



REGENERATION AND ENVIRONMENT SCRUTINY COMMITTEE – 1ST JULY 2014

SUBJECT: PUBLIC PROTECTION ENFORCEMENT – 2013/14

REPORT BY: ACTING DEPUTY 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 2013/14, 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.
- 2.2 The Surveillance Camera Commissioner's Code of Practice states that the local authority should consider, on an annual basis, its surveillance camera system to ensure that it remains necessary, proportionate and effective. This report considers the Public Open Space CCTV system.

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 published on the Council website and in Newsline.
- 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 2013/14 (some prosecutions may still be awaiting hearing). In addition to the formal interventions detailed below, 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.	84 (95% rectified)
Simple (Formal) Cautions	12
Prosecutions	32
Fixed Penalty Notices under Section 146 of the Licensing Act, i.e. underage sales of alcohol (in conjunction with Gwent Police)	8
Total	136

Prosecutions

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

Mark Anthony Griffiths of Penyrheol, Caerphilly was convicted at Newport Magistrates Court on 29 November 2013 for storing a large amount of fireworks in his home, without being Registered with the Local Authority. Griffiths had almost 30Kg of explosives contained in the fireworks, stored in an outhouse, which also served as a place for family members to smoke. Having such large amounts of fireworks in unregistered, uncontrolled premises created a significant danger not only to Griffiths and his family, but also to his neighbours. The existence of the fireworks at his home, were discovered by Officers following a raid on a premises in another part of the Borough, where it was discovered that Griffiths was supplying fireworks. Griffiths was fined £500 and ordered to pay £238 costs to the Council.

Luke Hathway, trading as Everything Stoves and Celtic Stoves was convicted at Caerphilly Magistrates Court on 20th June 2013 for falsely claiming membership of a trade organisation and not being professionally diligent when supplying and fitting wood burning stoves. One wood-burning stove fitted by Hathway when inspected by an expert was condemned as “immediately dangerous” and prevented from further use. When the fire was tested it became apparent the fire was incorrectly positioned and the room filled with smoke. Hathway also had falsely claimed to 4 of his customers that he was a member of the Heating Equipment Testing and Approval Scheme (HETAS), the trade association responsible for overseeing the installation of wood burning stoves in the UK. Hathway was fined £4200 and ordered to pay over £2000 victim compensation and prosecution costs.

Andrew James Akers of Nottingham was convicted at Abergavenny Magistrates Court on the 10th June 2013 for selling a “clocked” VW Transporter Van to a small businessman from Llanbradach. The van was advertised on eBay with 72,000 miles on the clock. The purchaser travelled to Nottingham to buy the van, which broke down before he reached the M1 to drive home, the engine failing. Akers, having sold the van, wanted nothing more to do with it and the buyer complained to Trading Standards. At this stage it was ascertained that Akers was a motor trader and that the van had travelled over 135,000 miles and not the 72,000 shown on the clock. Akers was ordered to pay £3,120 compensation to the purchaser and £200 costs to the Council.

Wendy Faulkner of Aberbargoed was convicted at Newport Magistrates Court on the 15th November 2013 for driving a Hackney Carriage without having a licence to do so. Faulkner who had previously been a licensed driver with Caerphilly cbc had had her license suspended due to health reasons. However she continued to drive her taxi and was fined £400 and ordered to pay costs of £438.20.

Rashid Aziz of Tonypandy, who trades as TR Group Premier Stores of Ystrad Mynach was convicted at Caerphilly Magistrates Court on 16th May 2013 for selling alcohol, 4 cans of Strongbow cider to a 15 year old schoolgirl. He was fined £800 and ordered to pay £425.10 costs.

Mark Davis, trading as Valley Damp Proofing and Plastering of Bargoed was convicted at Newport Magistrates Court on 4th October 2013 for failing to carry out a damp proofing job to a professional standard and failing to give cancellation rights to a consumer. Davis agreed to put a damp proof course into a consumers home in Fleur De Lys, but the work was not only carried out to a very poor standard, but also did not address the problem. The work, it was claimed by Davis was guaranteed for 30 years, a statement that was entirely false. Davis, the owner of the business, was convicted of a number of offences, including Fraud. He was given a 12 month Supervision Order, ordered to carry out 200 hours unpaid work, attend a Substance Misuse Programme and pay £500 costs to the Council. Anthony Allen Moses of Aberdare, who acted with Davis, was also convicted on the same day, fined £600 and ordered to pay costs of £1,124.75

Brenig Hardacre of Trinant was prosecuted at Newport Magistrates Court on 21st March 2014 for 30 offences under the Animal Welfare Act in relation to dead and dying horses found on a farm in Trinant, along with cattle, sheep and pigs that were kept in unsuitable conditions. Officers from Trading Standards led a protracted multi agency operation with the Animal Health and Veterinary Laboratories Agency, a Horse Charity and other Council Services, involving the removal of 58 horses, 21 cattle, 45 sheep and 8 pigs to alleviate their suffering. In addition to ensuring the future well-being of over 130 animals, the operation resulted in Hardacre being sentenced to carry out 200 hours of unpaid work and pay £1,000 costs to the Council. The Court also disqualified him from keeping livestock.

4.6 Food Safety Legislation

Type of Enforcement Activity	Number
Written Warnings/Advice	776
Improvement Notices	61
Remedial Action Notices	3
Prosecutions	1
Voluntary Closure	9
Emergency Prohibition	0
Simple Caution	0
FHRS Fixed Penalty Notice	1
Total	851

Prosecutions

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

Ms Farah Naz trading as The Phone Exchange, Risca was convicted at Caerphilly Magistrates Court on 16th May 2013 for failing to comply with a Hygiene Improvement Notice and failing to provide a hot water supply to the sink at the food business which would be used for the purpose of cleaning and disinfection contrary to the Food Hygiene (Wales) Regulations 2006. Ms Farah Naz pleaded guilty to the offences and was ordered to pay a £600 fine and costs of £400 were allocated in addition to a £60 victim surcharge.

4.7 Health and Safety Legislation

Type of Enforcement Activity	Number
Written Warnings/Advice	179
Improvement Notices	40
Prohibition Notices	4
Simple Caution	0
Prosecutions	2
Total	226

Prosecutions

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

David Bryn Williams trading as Tantastic, Blackwood was convicted at Caerphilly Magistrates Court on Thursday 11th July 2013 for allowing the sale of a sunbed session to a child during a test purchase operation contrary to the provisions of the Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011. He was fined £2000 with £924.37 costs plus victim surcharge of £60.

Cashino Gaming Ltd trading at Blackwood was convicted at Newport Magistrates Court on Friday 18th October 2013 for failing to give proper advice and supervision to its customers, contrary to the provisions of Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011 during a test purchase operation. The offences included failing to make protective eyewear available or checking to see if the user had protective and secure eye protection with them, failure to assist the person to assess their skin type and failure to provide guidance on the use of sunbeds. Cashino Gaming also pleaded guilty to failure to advise the user on the safe operation of the sunbed and failure to ensure the provision and use of protective eyewear. Cashino Gaming were ordered to pay a total of £6,920 in fines, costs and a victim surcharge.

4.8 Communicable Disease Legislation

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

Prosecutions

A summary of the case prosecuted is provided below:

Craig Crook of Pontllanfraith was convicted at Caerphilly Magistrates court on 5th September 2013 for illegally tattooing people at his home address. The room in which the tattooing was being undertaken did not fulfil the requirements of a tattoo studio in accordance with the local authority byelaws and equipment was not being suitably sterilised. The tattoo equipment was seized and destroyed. He was ordered to pay a fine of £450, together with £900 in costs and a £20 victim surcharge. The offences were failure to comply with Local Authority Tattooing Byelaws, and failure to register himself and the premise at which the practice of tattooing was undertaken all contrary to the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

4.9 Environmental and Nuisance Legislation

Written Warnings for dog fouling	1
Written Warnings for litter	33
Fixed Penalties for Dog Fouling	46
Fixed Penalties for Litter	239
Prosecutions for Littering	2
Prosecutions for Dog Fouling	5
Abatement Notices for statutory nuisance (Noise, smell, smoke etc).	56
Public Health Notices (drainage, unauthorised access, prevention of damage by pests, etc.)	75
Confiscation of noise making equipment	3
Prosecutions for Statutory Nuisance (Noise)	1
Stray Dogs Impounded	307
Prosecutions for Fly tipping	4
Cautions for Fly Tipping	2
Total	773

4.10 Community Safety Legislation

Type of Enforcement Activity	Number
Referrals by Community Safety Wardens into 4 Strike Anti-Social Behaviour process	25
Verbal Warnings (Name and address, date of birth taken)	159
Items of Alcohol Confiscated	153
Total no. of incidents monitored/dealt with by CCBC CCTV service	4766
Evidence recorded and provided to Gwent Police	886
Requests for monitoring from Gwent Police	1680

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:

- An Operator noticing suspicious behaviour one evening in Newbridge by two individuals. Visual contact was maintained as they broke into a local takeaway, stole the till, and hid in a nearby lane, out of sight of cameras. The Operator was able to guide a Gwent Police dog unit to the location to make the arrest.
- CCTV Operators spotted a group of males acting suspiciously near a disused club in Risca. Gwent Police were directed to the location and three prolific burglary offenders from the Newport area were taken into custody for being equipped with tools necessary to break into properties. One of the group was also charged for a series of fuel theft offences due to being identified as part of custody procedures for offences committed in this area.
- Police Control notified of 2 wanted males suspected to be in Caerphilly town. The offenders were spotted by CCTV Operators and armed response was dispatched to tackle them.
- CCTV Operators were able to direct Police Officer to a man hiding in the Rhymney area. The man had been previously involved in a violent disturbance involving several perpetrators.
- Operators were asked by Police Control to search for a vehicle after reports of an abducted female. The van was spotted, officers attended, the driver was arrested and the young woman was taken away in a Police car.

CCTV Operators are often the first service to notice vulnerable people who may have been the victims of offences. Some recent examples are:

- A vulnerable young woman spotted in Llanbradach covered in bruises and wearing no shoes. Police Control were informed and attended the scene.
- A female collapsed on the pavement in an inebriated state in Blackwood. Street Pastors were called to the scene to give assistance.
- Unconscious male spotted in an underpass associated with drug taking. Police and Ambulance called to attend. Male taken to hospital.
- The Public Open Space CCTV system comprises 155 cameras covering 28 town and village centres. Cameras in Blackwood, Caerphilly and Bargoed town centres are used to monitor the highest number of incidents followed by Rhymney, Risca and Ystrad Mynach cameras respectively. While cameras in villages tend to be used to monitor less incidents they are regarded as providing a significant deterrent effect and help in maintaining community reassurance. The location and number of permanently fixed cameras is considered as necessary, proportionate and effective.

4.11 Regulation of Investigatory Powers Act 2000 Authorisations

The Regulation of Investigatory Powers Act 2000, places safeguards and controls over activities undertaken by Public Bodies, when they use legitimate tools to enforce breaches of the law, which interfere with the Article 8 Rights of individuals under the European Convention on Human Rights.

Insofar as Trading Standards are concerned the permitted activities are:-

- Directed Surveillance (the covert surveillance of individuals)
- The use of Covert Human Intelligence Sources (either undercover officers or informants)
- Access to Communications Data (restricted access such as subscriber details and data traffic-not the content of any calls/texts etc, but merely the numbers sent to/received from)

The Act and subordinate legislation sets out strict criteria that must be met, before the activity can be authorised and undertaken. In all cases, the interference must be both proportionate and necessary, and full details of activities and the criminal investigation needs to be set out.

Within Caerphilly Council applications are reviewed by a Senior Manager and if all the criteria are met, the application will be authorised. In the case of Directed Surveillance and Covert Human Intelligence Sources (CHIS), the Authority's Monitoring Officer will also vet the applications, to ensure they are correctly authorised. The Monitoring Officer does not have this responsibility in relation to Communications Data. Communications Data is accessed using the National Anti Fraud Network (NAFN), who have their own internal safeguards.

Once applications are Authorised, Officers must then apply to the Magistrates Courts and obtain Judicial Approval to carry out the activity. During 2013/14, Trading Standards obtained RIPA Authorisations as below:-

Directed Surveillance-	11
Covert Human Intelligence Sources-	0
Communications Data-	2

In relation to the Directed Surveillance Authorisations, 6 related to under age test purchase operations held throughout the year, covering alcohol, tobacco and fireworks. 5 sales took place resulting in the issue of 4 Penalty Notices for Disorder issued to sellers, and 2 businesses being reported for prosecution, neither case having been heard yet. 2 Authorisations related to surveillance of problem premises identified by both Police and Trading Standards as possibly supplying alcohol to known local children. In one case the surveillance disproved the allegations, the surveillance is continuing at the other premises.

2 Authorisations concerned the same private dwelling, where it was suspected the occupier was selling counterfeit and smuggled (illicit) tobacco products. The surveillance proved this resulting in a warrant being executed, seizure of tobacco and cash, the seller being arrested and charged with a number of offences-he is currently awaiting trial. The final Authorisation concerned surveillance of a suspected on line seller of counterfeit goods. In this case the surveillance culminated in a large-scale operation, in which 6 persons were arrested and charged with possessing counterfeit goods. All 6 are awaiting trial.

With regard to the 2 Communications Data requests, 1 related to a suspected roadside seller of motor vehicles, but the acquired data did not assist the investigation. The other involved 2 individuals who had carried out a substandard damp proofing job on a consumer's property in Fleur de Lys. The subscriber details obtained assisted in identifying the 2 individuals who were subsequently convicted of a number of offences including Fraud.

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. FINANCIAL IMPLICATIONS

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

7. PERSONNEL IMPLICATIONS

- 7.1 There are no personnel issues with regard to this report.

8. CONSULTATIONS

- 8.1 This report has been sent to the Consultees listed below and all comments received are reflected in this 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.

11. STATUTORY POWER

11.1 Officers within Public Protection enforce a large number of Acts of Parliament which are listed in part 3 of the constitution, Responsibility for Functions.

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
Gail Williams, Interim Head Of Legal Services And Monitoring Officer
David A. Thomas, Senior Policy Officer (Equalities and Welsh Language)
Mike Eedy, Finance Manager
Sian Phillips, HR Manager