



**REGENERATION AND ENVIRONMENT SCRUTINY COMMITTEE –  
2ND JULY 2013**

**SUBJECT: PUBLIC PROTECTION ENFORCEMENT – 2012/13**

**REPORT BY: ACTING DEPUTY CHIEF EXECUTIVE**

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**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 2012/13, 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 this activity also contributes to the Healthier Caerphilly, Greener Caerphilly, Prosperous Caerphilly, and Safer Caerphilly priorities within the Caerphilly Local Service Board single integrated plan, Caerphilly Delivers, and Objective 1 of the Council's Strategic Equality Plan 2012.

**4. THE REPORT**

- 4.1 The Public Protection Division has a major role in protecting, promoting and improving the health, safety and economic well being of our communities. 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 website and are also publicised in Newslines.
- 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 2012/13 (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.	103 97% of which were rectified
Simple (Formal) Cautions	18
Prosecutions	38
Fixed Penalty Notices under Section 146 of the Licensing Act, i.e. underage sales of alcohol (in conjunction with Gwent Police)	7
<b>Total</b>	<b>166</b>

#### **Prosecutions**

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

Vanbank Limited of Wattsville were convicted at Caerphilly Magistrates Court on the 10<sup>th</sup> May 2012, for selling a Volvo V50 vehicle that they claimed had been fully serviced when it had not, and also seeking to restrict the purchasers rights. The company had merely paid for an oil change, but told the purchaser it had received a full manufacturers service and falsely stamped the service book. The purchaser complained to Trading Standards when the car experienced serious mechanical faults a few weeks after purchase. The Company then refused to do anything for the consumer. The Company were fined £3,000, ordered to pay costs to the Council of £850 and ordered to pay £2195 to the purchaser.

Cornelius Jones who traded as C Jones and Sons, a business carrying out building work, was convicted at Cardiff Crown Court on 30 April 2012 for falsely claiming that work needed to be carried out on the roof of an elderly resident of Nelson, when the roof did not require repairs. Jones of Pontypool, cold called on the victim's home and persuaded him to agree to pay almost £1000 for the work. Jones took his victim to the bank and made him draw out the money. Fortunately thanks to the prompt action of the victim's carer, employed by Social Services, the cash was not handed over and Jones forced to leave empty handed. The victim, who sadly passed away shortly after the incident, had been subject to previous scams and had a surveillance camera fitted in his home. Thanks to this, and assistance from Gwent Police, Jones was identified and arrested. Jones was sentenced to 14 months imprisonment.

Violet Elaine Jones of Cefn Hengoed was convicted at Caerphilly Magistrates Court on the 9<sup>th</sup> July 2012 for selling counterfeit tobacco and illegally imported cigarettes from her home. Both the counterfeit and illicit tobacco did not have the appropriate health warnings attached, are not manufactured to any standards at all and tend to be far more harmful than legitimate products. Jones, aged 65 was sentenced to 12 weeks in prison, suspended for 12 months. She was also ordered to pay £500 costs to the Council. In a similar case involving counterfeit tobacco, Farah Naz the owner of a business trading as The Phone Exchange in Risca, and her partner Majid Ali were convicted at Caerphilly Magistrates Court on the 28th March 2013 for selling counterfeit tobacco to an under age 16 year old girl. Both were ordered to carry out 200 hours unpaid work and pay costs of £315 to the Council.

Gareth David Parker of Hengoed was prosecuted at Caerphilly Magistrates Court on the 3<sup>rd</sup> January 2013 for selling and possessing counterfeit goods, including football memorabilia, CDs and DVDs. Parker was running a large scale business from his parents' home. He was ordered to carry out 200 hours unpaid work, ordered to pay costs to the Council of £898. Parker was also made to wear an electronic tag and put under curfew.

Robert Charles Symons of Markham who traded as Capitalwest Ltd was prosecuted at Caerphilly Magistrates Court on the 9<sup>th</sup> August 2012 for falsely claiming membership of trade associations which set professional standards for the lettings industry and afford protection to landlords and tenants, failing to protect tenants deposits with any of the approved tenancy protection schemes, taking money from tenants for insurance when no insurance policy existed and diverting tenants' housing benefit into his bank account without their knowledge. Symons was sentenced to 301 days imprisonment and disqualified from being a Company Director for 3 years.

#### 4.6 **Food Safety Legislation**

<b>Type of Enforcement Activity</b>	<b>Number</b>
Written Warnings/Advice	909
Improvement Notices	28
Remedial Action Notices	3
Prosecutions	3
Voluntary Closure	5
Emergency Prohibition	0
Simple Caution	0
<b>Total</b>	<b>948</b>

#### 4.7 **Health and Safety Legislation**

<b>Type of Enforcement Activity</b>	<b>Number</b>
Written Warnings/Advice	205
Improvement Notices	15
Prohibition Notices	1
Simple Caution	1
Prosecutions	0
<b>Total</b>	<b>221</b>

#### **Prosecutions**

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

Mr Tarjit Singh Sandhu trading at Trecenydd Stores 88 St. Cenydd Road, Trecenydd, Caerphilly, CF83 2TE was prosecuted at Caerphilly Magistrates Court on 3rd May 2012 following a food hygiene Inspection which unveiled 5 breaches of Food Safety legislation.

The offences included failing to maintain the premises and equipment in a clean condition, failing to provide hot water at a sink and wash hand basin and for exposing foods for sale with expired use by dates. Sandhu was fined £350 with costs of £200 and a victim surcharge of £15.

Rhiannon Cornwall of Cardiff who traded as Incredible Edibles was prosecuted at Abergavenny Magistrates Court on 5<sup>th</sup> of November 2012 for 11 breaches of the Food Hygiene (Wales) Regulations. Cornwall ran a catering business which catered at functions such as weddings and charity functions. Offences included failing to register the food business with the local authority, failing to maintain the equipment and premises in a clean condition, failing to prevent the risk from pests, lack of training for food handlers and failing to have a food safety management system in place. Cornwall was also prosecuted for 2 offences under consumer protection Regulations for the publication of material on a web site which contained false information. Cornwall was fined a total of £1,950 being £150 for each of the 13 offences and ordered to pay an additional £350 towards prosecution costs. A victim surcharge of £15 was also required.

Restaurant chain Kentucky Fried Chicken (GB) Ltd, trading at 1 North Court, Blackwood, was prosecuted at Abergavenny Magistrates Court on 17<sup>th</sup> December 2012 following a premises inspection in response to a customer complaint. The offences were contrary to the Food Hygiene (Wales) Regulations 2006 and related to failing to maintain the food business in a clean, well maintained condition, and failing to manage the refuse store in a way that enabled it to be kept clean. KFC pleaded guilty to 2 offences and was ordered to pay a fine totalling £2,600 (£1300 for each offence), together with prosecution costs of £859 and a £15 victim surcharge.

#### 4.8 **Communicable Disease Legislation**

<b>Type of Enforcement Activity</b>	<b>Number</b>
Part 2A Orders Public Health (Control of Disease) Act 1984 (as amended)	1
<b>Total</b>	<b>1</b>

A prosecution is pending for this case in relation to illegal tattooing activities.

#### 4.9 **Environmental and Nuisance Legislation**

Written Warnings for dog fouling	7
Written Warnings for litter	174
Fixed Penalties for Dog Fouling	71
Fixed Penalties for Litter	362
Prosecutions for Littering	10
Prosecutions for Dog Fouling	5
Abatement Notices for statutory nuisance (Noise, smell, smoke etc).	31

Public Health Notices (drainage, unauthorised access, prevention of damage by pests, etc.)	37
Confiscation of noise making equipment	3
Prosecutions for Statutory Nuisance (Noise)	2
Stray Dogs Impounded	353
Prosecutions for Fly tipping	9
<b>Total</b>	<b>1064</b>

## Prosecutions

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

Amy Thomas of Gelligaer Road, Cefn Hengoed, illegally deposited waste at Hospital Road, Penpedairheol and failed to attend court on two occasions. A warrant was therefore issued for her arrest. She was apprehended at Bristol Airport en route to a holiday abroad. Brought before Caerphilly Magistrates Court on 27th July 2012, Thomas pleaded guilty to the charge and was fined with a conditional discharge for 6 months, as well as being ordered to pay £50 towards costs.

Simon Marshall, 30, of Ludlow Street, Caerphilly been ordered to pay a total of £536.36 for allowing his household waste to be deposited illegally by an unlicensed and unknown person on a quiet road in Rudry. He attended Caerphilly Magistrates Court and pleaded guilty to breaching his duty of care as a householder under Section 34 (2A) of the Environmental Protection Act 1990. The Act states that all householders have a legal responsibility to ensure waste from their home is disposed of correctly and with a licensed carrier. He was sentenced to a fine of £265, and was ordered to pay an additional £15 victim surcharge and £256.36 waste removal costs.

Mr Darren Gurner, from James Street, Llanbradach was found guilty on 24th January 2013 of illegally depositing waste at Mill Lane in Ystrad Mynach. The waste from a property being renovated in Cardiff included internal doors, building rubble, worktops, kitchen units, wall tiles and luggage. Mr Gurner was ordered to pay costs of £775.94 and given a 12 month conditional discharge.

A woman from Nelson has been ordered to pay a total of £300 for dropping litter and failing to pick it up. Nicole Richards of Ynys Las, Nelson dropped litter at Ashgrove Terrace in Nelson. She was issued with a fixed penalty notice of £75 but failed to pay. The matter was taken to the courts, and was heard before Caerphilly Magistrates Court on 28th March 2013. The defendant did not attend the hearing and the matter was proved in her absence. She was ordered to pay a fine of £200, £85 in costs and a £15 surcharge.

Rebecca Birnie of Third Avenue, Trecenydd, was fined £400, and was ordered to pay a victim surcharge of £15 and costs of £85 under Section 3 and 4 of the Dogs (Fouling Of Land) Act 1996 for allowing her dog to foul and failing to pick it up. After non-payment of the original fixed penalty notice of £75 the matter was pursued through the courts and was heard in Caerphilly Magistrates Court on Friday 7th September 2012. The defendant did not attend court and the matter was proved in her absence.

#### 4.10 Community Safety Legislation

Type of Enforcement Activity	Number
Referrals by Community Safety Wardens into 4 Strike Anti-Social Behaviour process	21
Verbal Warnings (Name and address, date of birth taken)	144
Items of Alcohol Confiscated	142
Total no. of incidents monitored/dealt with by CCBC CCTV service  Evidence recorded and provided to Gwent Police  Requests for monitoring from Gwent Police	4157 incidents recorded  861 DVDs provided including working copies  1336 requests for assistance from police.

The CCTV Control Room refers 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.

Examples over the year where Operators have been proactive in determining offences include 3 males being arrested in September 2012 for drug use. A man was observed threatening a woman in an incident in October 2012, the Police were alerted and the man was arrested. In December 2012 CCTV Operators located a team of shoplifters and were able to direct the Police to them to make arrests. In January, following up on a report of a man seen with knives, a CCTV Operator directed Police to him and he was arrested. In January of this year 2 men were observed trying to break into a car. They were followed by camera to a house and the Police were notified and attended the property.

#### 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 report.

## **9. RECOMMENDATIONS**

9.1 Members are requested to note the report.

## **10. REASONS FOR THE RECOMMENDATIONS**

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

Author: Rob Hartshorn, Head of Public Protection – Ext. 5316  
Consultees: Cllr. Dave Poole, Cabinet Member for Community and Leisure Services  
Cllr. D.T. Davies, Chair Regeneration & Environment Scrutiny  
Cllr. E.M. Aldworth, Vice-Chair Regeneration & Environment Scrutiny  
Sandra Aspinall, Acting Deputy Chief Executive  
Kath Peters, Community Safety Manager  
Ceri Edwards, Environmental Health Manager  
Jacqui Morgan, Trading Standards & Licensing Manager  
Jonathan Jones, Democratic Services Manager  
Dan Perkins, Head of Legal Services  
David A. Thomas, Senior Policy Officer (Equalities and Welsh Language)  
Mike Eedy, Finance Manager  
Lynne Donovan, HR Services Manager, Customer Services