

# CABINET

## SALE OF ELECTRONIC CIGARETTES ON COUNCIL MARKETS

### Report of Chief Officer (Environment)

PURPOSE OF REPORT				
To allow Cabinet to consider whether the sale of electronic cigarettes should be allowed on Council markets				
Key Decision		Non-Key Decision	Referral from Cabinet Member	X
Date of notice of forthcoming key decision	NA			
This report is public				

#### RECOMMENDATIONS OF CLLR BARRY

To be tabled at Cabinet.

##### 1.0 Introduction

- 1.1 The Cabinet Member with responsibility for markets has requested a report to allow Cabinet to decide whether the sale of electronic cigarettes (e-cigs) should be allowed on Council run markets.
- 1.2 Most e-cigs contain a battery, an atomiser and a replaceable cartridge. The cartridge contains nicotine in a solution of either propylene glycol or glycerine and water, and sometimes also flavourings.
- 1.3 When a person sucks on the device, a sensor detects the air flow and starts a process to heat the liquid inside the cartridge, so it evaporates to form water vapour. Inhaling this vapour delivers a hit of nicotine straight to the lungs.
- 1.4 Electronic cigarettes are to be licensed and regulated as an aid to quit smoking from 2016. Until this happens, e-cigarettes are only covered by general product safety legislation. This means there is no certainty as to their ingredients or how much nicotine they contain.
- 1.5 In January the Government announced that they were seeking to ban the sale of e-cigs to under 18s, previously they could be promoted and sold to anybody. The law was introduced as an amendment to the Children and Families Bill, and should come into force by the autumn.
- 1.6 As to whether e-cigs are safe or not it is impossible to say until they have been thoroughly assessed and monitored in a large population over time.
- 1.7 Anti- smoking groups are also lobbying to ban the sale of e-cigs in markets and

car boot sales due to concerns over the potential quality and also safety of sales from non-shop based premises.

- 1.8 Lancaster City Council already has in place an agreed 'Smoke Free Policy' which makes no distinction between tobacco-based products and e-cigs. The smoke free policy applies to users (staff and public) of all Council buildings, including the Festival Market and Assembly Rooms. Many other organisations have taken exactly the same stance.
- 1.9 This means that the use of e-cigs is already banned in Council buildings including the markets.
- 1.10 Requests have been made by market traders to allow the sale of e-cigs on Council markets.
- 1.11 As the requests have come from existing traders who are only allowed to sell what is specified on their license these requests have not been allowed.
- 1.12 Where the request has come from 'would be' traders the principles underlying the 'Smoke Free Policy' have to date been applied.
- 1.13 As things stand the operational practice is that the sale of e-cigs is banned on Council markets.

## **2.0 Proposal Details**

- 2.1 Cabinet are requested to consider what the firm policy with regard to the sale of e-cigs on Council markets should be.

## **3.0 Details of Consultation**

- 3.1 The Director for Public Health in Lancashire was consulted as the person best placed to advise on this matter. Their comments are as follows-

*"The use of electronic cigarettes is becoming more common, both locally in Lancashire and at a national level. However, these products are currently unregulated and unlicensed in the UK and therefore vary widely in their composition. They are currently undergoing thorough research by the UK's Medicines and Healthcare Regulatory Authority (MHRA) and will be licensed for public use in 2016.*

*Electronic cigarette use may retain some people smoking when they otherwise would have stopped. There is currently no medical evidence to support how they can be used to reduce or stop smoking and therefore should not be used as a cessation tool. Smokers wanting to quit should be directed to local Stop Smoking Services – they are four times more likely to quit with support from these services.*

*Electronic cigarette devices also replicate smoking. In addition to creating confusion and undermining compliance with smoke free policies, they also normalise smoking behaviour for children and young people. A 2013 Trading Standards Survey with 18,000 young people aged 14-17 years highlighted that 13% had tried e-cigarettes. This could potentially facilitate a lifelong addiction to nicotine and provide a route into smoking conventional cigarettes. In response, the Government decided to implement legislation to ban sales of e-cigarettes to young people aged under 18 years in January 2014.*

*Therefore, the Director of Public Health, Lancashire County Council would not*

support sale of these products to the public at this point in time.”

#### 4.0 Options and Options Analysis (including risk assessment)

	<b>Option 1: Allow the sale of e-cigs on Council markets</b>	<b>Option 2: Continue to ban the sale of e-cigs on Council markets</b>
Advantages	<ul style="list-style-type: none"> <li>• Provides choice to consumers.</li> <li>• Allows potential for existing traders to diversify (subject to license changes being agreed).</li> <li>• Allows potential for new traders to apply to sell e-cigs</li> </ul>	<ul style="list-style-type: none"> <li>• Maintains the status quo.</li> <li>• Consistent with Council's 'Smoke Free Policy'</li> <li>• Consistent with advice from Lancashire's Director of Public Health.</li> <li>• Consistent with other Council 'wellbeing' initiatives.</li> <li>• Consistent with other Council partners 'wellbeing' initiatives.</li> <li>• Avoids any mixed messages.</li> <li>• Avoids any reputational risks of sales to under 18s</li> </ul>
Disadvantages	<ul style="list-style-type: none"> <li>• Conflicts with Council's 'Smoke Free Policy'</li> <li>• Conflicts with advice from Lancashire's Director of Public Health.</li> <li>• Conflicts with other Council 'wellbeing' initiatives.</li> <li>• Conflicts with other Council partners 'wellbeing' initiatives (e.g. smoking cessation)</li> </ul>	<ul style="list-style-type: none"> <li>• Reduces choice for consumers</li> </ul>
Risks	<ul style="list-style-type: none"> <li>• When the ban on sales to under 18s is enforced in the autumn there is a potential reputational risk to the Council if e-cigs were then sold by an unscrupulous trader to an under 18.</li> </ul>	<ul style="list-style-type: none"> <li>• Would be traders in e-cigs will go to other markets that allow the sale of e-cigs</li> <li>• Existing traders who want to sell e-cigs will take their trade to markets that allow the sale of e-cigs</li> </ul>

	<ul style="list-style-type: none"> <li>Once further work has taken place to establish the safety of e-cigs it may be that they are only available for sale from specified outlets which means that existing traders would have to cease the sale of e-cigs.</li> </ul>	
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**5.0 Officer Preferred Option (and comments)**

5.1 The Officer preferred option is option 2- Continue to ban the sale of e-cigs on Council markets

**6.0 Conclusion**

6.1 The report provides what information there is to allow Cabinet to consider the matter.

<p><b>RELATIONSHIP TO POLICY FRAMEWORK</b></p> <p>The Council has in place a 'Smoke Free Policy' which categorises e-cigs the same as tobacco based products. Health and Wellbeing is one of the four priorities in the corporate plan and the council has committed to working with partners as part of the health and Wellbeing partnership to improve the health outcomes of our citizens. The officer preferred option is consistent with this aim.</p>
<p><b>CONCLUSION OF IMPACT ASSESSMENT</b>  <b>(including Health &amp; Safety, Equality &amp; Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)</b></p> <p>As outlined within the report</p>
<p><b>LEGAL IMPLICATIONS</b></p> <p>Legal Services have been consulted and have no further comments.</p>
<p><b>FINANCIAL IMPLICATIONS</b></p> <p>The decision to allow or ban the sale of electronic cigarettes on Council markets could potentially affect the income levels gained. As detailed in section 4.0, allowing could lead to new traders whilst banning could put off potential traders or existing ones looking to diversify. The potential financial cost/gain of this is unquantifiable at this point in time.</p>
<p><b>OTHER RESOURCE IMPLICATIONS</b></p> <p><b>Human Resources:</b>  NA</p> <p><b>Information Services:</b>  NA</p>

**Property:**

NA

**Open Spaces:**

NA

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 has been consulted and has no further comments.

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been consulted and has no further comments.

**BACKGROUND PAPERS**

none

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