

<b>Portfolio: Green Issues</b>	<b>Executive Member: Cllr. Richard Oglethorpe, Executive Director: Charlie Parker</b>
<b>Date of submission: 1 October 2004</b>	<b>Subject: Smoke Free Liverpool</b>
<b>Report No. EDR/</b>	<b>Contact officer: Andy Hull ext. 225 4028</b>
<b>Executive summary</b>  This report is to provide the required update for the City Council on the progress which is being made to make Liverpool the UK's first smoke free city.  <ol style="list-style-type: none"><li>1. Members will recall that following the report from the Executive Member for Environment and the Executive Director for Regeneration in February 2004, SmokeFree Liverpool was officially launched by the Leader of the Council, the Executive Member for the Environment and the Chair of Liverpool First For Health on 25 March 2004.</li><li>2. In line with the priority placed upon the achievement of smokefree status for Liverpool, the Central Liverpool Primary Care Trust has made a total award of £853,000 to the SmokeFree Liverpool partner agencies which covers the financial years 2003/04 to 2005/06.</li><li>3. SmokeFree Liverpool is a diverse partnership that includes Liverpool City Council, Liverpool Central, North and South Primary Care Trusts, Health@Work, Liverpool Chamber of Commerce, the North West TUC, Liverpool Health Promotion Service, Roy Castle Lung Cancer Foundation, Liverpool John Moore's University and Community Representation. The group is chaired by the City Council's Environmental Health and Trading Standards Manager and reports directly to the Liverpool First for Health strategic partnership.</li><li>4. Workplaces across the city are being encouraged and supported to introduce no-smoking policies to enable Liverpool to become the UK's first Smoke Free City by 2008, the year the city celebrates its status as European Capital of Culture. The primary aim is the protection of worker health and safety, however smokefree workplaces will also protect the public from the dangers of second hand tobacco smoke.</li><li>5. SmokeFree Liverpool has engaged an independent consultant to undertake a scoping exercise, to commission and conduct a survey of public opinion in Liverpool, a survey of visitor opinion, a survey of Liverpool businesses and to develop a comprehensive evaluation framework. These actions are now complete with the exception of the resident survey, which is currently ongoing.</li></ol>	

6. Existing smoking cessation services are currently provided through referral from GPs. In order to increase accessibility for businesses additional resources have been provided to fund two extra advisors who are providing cessation courses directly for Liverpool workers who want to quit smoking.
7. A baseline survey of Liverpool businesses found 53% were already smokefree throughout. Smokefree businesses were concentrated in the office and retail sectors.
8. An evaluation visit to New York, a City that has already implemented smokefree legislation took place in April 2004. The lessons from the trip were evaluated and reported to the July meeting of Liverpool First for Health and are to be presented to the October meeting of the Liverpool First Board. A further study visit to Dublin is programmed to take place in November 2004.
9. A major international conference on SmokeFree City Status has been organised to be held in Liverpool on the 3 and 4 October 2004. The conference is aimed at disseminating the learning from New York and Ireland and Liverpool's experience in the field. A keynote speech is to be delivered by the Leader of Liverpool City Council and a pre-meeting for the leaders of the six metropolitan core cities is to be held to provide leadership and support to this network.
10. As stated in the alternative option section of this report, existing measures to protect workers from the damaging effects of second hand tobacco smoke are ineffective, therefore, smokefree law is necessary to protect worker health in Liverpool. The options for making a change in the law to support smokefree workplaces are as follows:
  - 10.1 Use of the forthcoming licensing legislation. Clarification of the guidance on the bill has shown that it specifically precludes the use of licensing conditions to prohibit smoking in workplaces.
  - 10.2 The creation of a local bye law. This has been ruled out by the office of the Deputy Prime Minister.
  - 10.3 The prosecution of a test case under existing health and safety legislation. Advice from learned Counsel on this specific course of legal action has stated that given the current legal framework such a test case is not likely to succeed.
  - 10.4 The promotion of a private bill. This is considered to be the most effective course of action to make all Liverpool enclosed workplaces smokefree.

A Petition for a Private Bill must be deposited on or before 27<sup>th</sup> November 2004 in any session of Parliament. Local Authorities must comply with section 239 of the Local Government Act 1972, which provides that the promotion must be approved by full council resolution on 30 days clear notice. The resolution to promote any Bill must be passed by a majority of the whole number of members of the authority. Therefore the opportunity to debate and decide upon this course of action is at City Council on 20 October 2004. The statutory form of public notice was displayed in the Liverpool Daily Post on 18<sup>th</sup> September 2004.

11. A meeting of the Senior Council and Health representatives from the Merseyside Authorities is to take place ahead of the above mentioned conference at 8 am on the 4th October 2004 in Liverpool Town Hall. This meeting will discuss proposals from Smokefree Liverpool and the Heart of Mersey Groups to make Smokefree legislation to cover the whole of the Merseyside Conurbation.

**Executive Member recommendation:**

1. That the City Council considers it expedient to promote a Private Bill in Parliament for effecting all or some of the following purposes, namely:
  - (a) to prohibit tobacco smoking in enclosed workplaces in the City, and
  - (b) providing powers of enforcement as regards contravention of the provisions of the Bill.
2. At the same time, in preparation for the new law, to continue through Smokefree Liverpool to offer a voluntary approach to encourage and support businesses across the city to become smokefree.
3. That approval is given to:

The City Council accepting the grant from the Central Liverpool Primary Care Trust totalling £127,500 and the amendment of the 2004/05 and 2005/06 revenue budget to incorporate the grant funded expenditure

The City Council accepting the role of the accountable body for the grant from the Central Liverpool Primary Care Trust

The appointment of the Environmental Health and Trading Standards Manager as the nominated officer for monitoring compliance with the terms and conditions of the grant (this includes maintaining a constant review of the risk of grant being clawed back under the grant rules and regulations and making budgetary provision to cover any requirement to repay grant in the financial year in which the liability arises).

**Key Decision?**

Yes

**Forward Plan.**

No – since the statutory public notification via a public advert in the Liverpool Daily Post on the 18<sup>th</sup> September has taken place.

**Implementation effective from: 20 October 2004****Timescale for action**

Should the City Council resolve to pursue a Private Bill to prohibit smoking in Liverpool workplaces, the draft Bill will be lodged with the House of Lords on 27 November 2004. Thereafter the timescale will be subject to the parliamentary and lobbying processes.

**Reason(s) for Recommendation**

It is acknowledged that Liverpool has the highest rate of lung cancer deaths and amongst the highest rates of heart disease and other smoke related illnesses in the UK. The inhalation of second-hand tobacco smoke has significant detrimental health effects to non smokers. This “so-called” ‘sidestream’ smoke is the most damaging element of tobacco smoke and causes cancers, coronary heart disease, stroke and serious respiratory illness, as well as damage to the unborn children of pregnant women.

At present, thousands of people in workplaces throughout the city are exposed to this risk on a daily basis. Some types of workplace present a particularly high risk, for example bars, pubs and clubs. Indeed the Royal College of Physicians has found that 1 bar worker a week in the UK dies as a result of exposure to second hand smoke at work.

The Government’s Chief Medical Officer has highlighted the dangers of second hand smoke and called for legislation to make all workplaces and public places smoke free. He has stated that such controls will have no detrimental economic effect and has highlighted that as well as protecting employee health and safety, the measure will reduce the overall numbers of people smoking in Liverpool by up to 15% saving thousands more lives. This is borne out by evidence from the United States, particularly California and New York, where controlling smoking in public places has resulted in rates of smoking in the general population falling significantly whilst also protecting local employees from the ill effects of second hand tobacco smoke.

Currently up to 100 Liverpool people each year die as a result of exposure to second hand tobacco smoke and overall, 1000 residents die as a result of smoking related illness. Smoking has been identified as the principal reason for the inequalities in death rates between rich and poor in the UK and is considered a key public health issue in reducing health inequality.

This inequality is compounded when it is recognised that the majority of office and retail workers are protected by smoke free workplaces, whilst almost all those who work in pubs and clubs are exposed to the known dangers of second hand tobacco smoke. Further evidence from the United States indicates that the health benefits of smoke free workplaces are immediate, with studies showing substantial reduction in Accident and Emergency admissions for heart disease and respiratory illnesses.

Liverpool First For Health has stated that making Liverpool workplaces smoke free will have a significant impact on the incidence of heart disease, cancers and strokes amongst Liverpool people, hence improving health and reducing health inequality.

### **Alternative options to be considered**

Existing measures do little to protect workers from the dangers of second-hand tobacco smoke. The licensed trade sector, supported by the tobacco industry, have proposed a voluntary approach of segregated smoking and non-smoking areas and increased ventilation. However, ventilation systems cannot eliminate the risk of disease or death from second hand smoke. Philip Morris the largest tobacco company in the world admits on its website that ventilation systems have “..... not been shown to address the health effects of second hand smoke”.

Even totally separate segregated areas do nothing to protect worker health and safety since these non unionised, low paid workers have no choice over where they work. The voluntary approach Smokefree Liverpool is currently utilising to support businesses to become smokefree may have some success in protecting workers in the office and retail sectors. However, those most at risk in the licensed and public entertainment sectors will continue to die as a result of exposure to other peoples tobacco smoke at work.

### **Consultation:**

Smokefree Liverpool has consulted with Liverpool businesses, local people and visitors to the city to determine their views on making Liverpool a smokefree city.

The Liverpool Echo undertook its own poll of Liverpool people and, from 1449 respondents, found 70% in favour of smokefree workplaces including bars, pubs and restaurants.

A survey of 456 Liverpool businesses found:

In total, 53 per cent of premises are smoke-free, though only 14 per cent of hospitality sector workplaces are smoke-free.

- Half of workplaces that allow smoking have designated smoke-free areas although only a quarter of these have smoke-free areas that are effectively separate from smoking areas.

- Where smoking is allowed, 38 per cent of workplaces allow smoking throughout.
- Employees work in areas with tobacco smoke in 80 per cent of hospitality sector and 39 per cent of other workplaces that allow smoking.
- 74 per cent of workplaces have smoking policies for staff and 60 per cent for customers.

In terms of the economic impact of smokefree policies the survey found:

- Few respondents thought going smoke-free made an impact on sales turnover – only one respondent (0.6 per cent) thought introducing a smoke-free workplace had led to a fall in turnover.
- 10 per cent thought workplace productivity had increased following the introduction of a smoke-free policy, compared to 3 per cent who thought it had fallen.

The Liverpool Citizens Panel Survey was conducted in October 2003 before the launch of Smokefree Liverpool and prior to any high profile media coverage of smokefree issues. In the survey only 8.3% of smokers and 6.6% of non-smokers disagreed or strongly disagreed with the principal of smokefree workplaces.

Results from the Big Smoke Debate North West, which had over 14000 responses, including almost 3000 from across Merseyside, show that there is overwhelming support for a law to make public places smoke free. Key facts include:

- Over 85% of North West residents would prefer public places to be smokefree (96% non-smokers and 32% smokers).
- More than 4 in 5 North West residents support legislation to make public places smoke free.
- When figures were adjusted to account for the lower prevalence of smoking in the survey respondents (14%) compared with the population of the North West (28%) there was still a large majority in favour of smoke free enclosed public places (77%) and majority support (72%) for legislation to make such public places smoke free.

Results of a survey of 300 visitors to Liverpool who were interviewed at several city centre locations during August/ early September reflect the findings of surveys in New York and Ireland that smokefree legislation has no impact or a positive impact on tourism.

In the Liverpool Visitor Survey, 42% were international visitors, 58% were regional or national visitors and this is in line with the latest Destination Benchmarking tourism survey for Liverpool.

73 per cent of respondents were non-smokers, 27 per cent were smokers.

The survey indicates that:

- 80 % of visitors stated that “it would not have made any difference to their decision” to visit Liverpool if they had thought that smoking was NOT allowed inside public places including tourism attractions, local transport, shops, pubs and restaurants in Liverpool. An additional 15% said that if they had thought Liverpool was smoke-free, it would have encouraged them even more to visit Liverpool compared to just 3% who stated that they would have decided not to come to the City.
- When asked whether they would be more or less likely to visit Liverpool in future if the city became smoke-free, 72% of visitors stated that it would make no difference to them. However, 21% said that they would be “more likely to visit in future” compared to 7% who said they would be “less likely” to visit in future. Not surprisingly, these respondents were, respectively, non-smokers and smokers.

A further doorstep survey of 1000 households will be completed by mid October and preliminary results for the first 500 responses will be available for the City Council meeting on the 20<sup>th</sup> October. All the indications are that these results will reflect the findings of the North West survey.

### **Financial Implications:**

In line with the priority placed upon the achievement of smokefree status for Liverpool, the Central Liverpool Primary Care Trust have made a total award of £853,000 to the SmokeFree Liverpool partner agencies which covers the financial years 2003/04 to 2005/06.

This funding is split over the partner agencies in accordance with the approval of a bidding round which took place in 2003/04.

The City Council will receive a total grant of £127,500 covering the period to 2005/06. To date £31,500 has been received but has not yet been spent, and the Council has been allocated a further £48,000 for both 2004/05 and 2005/06. The revenue budget for the City Council will require amending to incorporate the grant income and related expenditure over the financial years 2004/05 and 2005/06.

It is planned that the £127,500 will be spent on survey and enforcement activities during 2004/05 and 2005/06 and this includes expenditure on the legal costs associated with the promotion of the Local Act of Parliament.

In accepting the grant, the City Council will have to agree to be the accountable body for the £127,500 and accept all the duties and responsibilities which are associated with this role including the requirement to make appropriate budgetary provision to repay the grant should any element of expenditure be deemed ineligible. In total therefore the maximum potential risk of grant claw back is £127,500. It should be noted that the City Council has considerable experience of managing such grant related projects and has established rules and procedures which must be complied with. The risk of grant claw back should therefore be minimized.

The continuation of the funding to the City Council is reliant upon the extension of Central Government funding to the Health Authority, but also relies on the success of the overall programme within Liverpool. At the moment therefore it is not anticipated that there will be any requirement to contribute City Council mainstream resources to sustain this initiative, however, should this be required, Members will be advised and the issue will be incorporated within the financial planning rounds in future years.

**Equality implications:**

On the basis of the census of 2001 and other demographic data, it is known that smoking is now predominantly a habit of low-income groups. In addition, significant numbers of young women are taking up smoking. These factors are fundamental to the substantial inequalities in health experienced across Liverpool.

As previously mentioned smoking has been identified as the principal reason for the inequalities in death rates between rich and poor in the UK and it is recognised that progress to end health inequalities and increase the life expectancy of the poorer and more vulnerable people in our community depends on action to reduce the harm smoking causes to them and to others through exposure to second hand smoke.

Exposure to second hand smoke at work is a health and safety issue, however it is also an equality issue when low paid, vulnerable hospitality industry workers are not given the same level of protection as their white collar counterparts.

**Corporate strategy:**

The control of second-hand tobacco smoke has significant health benefits and will contribute to making Liverpool a healthier place to live. A general reduction in smoking will also result in the generation of less smoking related refuse cigarette ends, packaging etc. contributing a cleaner and greener city environment. The City Council is committed to working with its partners in the NHS in the Liverpool First for Health Group. This Group have identified the control of smoking as the number one health priority for the city.

<p><b>Budget and Policy Framework</b></p> <p>Regeneration Portfolio Budget 2004/05</p>
<p><b>Community safety implications:</b></p> <p>None</p>
<p><b>Report attached</b></p> <p>None</p>
<p><b>Background papers</b></p> <p>None</p>

Signature: .....  
(Executive Member)

Signature: .....  
(Executive Director)

Date: .....

Date: .....