



## CABINET – 4TH SEPTEMBER 2012

**SUBJECT: AMENDMENTS TO AUTHORISATION OF OFFICERS WITHIN THE PUBLIC PROTECTION DIVISION**

**REPORT BY: CHIEF EXECUTIVE**

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### 1. PURPOSE OF REPORT

- 1.1 To inform Cabinet of required changes to the legal powers for officers of the Public Protection Division to aid their ability to protect the public and legitimate businesses and to seek the necessary authorisation.

### 2. SUMMARY

- 2.1 Officers within the Public Protection Division require additional authorisation under a number of Acts of Parliament in order to enforce the legislation and carry out their duties.

### 3. LINKS TO STRATEGY

- 3.1 Public protection is a statutory duty of the authority and contributes towards the Health, Social Care and Well Being Strategy as well as the Corporate Priority of making Caerphilly a safer place to live and work.

### 4. THE REPORT

#### 4.1 AUTHORISATION OF OFFICERS

- 4.1.1 As a result of the introduction of new legislation and following a review of existing authorisations it is considered that the Council's Constitution should be amended to include the following legislation:

- **Police Reform and Social Responsibility Act 2011**

This Act significantly amends the Licensing Act 2003 and in particular designates the Licensing Authority as a Responsible Authority. Licensing Enforcement officers within Trading Standards have been allocated the role and are now able to make representations on new applications and to apply for reviews of existing licences.

- **The Sunbeds (Regulation) Act 2010**

This Act makes it an offence for an operator of a sunbed business in England and Wales to allow, or offer, someone under the age of 18 to use or access sunbeds on their premises. The legislation is designed to reduce the incidence of skin cancer by protecting those under the age of 18 from the dangers of overexposure to ultra-violet radiation. Further regulations made under the Act prevent unsupervised sunbed use in Wales.

- **Local Government Act 2003**

This Act amends the Local Government (Misc Provisions) Act 1982 and adds cosmetic piercing and semi permanent skin colouring businesses to s15 of the 1982 Act so that local authorities can compel businesses to register themselves and their premises. Local authorities may also make byelaws in respect of these matters. This will ensure that cosmetic piercers and businesses offering semi-permanent skin colouring will be effectively regulated through registration and inspection. Byelaws in relation to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis are currently with Welsh Government for approval.

- **Powers of the Criminal Courts (Sentencing) Act 2000**

This Act allows applications to be made to a court for forfeiture of items used in the course of the commission of a crime. This allows, for example, a request to be made for forfeiture of computer equipment, vehicles, tools etc, to permanently deprive convicted individuals of the articles associated with their crimes.

- **Fireworks Act 2003**

The Firework Regulations 2004 are made under the above Act and control decibel level of fireworks and require the display of a warning notice regarding legal age of purchase in firework sales premises.

- **Intoxicating Substances (Supply) Act 1985**

This Act creates an offence to supply an intoxicating substance (other than a controlled drug) e.g. solvents, glues to a person under the age of 18 where it is known or there is reason to believe that the substance or its fumes are likely to be inhaled to cause intoxication.

- **Tattooing of Minors Act 1969**

This Act prohibits the tattooing of persons under the age of eighteen years. Until recently it was thought that this Act was enforced by the Police but it has come to light that the legislation can be enforced by authorised officers from Local Authorities. There has been a rise in the number of complaints alledging underage tattooing. Adding this Act to the Constitution will enable officers to fully investigate allegations and instigate legal proceedings as necessary.

- **House to House Collections Act 1939**

The above Act places controls on charitable house-to-house collections within the local authority. It requires promoters to obtain a Licence to carry out the collections and contains provisions that create offences for promoters and collectors

- **Charities Acts 1992 and 2006**

Provisions within these Acts require that collectors declare details of the beneficiary of the charitable collection, the proportions of income that are to be distributed, their position and whether remuneration is being received for performing the collection.

- 4.1.2 Part 3 of the Council's Constitution, Responsibility for Functions be amended to include the above changes and the addition of the words "as amended" to the list of authorised legislation. This will ensure authorisations are kept up to date with changes to the authorised Acts of Parliament.

## **5. EQUALITIES IMPLICATIONS**

- 5.1 There are no potential equalities implications of this report and its recommendations on groups or individuals who fall under the categories identified in Section 6 of the Council's Strategic Equality Plan. There is no requirement for an Equalities Impact Assessment Questionnaire to be completed for this report.

## **6.0 FINANCIAL IMPLICATIONS**

- 6.1 None, enforcement activities are carried out within normal work programme.

## **7. PERSONNEL IMPLICATIONS**

- 7.1 None.

## **8. CONSULTATION**

- 8.1 The report has been sent to Consultees listed below, and there are no consultation responses, which have not been reflected in the recommendations.

## **9. RECOMMENDATIONS**

- 9.1 That Cabinet consider the contents of this report and agree to the relevant changes to the constitution and terms of reference.

- 9.2 That the Council's Constitution and terms of reference be amended by adding the following:

House to House Collections Act 1939, Charities Acts 1992 and 2006, Powers of the Criminal Courts (Sentencing) Act 2000, Fireworks Act 2003, Intoxicating Substances (Supply) Act 1985, Police Reform and Social Responsibility Act 2011, Tattooing of Minors Act 1969 and The Sunbeds (Regulation) Act 2010 and the Local Government Act 2003.

## **10. REASONS FOR RECOMMENDATION**

- 10.1 In order to comply with statutory requirements and to ensure proper and effective enforcement of the legislation.

## **11. STATUTORY POWER**

- 11.1 Local Government Act 1972, House to House Collections Act 1939, Charities Acts 1992 and 2006, Powers of the Criminal Courts (Sentencing) Act 2000, Fireworks Act 2003, Intoxicating Substances (Supply) Act 1985, Police Reform and Social Responsibility Act 2011, Tattooing of Minors Act 1969 and The Sunbeds (Regulation) Act 2010. The discharge of duties under the above legislation is a Cabinet function.

Author: Jacqui Morgan, Trading Standards, Licensing and Registrars Manager – Ext 5034  
Consultees: Councillor David Poole, Cabinet Member for Community & Leisure Services  
Anthony O'Sullivan, Chief Executive  
Rob Hartshorn, Head of Public Protection  
Daniel Perkins, Head of Legal Services/Monitoring Officer  
Ceri Edwards, Environmental Health Manager