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Dear

Many councils have recently received correspondence from the Tobacco Manufacturers Association (TMA) enclosing a legal opinion commissioned by the TMA regarding the Local Government Declaration on Tobacco Control (LGDTC). This letter seeks to provide councils with further information and context in relation to joint work with the tobacco industry.

The legal opinion received by the TMA concludes that blanket bans cannot be imposed on tobacco industry engagement by local authorities. The opinion does not place an obligation on councils to work with the industry but highlights, in line with legal advice received by the Trading Standards Institute and the principles of the LGDTC, that appropriate decision making processes should be followed.

The opinion received is also consistent with the position set out in the Government's Tobacco Control Plan for England: *"The Government takes very seriously its obligations as a party to the World Health Organization's Framework Convention on Tobacco Control (FCTC). The FCTC places obligations on parties to protect the development of public health policy from the vested interests of the tobacco industry. As a result, the tobacco industry has not been involved in the development of this Tobacco Control Plan."*

The Plan goes on to say: *"Local authorities are encouraged to follow the Government's lead in this area, and to take necessary action to protect their tobacco control strategies from vested interests. While we recognise that there may be legitimate operational reasons for local authorities to deal with the tobacco industry, we would encourage transparency in all dealings."*

Tobacco is the leading cause of premature death and disease killing 100,000 people in the UK each year and 5 million worldwide, with half of all long-term smokers dying prematurely. In recognition of the unique harmfulness of tobacco the WHO developed the first and only international health treaty, the WHO FCTC. The UK is a party to the treaty and it has been ratified by 180 governments. The WHO FCTC sets out evidence-based measures for reducing supply and demand for tobacco including limiting interaction with the tobacco industry.

The LGDTC is a statement signed voluntarily by councils which publically affirms existing national and international commitments. It has been endorsed by the signatories to this letter and by the Minister for Public Health, Chief Medical Officer and Public Health England.

In relation to tobacco industry engagement it affirms a council's commitment to Article 5.3 of the WHO FCTC. All councils, regardless of whether they have signed the Declaration, have legal obligations under this treaty. In particular the WHO FCTC states that: "*In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.*"

There are also supporting guidelines to Article 5.3 which, while non-binding represent best practice and can be taken into account by authorities.

There is no obligation on local councils to work with the tobacco industry, particularly in respect to areas of public health policy which are key to reducing tobacco consumption such as reducing underage smoking and illicit tobacco. In all decisions local authorities should satisfy themselves they have made a fair and reasonable decision and arrived at it through an appropriate process taking into account, among other things:

- World Health Organization Framework Convention on Tobacco Control and its guidelines
- The UK Government's Tobacco Control Plan for England
- The Local Government Declaration on Tobacco Control
- Public health evidence
- Requirements to act equitably
- Operational need
- Reputational issues

We enclose further guidance which might be of interest to local authorities in considering their approach to working with the tobacco industry:

1. A brief on the relationship between trading standards and the tobacco industry produced by a range of partners including the Trading Standards Institute.
2. A more general brief produced by Action on Smoking and Health to support councils in their development of a policy to implement Article 5.3 locally.
3. Legal advice obtained by the Trading Standards Institute is available to members of the TSI through their website.

Where there are concerns about local decision making or practice councils should seek legal advice. Where local councils do engage with the tobacco industry all contact should be transparent.

Yours sincerely

 *Livermore.*

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