

WIRRAL COUNCIL

CABINET – 20 JUNE 2007

REPORT OF THE DIRECTOR OF REGENERATION

## **SMOKE FREE IMPLEMENTATION**

---

### **1.0 EXECUTIVE SUMMARY**

1.1 This report:

- a) Updates Cabinet on the progress on Smokefree implementation in Wirral.
- b) Advises Members how the allocation of additional funds previously agreed by Members is being used to secure compliance with the smoke-free provisions of the Health Act 2006 and the Smoke-free regulations due to be introduced in England in July 2007.
- c) Requests Cabinet to recommend to Council an amendment to the Scheme of Delegation so that The Director of Regeneration be given delegated authority to exercise the powers and duties arising under the provisions of The Health Act 2006. The recommendation is to enable authorisation of officers to carry out additional duties required to enforce smokefree regulations made under the Health Act 2006.

### **2.0 BACKGROUND**

- 2.1 Smoke-free regulations will come into force in England on 1 July 2007 under The Health Act 2006. Most enclosed public places and work places will then become smoke-free. The measures will protect everyone from the harmful effects of second hand smoke when at work or leisure.
- 2.2 The legislation supports a key aspect of the Government's strategy to reduce levels of exposure to second hand smoke as set out in the White Paper 'Choosing Health: making healthy choices easier'.
- 2.3 The Governments intention is that compliance through education, advice, and, where necessary, enforcement will primarily be undertaken by Environmental Health Officers.

### **3.0 HEALTH RISKS FROM SECOND HAND SMOKE**

- 3.1 Second-hand smoke (also known as Environmental Tobacco Smoke or passive smoke) is made up of the smoke from the burning end of the cigarette plus the smoke exhaled by the smoker.
- 3.2 Second-hand smoke contains over 4,000 chemicals in the form of particles and gases; some of these chemicals are dangerous poisons. Second-hand smoke is known to have an adverse effect upon health.

3.3 Being exposed to second-hand smoke can increase a non-smoker's risk of getting lung cancer by 24% and the risk of getting heart disease by 25%, as well as being associated with many other medical conditions like the respiratory disease Chronic Obstructive Pulmonary Disease (COPD) and other types of cancer. It is estimated that second-hand smoke causes 12,000 deaths a year in the UK, 500 of which are due to second-hand smoke in the workplace.

#### 4.0 **SMOKE FREE LEGISLATION**

4.1 The Health Act 2006 makes provision for prohibiting smoking in certain premises, places and vehicles. The smoke free provisions of the Act and the Regulations to be made under the Act will come into force on 1 July 2007 and will apply to virtually all enclosed public places and workplaces (including vehicles).

4.2 Smoke free legislation seeks to:

- Reduce the risks to health from second-hand smoke;
- Recognise a person's right to be protected from the harm of second-hand smoke and to breathe smoke free air;
- Help people trying to give up smoking by providing supportive smoke free environments; and
- Save thousands of lives over the next decade by reducing exposure to hazardous second-hand smoke and overall smoking rates.

4.3 Smoke free legislation is expected to improve health by:

- Reducing illness and the number of deaths from medical conditions caused by second-hand smoke;
- Improving the life expectancy of the smokers who quit because of smoke free public places and workplaces; and
- Improving life expectancy because less people will take up smoking in the first place.

4.4 Employers, managers and those in charge of smoke free premises and vehicles will need to:

- Display 'no smoking' signs in smoke free premises;
- Take reasonable steps to ensure that staff, customers/members and visitors are aware that premises and vehicles are legally required to be smoke free; and
- Ensure that no one smokes in smoke free premises or vehicles

#### 5.0 **PROPOSED PENALTY AMOUNTS FOR NON COMPLIANCE**

5.1 The following penalties and fines apply for the smoke free offences set out in the Health Act 2006:

- Smoking in a smoke free premises or vehicle: a fixed penalty notice of £50 or a fine not exceeding level 1 on the standard scale (up to £200).
- Failure to display no smoking signs in smoke free premises and vehicles as required by smoke free legislation: a fixed penalty notice of £200 or a fine not exceeding level three on the standard scale (up to £1000).
- Failing to prevent smoking in a smoke free premises or vehicle: a fine not exceeding level four on the standard scale (up to £2500).

## **6.0 IMPLEMENTING SMOKE FREE LEGISLATION IN WIRRAL**

6.1 Within Wirral the legislation will apply to over 12,000 premises and vehicles, for which Wirral Council will be the enforcement authority. Fulfilling this enforcement duty will involve significant additional new work, including:

- Securing compliance with the new legal requirements in those premises where Wirral Council has an existing enforcement role (e.g. under health and safety at work, food safety or licensing legislation); and
- Additional work of securing compliance in premises where Wirral Council has no existing enforcement role (e.g. workplaces where the Health and Safety Executive are the health and safety enforcing authority).

6.2 The Department of Health has said it intends to create a supportive environment where people are encouraged to comply with the new legislation. It intends that enforcement will be non-confrontational, focused on raising awareness and understanding to ensure compliance. Enforcement officers are expected to work closely with businesses to build compliance through education, advice and support before the legislation comes into force.

## **7.0 SMOKE FREE WIRRAL IMPLEMENTATION GROUP**

7.1 A joint working group including Council Officers, Wirral PCT staff and representatives from the private sector has been initiated to progress implementation of the legislation in Wirral.

7.2 The action plan drawn up by the implementation group is attached at appendix 1. The action plan also includes a rapid health impact assessment which has been undertaken with representatives from the local PCT and local business organisations. The health impact assessment has informed the priorities of the implementation plan.

7.3 Experience from no smoking implementation in other countries suggests that high levels of compliance can be achieved through non-confrontational enforcement approaches. A local joint Wirral Council and Wirral PCT publicity campaign, linked to the Governments Smokefree England campaign has been initiated with businesses and the general public to ensure that Wirral people are aware of the reasons for this legislation; what it means and when it comes into force; and what individuals and businesses need to do to comply with the new legislation.

7.4 The local campaign is also being supported by national and regional media coverage, presentations to local business groups, direct communication through information letters, leaflets and a variety of officer visits. A mobile 'Advan' was used to launch a 100 day countdown to the implementation day. The Advan has toured industrial estates around the Borough and a number of roadshows have been carried out in local shopping precincts and industrial and trading estates.

7.5 A series of Smokefree Wirral leaflets have been produced which together with other promotional materials and information packs are being distributed to Wirral businesses.

7.6 Enforcement inspection visits to promote compliance with Smoke Free regulations are also being carried out across the Borough. Environmental Health Staff and Licensing Enforcement Officers have visited a number of licensed premises, betting offices, and

taxi companies. Officers and PCT health promotion staff from 'Smokefree Wirral' have also given a number of presentations to 'pub watch' groups and visited premises in industrial estates and in areas of the Borough where high smoking prevalence is likely. Wherever possible enforcement of the legislation will be combined with other regulatory inspections to reduce burdens on business.

7.7 As well as informing businesses on the regulation requirements and how to comply, officers will try to ensure that the complex knock-on effects of stopping smoking within buildings are addressed, in particular, the effects of people moving outside to smoke, which could lead to: littering of streets or other places; increased noise, especially at night around entertainment venues; applications to the Planning Department for "smoking shelters"; applications for variations at licensed premises; and additional complaints to be investigated, either relating to the effects of people smoking outside or to breaches of smoke free legislation. Officers from a number of Council departments have co-operated on the implementation group to ensure that these issues are addressed.

7.8 In addition to smokefree implementation the Implementation group has supported the Smokefree litter campaign which is being implemented by the Waste Control section of the Technical Services Department in partnership with Encams.

## 8.0 RESOURCE IMPLICATIONS

8.1 The Department of Health recognised the additional demands required by the Health Act 2006 and made resources available to support local authorities in undertaking the new smoke free work.

8.2 Grants have been paid under Section 31 of the Local Government Act 2003 using the district-level Environmental, Protective and Cultural Services (EPCS) Relative Needs Formula (RNF). The specific grant allocation for Wirral is as follows:

2006/07 (£)	2007/08 (£)	Total (£)
31,188	152,341	183,529

8.3 Allocation of resources to date.

Activity	£
Implementation Administrator/Co-ordinator 6 months secondment	10,000
Enforcement/Health Promotion Officers 2 officers for 11 Months fixed term contract or secondment.	45,000
Media Campaign Advertising Posters Leaflets Promotionals	30,000

Mobile Health Education Trailer Trailer unit for Smoke Free/Health Promotion and Education initiatives	10,000
Encams Smokefree litter campaign Promotionals Contribution to Litterbins & logos	11,000

## 9.0 EQUAL OPPORTUNITY IMPLICATIONS

9.1 People have the right to be protected from exposure to second hand smoke and freedom of choice for smokers includes responsibility not to harm others. The young and older people, those in poor health can be particularly susceptible to the effects of second-hand smoke.

## 10.0 LOCAL AGENDA 21 IMPLICATIONS

10.1 There are none arising directly from this report.

## 11.0 LOCAL MEMBER SUPPORT IMPLICATIONS

11.1 Implementation of the Smoke free legislation will have a beneficial health impact on the whole of the Wirral area, affecting all Wards.

## 12.0 HUMAN RIGHTS IMPLICATIONS

12.1 There are none arising directly from this report.

## 13.0 COMMUNITY SAFETY IMPLICATIONS

13.1 As well as informing businesses on the regulation requirements and how to comply, officers will need to ensure that the complex knock-on effects of stopping smoking within buildings are addressed, in particular, the effects of people moving outside to smoke, which could lead to: littering of streets or other places and increased noise, especially at night around entertainment venues.

## 14.0 PLANNING IMPLICATIONS

14.1 Any proposals for smoking shelters would be subject to planning approval and would be reported as appropriate for Members consideration.

## 15.0 RECOMMENDATIONS

That

(1) the progress on Smokefree Wirral implementation and how the identified resources are being utilised to achieve the aims and requirements of the Health Act 2006 for ensuring compliance with the 'Smoke free' provisions of the Health Act 2006, be noted; and

(2) Council be recommended that an amendment be made to the Scheme of Delegation, that the Director of Regeneration be given delegated authority to exercise the powers and duties arising under the provisions of The Health Act 2006.