

## **SMOKE FREE IMPLEMENTATION**

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### **1.0 EXECUTIVE SUMMARY**

1.1 This report is intended to update Members of progress on Smokefree Wirral implementation and how the allocation of additional funds provided by the Government and approved by Cabinet is being used in securing compliance with the smoke-free provisions of the Health Act 2006 and the Smoke-free regulations which were introduced in England in July 2007.

### **2.0 BACKGROUND**

2.1 Smoke-free regulations introduced in England in July 2007 under The Health Act 2006 now require most enclosed public places and work places to be smoke-free. The measures are designed to protect everyone from the harmful effects of second hand smoke when out 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 Compliance through education, advice, and, where necessary, enforcement is primarily being undertaken by Environmental Health Officers.

### **3.0 SMOKE FREE LEGISLATION**

3.1 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 made under the Act came into force on 1 July 2007 and apply to virtually all enclosed public places and workplaces (including vehicles).

3.2 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

3.3 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.

3.4 Employers, managers and those in charge of smoke free premises and vehicles now 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
- ensure that no one smokes in smoke free premises or vehicles

#### 4.0 **PENALTY AMOUNTS FOR NON COMPLIANCE**

4.1 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 3 on the standard scale (up to £1000)
- Failing to prevent smoking in a smoke free premises or vehicle: a fine not exceeding level 4 on the standard scale (up to £2500)

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

5.1 To progress implementation of the new smokefree legislation in Wirral a joint working group drawing together Wirral PCT staff and Council Officers from a range of Council departments was established in November 2006. The implementation group has been supported by representative members of Environment Overview and Scrutiny Committee, partners from the private sector, business representatives and more recently Merseyside Police Crime Reduction Officers.

5.2 The aims of the group were to ensure that Wirral businesses were sufficiently prepared to meet the new smoking legislation and to ensure that Wirral developed a culture of co-operation with the legislation.

5.3 The group considered draft regulations and emerging guidance from Central Government, organised officer training to ensure consistency of enforcement, developed joint response and working protocols across relevant departments and organisations, and drew up an action plan to promote and deliver compliance in the Borough. The action plan incorporated a rapid health impact assessment which was undertaken separately with representatives from the local PCT and local business organisations. The health impact assessment informed the priorities of the implementation plan.

5.4 The action plan and health impact assessment and the ongoing progress of the implementation group were reported previously to Environment Scrutiny Committee, Licensing Sub Committee and Cabinet.

#### 6.0 **PROMOTING SMOKEFREE COMPLIANCE**

6.1 The Department of Health's intention in implementing the legislation has been to create a supportive environment where people are encouraged to comply. Enforcement is intended to be non-confrontational and focused on raising awareness and understanding to ensure compliance. Enforcement officers have therefore been encouraged to work closely with businesses in order to build compliance through education, advice and support in advance of the legislation coming into force.

## 7.0 SMOKEFREE WIRRAL CAMPAIGN

- 7.1 A local joint Wirral Council and Wirral PCT publicity campaign, linked to the Governments Smokefree England campaign was initiated earlier in 2007 to ensure that businesses and the general public were aware of, the reasons for the legislation, and what individuals and businesses needed to do to comply.
- 7.2 The local campaign was supported by national and regional media coverage, presentations to local business groups, direct communications through information letters, leaflets and a variety of officer visits and interventions. A mobile 'Advan' was used to launch a 100-day countdown to the implementation day. The Advan toured industrial estates around the Borough accompanied by PCT staff who visited premises to deliver information packs and to respond to queries about the legislation. A number of roadshows were also carried out in local shopping precincts. Two of those events were organised in partnership with and promoted by Buzz FM.
- 7.3 A series of Smokefree Wirral leaflets and posters were produced which together with other promotional materials and information packs were distributed by Environmental Health staff and PCT staff to Wirral businesses throughout the Borough. The posters and were also displayed extensively throughout council offices.
- 7.4 Environmental Health Staff and Licensing Enforcement Officers also visited a number of licensed premises, betting offices, and taxi companies prior to implementation to promote compliance with Smoke Free regulations.
- 7.5 A significant media campaign with the catchphrase Smokefree Wirral – what a breath of fresh air' was organised by the Councils Press and Public Relations Team.
- 7.6 Media coverage included:
- Posters in railway stations
  - Billboard advertising
  - Roundabout ads
  - Taxi 'supersides'
  - Radio advertising
  - Information was also provided on the Council web site with links to the national Smokefree England web pages.
- 7.7 On Sunday 1st July 2007, to mark the day of implementation, an aerial 'Smokefree Wirral – What a breath of fresh air' banner was flown over key areas of the Borough displaying in particular over the Wirral Kite festival and the re-opening event in Birkenhead Park. Officers also gave radio interviews throughout the day on Buzz FM.
- 7.8 In addition to smokefree implementation the Implementation group also supported the Smokefree litter campaign organised in June by the Waste Control section of the Technical Services Department in partnership with Encams.

## 8.0 POST IMPLEMENTATION

- 8.1 Two Senior Technical Officers have now been appointed on an 11 month fixed term contract to assist Environmental Health Staff enforce smokefree regulations during the first 12 months of implementation. The smokefree enforcement officers have begun a programme of routine visits to Wirral business premises to check for compliance. The

officers are able to respond directly to any reports of non-compliance noted by other council officers or notified to the council by the general public.

8.2 In the initial weeks of implementation the officers have again targeted high-risk licensed premises, taxis drivers and betting shops. In the first month following implementation 680 premises have been visited. Of those 99 % were found to be respecting the requirement to prohibit smoking, 77% were found to be displaying signs and of the remaining 23% most subsequently complied immediately at the time of the officers visit. The local statistics are closely consistent with the national picture which is given below. Wherever possible ongoing enforcement of the legislation will be combined with other regulatory inspections to reduce burdens on business.

8.3 Smokefree enforcement officers will also continue to promote smokefree litter awareness, give advice on smoking shelters and signpost proprietors wishing to build smoking shelters to planning guidance, as an integral part of their ongoing activity.

8.4 In a wider context the officers will work in partnership with Wirral PCT and will assist the Environmental Health Division on wider health promotion initiatives particularly relating to food safety, healthy eating, and health at work.

## 9.0 **STOP SMOKING SERVICES**

9.1 Central to the Smokefree Wirral campaign has been the opportunity to signpost people who want to stop smoking to relevant support services that are available via Wirral PCT. Information about stop smoking services has featured in Wirral leaflets and Smokefree enforcement officers have also attended smoking cessation training sessions to assist them in promoting these opportunities.

## 10.0 **MINIMUM AGE OF SALE FOR TOBACCO**

10.1 The Health Act 2006 included a power to change the age of sale of tobacco from 16 to 18. This will come into effect from Monday, October 1st 2007, when it will be illegal to sell tobacco products, cigarettes, cigars, loose tobacco and rolling papers to anyone under the age of 18.

10.2 As most addicted adult smokers began smoking as teenagers this change in law is to help prevent children and young people from starting to smoke therefore avoiding the serious health dangers of smoking. The change in the age of sale for tobacco products is an important step in trying to reduce the number of people exposed to smoking related diseases.

10.3 Whilst enforcement of this legislation will primarily be delivered by Trading Standards Officers the Smokefree Implementation group will support this closely related initiative and Smokefree Enforcement Officers will help to promote compliance with this element of the legislation

## 11.0 **THE NATIONAL PICTURE**

11.1 Dawn Primarolo, Minister of State for health has reported that:

“Enforcement officers nationally have found that 97 per cent of premises were respecting the requirement to prohibit smoking in enclosed premises and 79 per cent were displaying the correct no-smoking signage.

Although these figures only relate to the first two weeks, compliance is already comparable to the high levels experienced during the first month of smokefree in Scotland and Ireland.

Local authorities are continuing to work with businesses to ensure they understand the requirement for no-smoking signs to be displayed at the entrance to all public places and workplaces covered by the law.

During the first two weeks of inspections, it has only been necessary to issue one fixed penalty notice to an individual wilfully flouting the law by smoking in a smokefree place. Councils have instead ensured that businesses and individuals are given sufficient opportunity to comply with the law.”

11.2 Councillor Geoffrey Theobald, Chairman of the Local Authorities Coordinators of Regulatory Services (LACORS) has said that:

“The high level of compliance is testament not only to the businesses, landlords and members of the public who have wholeheartedly embraced the new law - but also to the council Environmental Health Officers who have carried out their work with a light touch, an even-hand, and a commitment to advising people rather than punishing them.”

11.3 The close consistency of the national figures with the local enforcement picture together with the comment from LACORS serves to endorse the approach taken by the Wirral implementation group in promoting compliance in Wirral.

## 12.0 **FINANCIAL IMPLICATIONS**

12.1 There are no direct financial implications arising from this report.

## 13.0 **STAFFING IMPLICATIONS**

13.1 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 smokefree work.

13.2 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

13.3 Allocation of resources to date:

Activity	£
Implementation Administrator/Co-ordinator 6 months secondment	14,000
Enforcement/Health Promotion Officers 2 Senior Technical Officers on 11 Months fixed term contract.	48,000
Equipment/Desks computers etc	2,000
Media Campaign Advertising Posters Leaflets Promotionals	40,000
<b>Mobile Health Education Trailer</b> Trailer unit for Smoke Free/Health promotion & education initiatives	10,000
Encams Smokefree litter campaign support Promotionals, Stubbies Contribution to Litterbins & logos	12,000

14.0 **EQUAL OPPORTUNITIES IMPLICATIONS**

14.1 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 and those in poor health can be particularly susceptible to the effects of second-hand smoke.

## **15.0 COMMUNITY SAFETY IMPLICATIONS**

15.1 As well as informing businesses on the regulation requirements and how to comply, officers will 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.

## **16.0 LOCAL AGENDA 21 IMPLICATIONS**

16.1 There are none arising directly from this report.

## **17.0 PLANNING IMPLICATIONS**

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

## **18.0 ANTI-POVERTY IMPLICATIONS**

18.1 Morbidity due to smoking related disease disproportionately affects the deprived areas of the Borough.

## **19.0 SOCIAL INCLUSION IMPLICATIONS**

19.1 Activity to raise awareness of the new legislation has not excluded any part of the Borough.

## **20.0 LOCAL MEMBER SUPPORT IMPLICATIONS**

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

## **21.0 BACKGROUND PAPERS**

21.1 None.

## **22.0 RECOMMENDATIONS**

22.1 That Environment Overview and Scrutiny committee notes the continuing progress on Smokefree Wirral implementation and how the identified resources are to be 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.

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