



ENVIRONMENT AND SUSTAINABILITY SCRUTINY COMMITTEE – 28TH JUNE 2022

**SUBJECT: PUBLIC PROTECTION ENFORCEMENT, CONSUMER
ADVICE, AND COVID-19 RESPONSE 2021/22**

REPORT BY: CORPORATE DIRECTOR, ECONOMY AND ENVIRONMENT

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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 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 2021/22.

- 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. However, during this reporting period resources were diverted away from such activity to respond to the demands of the pandemic and it was not possible or safe to carry out test purchase activity.
- 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 2021/22.
- 2.5 The report provides information to Members regarding the diverse range of enforcement activities delivered by Environmental Health, Community Safety and Trading Standards Teams; to protect the public and the environment.
- 2.6 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. As in the previous year, the reduction in activity in the tables in Appendix 1 for 2021/22 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 2021/22 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 published on the Council website.
- 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.
- 5.4 The information in Appendix 1 provides a broad picture of the range and number of formal enforcement actions initiated during 2021/22, 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 170+ cameras covering 28 town and village centres. Cameras in Blackwood, Caerphilly and Bargoed town centres monitor the highest number of incidents, followed by Rhymney, Risca, Newbridge and Ystrad Mynach 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 399 warnings were given for out of hours access to Council depots, Amenity sites and schools, in some cases police response was required. 10 calls were received from the Storennet system to deal with suspected shoplifters though it should be noted that the system has only recently been updated and operational. Police asked for assistance in monitoring 68 threats of suicide. Numbers reduced significantly in the last two years 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 Public Protection is 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 2021/22, Public Protection did not obtain any RIPA Authorisations mainly due to reduced activities due to Covid 19 impacts, in particular underage sales operations as detailed in 5.9 below.

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 2021/2022 the Trading Standards Service received a total of 48 complaints, 28 in relation to alcohol, 5 relating to tobacco and 15 relating to vaping products.

5.9.2 During 2021/22 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. Resuming test purchase activities is a priority for 22/23.

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 2021/2022 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 During the year 8.5 Kg of illegal Hand Rolling Tobacco and 215,000 illegal cigarettes were seized from 5 premises in Caerphilly and a number of individuals are currently being investigated for various offences relating to the distribution of illegal tobacco products. The street value of the product seized was over £60,000 and represented a loss in tax revenue of £80,000.

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.

- 5.11.1 The table below gives the top 10 products/services and the monetary value involved that were complained about during 2021/2022: The top 10 shows marked differences from previous years, along with some consistency. Home Improvement complaints have increased dramatically, along with complaints about pubs and Inns and animals. This increase is undoubtedly as a direct result of the Covid 19 pandemic, which has encouraged rogue builders especially to be more active, along with an increase in illegal dog breeders. Used vehicles remain a significant problem, along with vehicle repairs. These trends are reflected throughout the UK.

	Product/Service	Number	% of Total	Value (£)
1	Home maintenance and improvements	250	13.1	1,256,031
2	Used vehicles	217	11.4	1,046,257
3	Animals and pets (including farm animals)	112	5.8	8,500
4	Pubs and Inns	69	3.6	0
5	Motor vehicle repairs and servicing	51	2.7	22,315
6	Alcoholic drinks	41	2.2	50
7	Gardening products and services	31	1.6	161,575
8	Upholstered furniture	27	1.4	31,069
9	Prepared food	24	1.3	49
10	Non- Upholstered furniture	20	1.1	21,005

- 5.11.2 The total value of all goods and services dealt with by the Council's advice service for the financial year was £3,527,016 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 £20,037,991.

- 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 the past two years Public Protection officers responded to the ever changing 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. Such support has helped to keep essential services operating and the food and other critical supply chains running. The EHOs have worked in collaboration with the Test Trace and Protect (TTP) Team, providing TTP with advice in relation to more challenging cases and difficult situations. Importantly, Public Protection played an invaluable role in the "Team Caerphilly" collaborative approach in responding to the pandemic.

Considerable input was provided to the safe operation of school hubs, that were provided for the children of various key workers during the various lockdowns and school closures; thus, allowing key workers e.g., in the blue light services plus nurses and doctors etc. to work in the NHS. Additionally, EHOs have provided advice to our collective services that have tackled food insecurity throughout the pandemic, via the operation of food banks etc.; delivery of food, medicines, and care packages to vulnerable residents, particularly those that needed to shield and the delivery of free school meals. Public Protection staff also assisted with the distribution and delivery of free school meals.

The service 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. Particular attention was afforded to protecting the pupils and staff at Trinity Fields School and their satellite units. Advice to business and the public has been provided throughout, to protect the health safety and welfare of all involved.

The Enviro-crime Enforcement Officers, assisted with visits to individuals that tested positive for Covid 19, however were not responding to attempted contacts from the TTP team. The visits were designed to primarily check on their welfare and to also check that they were at home isolating as required. Such visits were also conducted to returning travellers from abroad, to check on isolation requirements, to reduce the risk of introducing a new variant to the UK.

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 includes representatives from Environmental Health, Social Services, Public Health Wales, Aneurin Bevan University Health Board, Gwent Police, and other co-opted members as required e.g., Education and the Test Trace and Protect team. The CCBC IMT is Chaired by the Environmental Health Manager; the 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, supermarkets, factories, 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. The service has continued to support business with advice in complex circumstances as we have had some many 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 900 complaints about compliance with the Regulations, and proactively monitored premises on a regular basis, carrying out almost 6000 visits and proactively advising over 2000 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 were 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 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 Community Safety Wardens (CSWs) have continued to conduct joint patrols with Gwent Police and partners to manage anti-social behaviour in communities. A total of 378 people were 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 378 warning letters, 34 Acceptable Behaviour Contracts being signed and five individuals receiving a Civil Injunction at court.
- 5.12.5 A table in Appendix one details the number of Improvement, Closure, Prohibition and Fixed Penalty Notices issued during the year. As can also be seen in Appendix one, Enviro-crime Enforcement is another area that has been impacted during the pandemic. We know however that this remains a priority for our communities with the results of the Caerphilly Conversation published in 2021 reflecting lower levels of satisfaction with street and environmental cleansing and with respondents identifying littering, dog fouling, and fly tipping as factors.
- 5.12.6 Since the recent relaxation of restrictions, officers have begun the process of transitioning back to core work. However, they face an enormous backlog of work, particularly associated with food safety and standards inspections. Additionally, it is noted that several recent inspections and interventions have taken longer than normal, as the operating standards in some premises have unfortunately declined throughout the pandemic.

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 past two years 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. In recognition of the pressures and demands across the Public Protection service Council approved budgetary growth for 15 additional posts in 2022/3 including Environmental Health Officers, Enforcement Officers, Fair Trading Officers, and Community Safety Wardens.

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 Philippa Leonard, Cabinet Member for Planning & Public Protection
Councillor D.T Davies, Chair of Environment & Sustainability Scrutiny Committee
Councillor Adrian Hussey, Vice Chair of Environment & Sustainability Scrutiny Committee
Mark S. Williams, Corporate Director, Economy & Environment
Christina Harrhy, Chief Executive
Jacqui Morgan, Trading Standards, Licensing & Registrars Manager

Ceri Edwards, Environmental Health Manager
Rob Tranter, Head of Legal Services and Monitoring Officer
Steve, Harris, Head of Financial Services & Section 151 Officer
Lynne Donovan, Head of People Services

Background Papers: [Link to Public Protection Enforcement Policy](#)

Appendices:

Appendix 1 Public Protection Enforcement Activity 2019-22

Appendix 1 – Public Protection Enforcement Activity 2019-22

Trading Standards and Licensing Legislation

Type of Enforcement Activity	19/20	20/21	21/22
Significant breaches identified during inspection	238 (96%) rectified	39 (95%) rectified	87(87%)
Simple Cautions	8	NIL	13
Prosecutions	20	NIL(due to covid-8 cases in system, not yet heard)	12
Penalty Notices for Disorder (PND) underage sales of alcohol.	2	0	0
Fixed Penalty Notices (FPN) Section 6 of the Health Act 2006(Smoking ban)	0	0	0

Environmental Health Food Safety Legislation

Type of Enforcement Activity	19/20	20/21	21/22
Written Warnings/Advice	860	38	175
Revisits	245	22	61
Improvement Notices	18	0	4
Remedial Action Notices	0	0	1
Prosecutions	1	0	1
Voluntary Closure	4	0	1
Hygiene Emergency Prohibition	0	0	0
Seizure/Surrender	0	0	0
Simple Cautions	1	0	0
Food Hygiene Rating Scheme FPN	7	2	0

Environmental Health - Health and Safety Legislation

Type of Enforcement Activity	19/20	20/21	21/22
Written Warnings/Advice	102	2	27
Revisits	34	2	5
Improvement Notices	23	0	2
Prohibition Notices	1	0	0
Simple Cautions	0	0	0
Prosecutions	0	0	0

Environmental and Nuisance Legislation

Type of Enforcement Activity	19/20	20/21	21/22
Warnings for dog fouling	8	0	3
Warnings for litter	3	0	4
Fixed Penalties for Dog Fouling	11	4	1
Fixed Penalties for Litter	77	14	15
Prosecutions for Littering	3	0	0
Prosecutions for Dog Fouling	1	2	0
EPA 1990 – Noise Abatement Notices	7	0	6
EPA 1990 – Statutory Nuisance Notices	14	8	31
Confiscation of noise making equipment	0	0	0
Prosecutions for Statutory Nuisance (Noise)	0	0	0
Stray Dogs Impounded	157	92	25
Prosecutions for Fly tipping	3	0	14
Cautions for Fly Tipping	0	0	0

Community Safety

Type of Enforcement Activity	19/20	20/21	21/22
Public Open Space CCTV			
Total no. of incidents monitored/dealt with by CCBC CCTV service	3177 Including requests detailed below	1907 Including requests detailed below	2396 Including requests detailed below
Evidence recorded and provided to Gwent Police	608 DVDs burnt for evidential purposes	457 DVDs burnt for evidential purposes	481 DVDs burnt for evidential purposes
Requests for monitoring from Gwent Police	823	603	790
Community Safety Wardens and Community Safety Team			
Words of Advice given (acting contrary to acceptable standards of behaviour)	219	1348	4782
Referrals by Community Safety Wardens into 4 Strike Anti-Social Behaviour process	13	6	16
Verbal Warnings (Name and address, date of birth taken)	11	5	74
Items of Alcohol Confiscated	47	1	98
Issues identified and referred to other departments	214	90	426
Total hours of deployment	5,784	3,846	9,449
Fixed Penalty Notices Issued	9	2	5
Number of Anti-Social Behaviour warning letters sent out	401	227	378
Number of Acceptable Behaviour Contracts (ABC's) signed	16	6	34
Number of Civil Injunctions granted at court	4	1	5

Type of Enforcement Activity	20/21	21/22
Covid 19		
Complaints responded to	3864	928
Number of inspections	7037	5992
Improvement notices issued	34	7
Closure notices issued	4	1
Fixed penalty notices	8	0
Prohibition notices	3	0
Prosecutions	0	1
Warden patrols with Gwent Police of country parks and beauty spots	160 hours	N/A