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**Report of Rachel McCormack, Team Manager, Health & Safety**

**Report to: Licensing Committee**

**Date: 13<sup>th</sup> March 2014**

**Subject: Shisha Smoking and Smoke Free Legislation Update Report**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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**Summary of main issues**

1. This update report has been provided at the request of Licensing Committee, following on from the report 'Shisha Smoking and Smoke Free Legislation' presented at October's Committee.
2. Funding for the Niche Tobacco Education Project was extended until March 2014.
3. The Health and Safety Team continues to work with other internal, local and national partners on the issue. This is largely done via the Licensing Enforcement Group, and National Networks which are being developed. Public Health England is due to publish a 'shisha toolkit' for Local Authorities at the end of April.
4. Some premises are continuing to allow shisha smoking indoors, contravening smoke free legislation.
5. Shisha smoking has significant public health implications.
6. Advisory visits have been carried out at know shisha premises in the area. Follow up multi agency visits were then carried out to 3 premises, and prosecution files have been submitted to legal services. Further multi agency visits are planned.

## **Recommendations**

7. The Committee is asked to support the following staged approach to dealing with shisha smoking indoors:

The Council and its partners will educate the community about the dangers of shisha smoking.

The Council will carry out advisory visits to such premises and work with the business to secure compliance with smoke free legislation. These visits will serve as warnings to the business.

The Council will work with partners, and use best practice to take enforcement action against those who do not respond positively to warnings.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to provide an update on Shisha, and the on-going enforcement work of the Health and Safety Team and it's partners. It follows on from the report 'Shisha Smoking and Smoke Free Legislation' which was presented to Licensing Committee in October 2013.

## **2 Background information**

- 2.1 The October report provided information on the Health Act 2006, which prohibits smoking in enclosed workplaces and public places. It also gave information on shisha and shisha smoking, including the health effects, as well as education and enforcement work.
- 2.2 From research, the World Health Organisation (WHO) concludes that the volume of smoke inhaled in an hour-long shisha session is estimated to be the equivalent of smoking between 100 and 200 cigarettes. Traditionally, shisha tobacco contains cigarette tobacco, so contains nicotine, tar, carbon monoxide and heavy metals such as arsenic and lead. So a regular shisha smoker can expect the same health problems as a cigarette smoker, including heart disease, cancer, respiratory disease and problems during pregnancy. As with other tobacco products, regular shisha smokers are likely to find it addictive. When tobacco free shisha is used, there is still a risk from the carbon monoxide and any toxins in the coal or charcoal used to burn the shisha. There is also a risk to anyone nearby from passive smoking and carbon monoxide etc.
- 2.3 According to research carried out by the World Health Organisation (WHO), the volume of smoke inhaled in an hour-long shisha session is estimated to be the equivalent of smoking between 100 and 200 cigarettes. The estimated findings go on to show that, on average, a smoker will inhale half a litre of smoke per cigarette, while a shisha smoker can take in anything from just under a sixth of a litre to a litre of smoke per inhale.
- 2.4 An officer from the Health and Safety Team has completed national shisha surveys on behalf of the Council. This information and that from other local authorities is being used by Public Health England to produce a 'shisha toolkit'.
- 2.5 Due to the wider public health implications of shisha smoking, making approaches to the Local Government Authority has been discussed with Public Health colleagues within the Council. Advice from the public health consultant was to make these approaches via Public Health England, and to do this after the publication of their 'shisha toolkit', which is due towards the end of April 2014.
- 2.6 The Council has signed up to the CLear (Challenge, Leadership and Results) partnership in relation to tobacco control which gives councils, charities and professional bodies the opportunity to come together to address local tobacco control.

### **3 Main issues**

- 3.1 Since the last report, an officer from the Health and Safety Team attended the first National Shisha Conference, which was hosted by Leicester City Council. The purpose of the conference was to share best practice and ideas for tackling shisha smoking indoors. The key messages from the conference were that Local Authorities should work together on the issue, and in order to make an impact, various partners needed to be on board. This confirmed the approach Leeds is taking is the right way forward.
- 3.2 The Health and Safety Team completed advisory visits to the known shisha premises in the district – this information was gathered by the team and from other partners.
- 3.3 A multi-agency operation then took place in November. This was organised by the Health and Safety Team, and included the Police, Licensing, HM Revenue and Customs and Trading Standards. 3 premises were visited and all found to be allowing 'smoking in a smoke free place'. The Health and Safety Team have submitted prosecution file to legal, for these offences.
- 3.4 Those involved in the operation met at the Police station and were split into teams. An officer from the Health and Safety Team gave a short briefing to all partners. The premises were then visited, and the person in control identified. Interviews under caution were carried out on site. Evidence was gathered, including taking photographs of the hot coals, and lit pipes. HMRC seized shisha from all 3 premises where the person in control was unable to prove that duty had been paid.
- 3.5 At the beginning of March, further visits were made to these premises, by Officers from the H&S Team and Police colleagues. One of the premises was not open, and the other 2 were found to be continuing to allow smoking in a smoke free place. These matters are being discussed with legal.
- 3.6 Following the November visits, information was reported back to planning colleagues and used to assist planning in some enforcement action. To assist the H&S team in prioritising premises for the next multi agency visits, partners, including Community Safety have been consulted with. A plan is in place for multi-agency visits to take place throughout the year. Additional visits may also be carried out at the request of partners, as and when this is requested / required.
- 3.7 As part of it's membership to the CLear partnership, on 28<sup>th</sup> March 2014, the Council is due to undergo its CLear (Challenge, Leadership and Results) peer assessment in relation to tobacco control. This assessment will help the Council demonstrate excellence in tobacco control, and identify any areas for improvement. (a verbal update on this will be provided during the report presentation). The assessment will include contributions from a number of internal and external partners and covers issues such as defining local priorities, engagement with politicians, leaders and communities, cross boundary and partnership working and enforcement.

- 3.8 The Health and Safety Team Manager continues to attend the Council's Tobacco Control Management Meetings, working with Public Health and other colleagues from within the Council, as well as Trading Standards and NHS partners.
- 3.9 Questionnaires issued by Public Health England (PHE) relating to shisha and shisha smoking have been completed on behalf of the Council by the H&S Team Manager. Information provided by the questionnaire has been used by PHE to develop a 'shisha toolkit' for Local Authorities to use.
- 3.10 The Niche Tobacco education project, to raise awareness of the health risks of niche tobacco use in BME communities had funding extended until 31<sup>st</sup> March 2014. This project was run by Trading Standards, in partnership with LCC and NHS Leeds, and covered Beeston, Harehills and Hyde Park & Burley.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The extension of funding for the Trading Standards Niche Tobacco Education Project Tobacco resulted in more frontline works and community groups being educated in relation to niche tobacco use and its associated health risks.
- 4.1.2 The Health and Safety Team is continuing to work with partners, such including Licensing colleagues and the Police to share information and intelligence on shisha premises. Other partner agencies, including Community Safety colleagues have been consulted on which premises to prioritise for the next follow up visits.
- 4.1.3 Attendance at the first National Shisha Conference hosted by Leicester City Council has helped build links nationally, and strengthened the ability to share ideas and best practice. The Health and Safety Team also works closely with West Yorkshire colleagues on various environmental health issues, including shisha.
- 4.1.4 The questionnaire issued by Public Health England was completed on behalf of the Council. This included questions relating to how the Council approached shisha smoking enforcement, associated issues or difficulties and how these have been over-come.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 As previously reported, shisha smoking is traditionally used by people from Middle Eastern or Asian community groups, but is now becoming increasingly popular among all groups in cities across the UK.
- 4.2.2 Funding for the Niche Tobacco Project was extended until the end of March 2014, which has meant that Trading Standards has continued working with and educating community centres, Imams from mosques, youth centres, community leaders, children's centres, and primary and secondary schools.

### **4.3 Council policies and City Priorities**

- 4.3.1 Investigation of breaches of smoke free legislation, including in shisha establishments fits in with the priority to be the best city for health and wellbeing, by contributing towards helping protect people from the harmful effects of tobacco.

#### **4.4 Resources and value for money**

- 4.4.1 As mentioned in the previous report, planning and organising multi agency visits to premises outside normal working hours is resource intensive. When prosecutions are taken fines are generally low and do not discourage premises owners from operating. This remains an issue for local authorities throughout the country.
- 4.4.2 Partners work together in order to have maximum impact. Officers from the H&S Team have planned in visits for the rest of the year, with relevant partners.
- 4.4.3 The Public Health England shisha tool kit, due for publication towards the end of April 2014, will assist local authorities when dealing with shisha education and enforcement issues. Once the toolkit has been issued, further discussions will be held with public health colleagues in relation to making an approach to the LGA via Public Health England about the current legislation on the issue.

#### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 Not applicable

#### **4.6 Risk Management**

- 4.6.1 Many of the premises operate outside normal working hours of the team, and there is therefore a potential risk when visiting the premises. This risk is controlled by carrying out intelligence gathering prior to visiting, and in appropriate cases, arranging multi-agency visits.
- 4.6.2 Arranging multi-agency visits is resource intensive, due to time spent planning and co-ordinating dates with partner agencies. To help manage this, a number of dates have been planned throughout the year.
- 4.6.3 Shisha smoking continues to be a real risk to public health, so a combination of outreach and education work is required, along with enforcement. PHE shisha toolkit should assist with this.

### **5 Conclusions**

- 5.1 A number of premises in the City continue to allow smoking indoors.
- 5.2 Smoking shisha has significant health implications.
- 5.3 The Health and Safety Team continues to work with other partners, including Licensing, Planning, West Yorkshire Police, Trading Standards, Public Health Colleagues, Public Health England and other Local Authorities to address the matter.

- 5.4 The Team has a plan in place to tackle this issue, this includes an advisory visit to the business and follow up enforcement visits, which will be prioritised with the help of other partners.

## **6 Recommendations**

- 6.1 The Committee is asked to support the following staged approach to dealing with shisha smoking indoors:

The Council and it's partners will educate the community about the dangers of shisha smoking.

The Council will carry out advisory visits to such premises and work with the business to secure compliance with smoke free legislation. These visits will serve as warnings to the business.

The Council will work with partners, and use best practice to take enforcement action against those who do not respond positively to warnings.