

Agenda Item No: 15
Report To: Cabinet
Date of Meeting: 7th December 2017
Report Title: **Public Health Matters – Smoke-free Civic & Stour Centre grounds**
Report Author & Job Title: Sheila Davison – Head of Health, Parking & Community Safety
Portfolio Holder Councillor Bradford - Portfolio Responsibility for Highways,
Portfolio Holder for: Wellbeing and Safety



Summary: This report seeks cabinet support for the introduction of a trial scheme to promote the Civic & Stour Centre as smoke-free grounds. This forms part of the Ashford Health & Wellbeing Board's work programme which is helping to create a healthy environment for our residents, visitors and employees. It supports the council's welfare initiatives and the Stour Centres wellbeing objectives.

Key Decision: NO

Significantly Affected Wards: Not applicable

Recommendations: **That cabinet supports the introduction of a trial scheme to promote the Civic & Stour Centre as smoke-free grounds.**

Policy Overview: Smoking is a priority area for the Ashford Health & Wellbeing Board. This proposal builds on other projects undertaken by the Council including smoke-free play areas and school gates. It is in accordance with the Council's corporate plan.

Financial Implications: There will be initial set-up costs, including signage, advertising consent, creation of communication resources and so on. These will not be significant.

Legal Implications: The scheme, as it applies to the existing external areas, is not legally enforceable. In the case of Council employees, however, the current smoking policy, and the areas covered by that policy remain operational and can be enforced through the conditions of service. While the extended area will not be enforced, the situation will be monitored over the 18-month trial period. If the spirit of this change is ignored then we will need to incorporate this within a subsequent review of the smoking policy. The dropping of cigarette ends will be enforced through the Council's littering controls.

Equalities Impact Assessment: See Appendix D

Other Material Implications: None

Exempt from Publication: **NO**

Background Papers: **None**

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Report Title: Public Health Matters – Smoke-free Civic & Stour Centre Sites

Purpose of the Report

1. This report seeks cabinet supports for the recommendation to introduce a trial scheme to promote the Civic & Stour Centre as smoke-free grounds. The trial to run for an 18-month period starting in late January 2018.

Proposal under consideration

2. To widen the smoke-free perimeter around the Civic & Stour Centre to include land up to the roadway that runs through the grounds as well as the footpath alongside the river adjacent to the Stour Centre, towards the station. People who smoke or vape will be asked to stand outside this area. Suitable signage will be provided to indicate the grounds are smoke-free area.

Why do this?

3. The reasons for promoting the Civic & Stour Centre going tobacco free are compelling for anyone working to improve health and wellbeing. Smoking remains the leading cause of premature death in the UK and is responsible for half of the health gap between the poorest and most affluent communities. This is an opportunity that we must take and act upon, not only to reduce the burden of smoking on our health services, but also to reduce ill health and save lives and thus bring huge benefits for individuals, their families and friends.
4. The cost of smoking in Ashford alone amounts to £39.8m per annum. £23.2m of this are costs to local businesses and employers in loss of productivity and sickness absences. £5.2m is attributed to treating smoking related ill health in the NHS and a further £0.3m due to passive smoking. Nearly £3m is spent on the effects of smokers' and ex-smokers' poor health later in life as a result of smoking related illness.
5. The government has set a national target for reducing smoking prevalence to 12% by 2022 which means Ashford will need to reduce its current prevalence figure by a further 5.4%. This is one of the initiatives we will use to work towards this target by motivating and supporting people to quit smoking.
6. Details on how Ashford is intending to tackle smoking are outlined in the Ashford Smoking Action Plan available within the papers for the last Ashford Health & Wellbeing Board meeting available at <http://vm-abcapps/committeeSystem/CommitteeDetails.aspx?Committeeld=71>.
7. Further information on Ashford smoking prevalence is provided at Appendix A.

Objectives for introducing smoke-free grounds

8. These are:
 - To help create a 'new normal' whereby people become accustomed to not expecting to smoke on sites which are working to improve health and wellbeing
 - To support workplace health & welfare and to encourage and support our staff and others who wish to stop smoking
 - To support other health related bodies who are or are working towards becoming smoke-free sites e.g. the local hospital
 - To support the Ashford Health & Wellbeing Board reduce smoking prevalence and help KCC to achieve its health & wellbeing objectives
 - To build on our smoke-free school gates and play areas projects
 - Reduce the harms caused by second hand smoke

Scope

9. Signage will be placed around the perimeter of the Civic & Stour Centre site asking smokers not to smoke within the immediate vicinity of the both buildings and sections of the car park closest to the Civic & Stour Centre buildings.
10. Clarity over the area covered is important particularly for members of staff as there will be no designated area for smoking and it will be expected that staff move beyond the boundary of the designated area if they need to smoke. It is proposed that vaping be treated in the same way as smoking for the purpose of this scheme.
11. A map showing the proposed smoke-free area is provided at Appendix B. The existing areas used by smokers and vapers will no longer be so "designated".

Timing

12. It is proposed to introduce the scheme in late January 2018 as soon as the required advertising consent has been obtained for the signage. It is proposed to operate the scheme for an 18-month trial period. This will provide time to assess its success in terms of compliance and identify any necessary changes within the Council's policy or other arrangements.

Compliance and support to quit smoking

13. This is not about forcing people not to smoke in what is a public space but about asking and encouraging them not to smoke on our site. It is about getting them to think about where they smoke, to support them to stop smoking and help to create a healthy environment for all. Staff, tenants & visitors to the Civic & Stour Centre will be given sufficient advance warning and clear information so they know what to expect. HR and Customer Services will

provide support to staff who would like support to give up smoking. Training will also be offered to staff to become quit coaches so that they can provide practical advice on stopping smoking and can signpost people to quitting support.

14. With regard to Council employees, smoking in areas that are not permitted is already covered by our Conditions of Service and employees who breach the policy may be liable to disciplinary action.
15. Anyone who drops a cigarette end on the site can, however, face enforcement action under the Council's littering provisions.
16. There is a risk that the request not to smoke in the extended area will be ignored and this is increased by the fact there is no intention, or indeed ability, to enforce the enlarged area. The aim is, however, to encourage and support people to give up smoking rather than punishing them.
17. ONE YOU services will provide access to quitting support, and we will run our usual wellbeing initiatives providing smoking quit club run in January each year by the NHS and supporting the Stoptober initiative or other national smoking days.
18. Smoke-free public places is about creating a 'new normal'. There is no intention to make any changes to the Council's Smoking Policy, although a review will be undertaken after the trial to determine if the policy requires amendment.

Council's Smoking Policy

19. At present, the Council's Smoking Policy states that staff can only smoke or vape when working or visiting any workplace owned or managed by the Council if they are at least 5m from any door, openable window or air intake. It further states that smoking while on duty will only be allowed in designated smoking areas.
20. A copy of the Council's current Smoking Policy is provided at Appendix D.

Costs

21. Going smoke-free is about much more than requiring smokers to move away from the Civic and Stour Centre to smoke - it is primarily about helping staff who smoke to quit and raising public awareness at the same time. There are initial set-up costs, including new signage, advertising consent and creation of communications resources and so on. Investment will also be need in terms of staff time supporting staff and providing access to quitting support. Fewer employees that smoke pose a potential saving to employers through reduced sick leave and improved productivity costs.

Will this mean staff take longer breaks to smoke?

22. The Council will do all it can to help its staff who smoke to quit, or for those who aren't ready to stop in one step, to reduce the harm from smoking. Over time, the number of smokers will reduce and therefore the time taken for breaks will diminish. The Council's Smoking Policy covers recording time taken during smoking breaks and this also includes time vaping.

Will people smoking at the boundary of the site brings its own problems?

23. The boundary has been set to avoid smokers being displaced to neighbouring residential premises. This is one reasons why North Park has not been included in the scheme.
24. If the right building blocks are in place, the number of people smoking on the site will be minimised. This includes:
 - Clear communications, so that employees, others working at the Civic Centre and Stour Centre know in advance of coming that they won't be able to smoke or vape on-site
 - On-site quitting advice and support for all employees and those who work or visit us.

Implications and Risk Assessment

25. The scheme as it applies to the extended external areas is not legally enforceable. In the case of Council employees, however, the current Smoking Policy, and the areas covered by that policy remain operational and can be enforced through the conditions of service as relevant to the Council's existing smoking policy.
26. While the extended area will not be enforced, the situation with regard to Council's employees will be monitored over the 18-month trial period. If the spirit of this change is ignored then we will need to incorporate this within the review of the smoking policy. The dropping of cigarette ends will be enforced through the Council's littering controls and this covers all users of the grounds i.e. staff and public alike.

Equalities Impact Assessment

27. Members are referred to the equality impact assessment provided at Appendix D.
28. This concludes that smoke-free grounds is being pursued on an equitable basis. It does not breach any human rights but acknowledges that there is great public health good that can be achieved those smoking-free programmes. All staff will have access to quit support and they are permitted to smoke outside the designated smoke-free area. The policy promotes positive health and

wellbeing for all. Smokers may see this as an infringement upon their perceived right to smoke. This is not however specific to protected characteristic groups. The policy builds on existing council activity in this area and it will help to reduce smoking prevalence as not smoking in public areas become the norm.

Consultation Planned or Undertaken

29. The proposals have been developed collaboratively with the Ashford Smoking Task Group and have the full support of KCC Public Health. The proposals are backed by the Ashford Health & Wellbeing Board and have significant support from the Portfolio Holder with responsibility for Wellbeing and Safety, KCC Director of Public Health and Ashford Borough Council Chief Executive.
30. The proposals have been developed with Ashford Leisure Trust (ALT) who are keen to introduce smoke-free grounds as this aligns with their core health and welfare objectives.
31. An on-line survey was conducted of Civic Centre staff and this was also made available to our tenants (i.e. Public Health England, DSA & Chapel Down) and also and the Ashford Leisure Trust. A hard copy survey form was made available at both the Civic Centre & Stour Centre receptions for visitors to both buildings.
32. The results of the survey, which closed on the 31st October 2017, showed support for introducing smoke-free grounds. In total 214 responses were received with 70.19% supporting the introduction of smoke-free grounds within the Civic and Stour Centre. There were 26.92% against the proposal and 2.88% were unsure. Details of the responses to the survey questions, including the issued raised within a free text area of the on-line survey, were shared with the Joint Consultative Committee (JCC) that considered this proposal on the 2nd November 2017.
33. A summary of the additional comments received via the survey are summarised below. They are grouped into those comments against the proposal and those in support:

Against

- a. The current arrangements are adequate
 - b. Concern that the scheme would create additional work for officers whose time would be better spent on other issues
 - c. There haven't been concerns raised so why introduce the changes
 - d. Represents unnecessary interference into people's lives
- a. Smokers should have a properly designated smoking area which is a safe area for them
 - b. Smokers are considerate and not affecting other users of the grounds
 - c. Being able to take a smoking break reduces stress
 - d. Standing in the rain to smoke is not helpful
 - e. The area currently used by smokers (i.e. the Stour Centre undercroft) doesn't affect anyone and should be preserved
 - f. Could push smokers into Mill Court or onto North Park

- g. There is nothing worse than witnessing staff grouped outside public buildings smoking, better to designate a single location within the grounds but away from windows & pedestrian routes
- h. Question over how the area would be enforced in relation to the public
- e. Concerns relevant to use of illegal drugs in the vicinity
- f. Staff will have further to go for the smoking breaks
- g. Breach of smokers' rights
- h. Unlikely to be successful if not enforceable
- i. Smoking is legal and this proposal marginalises smokers even more
- j. Smoking is an addiction and requires support to quit rather than segregation and alienation
- k. Need to prevent anti-social behaviour under the Stour Centre rather than including illegal drug use

Support

- a. Smoking should be discouraged on all council land
- b. Staff should not be able to use the flexi-scheme during core hours to take a smoking break, it gives a poor impression to visitors
- c. Prevents staff time being wasted
- d. Allowing smoking breaks is unfair on non-smokers
- e. Some private sector companies only permit smoking during lunch hour
- f. The proposal should also apply to vapers
- g. Staff should not smoke, even if it is away from the building
- h. Support is available to help people quit and the scheme will help encourage more to quit
- i. The distance smokers are being asked to move away is not far
- j. The proposal is a declaration of our support for staff wellbeing and residents
- k. Smoke-free areas are beginning to be common place
- l. The area should be larger to encompass the skate park, old KCC car park area and land right up to the river
- m. There is too much smoking under the Stour Centre currently
- n. The current 5m rule doesn't work as smoke can still drift into the building, the new area will provide proper protection
- o. Smoking should be totally banned
- p. Staff should not be exposed to second-hand smoke when on the way to and from the office
- q. Current area used by smoke is visible to public and young people and is not ideal. Importance setting a good example to the young people in the Civic and Stour centre grounds and related to this the suggestion that the skate park could be included
- r. Important part of motivating change

- 34. In total, comments were received on 104 surveys.
- 35. The proposals (which at that time suggested vaping would not be included in the widened smoke-free area) were considered by the JCC on the 2nd November 2017.
- 36. While many of the points raised at JCC reflected the feedback from the survey, it is appropriate to reflect the discussion that took place. An extract from the minutes of the meeting is provided as follows (minute reference JCC 2/11/17):

- There was some unease about the how the proposals would be policed and enforced. They were not legally enforceable and there were currently no proposals to amend the existing Smoking Policy or Conditions of Service. Penalty Charge Notices could not be issued although anyone who dropped a cigarette end on the site could face enforcement under the Council's littering provisions. The situation would be monitored over the 18-month trial period and if the spirit of the change was ignored it may need to be incorporated in to a subsequent review of the Policy.
- On the issue of enforcement, it was considered that different standards would be applied to members of staff and the public, and this would be unfair. Whilst staff may not be disciplined in the traditional sense, they would inevitably be targeted more readily than members of the public. In addition, there was a perception that one of the main drivers for this was the fact that members of the public often gathered under the sheltered car park to smoke cannabis, and staff were being punished for this which again appeared unfair.
- The current arrangements provided a designated sheltered area for smoking and surely this was preferable to having smokers scattered in different locations out in the open air, including potentially in the middle of North Park, the public pathways approaching the Civic/Stour Centre and the Mill Court housing area.
- People knew where the existing area was and could avoid it if they wanted to. If the idea was to make smokers less visible, and second hand smoke less prevalent, this was likely to have the opposite effect. It was considered that not enough thought had gone in to this element of the proposals and there were other ways of achieving the same objectives.
- Vaping had not been included in the proposals, but some staff had expressed the view that they found this more anti-social than smoking and as there was no firm evidence about the safety or otherwise of vaping and an admission that further research was needed, should this not be treated the same as smoking? [It was] advised that whilst vaping may be considered anti-social, the smoking measures had been proposed for health reasons rather than anti-social ones. Many smokers found e-cigarettes helpful for quitting and remaining a non-smoker. E-cigarettes also carried a fraction of the risk associated with cigarettes (around 95% safer).
- Motivation to quit smoking was an emotive point but it was considered that the majority of smokers would give up when they were ready to do so, rather than because they were told to do so.

37. The JCC requested that the feedback be included within this report and the points raised be further considered. The necessary consideration has taken place and addressed within the next section of the report.

Other Options Considered

38. Not implementing the proposal is an option, however, this would miss the opportunity to promote smoke-free areas and reduce smoking prevalence.
39. The possibility of extending the area further e.g. into North Park, was considered, however, there is a desire not to have a boundary from the smoke-free area that is close to residential premises i.e. Mill Court. The proposed area is also naturally marked by roads/paths and takes in the existing smoke-free play areas. The displacement of smokers will be considered as part of the schemes evaluation.
40. In regard to council employees, an alternative option would be to immediately alter the smoking policy to prohibit smoking within the expanded area. A trial period will, however, provide an opportunity to gauge support for the scheme and overcome any potential challenges without the threat of employment sanctions. The scheme is aimed at helping smokers and the trial will also provide an opportunity to give quick support.
41. The policy is not, however, preventing for staff from smoking, just asking them to move a little further from the building. In fact the distance between the area currently used by the majority of smoker is only a matter of meters away from the new boundary. Staff are not being asked to stop smoking, they are just being asked to move to another area. The area currently used by smokers is in any case some distance from the building in order to avoid doors and windows. Further comment on the fairness of the scheme is provided within the attached Equality Impact Assessment. With regard to staff being more visible, as a consequence of removing the 'designated' area, it maybe that staff are less likely to congregate in a single location and therefore less likely to draw attention to the public. It is noted that the number of smokers as a percentage of total Council's employees is relatively low (estimated at approximately 3% i.e. 12 smokers of) and therefore the impact on the public in terms of visibility is not considered to be significant especially when weighed against the potential benefits of the scheme.
42. In the survey and proposal as submitted to JCC, vaping was permitted within the smoke-free area. The proposal was made on the basis that many find switching to e-cigarettes useful which quitting smoking and Public Health England estimates that e-cigarettes are around 95% less harmful than tobacco. There are currently 2.9 million vapers in the UK – around 97% of users are current or former smokers. The Government made the positive decision to feature use of e-cigarettes in this year's Stoptober campaign.
43. The results of the survey (as supported by JCC) do, however, indicate, that most who thought smoke-free grounds should be introduced and the area widened, also thought that vaping should be treated in the same way. Of those who supported the proposals, 122 **also** wanted vaping treated in the same way as smoking, as opposed to 26 who supported the proposal regarding smoking **but not** vaping. The proposal as presented in this report has therefore been modified to consider this view. The difficulty of distinguishing cigarette smoke from vape from e-cigarettes was also a consideration when making this change to the original proposal.

Reasons for Supporting Option Recommended

44. The option recommended will achieve the necessary behaviour change overtime and provide additional motivation for people to quit smoking.

Next Steps in Process

45. If agreed, the proposals will be implemented towards the end of January 2018. The necessary signage will be installed before then and communication with staff and public.
46. The operation of the scheme will be reviewed in 18-months from the date of implementation. Depending on the outcome of the trial, the Council's Smoking Policy will be reviewed. Evaluation will can include an assessment of compliance levels, identification of any issues relevant to the actual defined area, review of signage locations, level of complaint/compliments, press coverage analysis. It will also be important to look at take up of quit support, adapt or enhance arrangements to support staff to quit (i.e. is there more that we can do), the current evidence for an against permitting vaping within the grounds, wider smoking prevalence trends, and most importantly feedback from those who work or visit the Civic and Strour Centre.

Conclusion

47. Achieving further reductions in smoking prevalence is challenging but the bottom line is clear: we need to support smokers not to smoke. Having a smoke-free site illustrates our commitment to reduce smoking prevalence within our community and line with our health and wellbeing aspirations. This is about providing community leadership for what is a vitally important public health issue.

Portfolio Holder's Views

48. I could not be more supportive of this proposal. It is imperative for the Council, and indeed other public bodies, to lead the way in reducing smoking prevalence and doing this in a way that supports people. We have a real opportunity through this and other initiatives such as smoke-free play areas and school gates to demonstrate our commitment to our community's health and wellbeing.

Councillor Brad Bradford - Portfolio Responsibility for Highways, Wellbeing and Safety

Contact and Email

49. Sheila Davison – Head of Health, Parking & Community Safety – 01233 330224

Statistics on Smoking in Ashford

January 2017

A significant Health Issue

Raising Awareness

Ashford HWB is committed to helping reduce smoking prevalence in the Ashford population.

Smoking and health

Smoking is a risk factor for lung cancer, COPD, heart disease and cancers of the lip, mouth, throat, bladder, kidney, stomach, liver and cervix.

Smoking rates

The highest levels of smoking are estimated in:

22.5%
Stanhope ward

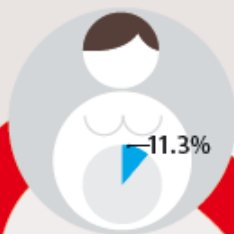
20.9%
Victoria ward

20.8%
Norman ward

20.8%
Aylesford Green

Smoking in pregnancy

In 2015-16 11.3% of births were to women who were smokers in pregnancy.



Cost

Each year, smoking in Ashford costs the community £34.3m and the NHS across Ashford £5.5m.

£34.3m



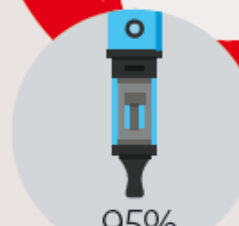
Smoking rates among young people

Some Youth Workers in Ashford will become Quit Coaches to support young people who want to give up smoking.

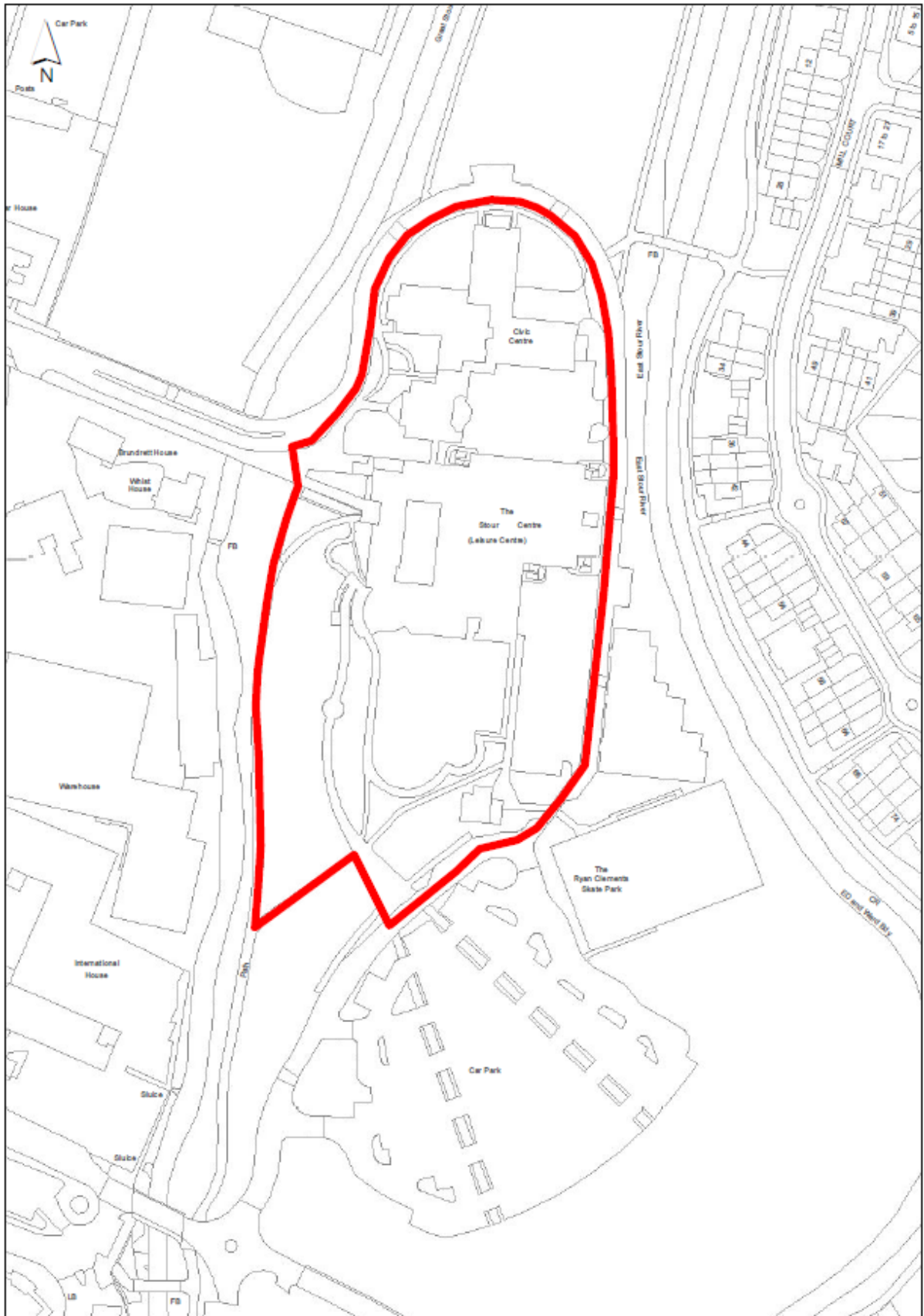


E-cigarettes

Public Health England reports that e-cigarettes are around 95% less harmful than tobacco.



Appendix B – Smoke-free area



Appendix C – Current Council Smoking Policy

Smoking

- [Introduction](#)
- [General principles](#)
- [Definition of the workplace](#)
- [Permitted smoking areas](#)
- [Time recording](#)
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- [Clients](#)
- [Residential accommodation](#)
- [Buildings leased or hired to other parties](#)
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1 Introduction

- 1.1 Second hand exposure to tobacco smoke is recognised to be a risk factor for lung cancer and heart disease in non-smokers, as well as many other illnesses.
- 1.2 The Council acknowledges that breathing people's smoke is a public health hazard. Therefore, the following policy has been agreed between the Council, Unison and the Staff Representatives concerning smoking in the workplace.
- 1.3 This policy also complies with the smoke free provisions of the Health Act 2006.

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2 General principles

- 2.1 This policy seeks to guarantee non-smokers the right to work in air free of tobacco smoke, while also taking account of the needs of those who smoke. The majority of premises directly managed by the Council will be designated smoke free. This includes not only the smoking of tobacco in all forms, but also the smoking of herbal substitutes.
- 2.2 Although they fall outside the scope of current smoke-free legislation, the Council also prohibits the use of electronic cigarettes in the workplace.
- 2.3 Smoking, in all forms, will not be allowed in any part of a building or vehicles owned or managed by the Council. Smoking while on duty will only be allowed in designated, outdoor areas.

3 Definition of the workplace

- All indoor premises owned or operated by the Council;

- All official vehicles will be smoke free at all times (including the Mayor's car and vehicles carrying the Council's logos).

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4 *Permitted smoking areas*

- 4.1 Staff working at or visiting any workplace owned or managed by the Council whilst on duty may only smoke when they are at least 5 metres from any door, openable window or air intake.
- 4.2 Staff using the permitted smoking areas are responsible for maintaining the tidiness and cleanliness of the areas by ensuring the appropriate disposal of cigarette butts etc.

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5 *Time recording*

- 5.1 Staff taking time to smoke must log in and log out on their Portal Timesheets.
- 5.2 Managers are required to monitor the recording of their staff's smoking breaks to ensure that there is no abuse of this provision.

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6 *Lease cars*

- 6.1 An officer with a lease car must not smoke in their car whilst conveying passengers as part of their official duties.

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7 *Clients*

- 7.1 Officers are not permitted to smoke while in the homes of clients regardless of whether or not the client smokes. If clients insist on smoking in front of officers the officer should ask the client to stop, providing they feel it is safe to do so. Officers may report the incident to their line manager who should write formally to remind the client of our policy.

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8 *Residential accommodation*

- 8.1 Officers working at or visiting in the course of their duties any residential accommodation must not smoke. Residents may smoke in their own rooms.

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9 *Buildings leased or hired to other parties*

- 9.1 The relevant service areas are responsible for ensuring that the person in control of the premises is informed that the building must be smoke free and it is their duty to prevent users from smoking whilst the building is leased/hired to them.

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10 *Occupational health*

10.1 An officer who is seeking assistance to give up smoking should contact their GP for advice on practical support or the NHS Stop Smoking services.

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11 *Enforcement*

11.1 Employees who breach this policy may be liable to disciplinary action.

11.2 Staff should be aware that they may be liable for a fixed penalty fine outside this policy in the same way as all members of the public are.

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12 *Responsibilities*

12.1 Managers are responsible for informing their staff of this policy and to enforcing it by taking action where there are breaches.

12.2 The Head of Personnel and Development is responsible for:

- Informing all applicants to posts that that the Council has smoke free workplaces;
- Informing staff of facilities offered to assist them to stop smoking;
- Updating this policy.

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Policy Agreed: JCC September 2014

Appendix D

Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:

- (a) Eliminate discrimination, harassment and victimisation;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.

6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:

- removing or minimising disadvantages suffered by people due to their protected characteristics.
- taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.

- encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances. The greater the potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.
8. In terms of timing:
- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
 - Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
 - The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
 - The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
 - The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
 - The duty is a continuing one so that it needs to be considered not only when a policy, for example, is being developed and agreed but also when it is implemented.
 - It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
 - A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
 - A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:
- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
 - Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. *[Equality Duty in decision-making](#)*

Lead officer:	Sheila Davison
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	To introduce smoke-free grounds around the Civic and Stour Centre. This represents an amendment to the current arrangements and will be operated on a trial basis for 18-months starting 1 January 2018.
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	7 December 2017
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	Aim and objective: Smoke-free areas are part of a wider aim to reduce smoking prevalence. The objectives are: <ul style="list-style-type: none"> • To help create a 'new normal' whereby people become accustomed to not expecting to smoke on sites which are working to improve health and wellbeing • To support workplace health & welfare and to encourage and support our staff and others who wish to stop smoking • To support other health related bodies who are or are working towards becoming smoke-free sites e.g. the local hospital • To support the Ashford Health & Wellbeing Board reduce smoking prevalence and help KCC to achieve its health & wellbeing objectives • To build on our smoke-free school gates and play areas projects • Reduce the harms caused by second hand smoke Key actions: To introduce a voluntary smoke-free area providing signage and using other communication methods. Also to provide support to those wishing to quit smoking. Expected outcomes: Reduction in smoking prevalence and all associated health and welfare benefits. Who will be affected and how: <i>Internal staff resources:</i> Staff will be asked not to smoke or vape in the new area. The existing smoking area will no longer be so designated.

	<p><i>Businesses:</i> No direct consequences. Tenants of the Civic Centre and their employees will also be encouraged not to smoke within the Smoke-free area.</p> <p><i>Public.</i> There is no intention, or indeed possibility, of enforcing the smoke-free area.</p> <p>How many people will be affected:</p> <p>'The public' refers to all those using Civic and Stour Centre. As the policy is likely to attract attention beyond the borough boundaries there is potential to influence others.</p>
<p>Information and research:</p> <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. 	<p>The proposals build on guidance issued by Public Health England. See also the National and Kent tobacco control and smoking strategies.</p>
<p>Consultation:</p> <ul style="list-style-type: none"> • What specific consultation has occurred on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p>Staff consultation via survey money also made available to ALT for their staff. Survey form provided at Civic Centre and Stour Centre reception for those who visit both buildings. Survey also made available to Civic Centre tenants.</p> <p>No public consultation other than via the reception surveys.</p> <p>Scheme developed in consultation with KCC Public Health and will the support of the Ashford Smoking Task Group and parent Health & Wellbeing Board.</p> <p>Consultation with HR and legal colleagues on the implications.</p>
<p>Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.</p> <p>When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.</p>	

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	None	Positive (minor)
Middle age	None	Positive (minor)
Young adult	None	Positive (minor)
Children	None	Positive (minor)
<u>DISABILITY</u> Physical	Low	Negative (minor)
Mental	None	Positive (minor)
Sensory	None	Positive (minor)
<u>GENDER RE-ASSIGNMENT</u>	None	Positive (minor)
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	None	Positive (minor)
<u>PREGNANCY/MATERNITY</u>	None	Positive (minor)
<u>RACE</u>	None	Positive (minor)
<u>RELIGION OR BELIEF</u>	None	Positive (minor)
<u>SEX</u> Men	None	Positive (minor)
Women	None	Positive (minor)
<u>SEXUAL ORIENTATION</u>	None	Positive (minor)

<p>Mitigating negative impact:</p> <p>Where any negative impact has been identified, outline the measures taken to mitigate against it.</p>	<p>The policy promotes positive health and wellbeing. Those who smoke will however have further to go to access an area not covered by the smoke-free area. The distance is, however, minimal and the current 'designated' smoking area is, by necessity, at a distance for the building or windows.</p>
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Is the decision relevant to the aims of the equality duty? No

Guidance on the aims can be found in the EHRC's *Essential Guide*, alongside fuller *PSED Technical Guidance*.

Aim	Yes / No / N/A
1) Eliminate discrimination, harassment and victimisation	No
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	No
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	No

Conclusion:

- Consider how due regard has been had to the equality duty, from start to finish.
- There should be no unlawful discrimination arising from the decision (see guidance above).
- Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified.
- How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported?

Equality considerations: Smoke-free grounds is being pursued on an equitable basis. It does not breach any human rights but acknowledges that there is great public health good that can be achieved through those smoking-free programmes. All staff will have access to quit support and they are permitted to smoke outside the designated smoke-free area. The policy promotes positive health and wellbeing for all. Smokers may see this as an infringement upon their perceived right to smoke. This is not however specific to protected characteristic groups. The policy builds on existing council activity in this area and it will help to reduce smoking prevalence as not smoking in public areas become the norm.

Monitoring the success or otherwise will be monitored over the 18-month trial period.

Equality Duty: The extended smoke-free area does not have any adverse impact by disadvantaging any of the equality groups.

EIA completion date:

24 October 2017