

<b>Isle of Anglesey County Council</b>	
<b>Report to:</b>	<b>Executive Committee</b>
<b>Date:</b>	<b>13<sup>th</sup> December 2021</b>
<b>Subject:</b>	<b>Establishing a new Port Health Authority</b>
<b>Portfolio Holder(s):</b>	<b>Councillor Richard Dew – Planning &amp; Public Protection</b>
<b>Head of Service / Director:</b>	<b>Christian Branch – Head of Regulation and Economic Development Service</b>
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<b>Local Members:</b>	<b>All Elected Members (in particular those in Holyhead)</b>

#### A –Recommendation/s and reason/s

The withdrawal of the United Kingdom from the European Union (EU) has created a need to establish new border control arrangements and checks on imports. These new requirements have been placed on the Welsh Government as a consequence of the European Union (Withdrawal) Act 2018.

Two new facilities are currently being developed at Parc Cybi, Holyhead to carry out new customs and border control checks on good entering and leaving the United Kingdom through the international Port of Holyhead. HM Revenue & Customs are developing an Inland Border Facility (IBF), and the Welsh Government is currently establishing a Border Control Post (BCP). Further details on these two facilities is provided in **Annex A**.

Whilst responsibility for the BCP sits with the Welsh Government (under devolved powers from the UK Government), the establishment of the BCP will result in additional duties being placed upon the County Council (as the BCP's host authority). The main duties on the Council arise under the Public Health (Control of Diseases) Act 1984 and retained EU legislation on the inspection of imports.

This report focusses on the requirements of the BCP on the Council – in particular the need to develop and establish a new, dedicated Port Health Authority (PHA). A PHA has responsibility for enforcing health controls at the UK border, aimed at protecting public, environmental and animal health. The purpose of a PHA is described in **Annex B**.

The PHA must be established by July 2022 (when checks on products of animal origin are scheduled to be introduced) in order to discharge the Council's statutory duties (which include a range of documentary, identity and physical checks).

Regulation and the Economic Development Service officers have been engaging with the Welsh Government since August 2020 to better understand the anticipated changes to border checks. Despite the best endeavours of Officers, the lack of information and clarity has impacted on the Council's ability to plan and prepare meaningfully for the anticipated changes to border controls.

## A –Recommendation/s and reason/s

It should also be noted that the Council does not currently possess any port health expertise, capacity or capability.

Work on developing the PHA is currently being undertaken with one off grant support from Welsh Government, with no clarity or certainty in terms of future funding beyond the potential generation of income arising from documentary checks. There is no additional financial support in place beyond March 2022.

The Service believes that there are two potential options available to the Council to discharge its new port health duties. They are:

1. Establishing a new, arms-length PHA for Holyhead
2. Discharging the duties 'in-house' within the Council (without establishing a new PHA).

An arms-length PHA would be a defined and statutory distinct body, which should be easier to operate in terms of its duties, administration and charging/ income generation. However, the creation of a PHA will in result in additional obligations (and costs) being placed on the Council. The various statutory duties that apply to the Council, would also apply to the new PHA. The PHA should be incorporated and the roles of the Head of Paid Service, Monitoring Officer and S151 Officers applied. The PHA should also be included in accounting and auditing processes. The Council's constitution and allocation of delegations would also need to be reviewed.

The in-house approach would be the quickest means to put the appropriate capacity and arrangements in place for July 2022. However, it is unlikely to be as administratively efficient as a separate PHA and will need the buy-in from the Council Senior Officers and Members that the functions are to remain in-house and will be operated as such.

Further detailed work is required (with external support) to review and assess the suitability, deliverability and affordability of the preferred option to ensure that is the most appropriate way forward for the Council. This work will include a review of issues such as corporate governance, risks, liabilities, costs and requirements for support from other Council Services. A PHA Operational Plan will also be prepared to ensure the Council will be able discharge its statutory responsibilities in a timely and compliant manner; that there is alignment with the operation of the BCP; and that there is effective engagement, collaboration and information sharing with WG, UK Government, DEFRA and the Food Standards Agency.

Despite best endeavours, there has been no progress in securing financial support for the development, establishment, and initial operational phases of a new PHA.

Given the ongoing relationship and dialogue between the Council and Welsh Government in relation to the BCP, it will be critical to continue to work closely with its officials to inform the Council's approach to discharging its new PHA duties.

**A –Recommendation/s and reason/s**

**Recommendations:**

- 1. To recognise the statutory requirement to establish a new Port Health Authority.**
- 2. Delegate responsibility to the Head of Regulation & Economic Development Service, in consultation with the Senior Leadership Team and Portfolio Holder, to identify and develop a preferred option for establishing a new Port Health Authority.**
- 3. To recognise that further developmental work is carried out at risk to the County Council, and that resources will be provided to the Head of Service, Regulation & Economic Development (value and scope to be agreed with the Council's S151 Officer).**
- 4. To continue to press the Welsh Government to adequately and fairly finance the Council's new and additional responsibilities for the development, establishment and initial operation of a new PHA and to underwrite all additional costs incurred by the Council which are not recovered through income generated by the PHA.**
- 5. To authorise the release of £100,000 from the Council's general balances to complete the above (which the Council will seek to recover from the Welsh Government). Any additional funding above this sum will require a further decision from the Executive or Full Council in accordance with the limits set out in the Council's Constitution.**

**B – What other options did you consider and why did you reject them and/or opt for this option?**

Given the nature and scale of the Council's statutory port health duties, as well as the need to ensure sufficient capability and capacity is in place by July 2022, no other appropriate options have been identified.

**C – Why is this a decision for the Executive?**

The Executive's approval is required because the decision does not fall within the Council's existing Constitution.

**Ch – Is this decision consistent with policy approved by the full Council?**

This decision aligns with the Council's commitment to ensure all statutory and legal obligations in relation to Public Protection are met.

**D – Is this decision within the budget approved by the Council?**

The work to identify and develop (and subsequently implement) the Council's preferred option to discharge its port health duties is currently being undertaken at risk.

Additional resources will be required to undertake further detailed research and assessment - including the procurement of specialist external support.

The value and scope of any additional resources are to be agreed with the S151 officer following confirmation of the Executive Committee's support to establish a new PHA.

**Dd – Assessing the potential impact (if relevant):**

1	How does this decision impact on our long term needs as an Island?	Given the socio- economic importance of the international Port of Holyhead, it is imperative that the Council has sufficient capacity and capability to undertake its statutory duties to support and facilitate the effective operation of the Port.
2	Is this a decision which it is envisaged will prevent future costs / dependencies on the Authority? If so, how?	<p>The creation of a new PHA will result in additional obligations and costs being placed on the Council.</p> <p>The scale of these costs are as yet unclear and this will need to be established as part of the process to develop the preferred PHA model.</p> <p>The Welsh Government believes that the costs of the PHA could be recovered from the border checks that the PHA will undertake. This assumption will also need to be reviewed.</p>
3	Have we been working collaboratively with other organisations to come to this decision? If so, please advise whom.	The Service has been working with the Welsh Government since August 2020 to better understand the anticipated changes to border control arrangements.
4	Have Anglesey citizens played a part in drafting this way forward, including those directly affected by the decision? Please explain how.	The need to establish a PHA is an issue for the Council.
5	Note any potential impact that this decision would have on the groups protected under the Equality Act 2010.	No impacts on equalities are anticipated.
6	If this is a strategic decision, note any potential impact that the	No impacts on those experiencing socio-economic disadvantage are

**Dd – Assessing the potential impact (if relevant):**

	decision would have on those experiencing socio-economic disadvantage.	anticipated.
7	Note any potential impact that this decision would have on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.	No impacts anticipated on people using the Welsh language as a result of this decision. The new PHA would operate, and be managed, in full compliance with the Council's Welsh language policy.

**E – Who did you consult?****What did they say?**

1	Chief Executive / Senior Leadership Team (SLT) (mandatory)	Recognise the statutory requirement to establish a Port Health Authority, but concerned about the additional financial obligations to the Council.
2	Finance / Section 151 (mandatory)	As above.
3	Legal / Monitoring Officer (mandatory)	As above.
4	Human Resources (HR)	
5	Property	
6	Information Communication Technology (ICT)	
7	Procurement	
8	Scrutiny	
9	Local Members	

**F - Appendices:**

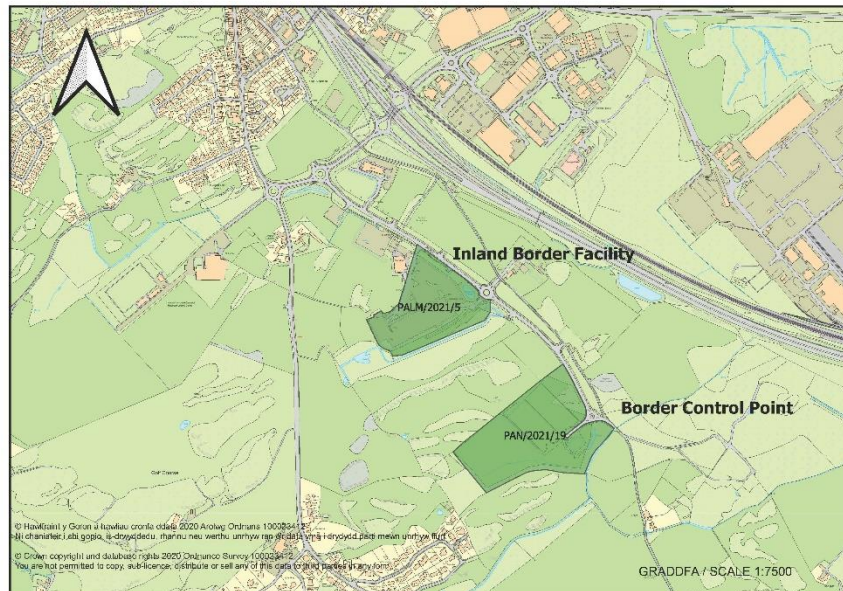
Annex A: Overview of new Customs and Border Control Facilities at Parc Cybi  
Annex B: Overview of a Port Health Authority

**Ff - Background papers (please contact the author of the Report for any further information):**

N/A

## Annex A: Overview of New Customs and Border Control Facilities at Parc Cybi

Two new facilities are being developed at Parc Cybi in order to carry out the necessary customs and border checks on goods entering and leaving the United Kingdom through the Port of Holyhead. HM Revenue & Customs are developing an Inland Border Facility (IBF), and the Welsh Government are developing a Border Control Post (BCP).



### Inland Border Facility

An Inland Border Facility is a border facility which will provide customs and transit checks that will be required from 1 January 2021.

IBFs are Government sites, operated by Her Majesty's Customs & Revenue (HMRC), where customs and document checks can take place away from port locations.

### Border Control Post

A Border Control Post is an approved facility to check animals and products of animal origin, plants and plant products, and high-risk food and feed of non-animal origin. These are collectively referred to as Sanitary and Phytosanitary (SPS) checks. The responsibility for implementing, constructing and operating BCPs in Wales falls upon Welsh Government, in line with the Border Operating Model set out by the UK Government

The dates for the commencement of documentary checks can be summarised as:

- The requirement for pre-notification of Sanitary and Phytosanitary (SPS) goods, will be introduced on the 1st January 2022.
- The requirement for Export Health Certificates will be introduced on the 1st July 2022.
- Phytosanitary Certificates and physical checks on SPS goods at Border Control Posts will be introduced on the 1st July 2022.
- Safety and Security declarations on imports will be required as of the 1st July 2022.

## **Annex B – An Overview of a Port Health Authority**

### **What is a Port Health Authority?**

A Port Health Authority (“PHA”) is a specially constituted body which has responsibility for enforcing health controls at the UK border, aimed at protecting public, environmental and animal health.

PHAs are managed by the local authority where the relevant port is located. They will carry out checks on imported food, inspect ships for food safety and infectious disease control, and carry out general public and environmental health checks.

### **Establishing a Port Health Authority**

A PHA is constituted under the Public Health (Control of Disease) Act 1984. Under the 1984 Act the Secretary of State or Welsh Ministers may, by order made by statutory instrument, constitute a ‘port health district’.

There is no formal process set out by Welsh Government to request the making of an Order.

### **What Powers can a Port Health Authority be given?**

The 1984 Act states that an Order shall give the PHA jurisdiction over all waters and land within the PHD, and may assign to the PHA any of the functions, rights and liabilities of a local authority relating to public health, waste disposal or the control of pollution.

A PHA’s environmental responsibilities include:

- Environmental Health and the spread of diseases
- Environmental permitting
- Statutory nuisance