted smoking areas without any acceptance by the Council that employees' agreement was needed for this.
- 5.3 Current licensing conditions separate private and public functions held in the Paul Daisley Hall. Terms and conditions will have to be amended to include the Council's policy on smoking in this area.
- 5.4 Matters concerning the terms and conditions upon which staff are employed are within the remit of the General Purposes Committee. However, the management of council buildings is a matter for the Executive. If General Purposes approve recommendations 2.1 – 2.4 of this report the report will be referred onto the Executive for a decision in respect of recommendation 2.5.

6.0 Diversity implications

- 6.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

6.0 Staffing implications

- 6.1 The recommendations of this report would prevent employees from taking smoking breaks and from smoking within working hours. However, Action on Smoking on Health (ASH) in their advice on workplace smoking policies, suggest that it is possible that more restrictions at work will increase the incentive for active smokers to stop smoking. In addition, whilst consulting existing employees in the Council who smoke to set up smoking groups, they reported that they would welcome the withdrawal of the provision to take smoking breaks to encourage them to stop smoking.
- 6.2 Whilst there is no local data on the effects of smoking on the health of Brent employees, conclusions can be drawn from the information set out in Appendix 2 to this report.

Background papers

Local conditions of service – HR Management guidance

Data obtained from the ASH Website and the Brent Primary Care Trust

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International trends towards smoke-free provision

The following list gives an indication of the trend towards smoke-free controls in other countries:

Ireland is the first country in the world to ban smoking in all workplaces, including bars and restaurants. Three countries will have nation-wide laws prohibiting smoking in restaurants and bars coming into force in 2004: **Ireland** (effective from 29 March 2004); **Norway** (June 2004); **New Zealand** (December 2004). The **Swedish** Government has announced its intention to introduce a law to ban smoking in all restaurants and bars effective from July 2005.

Europe

In addition to Ireland and Norway, most countries have legislation to restrict or ban smoking in public places such as hospitals, schools and government buildings. (The UK is the exception.) In the World Health Organisation European Region, more than 80% of countries have legislation banning or severely restricting smoking in major public places such as health care, educational and government facilities, theatres, cinemas and all forms of public transport.

Finland, Germany and the Netherlands have legislation banning smoking in the workplace but the hospitality industry is excluded.

In places where the public attend out of choice, eg restaurants and bars, about half of the countries have legal restrictions. These include: Belgium, Bosnia & Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Hungary, Iceland, Israel, Italy, Latvia, Lithuania, Malta, Poland, Moldova, Romania, Slovakia, Slovenia, Sweden.

Pacific region

In Australia smoking is banned in most public places and workplaces. The governments of the Australian Capital Territory and the state of South Australia have announced their intention to introduce legislation to ban smoking in all restaurants and bars. A similar proposal is being considered by the New South Wales government. A complete ban in all enclosed places is expected to be introduced by the end of 2006.

In New Zealand smoking is banned in most workplaces. The law will be extended to include restaurants and bars from December 2004.

North America

Canada - Of 13 provinces and territories, all but New Brunswick and the Yukon Territory have province/territory-wide legislation specifically dealing with smoking. The majority of these prohibit smoking in public places, including restaurants and bars. Some prohibit smoking in workplaces.

USA - Many states have laws prohibiting smoking in public places, excluding restaurants and bars. Five states have state-wide laws prohibiting smoking in restaurants and bars: California, New York, Maine, Connecticut and

Delaware. 100% smoke-free laws are under active consideration in other states. Florida, Utah and Vermont have state-wide laws banning smoking in restaurants.

South America

Apart from Brazil which has enacted strong tobacco control legislation including a ban on smoking on public transport and some restrictions on smoking in workplaces and public places, most countries have few restrictions. About half ban smoking in health institutions and less than half have bans on smoking in public transport.

Appendix 2

The following statistics on the effects of smoking on health is produced by ASH (Action on Smoking and Health):

- About 12 million adults in the UK smoke cigarettes – 27% of men and 25% of women. There has been a decline in the smoking population in recent years but this is mainly concentrated in older age groups, almost as many young people are taking up smoking but more established smokers are quitting. (based on these percentages it is likely that approximately 783 staff in the Council smoke)
- Tobacco use kills around 114,000 people in the UK every year, more than 300 every day and accounts for 20% of all deaths.
- About half of all regular cigarette smokers will eventually be killed by their habit.
- Smoking causes at least 80% of all deaths from lung cancer, around 80% of all deaths from bronchitis and emphysema and around 17% of deaths from heart disease.
- 30% of all cancer deaths can be attributed to smoking. Cancers other than lung cancer which are linked to smoking include:

Cervical cancer	Cancers of the mouth, lip and throat
Cancer of the pancreas	Bladder cancer
Cancer of the kidney	Stomach cancer
Liver cancer	leukaemia

- Fewer than 10% of lung cancer patients survive five years after diagnosis.
- Cigarette smoking increases the risk of having a heart attack by two or three times, compared with the risk to non-smokers.
- People who smoke and drink alcohol regularly are at greater risk of mouth and throat cancers.
- Exposure to other people's tobacco smoke has been linked with the following health problems in adults:
 - increased sensitivity and reduced lung function in people with asthma
 - irritation of the eye, nose and throat
 - reduced lung function in adults with no chronic chest problems

The BMA has conservatively estimated that second hand smoke causes at least 1,000 deaths a year in the UK. The true figure is likely to be higher.

A professor from the Imperial College of London estimated that exposure at work leads to approximately 700 deaths a year from these causes.

- Polls show that people underestimate the health risks of smoking and the effects of passive smoking.