

# WIRRAL COUNCIL

## CABINET

15 JANUARY 2015

<b>SUBJECT:</b>	<b>TRANSFER OF CERTAIN POLLUTION CONTROL FUNCTIONS WITHIN WIRRAL PORT AREAS FROM LIVERPOOL CITY COUNCIL TO WIRRAL COUNCIL</b>
<b>WARD/S AFFECTED:</b>	<b>ALL WARDS</b>
<b>REPORT OF:</b>	<b>KEVIN ADDERLEY, STRATEGIC DIRECTOR – REGENERATION &amp; ENVIRONMENT</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>COUNCILLOR BERNIE MOONEY, ENVIRONMENT &amp; SUSTAINABILITY</b>
<b>KEY DECISION?</b>	<b>NO</b>

### 1.0 EXECUTIVE SUMMARY

- 1.1 This report seeks Cabinet approval for the transfer of certain Liverpool City Council's Pollution Control powers, in respect of Port Areas located within Wirral to Wirral Council.
- 1.2 This will clarify existing arrangements through a formal legal transfer under the Local Government Acts 1972 and 2000 with the aim of ensuring that clear governance arrangements are in place to allow partnership working for the benefit of businesses and residents.

### 2.0 BACKGROUND AND KEY ISSUES

- 2.1 Liverpool City Council was designated a Port Health Authority by the Mersey Port Health Authority Order 1988 ("The Order") and is responsible for carrying out certain Environmental Health functions in the Port Area. The Port Area is defined by the Order and includes parts of, Sefton Council, Liverpool City Council and Wirral Council. eg: Tranmere Oil Terminal, West Float and East Float docks. In these areas Liverpool City Council remains responsible for certain Environmental Health functions such as Food Hygiene, Environmental Protection and certain specific port health legislation. Liverpool City Council exercises these functions through Mersey Port Health Authority.
- 2.2 Wirral Council has historically undertaken some Environmental Health duties to issue Environmental Permits under the Pollution Prevention and Control Act 1999 within Port Areas lying within Wirral Council's area on behalf of Liverpool City Council as the Port Health Authority.

- 2.3 A review of this arrangement has identified that whilst beneficial to both Wirral Council and Liverpool City Council, clearer governance is required. It is therefore proposed to formalise these arrangements by way of a Transfer and Indemnity Agreement between Liverpool City Council, Sefton Council and Wirral Council.
- 2.4 The proposed transfer has been approved in principle by Mersey Port Health Authority Committee but the formal power to transfer the powers lies with Liverpool City Council Cabinet subject to approval and agreement by Wirral and Sefton Council.
- 2.5 It is proposed that officers from all three Councils would monitor the exercise of the transferred powers, and review efficacy of the arrangement as appropriate.
- 2.6 It is also proposed that the Councils would agree protocols to set out in detail how powers would be exercised. These would also deal with responsibility for responding for Freedom of Information Act enquiries and for making statutory returns to government bodies.

### **3.0 ENVIRONMENTAL PERMITS**

- 3.1 Some industrial processes could harm the environment or human health unless they are controlled. The system of permits that is operated by Councils and, in some cases, the Environment Agency allow such businesses to be carefully monitored and controlled to make sure that they meet Government and European Union rules and targets.
- 3.2 Table 1 shows those businesses which currently have Environmental Permits issued by Wirral Council that fall within the Port Area. The table also lists the annual fee currently payable. The number of permits may vary as legislative requirements change, new applications for permits are received or existing permits are surrendered. Fees can also change due to changes to the national charging scheme or following an inspection where the risk rating of the business changes.

<b>Table 1: Environmental Permits In Wirral Port Areas administered by Wirral Council</b>	
<b>Name, nature and Status of Business</b>	<b>Annual Fee</b>
'Mersey Docks and Harbour Company', "mothballed" Processing of coal.	£295.60.
NuStar Terminals Active permit Petrochemical storage	£1111
Nynas UK Active permit Bitumen process	£218

- 3.3 Officers within Environmental Health administer 62 permits throughout the rest of the Borough. These include processes such as brick crushers, petrol filling stations and dry cleaners. The additional work that dealing with permits in these areas is not considered to be detrimental to the current workload and is already being undertaken.
- 3.4 Monitoring and administering permits that may impact the air quality of the Borough, it's residents and businesses by Environmental Health staff is seen to benefit Wirral Council who have responsibility for reviewing Air Quality in the Borough. The officers involved already have the technical and local knowledge necessary for effective enforcement and the arrangement recognises the cross border nature of pollution.

#### **4.0 STATUTORY NUISANCE**

- 4.1 The Environmental Protection Act 1990 contains statutory nuisance powers to control environmental issues such as smoke, dust, odour and noise. Wirral Council already has powers to address cross boundary noise and other statutory nuisance arising in Port areas which is affecting residents or businesses.

#### **5.0 CONSULTATION**

- 5.1 None

#### **6.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS**

- 6.1 Not Applicable

#### **7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

- 7.1 None

#### **8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

- 8.1 With regards to Environmental Permits these functions have been effectively delivered for a number of years and therefore there are no additional resource implications.

#### **9.0 LEGAL IMPLICATIONS**

- 9.1 This agreement would formally oblige Wirral Council to continue to discharge Environmental Permitting functions and indemnify Liverpool City Council against any failure in this regard. However, Wirral Council has effectively been discharging the Environmental Permitting duties for a number of years and formalising these arrangements reduces the business risk.

#### **10.0 EQUALITIES IMPLICATIONS**

- 10.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No- because there is no relevance to equality.

## **11.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS**

11.1 None

## **12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

12.1 None

## **13.0 RECOMMENDATION/S**

13.1 Cabinet is requested to:

- (i) approve the transfer of Liverpool City Council's pollution control powers under the Environmental Protection Act 1990 and the Pollution Prevention and Control Act 1999 (and subordinate legislation) within Wirral port areas (as defined in the Mersey Port Health Order) to Wirral Council
- (ii) Authorise the Strategic Director of Transformation and Resources to enter into appropriate protocol agreements with Liverpool City Council

## **14.0 REASON/S FOR RECOMMENDATION/S**

14.1 To formalise the arrangement whereby officers from Wirral Council's Environmental Health team administer Pollution Control arrangements within Port areas of Wirral.

The transfer of these duties is not likely to have any significant effect on the resources of the Council and involvement with businesses requiring Environmental Permits is seen to assist the Council fulfil its duties to review and monitor Air Quality within the Borough.

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## **APPENDICES**

## **BACKGROUND PAPERS/REFERENCE MATERIAL**

## **BRIEFING NOTES HISTORY**

<b>Briefing Note</b>	<b>Date</b>
<b>Not applicable</b>	

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>Not applicable</b>	