



ENVIRONMENT AND SUSTAINABILITY SCRUTINY COMMITTEE – 22ND JUNE 2021

**SUBJECT: PUBLIC PROTECTION ENFORCEMENT, CONSUMER
ADVICE, AND COVID 19 RESPONSE 2020/21**

REPORT BY: CORPORATE DIRECTOR, ECONOMY & ENVIRONMENT

1. PURPOSE OF REPORT

1.1 The purpose of this report is:

- To provide information on formal enforcement activities within the Public Protection Division including outcomes of investigations undertaken under the auspices of the Regulation of Investigatory Powers Act.
- To consider, in accordance with the Surveillance Camera Commissioner's Code of Practice, the Council's CCTV surveillance camera system to ensure that it remains necessary, proportionate and effective.
- To provide information to Members on the nature of Consumer Advice complaints dealt with by the Trading Standards Service.
- To inform of the Division's response to the Covid 19 pandemic, encompassing infection control and advice; assisting the Test, Trace and Protect team; support and advice to business, and compliance monitoring and enforcement.
- To highlight the decrease in enforcement and regulatory activities as a direct consequence of diverting Public Protection staff to respond to the pandemic.

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 wellbeing of our communities, as well as regulate trade, commerce and the environment. In compliance with the Public Protection Enforcement Policy the report provides an overview of the formal enforcement activity undertaken including outcomes of investigations undertaken under the auspices of the Regulation of Investigatory Powers Act during 2020/21.

- 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.
- 2.3 This report would normally include details of test purchasing activity regarding age restricted products, enforcement action and the penalties that may be applied. The Authority is required by law to annually review its approach to tackling under-age sales of tobacco and spray paints. Resources were diverted away from such activity in order to respond to the demands of the pandemic and it was not possible or safe to carry out test purchase activity during the year.
- 2.4 The report provides information to Members on the number and nature of complaints dealt with by the Consumer Advice function of Trading Standards in 2020/21.
- 2.5 The report provides information about the Public Protection response to the Covid 19 pandemic and advice and enforcement action taken in relation to the various controls applicable throughout the financial year. The reduction in activity in the tables in Appendix 1 for 2020/21 reflect the transfer of resources and reconfiguration of the service to in response to Covid 19 impacts.

3. RECOMMENDATIONS

- 3.1 Members are requested to consider the review of Public Protection enforcement and other activities, including those associated with the pandemic, CCTV provision, and to note the activity in relation to Consumer Advice.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 To provide Members with an opportunity to note the annual review of enforcement activity in accordance with the Public Protection Enforcement Policy.
- 4.2 To keep members informed of the type and level of complaint activity within the county borough and the assistance provided by the Consumer Advice service.
- 4.3 To ensure the Public Open Space CCTV system remains necessary, proportionate and effective.
- 4.4 To enable Members to understand the impact of Covid 19 on the work of regulatory services during 2020/21 and the level and types of response provided by Public Protection.

5. THE REPORT

- 5.1 Public Protection services have 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.
- 5.2 The Committee will also be aware that prosecution details are normally published on the Council website and in Newline. Newline publications were also affected by the

pandemic last year with only one special household survey edition in December.

- 5.3 In order to ensure a fair and consistent approach to enforcement responsibilities the Council has adopted a Public Protection Enforcement Policy which sets out an expectation that there will be an annual review of activity. As a result of the coronavirus pandemic no report was presented in 2020.
- 5.4 The information in Appendix 1 provides a broad picture of the range and number of formal enforcement actions initiated during 2020/21, including those in relation to the Covid19 pandemic (some prosecutions may still be awaiting hearing). In addition to the formal interventions detailed, hundreds of other informal warnings and cautions (both written and verbal) are normally issued every year. The table also includes activity of the CCTV Control unit and Community Safety Wardens for the last financial year.
- 5.5 The Public Open Space CCTV system comprises 150+ cameras covering 28 town and village centres. Cameras in Blackwood, Caerphilly and Bargoed town centres monitor the highest number of incidents, followed by Ystrad Mynach, Newbridge, Risca and Rhymney respectively. While cameras in villages tend to be used to monitor less incidents they are regarded as providing a deterrent effect and help in maintaining community reassurance. The location and number of permanently fixed cameras is considered to be necessary, proportionate and effective.
- 5.6 The CCTV Control Room refers incidents and suspicious behaviour directly to the Police for their action. 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.
- 5.7 The CCTV Control Room monitors other activity. During the year 298 warnings were given for out of hours access to Council depots, Amenity sites and schools, in some cases police response was required. 4 calls were received from the Storennet system to deal with suspected shoplifters. Police asked for assistance in monitoring 53 threats of suicide. Numbers reduced significantly last year due to various "lockdowns" and the Stay at Home Message. The Control room has stayed open 24/7 throughout the pandemic.
- 5.8 **Regulation of Investigatory Powers Act 2000 Authorisations**
 - 5.8.1 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)

5.8.2 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. The Head of Legal Services & Monitoring Officer is the Council's Senior Responsible Officer in relation to RIPA and updates in relation to the operations undertaken are provided to the Audit Committee on a quarterly basis.

5.8.3 Within Caerphilly Council applications are reviewed and authorised 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 Corporate Solicitor undertakes a gate keeper role, keeping records of all applications and vetting them to ensure they are correctly authorised. The latter 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.

5.8.4 Once applications are Authorised, Officers must then apply to the Magistrates Courts and obtain Judicial Approval to carry out the activity. During 2020/21, Trading Standards obtained RIPA Authorisations as below:-

Directed Surveillance-	0
Covert Human Intelligence Sources-	1
Communications Data-	1

5.8.5 The Covert Human Intelligence Source authorisation related to the alleged sale of Nitrous Oxide (laughing gas) for personal use.

5.8.6 Communications data was obtained in relation to an investigation into an illegal dog breeder.

5.9 Underage Sales

5.9.1 Complaints about premises supplying age-restricted products are normally received from members of the public, local elected Members, Police Officers, Community Safety Wardens, and other businesses. Complaint data is used to target enforcement activities and also to support authorisations for directed surveillance using covert recording equipment, under the Regulation of Investigatory Powers Act 2000. During the financial year 2020/2021 the Trading Standards Service received a total of 10 complaints, 9 in relation to alcohol and one relating to tobacco

5.9.2 During 2020/21 no test purchase operations were possible due to Covid 19 and the obvious concerns for the safety of the public, officers and volunteers. Many premises were also closed during the various "lock downs" or only providing "click & collect services or deliveries. Where complaints were received, premises were visited and traders advised. Officers also took part in Operation Spectre with Gwent Police, the National Knife Crime annual initiative, visiting retailers who sell knives and advising.

5.10 Illegal Tobacco Activities

- 5.10.1 The sale of illegal tobacco products is an increasing problem in both CCBC and throughout the UK. Each local Authority has a number of premises, whose main purpose is to sell cheap cigarettes and tobacco. Organised Crime Groups are thought to be behind the Trade, and as they have been targeted by Trading Standards have modified their operations to the extent that they take steps to avoid losing any product when raided. Throughout 2020/2021 Trading Standards have continued to take action against known sellers, with a significant seizure taking place from a storage premises prior to the December lockdown. One business is awaiting prosecution, and also due to action from Trading Standards have been given formal notice to vacate the premises they are trading from by their landlords.
- 5.10.2 Caerphilly Trading Standards are also taking part in an all Wales operation targeting this trade, which commenced in March 2021 and will continue into the next financial year, giving specialised resources to help tackle the problem.
- 5.10.3 A large scale national distributor of illegal tobacco was also apprehended in the Borough during February 2021 and almost 200,000 illegal cigarettes seized, with investigations on going.

5.11 Consumer Advice

Consumer complaints are categorised on the authority's database by trade sector and by product or service. Categorisation of complaints follows the current national scheme and allows the data gathered to be used in planning services and, in particular, intervention against particular problem trade sectors. The number and type of complaints was also affected by the pandemic with an increase in complaints about price hikes of toilet paper and hand sanitiser and cancellation of holidays and events.

- 5.11.1 The table below gives the top 10 products/services and the monetary value involved that were complained about during 2020/2021: As a result of the Covid 19 pandemic, the category that now tops the list is Catering, Holidays and accommodation, due to a direct result of Covid restrictions and the effect on holidays and events such as weddings and school trips. New entries in the top 10 such as Gardening Products and Equipment and Culture and Entertainment, are also undoubtedly as a result of the pandemic. The analysis is comparable with national data, with "Catering holidays and accommodation" and "Used vehicles" being the highest sources of complaints both nationally and locally.

	Product/Service	Number	% of Total	Value (£)
1	Catering holidays and accommodation	569	18.86	100488
2	Used vehicles	229	7.59	772326
3	Home maintenance and improvements	216	7.16	1640231
4	Toiletries, perfumes, beauty	170	5.63	70872
5	Pets and veterinarian products	119	3.94	12823
6	Other motoring costs	92	3.22	226
7	Sports and hobby equipment	82	2.72	3466
8	Gardening products and services	81	2.68	130664
9	Motor vehicle repairs and servicing	80	2.65	37129
10	Culture and entertainment	68	2.25	2347

5.11.2 The total value of all goods and services dealt with by the Council's advice service for the financial year was £3,158,497 and the total value of all goods and services where Caerphilly consumers sought advice either directly from the service or through Citizens Advice Consumer Service was £9,591,451. These figures exclude high value complaints regarding financial advice and prize draws.

5.11.3 A quarterly satisfaction survey is sent to all users of the service. This year's results show that 100% of users were either very or fairly satisfied with the service provided.

5.12 Covid 19 response, advice and enforcement activities

5.12.1 Throughout 20/21 Public Protection officers responded to the everchanging legislation and restrictions aimed at reducing the spread of the Corona Virus. Since the start of the pandemic Environmental Health Officers (EHOs) & Commercial Safety Officers (CSOs) have been diverted from "normal" Public Protection work to the Covid response. They have been helping to keep Caerphilly safe by investigating and managing individual cases and clusters of cases of Covid 19. They have provided regular Infection Prevention and Control advice to Care Homes, schools and other educational settings, along with all types of businesses and employers including large factories. The service has been operating 7 days a week including out of hours, and has put in place comprehensive support and advice arrangements for schools, to minimise the numbers of pupil bubbles required to isolate and hence miss out on valuable education. Advice to business and the public has been provided throughout, in order to protect the health safety and welfare of all involved.

A Multi-Disciplinary Team has met weekly to review, advise and manage the incidents in care settings and to organise additional testing as required. This work is reported to the Caerphilly CBC Incident Management Team (IMT). Cluster Management meetings have also been held which focus on the management, control and testing of specific clusters of cases e.g. numerous cases in a workplace; these are also reported to the CCBC IMT. The CCBC IMT oversees the strategic and operational response to managing cases within the county and determines the priority locations for the mobile testing units. The CCBC IMT supports the collective work of the Gwent IMT.

5.12.2 As a consequence of the above commitments, much of the enforcement of coronavirus legislation associated with commercial premises and licensed premises has fallen to our Trading Standards and Licensing Teams. The Environmental

Health teams have been responsible for dealing with close contact services such as hairdressers, barbers, beauticians, gyms, indoor play areas and numerous other premises such as offices and other enclosed workplaces. They have delivered enforcement action (as a follow up to advisory visits) as necessary at businesses which have been non-compliant. This has seen a number of colleagues step forward to redefine their roles in a service which is now also operating 7 days a week. The service has continued to support business with advice in complex circumstances as we have had some 36 different versions of the Regulations since the start of the pandemic. Additionally, a comprehensive, high profile advice and enforcement response has been delivered to encourage compliance and to address those who choose not to comply in order to keep Caerphilly safe.

5.12.3 Enforcement officers across Public Protection dealt with over 3800 complaints about compliance with the Regulations, and proactively monitored premises on a regular basis, carrying out over 7,000 visits and proactively advising over 4,200 businesses. Several close contact services posed particular challenges along with the hospitality sector during various relaxations with officers working in the evenings and at weekends in order to advise and monitor compliance. Sadly, several members of staff have been verbally abused and threatened with violence whilst carrying out their duties. Additional resource was provided from November 2020 with the appointment of Covid 19 Enforcement officers and the ability to bring in dedicated police support as required.

5.12.4 Community Safety Wardens (CSWs) also carried out over 160 hours of joint patrols with Gwent Police of country parks and other beauty spots at various weekends throughout January to March monitoring and policing the stay at home requirements. The Community Safety Team also issued over 50 warning letters to individuals who were reported for having house parties which caused anti-social behaviour (ASB) and breached the regulations.

Throughout the pandemic, there has been an escalation in groups of youths causing ASB and not adhering to the Covid regulations. As a result, the CSWs have carried out over 25 joint operations with Gwent Police to address these issues. In addition, the CSWs have worked closely with Gwent Police and other Community Safety Partners to enforce 16 Dispersal Orders which have been issued to address the most problematic areas across the county borough. Over 220 people have been referred into the Safer Caerphilly Anti-Social Behaviour 4 Strike Process for committing acts of ASB (some linked to Covid breaches) which has resulted in 227 warning letters, 6 Acceptable Behaviour Contracts being signed and one individual receiving a Civil Injunction at court.

5.12.5 The table in appendix one details the number of Improvement, Closure, Prohibition and Fixed Penalty Notices issued during the year. At the time of writing this report 1 Fixed Penalty Notice for business closure offences had not been paid and is currently the subject of formal investigation.

5.12.6 Our Registration Service has always had very high customer satisfaction ratings. Offering a professional but personal service at all times and over 7 days a week, 365 days a year, providing facilities for birth, death, marriage and civil partnership registration. The coronavirus pandemic meant that couples with marriage and civil partnerships booked had their plans and dreams shattered. The team had to contact couples looking to re-arrange their big days without actually knowing when they may actually be able to go ahead. For months Registrars were unable to register births or take notices of marriage and civil partnership. Saddest of all was the registration of

deaths and stillbirths by telephone. Many of these family members had not been able to visit their loved ones in their final days to say goodbye. Our Registrars sitting in their offices or at home with bereaved relatives who have lost loved ones on the other end of a telephone doing their best to ensure a considerate and respectful service.

6. ASSUMPTIONS

- 6.1 There are no assumptions associated with this report, as it is a factual statement of enforcement activity.

7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT

- 7.1 This report is for information only and so no IIA is required.

8. FINANCIAL IMPLICATIONS

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

9. PERSONNEL IMPLICATIONS

- 9.1 Personnel across Public Protection worked incredibly hard throughout the year responding to ever changing circumstances and demands of the pandemic often carrying out different roles and work patterns. Over the past twelve months, several staff were seconded into the service and a few new members of staff were appointed on short fixed term contracts.

10. CONSULTATIONS

- 10.1 The consultees listed below have been consulted on this report and their views have been incorporated accordingly.

11. STATUTORY POWER

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

Author: Rob Hartshorn, Head of Public Protection, Community & Leisure Services
Consultees: Councillor Nigel George, Cabinet Member for Waste, Public Protection & Streetscene
Councillor D.T Davies, Chair of Environment & Sustainability Scrutiny Committee
Councillor A. Hussey, Vice Chair of Environment & Sustainability Scrutiny Committee
Mark S. Williams, Corporate Director, Economy & Environment
Jacqui Morgan, Trading Standards, Licensing & Registrars Manager

Ceri Edwards, Environmental Health Manager
Rob Tranter, Head of Legal Services and Monitoring Officer
Anwen Cullinane, Senior Policy Officer (Equalities, Welsh Language & Consultation)
Steve, Harris, Head of Financial Services & Section 151 Officer
Lynne Donovan, Head of People Services

Background Papers: Public Protection Enforcement Policy

Appendices:

Appendix 1 Public Protection Enforcement Activity 2018-21

Appendix 1 – Public Protection Enforcement Activity 2018-21

Trading Standards and Licensing Legislation

Type of Enforcement Activity	18/19	19/20	20/21
Significant breaches identified during inspection	223 (93%) rectified	238 (96%) rectified	39 (95%) rectified
Simple Cautions	15	8	NIL
Prosecutions	10 (plus 10 waiting for trial)	20	NIL(due to covid-8 cases in system, not yet heard)
Penalty Notices for Disorder (PND) underage sales of alcohol.	2	2	NIL
Fixed Penalty Notices (FPN) Section 6 of the Health Act 2006(Smoking ban)	2	0	0

Environmental Health Food Safety Legislation

Type of Enforcement Activity	18/19	19/20	20/21
Written Warnings/Advice	884	860	38
Revisits	290	245	22
Improvement Notices	46	18	0
Remedial Action Notices	2	0	0
Prosecutions	4	1	0
Voluntary Closure	4	4	0
Hygiene Emergency Prohibition	1	0	0
Seizure/Surrender	1	0	0
Simple Cautions	0	1	0
Food Hygiene Rating Scheme FPN	20	7	2

Environmental Health - Health and Safety Legislation

Type of Enforcement Activity	18/19	19/20	20/21
Written Warnings/Advice	108	102	2
Revisits	23	34	2
Improvement Notices	18	23	0
Prohibition Notices	7	1	0
Simple Cautions	0	0	0
Prosecutions	0	0	0

Environmental and Nuisance Legislation

Type of Enforcement Activity	18/19	19/20	20/21
Warnings for dog fouling	6	8	0
Warnings for litter	80	3	0
Fixed Penalties for Dog Fouling	55	11	4
Fixed Penalties for Litter	111	77	14
Prosecutions for Littering	8	3	0
Prosecutions for Dog Fouling	4	1	2
EPA 1990 – Noise Abatement Notices	10	7	0
EPA 1990 – Statutory Nuisance Notices	30		
Confiscation of noise making equipment	0	0	0
Prosecutions for Statutory Nuisance (Noise)	0	0	0
Stray Dogs Impounded	157	157	92
Prosecutions for Fly tipping	9	3	0
Cautions for Fly Tipping	1	0	0

Community Safety

Type of Enforcement Activity	18/19	19/20	20/21
Public Open Space CCTV			
Total no. of incidents monitored/dealt with by CCBC CCTV service	3087 Including requests detailed below	3177 Including requests detailed below	1907 Including requests detailed below
Evidence recorded and provided to Gwent Police	673 DVDs burnt for evidential purposes	608 DVDs burnt for evidential purposes	457 DVDs burnt for evidential purposes
Requests for monitoring from Gwent Police	765	823	603
Community Safety Wardens and Community Safety Team			
Words of Advice given (acting contrary to acceptable standards of behaviour)	587	219	1348
Referrals by Community Safety Wardens into 4 Strike Anti-Social Behaviour process	27	13	6
Verbal Warnings (Name and address, date of birth taken)	35	11	5
Items of Alcohol Confiscated	68	47	1
Issues identified and referred to other departments	332	214	90
Total hours of deployment	10,915	5,784	3,846
Fixed Penalty Notices Issued	16	9	2
Number of Anti-Social Behaviour warning letters sent out	271	401	227
Number of Acceptable Behaviour Contracts (ABC's) signed	5	16	6
Number of Civil Injunctions granted at court	5	4	1

Type of Enforcement Activity	20/21
Covid 19	
Complaints responded to	3864
Number of inspections	7037
Improvement notices issued	34
Closure notices issued	4
Fixed penalty notices	8
Prohibition notices	3
Prosecutions (including pending)	1
Warden patrols with Gwent Police of country parks and beauty spots	160 hours