



ENVIRONMENT AND SUSTAINABILITY SCRUTINY COMMITTEE - 13TH JUNE 2023

**SUBJECT: PUBLIC PROTECTION ENFORCEMENT ANNUAL REPORT
2022/23**

REPORT BY: CORPORATE DIRECTOR, ECONOMY AND 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 provide members with information on other enforcement activities across the Environmental Health Service within the Public Protection division

1.2 Environment and Scrutiny Committee are asked to offer views prior to presentation to Cabinet.

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 2022/23.

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 The report details the nature and number of complaints received concerning under-age sales of alcohol, tobacco and e cigarettes over the previous financial year. An overview of test purchasing activity is provided including the results of 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
- 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 2022/23.
- 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.

3. RECOMMENDATIONS

- 3.1 Members of the Scrutiny Committee are requested to consider the review of Public Protection enforcement and other activities, CCTV provision, and to note the activity in relation to Consumer Advice
- 3.2 Members of the Scrutiny Committee are asked to offer any views prior to presentation to Cabinet.

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.

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 2022/23 (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. During the year the service moved to digital supply of footage for retrospective requests.
- 5.7 The CCTV Control Room monitors other activity. During the year 210 warnings were given for out of hours access to Council depots, Amenity sites and schools, in some cases police response was required. 34 calls were received from the Storen 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 65 threats of suicide.
- 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 2022/23, Trading Standards obtained RIPA Authorisations as below:-

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

- 5.8.5 The Directed Surveillance Authorisations consisted of two under age test purchase operations, both of which covered alcohol and e-cigarettes (vapes).

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 2022/2023 the Trading Standards Service received a total of 55 complaints, 5 in relation to alcohol, 1 relating to tobacco and 39 relating to vaping products.

- 5.9.2 Test purchasing is achieved by using young volunteers selected in accordance with national guidelines. The volunteers, who often work in pairs, carry covert recording equipment, which captures sound and images. If a sale is made the recording is used to support enforcement action. Where volunteers are test purchasing in "on" licence premises support is provided by a witnessing team of officers, including officers from Gwent Police, in order to secure the health and safety of the young people in an adult environment. All activities are risk assessed and parental consent is required before a volunteer is allowed to work with the Trading Standards Service. Test purchase operations are used in conjunction with educational visits, and in these situations formal action is usually not taken, but follow up test purchases planned. Only 2 operations were undertaken during 2022/23, despite the high number of complaints. This was due to the fact that as a result of the Covid 19 pandemic, where no test purchases were possible, new volunteers had to be found and trained, resulting in the recommencement of operations in December 2022.

YEAR	22/23	22/23	19/20	18/19
Product	Sales/ Attempts	% Sales	% sales	% Sales
Alcohol On	0/3	0%	N/A	75% (3/4)
Alcohol Off	2/28	7.1%	17%(2/12)	17.7%(14/79)

E – Cigarettes /Vapes	5/25	20%	17%(3/18)	22.2% (4/18)
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5.9.3 In addition to formal enforcement action, Trading Standards officers also carried out 58 visits to retailers to advise them in detail of their responsibilities in relation to under age sales. The majority of the visits were in relation to vapes, as reflected in the number of complaints received. However joint visits were also undertaken with members of the Licensing Team in relation to alcohol sales and with Police Officers as part of the twice yearly Operation Sceptre designed to highlight knife crime.

5.10 Legislation and Penalties

5.10.1 The Children and Young Persons (Protection from Tobacco) Act 1991 requires the authority to consider its enforcement programme in respect of under age sales of tobacco on an annual basis. The Clean Neighbourhoods and Environment Act 2005 places a duty on the authority to consider activity regarding the under-age sales of aerosol spray paints

5.10.2 The owner/seller of the alcohol will be investigated formally and unless the business has an adequate defence it is likely that they will be prosecuted in court. The maximum fine under the Licensing Act 2003 is £20,000. In relation to other age restricted products, there is no provision for penalty notices and all sales are investigated, unless they were “fact finding” test purchases. If an employee sells then they too would also be investigated and appropriate action taken, which could include prosecution.

5.10.3 Where tobacco is sold both the staff member and the business owner may be liable to court action unless there is an adequate defence in place. There are further sanctions for premises found to be repeatedly selling tobacco to underage persons. If a person/business is convicted of selling tobacco to persons under the age of 18 and at least two other offences occurred in the preceding two years relating to the same premises, trading standards can make an application to a Magistrates' Court for a restricted premises order and/or a restricted sales order.

5.10.4 A restricted premises order prohibits the sale from the premises of any tobacco products to any person, by the business or any of its staff for a period of up to one year. A restricted sales order prohibits a specified person who has been convicted of a tobacco offence from selling any tobacco products to any person and from having any management function related to the sale of tobacco products for a period of up to one year. The maximum fine is £2,500. In the case of Aerosol Spray Paints the maximum penalty is also £2,500 and six months imprisonment.

5.10.5 Penalties for the sales of Vapes and Aerosols are up to a maximum fine of £2,500, whereas the maximum penalty for the sale of knives to an underage person is 6 months imprisonment or an unlimited fine.

5.11 Illegal Tobacco Activities

5.11.1 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 2022/2023 Trading Standards have continued to take action

against known sellers.

5.11.2 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.

5.11.3 During the year 0.7Kg of illegal Hand Rolling Tobacco and 9800 illegal cigarettes were seized from 2 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 £21000 and represented a loss in tax revenue of £12000.

5.12 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.

5.12.1 The table below gives the top 10 products/services and the monetary value involved that were complained about during 2022/2023: The top 10 reflect trends shown throughout the United Kingdom.

	Product/Service	Number	% of Total	Value (£)
1	Used vehicles	221	15.2	1,176,306
2	Home maintenance and improvements	183	12.5	1,420,378
3	Motor vehicle repairs and servicing	56	3.8	58,136
4	Animal and Pets	52	3.5	700
5	E-Cigarettes + Refills	50	3.4	0
6	Furniture	36	2.4	42,701
7	Cigarettes	19	1.3	0
8	Women's Clothing	11	0.7	1430
9	Mobile Phone Handsets	11	0.7	3953
10	Beds and Mattresses	10	0.6	8587

5.12.2 The total value of all goods and services dealt with by the Council's advice service for the financial year was £3,358,253.74 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 £15,129,741.74 These figures exclude high value complaints regarding financial advice and prize draws.

5.12.3 A quarterly satisfaction survey is sent to all users of the service. This year's results show that 98% of users were either very or fairly satisfied with the service provided.

5.13 Environmental Health, Community Safety and Food Hygiene & Standards

5.13.1 In 2022, it was reported that all staff from Environmental Health and many from Community Safety had been redeployed to respond to the pandemic. As such routine

work was paused during 2020, 2021 and part of 2022. It is pleasing to report that the services have since returned to core delivery and have been actively working through a significant back log of workload.

- 5.13.2 In order to drive the speed of recovery, the Food Standards Agency (FSA) published a Recovery Plan that contained a series of milestones Food Hygiene and Food Standards which were reported quarterly, up to the 31st March 2023. The Recovery Plan was designed to tackle the backlog of inspections relating to high-risk food premises. Such high-risk premises are categorised as risk bands A, B and C Food Hygiene and category A for Food Standards. Food Standards responsibility lies with Trading Standards. Considerable effort has been made to ensure the milestone targets were achieved, as detailed below:

Food Hygiene

Category	Completed	Outstanding
A	6	0
B	85	0
C	603	0
C -less than broadly compliant	23	0
Total	717	0

Food Standards

Category	Completed	Outstanding
A	10	0

In addition to the Recovery Plan milestones, further progress was made with various Food Hygiene and Standards interventions at some lower risk premises. That is risk bands D and E, plus new premises and microbiological sampling for Hygiene and medium and low risk categories B and C for Standards as well as new premises, unrated and official samples.

Food Hygiene

Category	Interventions completed
D -less than broadly compliant	3
D	28
E	46
Unrated	421
Outside the programme	83
New registered premises	234
Microbiological samples	375

Food Standards

Category	Interventions completed
B	156
C	152
Unrated	215

Outside the programme	18
New registered premises	234
Official samples	59

- 5.14 There has also been a return to enforcing all other disciplines of environmental health and community safety such as littering and fly tipping. These are also detailed in Appendix 1. Through the council's ongoing community engagement programme, 'The Caerphilly Conversation', the importance of tackling key environmental issues including dog fouling and littering continue to be among the highest priorities for Caerphilly county borough's communities.

Some insights from recent engagement activities include:

- 94% of respondents to the 'What matters to you?' survey felt that **prioritising community safety** was as important or more important to them than 12 months ago
 - 87% of respondents felt that the need for **work to support environmental issues** is as important or more important to them than 12 months ago
 - Key themes that elicited a large number of comments included the importance of **tackling litter and environmental problems (behaviour change), dog fouling, fly-tipping, community safety, and anti-social behaviour**
- 5.15 As a result of the above feedback our enforcement and engagement activity has an ongoing focus on these issues. It is also why Public Spaces Protection Orders were renewed and extended in 2021. From the figures detailed in Appendix 1 it can be seen that there was a marked increase in some Community Safety Warden activities in 2021/22. This is because in coming out of the Covid pandemic there was an increase in anti-social behaviour in areas throughout the county borough resulting in the team issuing more enforcement measures such as verbal warnings and words of advice. In addition, during this period the Community Safety Warden team had additional staffing numbers and the team increased from six to ten full time posts. In contrast, some of the enforcement figures are lower for 22/23 partly due to a number of vacancies within the team and difficulty in recruiting applicants into the roles which meant they remained vacant for a number of months. However, there was an increase in enforcement action being used to address individuals who persistently commit incidents of anti-social behaviour with 35 acceptable behaviour contracts being signed and 8 individuals being issued with a Civil Injunction at court.
- 5.16 A review of the Council's enforcement and engagement activities is proposed with an initial focus on environmental issues and this will be the subject of a report to Scrutiny Committee later this year.

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 relates to enforcement activity over the last year and 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 There are no personnel implications associated with this report.

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 and Leisure Services

Consultees:

- Councillor Philippa Leonard, Cabinet Member for Planning and Public Protection
- Councillor D.T Davies, Chair of Environment and Sustainability Scrutiny Committee
- Councillor Adrian Hussey, Vice Chair of Environment and Sustainability Scrutiny Committee
- Mark S. Williams, Corporate Director, Economy and Environment
- Christina Harrhy, Chief Executive
- Jacqui Morgan, Trading Standards, Licensing and Registrars Manager
- Ceri Edwards, Environmental Health Manager
- Rob Tranter, Head of Legal Services and Monitoring Officer
- Steve, Harris, Head of Financial Services and Section 151 Officer
- Lynne Donovan, Head of People Services

Background Papers: Public Protection Enforcement Policy

Appendices:

Appendix 1 Public Protection Enforcement Activity 2020-23

Appendix 1 – Public Protection Enforcement Activity 2020-23

Trading Standards and Licensing Legislation

Type of Enforcement Activity	20/21	21/22	22/23
Significant breaches identified during inspection	39 (95%) rectified	87(87%)	133 (89%) rectified
Simple Cautions	NIL	13	3
Prosecutions	NIL(due to covid-8 cases in system, not yet heard)	12	9
Penalty Notices for Disorder (PND) underage sales of alcohol.	0	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	20/21	21/22	22/23
Written Warnings/Advice	38	175	856
Revisits	22	61	77
Improvement Notices	0	4	6
Remedial Action Notices	0	1	1
Prosecutions	0	1	0
Voluntary Closure	0	1	4
Hygiene Emergency Prohibition	0	0	0
Seizure/Surrender	0	0	0
Simple Cautions	0	0	0
Food Hygiene Rating Scheme FPN	2	0	0

Environmental Health - Health and Safety Legislation

Type of Enforcement Activity	20/21	21/22	22/23
Written Warnings/Advice	2	27	71
Revisits	2	5	20
Improvement Notices	0	2	19
Prohibition Notices	0	0	4
Simple Cautions	0	0	1
Prosecutions	0	0	0

Environmental and Nuisance Legislation

Type of Enforcement Activity	20/21	21/22	22/23
Warnings for dog fouling	0	3	26
Warnings for litter	0	4	27
Fixed Penalties for Dog Fouling	4	1	1
Fixed Penalties for Litter	14	15	23
Fixed Penalties for Fly Tipping	41	29	27
Prosecutions for Littering	0	0	0
Prosecutions for Dog Fouling	2	0	0
EPA 1990 – Noise Abatement Notices	0	6	6
EPA 1990 – Statutory Nuisance Notices	8	31	6
Confiscation of noise making equipment	0	0	0
Prosecutions for Statutory Nuisance (Noise)	0	0	0
Stray Dogs Impounded	92	97	76
Prosecutions for Fly tipping	0	14	10

Community Safety

Type of Enforcement Activity	20/21	21/22	22/23
Public Open Space CCTV			
Total no. of incidents monitored/dealt with by CCBC CCTV service	1907 Including requests detailed below	2396 Including requests detailed below	2169 Including requests detailed below
Evidence recorded and provided to Gwent Police	457 DVDs burnt for evidential purposes	481 DVDs burnt for evidential purposes	459 140 DVDs, 319 digital uploads
Requests for monitoring from Gwent Police	603	790	790
Community Safety Wardens and Community Safety Team			
Words of Advice given (acting contrary to acceptable standards of behaviour)	1348	4782	1226
Referrals by Community Safety Wardens into 4 Strike Anti-Social Behaviour process	6	16	1
Verbal Warnings (Name and address, date of birth taken)	5	74	12
Items of Alcohol Confiscated	1	98	5
Issues identified and referred to other departments	90	426	365
Total hours of deployment	3,846	9,449	7,638
Fixed Penalty Notices Issued	2	5	1
Number of Anti-Social Behaviour warning letters sent out	227	378	292
Number of Acceptable Behaviour Contracts (ABCs) signed	6	34	35
Number of Civil Injunctions granted at court	1	5	8