



HOUSING AND ENVIRONMENT SCRUTINY COMMITTEE - 18TH JUNE 2024

**SUBJECT: PUBLIC PROTECTION ENFORCEMENT ANNUAL REPORT
2023/24**

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

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 2023/24.

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. 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 2023/24.
- 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

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 2023/24 (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 116 warnings were given for out of hours access to Council depots, Amenity sites and schools, in some cases police response was required. 37 calls were received from the Storennet system to deal with suspected shoplifters. Police asked for assistance in monitoring 73 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 and 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 2023/24, Trading Standards obtained RIPA Authorisations as below:-

Directed Surveillance-	4
Covert Human Intelligence Sources-	0
Communications Data-	0

5.8.5 The Directed Surveillance Authorisations consisted of four under age test purchase operations, covering alcohol, knives 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 to support authorisations for directed surveillance using covert recording equipment, under the Regulation of Investigatory Powers Act 2000. During the financial year 2023/2024 the Trading Standards Service received a total of 40 complaints, 12 in relation to alcohol, 2 relating to tobacco and 26 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. Four operations were undertaken during 2023/24.

YEAR	23/24		22/23	19/20
Product	Sales/ Attempts	% Sales	% sales	% sales
Alcohol On	0/6	0%	0% (0/3)	N/A
Alcohol Off	0/5	0%	7.1% (2/28)	17%(2/12)
E – Cigarettes /Vapes	2/38	5%	20% (5/25)	17%(3/18)
Knives	0/2	0%	N/A	N/A

5.9.3 In addition to formal enforcement action, Trading Standards officers also carried out 73 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. Also every premises with an Alcohol License for on sales was written to, due to intelligence received about vapes being sold in pubs and clubs. 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.

5.9.4 Aerosol Spray Paints

The Children and Young Persons (Protection from Tobacco) Act 1991 requires the authority to consider its enforcement programme in respect of underage 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 Illegal Vapes

5.10.1 With the increased prevalence of the use of vapes (both by adults as a safer alternative to tobacco and worryingly by children), a "black market" in illegal vapes has grown rapidly. This illegal vapes are imported from markets that do not have the stringent safety requirements of the UK and Europe and are also targeted at children. During 2023/2024 Trading Standards seized 1203 illegal vapes and the sellers were either warned, or in more extreme cases, further investigated. One case is currently going through the Court system and a number of other retailers are expected to be the subject of formal enforcement action.

5.11 Consumer Advice

5.11.1 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.

5.11.2 The table below gives the top 10 products/services and the monetary value involved that were complained about during 2023/2024: The top 10 reflect trends shown throughout the United Kingdom.

	Product/Service	Number	% of Total	Value (£)
1	Used Vehicles	269	20.3	1,709,239
2	Home Maintenance and Improvements	231	17.5	1,365,017
3	Tobacco and related Products	70	5.3	130
4	Motor vehicle service and repair	52	3.9	44,296
5	Furniture	49	3.7	78,526
6	Pets and veterinarian services	47	3.6	12,863.50
7	Other Household goods and services	32	2.4	3,462.00
8	Toiletries, Beauty, Perfume	29	2.2	11,665.00
9	Clothing and footwear	28	2.1	2,894
10	Gardening Products and services	27	2.0	80,291

5.11.3 The total value of all goods and services dealt with by the Council's advice service for the financial year was £3,917,040.47 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 £14,542,817.47 These figures exclude high value complaints regarding financial advice and prize draws.

5.12 Environmental Health, Community Safety and Food Hygiene and Standards

5.12.1 Food Hygiene law enforcement is carried out by Environmental Health, and Food Standards law enforcement is carried out by Trading Standards. Whilst both service areas have recovered significantly from the pandemic, a risk-based approach continues to address a backlog of lower risk interventions, with the aim of re-aligning all inspection programmes with the Food Law Code of Practice. The tables below demonstrate the progress made to prioritise higher risk businesses over lower risk businesses, and the efforts made to re-align the overall programme:

Food Hygiene

Category	Target to be Completed	Completed	Closed or Ceased Trading	Outstanding	Percentage achieved
A	0	-	-	0	n/a
B	77	71	6	0	100%
C	215	157	58	0	100%
D	172	136	32	4	98%
E	466	293	147	26	94%
Total	930	647	253	30	97%
Outside the programme	N/A	75	N/A	N/A	N/A
New registered premises	*	230	-	12	96%
Microbiological samples	N/A	357	-	N/A	-

*New food businesses are set up throughout the year, therefore a definitive target is not set at the beginning of the year. The services react to requests from food business operators to register and receive an inspection. The figures therefore relate to reactive rather than planned workload.

Food Standards

Category	Target to be completed	Completed	Closed or Ceased Trading	Outstanding	Percentage achieved (%)
A	9	9	0	0	100
B	328	153	66	109	67
C	406	239	97	70	83
Total	743	401	163	179	76
Outside the programme	-	55		0	-
New registered premises	*	201		33	83
Official Control Samples	-	43		0	-

*New food businesses are set up throughout the year, therefore a definitive target is not set at the beginning of the year. The services react to requests from food business operators to register and receive an inspection. The figures therefore relate to reactive rather than planned workload.

5.12.2 In addition to the above, Food Standards officers concluded two prosecutions relating to the supply of unsafe food and failure to provide allergen information on request.

5.12.3 In October 2023 the Food Standards Agency (FSA) audited the authority's Food Law Enforcement Delivery. The subsequent Food Standards Agency Audit report (which includes the food safety, food standards and communicable disease control functions within Public Protection) was considered by the Housing and Environment Scrutiny Committee on Tuesday 13th February 2024 and by Cabinet on the 6th March 2024.

The FSA reported a Moderate Assurance. That is the system for delivering official controls requires some improvement to fully demonstrate effective implementation of planned arrangements suitable to achieve the objectives of legal requirements and guidance. The audit findings indicate that the authority is making good progress on recovery and is taking a risk-based approach. The FSA state that it is imperative that the authority continues to manage, monitor and support the recovery of both services in accordance with the risk-based plans provided to ensure recovery to the standard prescribed in law and under the Food Law Code of Practice (Wales).

5.12.4 During this period the Community Safety team has continued to successfully manage the Anti-Social Behaviour 4 Strike Process which aims to deter individuals from committing acts of anti-social behaviour. From the figures detailed in Appendix 1 it can be seen that there was an increase in the number of warning letters that were issued by the team. In addition, the number of individuals who continued to offend and signed acceptable behaviour contracts has increased, leading to 7 individuals being issued Civil Injunctions at court.

5.12.5 The Community Safety Wardens continued to see an increase in anti-social behaviour in certain areas throughout the county borough resulting in the team issuing more anti-social behaviour referrals. In addition, during this period the Community Safety Warden team saw a reduction in staff numbers as a result of several vacant posts. This has led to some of the figures in Appendix 1 being lower than the previous year. However, the team continue to patrol the hotspot areas predominantly the town centres across the county borough and have also supported the Police in several joint operations. The CCTV van continues to be utilised to support this activity and target crime and disorder priority areas identified via the Community Safety Partnership Tasking process.

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 Andrew Whitcombe, Chair of Housing and Environment Scrutiny Committee

Councillor Shane Williams, Vice Chair of Housing and Environment Scrutiny Committee

Mark S. Williams, Corporate Director, Economy and Environment

Jacqui Morgan, Trading Standards, Licensing and Registrars Manager

Ceri Edwards, Environmental Health Manager

Rob Tranter, Head of Legal Services and Monitoring Officer

Stephen, Harris, Head of Financial Services and Section 151 Officer

Lynne Donovan, Head of People Services

Background Papers:

Public Protection Enforcement Policy

Report to Housing and Environment Scrutiny Committee 13th Feb 2024

Food Standards Agency Audit Report Letter dated 21st November 2023

Assessments of Assurance

Updated Action Plan

Notice of the decisions from the Housing and Environment Scrutiny Committee meeting held on Tuesday 13th February 2024

Report to Cabinet 6th March 2024 – Appendix 1 – Appendix 2 – Appendix 3

Notice of Cabinet Decisions from the meeting held on Wednesday 6th March 2024

Appendices:

Appendix 1 Public Protection Enforcement Activity 2021-24

Appendix 1 – Public Protection Enforcement Activity 2021-24

Trading Standards and Licensing Legislation

Type of Enforcement Activity	21/22	22/23	23/24
Significant breaches identified during inspection	87(87%)	133 (89%) rectified	54 (91%) rectified
Simple Cautions	13	3	10
Prosecutions	12	9	21
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

Breakdown of 2023/2024 Prosecutions		Breakdown of 2023/2024 Cautions	
Rogue Builders/Doorstep Crime	4	Dog Breeding/Animal Welfare	6
Illegal Dog Breeders/Animal Welfare	4	Street Trading	2
Illicit Tobacco	3	Underage Sales-Alcohol	1
Underage Sales-Alcohol	2	Underage Sales-Vapes	1
Food Standards	2		
Licensing Act	2		
Equality Act	1		
Under Age Sales-Vapes	1		
Unlicensed Taxis	1		
Proceeds of Crime Act	1		

Penalties and Compensation

During 23/24 20 prosecution cases resulted in defendants being subjected to 78 months prison sentence (immediate and suspended), 400 hours Community Punishment Orders, fines of £6,068, compensation awarded to victims of £156,986 and costs paid to the authority of £24,411.50.

Environmental Health Food Safety Legislation

Type of Enforcement Activity	21/22	22/23	23/24
Written Warnings/Advice	175	856	804
Revisits	61	77	124
Improvement Notices	4	6	18
Remedial Action Notices	1	1	0
Prosecutions	1	0	0
Voluntary Closure	1	4	2
Hygiene Emergency Prohibition	0	0	0
Seizure/Surrender	0	0	0

Simple Cautions	0	0	0
Food Hygiene Rating Scheme FPN	0	0	1

Environmental Health - Health and Safety Legislation

Type of Enforcement Activity	21/22	22/23	23/24
Written Warnings/Advice	27	71	58
Revisits	5	20	17
Improvement Notices	2	19	8
Prohibition Notices	0	4	0
Simple Cautions	0	1	0
Prosecutions	0	0	0

Environmental and Nuisance Legislation

Type of Enforcement Activity	21/22	22/23	23/24
Warnings for dog fouling	3	26	21
Warnings for litter	4	27	12
Fixed Penalties for Dog Fouling	1	1	17
Fixed Penalties for Litter	15	23	24
Fixed Penalties for Fly Tipping	29	27	39
Prosecutions for Littering	0	0	2
Prosecutions for Dog Fouling	0	0	1
EPA 1990 – Noise Abatement Notices	6	6	9
EPA 1990 – Statutory Nuisance Notices	31	6	11
Confiscation of noise making equipment	0	0	0
Prosecutions for Statutory Nuisance (Noise)	0	0	0
Stray Dogs Impounded	97	76	75
Prosecutions for Fly tipping	14	10	3

Community Safety

Type of Enforcement Activity	21/22	22/23	23/24
Public Open Space CCTV			
Total no. of incidents monitored/dealt with by CCBC CCTV service	2396 Including requests detailed below	2169 Including requests detailed below	2622 Including requests detailed below
Evidence recorded and provided to Gwent Police	481 DVDs burnt for evidential purposes	459 140 DVDs, 319 digital uploads	608 50 DVDs, 568 digital uploads
Requests for monitoring from Gwent Police	790	790	696
Community Safety Wardens and Community Safety Team			
Words of Advice given (acting contrary to acceptable standards of behaviour)	4782	1226	987
Referrals by Community Safety Wardens into 4 Strike Anti-Social Behaviour process	16	1	29
Verbal Warnings (Name and address, date of birth taken)	74	12	12
Items of Alcohol Confiscated	98	5	10
Issues identified and referred to other departments	426	365	344
Total hours of deployment	9,449	7,638	5489
Fixed Penalty Notices Issued	5	1	1
Number of Anti-Social Behaviour warning letters sent out	378	292	318
Number of Acceptable Behaviour Contracts (ABCs) signed	34	35	52
Number of Civil Injunctions granted at court	5	8	7