

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CABINET**

DATE: **10th JULY 2012**

REPORT BY: **DIRECTOR OF ENVIRONMENT**

SUBJECT: **NEW LEGISLATION CONCERNING THE
REGULATION OF THE SUPPLY OF SINGLE USE
CARRIER BAGS BY SELLERS OF GOODS IN
FLINTSHIRE**

1.00 PURPOSE OF REPORT

- 1.01 For Members to consider The Climate Change Act 2008 and The Single Use Carrier Bags Charge (Wales) Regulations 2010.
- 1.02 To inform Members of additional powers of civil sanction granted to the Authority by the legislation.
- 1.03 For Members to delegate additional powers to the Director of Environment to appoint and authorise officers of the Trading Standards Service to enforce the new legislation in Flintshire.

2.00 BACKGROUND

- 2.01 The Single Use Carrier Bags Charge (Wales) Regulations 2010 (the Regulations) came into force on 1st October 2011. They appoint Local Authorities in Wales as administrators of the provisions contained therein. The Regulations were made by The Welsh Ministers in exercise of powers conferred by The Climate Change Act 2008 (the Act). The Act allows the Welsh Ministers to make regulations relating to other issues for which civil sanctions will also be applicable.
- 2.02 In brief the Regulations require sellers of goods to:
- make a minimum charge of 5 pence for each new single use carrier bag they supply (subject to exemptions)
 - If employing more than 10 staff, trading above the VAT threshold and supplying more than 1000 bags per year, to keep, supply and publish records about the number of bags sold, profit made (with calculation) and a summary of how any profit has been used (publication for the first period is required by 31st May 2012)

There is no provision to require retailers to donate the profit to any good cause though this is being strongly encouraged by the Welsh Ministers.

3.00 CONSIDERATIONS

3.01 It is expected that compliance will be achieved by general consent and education where necessary. The Ministers have clearly indicated that enforcement action is seen as a last resort in accordance with Hampton principles of intelligence led and proportionate enforcement activity. Nevertheless, it is important that the Council has the powers in place to take enforcement action should it be found necessary.

3.02 The Regulations also introduce the provision to make civil sanctions for breaches of the requirements. These sanctions are:

- Fixed monetary penalties (maximum of £100 or £200 depending on the breach).
- Additional discretionary requirements which can be financial or procedural (maximum £5000 or £20,000 depending on breach).
- Requirements for businesses to take action such as training of staff or implementing improvements to their record keeping processes.

Such sanctions are an alternative to criminal law enforcement which involves the time trouble and expense of action through the Magistrates' or Crown Courts.

3.03 The provisions for civil sanctions are a significant new development for local authorities in this area of work. The Welsh Government commissioned the Local Better Regulation Office (LBRO) to carry out a review of the progress of all County and County Borough Councils in Wales in working to the principles of good regulation, as set out in paragraph 23 of Schedule 6 to the Climate Change Act 2008, i.e.

- Regulatory activities should be carried out in a way that is transparent, accountable, proportionate and consistent.
- Regulatory activities should be targeted only at cases in which action is needed.

3.04 LBRO were content that all local authorities in Wales are working to those principles and thereby competent to carry out enforcement via the civil sanction processes.

3.05 The Welsh Ministers have indicated that they will issue guidelines and standard policies and documentation for consideration and adoption by each Local Authority in due course. Following the publication of such guidance it is expected that each Local Authority will publish information about its use of civil sanctions and about how it will exercise its powers in respect of civil sanctions.

- 3.06 Delegation of Powers - The enforcement powers available to an 'Administrator' (ie. the Local Authority) or anyone appointed by the Administrator are set out in Appendix 1. This report recommends that the powers of Administrator (including the power to appoint other officers as Administrators) be delegated to the Director of Environment.

4.00 RECOMMENDATIONS

- 4.01 That Members note the provisions of The Climate Change Act 2008 and the Single Use Carrier Bags Charge (Wales) Regulations 2010.
- 4.02 That Members note the additional powers of civil sanction granted to the Flintshire County Council by the legislation.
- 4.03 That Members agree to delegate powers to the Director of Environment to appoint and authorise officers of the Trading Standards Service to enforce the new legislation in Flintshire.

5.00 FINANCIAL IMPLICATIONS

- 5.01 At present the compliance levels relating to the 5 pence charge for single use carrier bags are high. There may be some income from the payment of civil penalties in future but accurate estimates are not possible at the current time.

6.00 ANTI POVERTY IMPACT

- 6.01 The Welsh Government expects retailers to donate the proceeds from the 5 pence charge to charitable organisations once the costs of administering the charge have been deducted. This should provide significant additional revenue for the chosen charities.

7.00 ENVIRONMENTAL IMPACT

- 7.01 The Regulations are intended to substantially decrease the number of single use carrier bags used in Wales in order to reduce their adverse impact on the environment. The Welsh Government hope to see a 90% reduction in the number of single use bags distributed in Wales.

8.00 EQUALITIES IMPACT

- 8.01 None.

9.00 PERSONNEL IMPLICATIONS

- 9.01 None.

10.00 CONSULTATION REQUIRED

10.01 None.

11.00 CONSULTATION UNDERTAKEN

11.01 None.

12.00 APPENDICES

12.01 Appendix 1 - Delegation of Powers
Appendix 2 - the Single Use Carrier Bags Charge (Wales) Regulations
2010

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS

The Climate Change Act 2008
The Single Use Carrier Bags Charge (Wales) Regulations 2010

Contact Officer: Michael Lovatt
Telephone: 01352 703393
Email: michael_lovatt@flintshire.gov.uk