



**REGENERATION AND ENVIRONMENT SCRUTINY COMMITTEE –
18TH SEPTEMBER 2012**

SUBJECT: PUBLIC PROTECTION ENFORCEMENT – 2011/12

REPORT BY: CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to provide information on formal enforcement activities within the Public Protection Division during 2011/12, in compliance with the Public Protection Enforcement Policy.

2. SUMMARY

- 2.1 The Public Protection Division consists of a wide range of protective and regulatory functions, which seek to protect, promote and improve the health, safety and economic well being of our communities, as well as regulate trade, commerce and the environment. The report provides an overview of the formal enforcement activity undertaken and includes some examples to illustrate the activity.

3. LINKS TO STRATEGY

- 3.1 Enforcing public protection legislation is a statutory duty and contributes to the following Corporate Improvement Plan themes:

- Building Better Lifestyles – by making Caerphilly a safer place to live and work and improving the look and feel of our streets.
- Building a Vibrant Economy – by supporting local, small and medium size businesses.

It also contributes to the outcomes of the Strategic Equality Plan:

- Objective 1: Individuals, families and groups in the communities of Caerphilly county borough feel safe living their own lives at home, at work and in the community at large.

4. THE REPORT

- 4.1 The Public Protection Division has a major role in protecting the environment and ensuring a safe, healthy, good quality of life as well as a prosperous community for both our citizens and visitors, alike. This role includes the enforcement of numerous statutes, many of which include criminal sanctions on those who infringe the law.
- 4.2 The Committee will also be aware that prosecution details are now published on the Council and are also publicised in Newline.

- 4.3 In order to ensure a fair and consistent approach to enforcement responsibilities the Public Protection Division has an Enforcement Policy. The Policy requires an annual review of activity.
- 4.4 The following information provides a broad picture of the range and number of formal enforcement actions initiated during 2011/12 (some prosecutions may still be awaiting hearing). In addition to the formal interventions detailed below, many hundreds of other informal warnings and cautions (both written and verbal) are issued every year.

4.5 **Trading Standards and Licensing Legislation**

Type of Enforcement Activity	Number
Significant breaches identified during inspection.	79 99 % were rectified on return visit
Simple (Formal) Cautions	8
Prosecutions	16
Fixed Penalty Notices under Section 146 of the Licensing Act, i.e. underage sales of alcohol (in conjunction with Gwent Police)	16
Total	119

Prosecutions

A summary of some of the cases prosecuted is provided below to illustrate the types of offences dealt with:

WD Cars Limited of Crosskeys were convicted at Caerphilly Magistrates Court on the 27th October 2011, for offering to supply and actually supplying a 'clocked' Volkswagen Golf. The company had purchased the vehicle from Auction with 69,000 miles on the clock. The mileage was not warranted to them, and it turned out the car had done over 134,000 miles. The car was sold as a genuine 69,000 vehicle to a consumer from Porthcawl, who discovered the mileage discrepancy, and with the assistance of Trading Standards got his money back. WD Cars however then proceeded to advertise the car with the lower mileage and sold it to a local man with the mileage being stated as correct. Trading Standards obtained a full refund for this consumer as well and the company were fined £3,300 and ordered to pay costs to the Council of £830.00.

Hand of Help UK Ltd, and the Director Tomas Procevicus of Penarth, were convicted at Caerphilly Magistrates Court on the 18th August 2011 for offences under the House to House Collection Act 1939. The company were involved in the collection of clothing in the Caerphilly area, without first having obtained a licence from the local Authority, despite on first being discovered to be breaking the law receiving advice and being warned. The problem with traders not obtaining licenses, is that these businesses would not have satisfied the Council that they are in fact collecting for charity, and are not a purely for profit business. The company was fined £2,000 and Procevicus £500, with costs of £230 awarded to the Council.

Happy Days Executive Travel Limited and Director Catherine Rose Vernalls were convicted at Caerphilly Magistrates Court on the 18th August 2011 for offences under the Fraud Act and the Road Traffic Act. The company operated 6 private hire taxis, licensed by the Council, but failed to obtain insurance on the vehicles, thus putting their customers and other road users at risk. The company had also obtained contracts to transport school children on the back of the fact that they had adequate insurance. The company was fined £7,000, and Vernalls was given a 2 year conditional discharge and 8 penalty points on her driving licence. £692 costs were also awarded to the Council.

Manickavasagar Kirupananthan the owner of Total Bargood Service Station in Gilfach was prosecuted at Abergavenny Magistrates Court on the 12th January 2012 for selling counterfeit Benson and Hedges cigarettes. The cigarettes were said to have tasted horrible, and had burned the lips of a local smoker, who complained to Trading Standards. Kirupananthan was fined £6,250 and order to pay costs to the Council of £787.90.

4.6 **Food Safety Legislation**

Type of Enforcement Activity	Number
Written Warnings/Advice	839
Improvement Notices	150 (46 premises)
Prosecutions	0
Voluntary Closure	8
Emergency Prohibition	0
Simple Caution	1
Total	998

4.7 **Health and Safety Legislation**

Type of Enforcement Activity	Number
Written Warnings/Advice	178
Improvement Notices	16 (7 premises)
Prohibition Notices	1
Prosecutions	1
Total	195

Prosecution

A summary of the case prosecuted is provided below to illustrate the types of offences dealt with:

Mr Ian Andrew Davies of 20 Nursery Crescent, Rhymney, NP12 5JT was convicted at Caerphilly Magistrate's Court on 4th January 2012 for two offences under the Local Government (Miscellaneous Provisions) Act 1982 for undertaking the practice of tattooing whilst not being registered with the Council. Mr Davies pleaded guilty and was ordered to pay a £100 fine (reduced from £150 due to early guilty pleas) for each of the offences, £250 costs, and £15 victim surcharge.

4.8 **Communicable Disease Legislation**

Type of Enforcement Activity	Number
Part 2A Orders Public Health (Control of Disease) Act 1984 (as amended)	3
Total	3

The above Part 2A Orders were served in respect of three unregistered tattooists who were operating from unregistered domestic premises. The Orders permit officers to gain access to the premises concerned and to take, destroy and dispose of any equipment used for the operation of tattooing. Illegal tattooing appears to be on the increase and officers are spending a significant amount of time investigating these issues.

4.9 **Environmental and Nuisance Legislation**

Written Warnings for dog fouling	7
Written Warnings for litter	3
Fixed Penalties for Dog Fouling	59
Fixed Penalties for Litter	136
Prosecutions for Littering	3
Prosecutions for Dog Fouling	7
Abatement Notices for statutory nuisance (Noise, smell, smoke etc).	58
Public Health Notices (drainage, unauthorised access, prevention of damage by pests, etc.)	55
Confiscation of noise making equipment	5 Seizures multiple items removed
Prosecutions for Statutory Nuisance (Noise)	3
Stray Dogs Impounded	413
Total	749

Prosecutions

A summary of some of the cases prosecuted is provided below to illustrate the types of offences dealt with:

Amber Engineering Services were convicted at Caerphilly Magistrate's Court on 21st October 2012 for two offences under Section 34 of the Environmental Protection Act 1990 of allowing commercial waste under their control to escape from their vehicles whilst being transported; one on the A469 Llanbradach by-pass and one on the A472 Pentwynmawr bypass. The Company were fined £1000 (reduced from £1500 because of the early guilty plea) for each offence and ordered to pay costs of £907.41 and victim surcharge of £15 within 28 days.

Nathan Williams of 5 Bristol Terrace, Brithdir pleaded guilty to offences of noise nuisance under the Environmental Protection Act 1990 arising from a barking dog. He was fined a total of £900 and ordered to pay £508 costs and £15 victim surcharge.

Mr John Evans of 1 Asquith Street, Tir Y Berth was convicted at Caerphilly Magistrate's Court on 4th January 2012 for an offence under the Dogs (Fouling of Land) Act 1986 of failing to remove dog faeces at the playing fields, New Road, Tir Y Berth. Mr Evans was ordered to pay a £200 fine, £85 costs, and £15 victim surcharge.

4.10 **Community Safety Legislation**

Type of Enforcement Activity	Number
Referrals by Community Safety Wardens into 4 Strike Anti-Social Behaviour process	40
Verbal Warnings (Name and address, date of birth taken)	263
Items of Alcohol Confiscated	618
Total no. of incidents monitored/dealt with by CCBC CCTV service	2326 (excluding Gwent Police Requests)
Evidence recorded and provided to Gwent Police	985 DVDs provided (inc. Working Copies)
Requests for monitoring from Gwent Police	1649

The CCTV Control Room refer incidents and suspicious behaviour directly to the Police for their action. Recent examples include theft, assault and criminal damage. Descriptions provided by the Control Room can result in arrests being made at the time of the incident and in some cases Control Room Operators are able to guide Police Officers to offenders as a result of on-going monitoring after an incident. The Control Room will store the relevant footage for use by the Police as evidence in the course of their criminal investigations. This substantially reduces the amount of time Police Officers need to spend investigating offences, provides best evidence of a perpetrator committing offences, reduces the need for victims to give evidence in Court and assists the Courts to sentence appropriate to the gravity of the offence. Some examples are:

- Theft of lead from the roof of Pontllanfraith Primary School witnessed by a CCTV operator who called in Gwent Police Officers. On arrest one of the individuals admitted to previous offences at another school. A Gwent Police prosecution is pending.
- Theft of tools from a business unit at Lawn Industrial Estate witnessed. Police called to attend and arrests made
- Graffiti in Blackwood Town Centre identified by the perpetrator's "tag" by the local Community Safety Warden who determined the time and date the graffiti was sprayed by investigations with local businesses. Footage of the offence provided to Gwent Police.
- Drug taking and drug supply witnessed via town centre CCTV cameras. On three occasions in the past year the Police have been called to attend and arrests have been made.
- A lone female was sighted unconscious at the rear of a public house in very cold weather. The woman had been the victim of an assault and took several days to recover in hospital from hypothermia. The consequences may have been even more serious but for the intervention of the CCTV Operator.

5. EQUALITIES IMPLICATIONS

- 5.1 This report is for information purposes only, so the Council's Equalities Impact Assessment process does not need to be applied.

6. PERSONNEL IMPLICATIONS

- 6.1 There are no personnel issues with regard to this report

7. FINANCIAL IMPLICATIONS

- 7.1 Whenever prosecutions are taken in the Courts we do seek to recover the reasonable costs of investigation and prosecution.
- 7.2 The income that is generated by the imposition of fixed penalty notices or recovery of court costs is included in the revenue budget.

8. CONSULTATIONS

- 8.1 This report has been sent to the Consultees listed below and there are no responses that have not been reflected in the recommendation.

9. RECOMMENDATIONS

- 9.1 Members are requested to consider and note the report.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To provide Members with an opportunity to conduct an annual review of enforcement activity in accordance with the Public Protection Enforcement Policy.

Author: Rob Hartshorn, Head of Public Protection – Ext. 5316
Consultees: Cllr. D.V. Poole, Cabinet Member for Community and Leisure Services
Cllr. D.T. Davies, Chair Regeneration and Environment Scrutiny
Cllr. E.M. Aldworth, Vice-Chair Regeneration and Environment Scrutiny
Anthony O’Sullivan, Chief Executive
Kath Peters, Community Safety Manager
Ceri Edwards, Environmental Health Manager
Jacqui Morgan, Trading Standards and Licensing Manager
Jonathan Jones, Democratic Services Manager
Dan Perkins, Head of Legal Services and Governance
David A. Thomas, Senior Policy Officer (Equalities and Welsh Language)