

<b>MERSEYSIDE FIRE AND RESCUE AUTHORITY</b>			
<b>MEETING OF THE:</b>	<b>COMMUNITY SAFETY AND PROTECTION COMMITTEE</b>		
<b>DATE:</b>	<b>27 MARCH 2014</b>	<b>REPORT NO:</b>	<b>CFO/035/14</b>
<b>PRESENTING OFFICER</b>	<b>DEPUTY CHIEF FIRE OFFICER</b>		
<b>RESPONSIBLE OFFICER:</b>	<b>AREA MANAGER MYLES PLATT</b>	<b>REPORT AUTHOR:</b>	<b>MYLES PLATT</b>
<b>OFFICERS CONSULTED:</b>	<b>JANET HENSHAW CLERK TO THE AUTHORITY GROUP MANAGER GUY KEEN</b>		
<b>TITLE OF REPORT:</b>	<b>PROSECUTIONS UPDATE</b>		

<b>APPENDICES:</b>	<b>APPENDIX A: ST. MICHAELS MOUNT PRESS STATEMENT</b>
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### **Purpose of Report**

1. To inform Members of the enforcement and prosecution activity carried out by Merseyside Fire & Rescue Authority (MFRA) Protection Department throughout 2013.

### **Recommendation**

2. That Members note the positive impact that the Authority has had on the safety of the communities of Merseyside whilst carrying out its statutory function as the enforcing Authority.

### **Introduction and Background**

3. MFRA is the enforcing Authority within Merseyside for premises, petroleum, explosives / fireworks and utilise the following legislation.
  - 3.1 Regulatory Reform Fire Safety Order 2005 (RRO).
  - 3.2 Petroleum (Consolidation) Act 1928.
  - 3.3 Health and Safety at Work Etc. Act 1974.
  - 3.4 Dangerous Substances and Explosive Atmospheres Regulations 2002.
  - 3.5 Fire Precautions (Sub-surface Railway Stations) (England) Regulations 2009.
  - 3.6 Manufacture and Storage of Explosives Regulations 2005 (MSER)
  - 3.7 The Fireworks Act 2003 and the Fireworks Regulations 2004
4. In order to ensure that these regulations are complied with, MFRA carry out audits of industrial, commercial and residential premises in line with its Risk Based Inspection Strategy. Officers audit the fire safety arrangements (the general fire precautions and fire safety management) within the majority of

premises within Merseyside (except for single private dwellings). Audits are carried out as a result of pre-planned inspections, referrals from operational staff and complaints or concerns from members of the public.

5. In 2013, MFRA audited a total of 2769 premises, (2016 RRO, 184 Petroleum, 569 Fireworks). In the majority of cases only minor deficiencies were identified and they were dealt with informally following national guidance and best practice in line with the Regulators' Code of Compliance.
6. However out of the 2769 premises visited, the following formal Enforcement & Prosecution notifications were issued:
  - 6.1 **26 RRO Enforcement Notices** (These notices state the provisions that are not complied with and the steps to be taken to remedy the noncompliance). The district breakdown is:
    - 6.1.1 Liverpool 20,
    - 6.1.2 St Helens 1,
    - 6.1.3 Knowsley 0,
    - 6.1.4 Wirral 1,
    - 6.1.5 Sefton 4.
  - 6.2 **15 RRO Prohibition Notices** (These notices are used where the risk is so serious that the premises is prohibited or restricted). The district breakdown is:
    - 6.2.1 Liverpool 9,
    - 6.2.2 St Helens 4,
    - 6.2.3 Knowsley 0,
    - 6.2.4 Wirral 0,
    - 6.2.5 Sefton 2.
  - 6.3 **2 Petroleum Improvement Notices** (3 cases pending).
8. The formal notifications have a legal status within the judicial system. Consequently, if not complied with or breached, further legal action may be taken by MFRA against the Responsible Person (RP) potentially resulting in prosecution.
9. In 2013 **5 Alterations Notices** were breached on the underground rail network. However, due to the level of risk being minimal, MFRA took no legal action and dealt with the matter informally.
10. All potential prosecution cases are considered by the Clerk to the Authority in respect of public interest and evidential tests with Senior Protection Officers utilising national best practice via the Chief Fire Officers Association prosecution decisions-making matrix. Prosecution decisions are further scrutinised by the Enforcement and Prosecutions Board then forwarded to Deputy Chief Fire Officer for final sign off and approval.

10. The Enforcement and Prosecutions Board meets 6 weekly and is chaired by the Area Manager from Prevention and Protection. Membership includes the Clerk to the Authority and Officers from Community Fire Protection.

### **Prosecution Cases in 2013**

11. Following non-compliance with an Enforcement Notice (served 2012) John White Boat Builders, Weaver Industrial Estate, Garston, Liverpool, L19 8JA, the RP, a Mr Paul Kelly was summonsed to court on the 25.07.13. He was tried and found guilty of failing to comply then received a £1000 fine and was ordered to pay a total of £381 costs.
12. Following a fire in St Michaels Mount Care Home, Woolton Road, Liverpool, L25 7UW the RP's (Mr James Mutch and Mr Michael Hanlon) were summonsed to court for a failure to comply with the RRO. As the Responsible Persons' they were tried and found guilty of a number of offences and consequently ordered to each pay a £22,000 fine, together with £5000 costs. This case was the most high profile to date considering the inherent risk it posed to vulnerable members of society. **See Appendix A.**

### **Breaches of Prohibition Notices**

13. Three Prohibition Notices have been breached in 2013. Preparation of the prosecution case files are in progress and the offenders will be summonsed to court at a date to be confirmed.

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### **Equality and Diversity Implications**

14. A review of Enforcement & Prosecutions activity was undertaken in 2013 which for the first time included the capture of Equality and Diversity data and consideration of protected characteristics as part of the process in determining action. A higher percentage of enforcement & prosecution action has been taken against some protected groups due to sleeping risk above restaurants and takeaways, namely the South Asian Community in Liverpool. In response to this information the Authority's Community Protection teams have engaged in preventative activity to educate and advise the 'Responsible Persons' to prevent breaches of the legislation in the future. Scrutiny of Enforcement and Prosecution is included in the Equality and Diversity action plan governed by the Strategic Equality Group.

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### **Staff Implications**

15. There are no additional staffing burdens placed on the Authority in carrying out its statutory function.

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### **Legal Implications**

16. The Authority is required to comply with the Regulators Code of Compliance when undertaking its statutory functions to enforce the relevant Fire Safety legislation. The Community Fire Protection Policy and Risk Based Strategy provide direction on the compliance with the Regulators Code and actions are scrutinised and quality assured by the Clerk to the Authority and the Enforcement and Prosecutions Board.

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### **Financial Implications & Value for Money**

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17. This average cost to the Authority arising from prosecution action is £3,000 per case; however an application for costs can be made to the Court if the defendant is found guilty.
18. The amount of costs awarded by the Court will depend upon the Court's consideration of the defendant's ability to pay, therefore recovery of costs cannot be guaranteed in full.

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### **Risk Management, Health & Safety, and Environmental Implications**

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19. Actions carried out as a result of enforcement and prosecution significantly reduce the risk of fires, deaths and injuries within those premises.

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### **Contribution to Our Mission: *Safer Stronger Communities – Safe Effective Firefighters***

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20. This work actively encourages fire safety in the built environment thereby contributing directly to the Services Mission for both firefighters and community.

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### **BACKGROUND PAPERS**

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N/A

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### **GLOSSARY OF TERMS**

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<b>MFRA</b>	<b>M</b> erseyside <b>F</b> ire and <b>R</b> escue <b>A</b> uthority.
<b>MFRS</b>	<b>M</b> erseyside <b>F</b> ire and <b>R</b> escue <b>S</b> ervice.
<b>RP</b>	<b>R</b> esponsible <b>P</b> erson.
<b>RRFSO</b>	<b>R</b> egulatory <b>R</b> eform (Fire Safety Order)
<b>CFOA</b>	<b>C</b> hief <b>F</b> ire <b>O</b> fficers <b>A</b> ssociation

