



CABINET - 5TH OCTOBER 2022

SUBJECT: AMENDMENTS TO AUTHORISATION OF OFFICERS WITHIN THE PUBLIC PROTECTION DIVISION AND APPROVAL OF RECIPROCAL ARRANGEMENTS FOR ENFORCEMENT BETWEEN NEWPORT CITY COUNCIL AND CAERPHILLY COUNTY BOROUGH COUNCIL.

REPORT BY: CORPORATE DIRECTOR FOR ECONOMY AND ENVIRONMENT

1. PURPOSE OF REPORT

- 1.1 To inform Cabinet of new legislation for regulatory services and to seek authorisation for officers of the Public Protection Division.
- 1.2 To seek approval for the Council's Monitoring Officer to make the necessary changes to the Constitution to reflect the implementation / need for authorisation under the legislation detailed in this report.
- 1.3 To seek Cabinet approval of reciprocal arrangements for the enforcement of the Energy Performance of Buildings (England and Wales) Regulations 2012 as amended in relation to Local Authority owned buildings within Caerphilly and Newport City Council areas.

2.0 SUMMARY

- 2.1 Officers within the Public Protection Division require additional authorisation under the following Acts of Parliament in order to enforce the legislation and carry out their duties:
 - Offensive Weapons Act 2019
 - Medicine & Medical Devices Act 2021
 - Energy Act 2011
 - Leasehold Reform (Ground Rent) Act 2022
- 2.2 The Energy Performance of Buildings (England and Wales) Regulations 2012 require that local Weights and Measures authorities transfer enforcement duties for local authority owned or controlled buildings to another local Weights and Measures authority. This report seeks approval of reciprocal arrangements for this purpose

between Newport City Council and Caerphilly County Borough Council Weights & Measures Authorities.

3. RECOMMENDATIONS

- 3.1 That the Head of Public Protection, Community and Leisure Services be authorised under legislation detailed in this report so that relevant officers within the division can utilise delegated powers to carry out their duties.
- 3.2 That the Council's Monitoring Officer makes the necessary amendments to the Constitution.
- 3.3 That Members approve the establishment of reciprocal transfer agreements for enforcement of the Energy Performance of Buildings (England and Wales) Regulations 2012 as amended between Caerphilly and Newport City Council's Weights and Measures authorities.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 In order to comply with statutory requirements and to ensure proper and effective enforcement of the legislation.

5. THE REPORT

5.1 AUTHORISATION OF OFFICERS

As a result of the introduction of new legislation and following a review of existing authorisations it is considered that the Council's Constitution should be amended to include the following legislation

5.2 Offensive Weapons Act 2019

The Act was implemented on the 6th of April 2022 and includes new legislative measures to control the sale of knives and corrosive products, and introduces new offences relating to their possession and use. The Act creates a new criminal offence of selling a corrosive product to a person under the age of 18. It also provides defences that can apply to the offence of selling bladed articles to under 18s, in the case of the remote sales. Enforcement provisions in the legislation give responsibility to Weights & Measures authorities. Officers within Trading Standards therefore require authorisation under the Act in order to carry out underage test purchase exercises of these products and to take formal action for any non-compliances.

5.3 Medicine & Medical Devices Act 2021

The Medicines and Medical Devices Act 2021 has been substantially brought into effect from 24 May 2021 and enforcement falls to local weights and measures authorities for provisions in Part 4 Chapter 3. The latter enable the issue of a number of enforcement notices to persons responsible for the marketing and supply of non-compliant Medical Devices.

5.4 Energy Act 2011

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 are made under this Act. The Regulations establish a minimum level of energy efficiency for domestic and non-domestic, privately rented property and are designed to tackle the least energy efficient i.e. those with an Energy Performance Certificate rating (EPC) of F or G. It requires landlords to improve the energy efficiency of their properties to E and above. Where landlords fail to comply, officers authorised under the legislation have the authority to serve Penalty Notices. Domestic properties are dealt with by Private Sector Housing which was the subject of a separate report to Cabinet on 13th July 2022. Officers within Public Protection will deal with non-domestic rental properties alongside their existing role in monitoring estate agents and compliance with the Energy Performance of Buildings (England and Wales) Regulations 2012.

- 5.5 Civil penalty notices are already included in the Public Protection Enforcement Policy which will be updated to include the sanctions available for this purpose. The 2015 Regulations were amended in 2016 and introduced a phased implementation from April 2018 to April 2023. From April 2018 landlords of non-domestic private rented properties (including public sector landlords) may not grant a tenancy to new or existing tenants if their property has an EPC rating of band F or G and from 1 April 2023, landlords must not continue letting such a property.

5.6 Leasehold Reform (Ground Rent) Act 2022

The Act puts an end to ground rents for most new long residential leasehold properties in England and Wales. Royal Assent was granted on 8 February 2022 and the Act came into force on 30 June 2022. The Act will make home ownership fairer and more transparent for millions of future leaseholders. The Act means that any ground rent demanded as part of a new regulated residential long lease where a premium is paid may not exceed more than one peppercorn per year. Most new leaseholders will not be faced with financial demands for ground rent. The Act also bans landlords from charging administration fees for collecting a peppercorn rent. If a landlord charges ground rent in contravention of the Act, they are liable to receive a monetary penalty between £500 and £30,000.

- 5.7 Enforcement is the duty of the local weights and measures authority in Wales. Where the enforcement authority has sufficient evidence of a breach of the act, it may impose a financial penalty on a landlord. The amount of the financial penalty that may be issued is subject to the discretion of the enforcement authority, within the limits of a minimum of £500 and a maximum of £30,000. As per 5.5 above the Public Protection Enforcement Policy which will be updated to include the sanctions available for this purpose.

- 5.8 Part 3 of the Council's Constitution, Responsibility for Functions be amended to include the above changes and the addition of the words "as amended" to the list of authorised legislation. This will ensure authorisations are kept up to date with changes to the authorised Acts of Parliament.

5.9 Reciprocal arrangements for the enforcement of the Energy Performance of Buildings (England and Wales) Regulations 2012.

These regulations are enforced by Trading Standards and also require that local Weights and Measures authorities transfer enforcement duties for local authority owned or controlled buildings to another local Weights and Measures authority. The authority is also required to inform the Department for Levelling Up, Housing and Communities (DLUCH) of these arrangements in an annual return. Previously the authorities in Greater Gwent had agreed informal reciprocal arrangements which are now required to be formalised. Discussions have taken place with Newport Trading Standards and it is therefore proposed that a reciprocal agreement is made between CCBC and Newport Weights and Measures Authorities for enforcement responsibilities within their own local authority areas.

6. CONCLUSION

- 6.1 Authorisation under the Act and associated regulations is required in order for officers to carry out their duties.
- 6.2 Reciprocal arrangements for the enforcement of Energy Performance requirements in local authority premises is a legal requirement.

7. ASSUMPTIONS

- 7.1 No assumptions have been made within this report.

8. SUMMARY OF INTEGRATED IMPACT ASSESSMENT

- 8.1 An Integrated Impact Assessment has not been carried out as this Report relates to governance and delegated powers.

9. FINANCIAL IMPLICATIONS

- 9.1 There are no significant financial implications associated with this report,

10. PERSONNEL IMPLICATIONS

- 10.1 There are no personnel implications associated with this report.

11. CONSULTATIONS

- 11.1 The report has been sent to the Consultees listed below and all comments received are reflected in the report.

12. STATUTORY POWER

- 12.1 Offences Weapons Act 2019, Medicine & Medical Devices Act 2021, Energy Act 2011. Energy Performance of Buildings (England and Wales) Regulations 2012 (as amended.) Leasehold Reform (Ground Rent) Act 2022. This is a Cabinet Function.

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Consultees: Councillor Philippa Leonard, Cabinet Member for Planning & Public Protection
Councillor A. Hussey, Vice Chair of Environment & Sustainability Scrutiny Committee
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Background Papers: