



HEALTH SOCIAL CARE AND WELLBEING SCRUTINY COMMITTEE – 23RD JUNE 2015

SUBJECT: PUBLIC PROTECTION ENFORCEMENT – 2014/15

REPORT BY: CORPORATE DIRECTOR SOCIAL SERVICES

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to provide information on formal enforcement activities within the Public Protection Division during 2014/15, in compliance with the Public Protection Enforcement Policy.

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 well being of our communities, as well as regulate trade, commerce and the environment. The report provides an overview of the formal enforcement activity undertaken and includes some examples to illustrate the activity.
- 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.

3. LINKS TO STRATEGY

- 3.1 Enforcing public protection legislation is a statutory duty and this activity also contributes to the Healthier Caerphilly, Greener Caerphilly, Prosperous Caerphilly, and Safer Caerphilly priorities within the Caerphilly Local Service Board single integrated plan, Caerphilly Delivers, and Objective 1 of the Council's Strategic Equality Plan 2012.

4. THE REPORT

- 4.1 The Public Protection Division has 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.
- 4.2 The Committee will also be aware that prosecution details are published on the Council website and in Newsline.
- 4.3 In order to ensure a fair and consistent approach to enforcement responsibilities the Public Protection Division has an Enforcement Policy, which was updated in April 2015 to reflect changes in legislation. The Policy requires an annual review of activity.

4.4 The following information provides a broad picture of the range and number of formal enforcement actions initiated during 2014/15 (some prosecutions may still be awaiting hearing). In addition to the formal interventions detailed below, hundreds of other informal warnings and cautions (both written and verbal) are issued every year.

4.5 Trading Standards and Licensing Legislation

Type of Enforcement Activity	12/13	13/14	14/15
Significant breaches identified during inspection.	103 (97% of which were rectified)	84 (95% rectified)	101 (99% rectified)
Simple Cautions	18	12	10
Prosecutions	38	32	27
Fixed Penalty Notices under Section 146 of the Licensing Act, i.e. underage sales of alcohol (in conjunction with Gwent Police)	7	8	5
Fixed Penalty Notices under Section 6 of the Health Act 2006	N/A	N/A	1
Total	166	136	144

Prosecutions

A summary of some of the cases prosecuted is provided below to illustrate the types of offences dealt with:

Robert Matthews of Trethomas was convicted at Newport Magistrates Court on 25th April 2014 under the Road Traffic Act 1988 and the Local Government (Miscellaneous Provisions) Act 1982. Matthews was caught using an unlicensed motor vehicle as a Private Hire taxi, and not having insurance on the vehicle to enable him to carry fare paying passengers. He was fined a total of £450, ordered to pay the Court a surcharge of £20 and had his Driving Licence endorsed with 6 penalty points.

Carl John Kilby of Oakdale was convicted at Newport Magistrates Court on 20 June 2014 for offences under the Trade Marks Act 1994 and The Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002. The prosecution arose from complaints that he was selling counterfeit cigarettes and Hand Rolling Tobacco, which also did not comply with Regulations relating to the labelling of tobacco products with appropriate health warnings. The tobacco was sold from his home and when Trading Standards Officers raided his premises, his supply of illicit tobacco was found hidden under the hearth by a Tobacco Detection Dog employed to assist officers with the search. He was given a 4 month jail sentence, suspended for a year, ordered to undertake 100 hours unpaid work in the community, pay costs to the Local Authority of £320, pay the Court an £80 surcharge and all the tobacco was forfeited and destroyed.

Lisa Davies of Churchill Park, Caerphilly was convicted at Newport Magistrates Court on 20 June 2014 under the Trade Marks Act 1994 for the possession of counterfeit goods including clothing, footwear, headphones and jewellery, which she was selling via Social Media. She was given a 4 month jail sentence, suspended for a year, ordered to undertake 60 hours unpaid work in the community, pay costs to the Local Authority of £400, pay the Court an £80 surcharge and all the goods were forfeited.

Oliver Johnson of Newbridge who ran a nightclub in Blackwood was convicted of 2 offences of selling alcohol to children under the age of 18 under the Licensing Act 2003 at Newport Magistrates Court on 11 July 2014. He was fined £150, ordered to pay the Local Authority costs of £717.56 and pay a surcharge to the Court of £20.

Luke James Chapman trading as Morgan's Mobile Valeting of Cwmtillery was convicted of offences under the Fraud Act 2006 at Newport Magistrates Court on 20 November 2014. Mr Chapman undertook work on a car owned by a consumer from Blackwood, specifically to replace the clutch with a new one. He charged £400 to fit the new clutch, but soon after the owner of the vehicle noticed that there was still a problem. Examination of the clutch revealed that the original clutch was still fitted to the vehicle. The Court imposed a 20 week prison sentence suspended for 12 months, ordered him to pay £1085 costs to the Local Authority and an £80 surcharge to the Court. He was also ordered to pay full compensation to the consumer, given a 12 month Supervision Order, ordered to undertake 150 hours unpaid work in the community and attend a 19 month drug rehabilitation scheme.

Jamie Morris of Ynysddu was convicted at Newport Magistrates court on 15 August 2014 of offences under the Welfare of Farmed Animals (Wales) Regulations 2007 and the Animal Welfare Act 2006. The offences related to the welfare of goats in his possession namely, failure to seek veterinary advice, failing to meet the needs of the goats in relation to disease protection and illegal fitting of castration rings. He was fined £440, ordered to pay £823.20 costs and a £26 Victim Surcharge.

Simarjot Singh, Trading As Cefn Fforest Stores was convicted on the 20 March 2015 at Newport Magistrates Court for selling/offering for sale food past its use by date contrary to the Food Labelling Regulations 1996. Whilst inspecting the store last August officers found multiple items, including meat products past their use by date. Some products were 20 days past their use by date. Mr. Singh was fined £1200 and ordered to pay £172.34 costs and £30 Victim surcharge.

4.6 Environmental Health Food Safety Legislation

Type of Enforcement Activity	12/13	13/14	14/15
Written Warnings/Advice	909	776	980
Improvement Notices	28	61	46
Remedial Action Notices	3	3	1
Prosecutions	3	1	1
Voluntary Closure	5	9	4
Emergency Prohibition	0	0	0
Simple Cautions	0	0	0
Food Hygiene Rating Scheme Fixed Penalty Notice	N/A	1	7
Total	948	851	1039

Prosecutions

A summary of the case prosecuted is provided below:

Anthony Zaccaria, of Station Terrace, Canton, Cardiff was convicted following a joint Trading Standards and Environmental Health investigation into his operation as 'Mario Super Soft' ice cream van in Caerphilly county borough last summer. Officers were on duty at the council's annual Big Cheese Festival in Caerphilly and were alerted to 'Mario Super Soft' Ice Cream van, trading on Crescent Road in Caerphilly outside the boundaries of the event.

Upon making a joint visit, officers discovered that Mr Zaccaria's vehicle did not have consent from the council to trade from any location within Caerphilly county borough. Furthermore, the investigation found that not only did Zaccaria not have appropriate food hygiene training, but that there was no potable hot and/or cold water available on the van. He also failed to ensure that the food being sold from the van was protected against the risk of contamination.

Zaccaria's case was heard at Newport Magistrates Court on 27th February 2015. He pleaded guilty to three charges under the Food Hygiene (Wales) Regulations 2006 and one charge of Street Trading without Consent and. He was given an 18 week suspended sentence, and was ordered to pay costs to the council of £446 together with an £80 victim surcharge.

4.7 Environmental Health - Health and Safety Legislation

Type of Enforcement Activity	12/13	13/14	14/15
Written Warnings/Advice	205	179	165
Improvement Notices	15	40	15
Prohibition Notices	1	4	0
Simple Cautions	1	0	1
Prosecutions	0	2	0
Total	221	226	181

4.8 Environmental Health Communicable Disease Legislation

Type of Enforcement Activity	12/13	13/14	14/15
Part 2A Orders Public Health (Control of Disease) Act 1984 (as amended)	1	2	4
Prosecutions	N/A	1	4
Total	1	3	8

Prosecutions

A summary of some of the cases prosecuted is provided below to illustrate the types of offences dealt with:

Stephen Stevens, of Abertillery, was convicted at Caerphilly Magistrates' Court on 28th November 2014 of eight offences relating to illegal tattooing and piercing. Stevens had been carrying out tattooing and piercing services at an address in Risca in January and February, despite not being registered in accordance with the Local Government (Miscellaneous Provisions) Act 1982. Members of the public had made the council aware of Stevens' activities, and a search of social media showed that Stevens had been offering his services for tattooing or piercing and providing approximate costs for his work. The social media pages also contained photographs of tattoo work Stevens had allegedly carried out.

Stevens was fined £1,050 for the offences and Magistrates ordered the confiscation of his equipment. Following this case officers worked jointly with Blaenau Gwent CBC to assist in their investigation of Stevens who has since been convicted for offences.

Evan Hellyar, of Tir Y Berth was convicted at Newport Magistrates' Court on 5th December 2014 of 4 offences relating to illegal tattooing and piercing. Hellyar had been carrying out tattooing and piercing services at his home address between April and June, despite not being registered in accordance with the Local Government (Miscellaneous Provisions) Act 1982. Members of the public had made the council aware of Hellyar's activities, and a search of social media showed that Hellyar had been offering his services for tattooing or piercing. The social media pages also contained photographs of tattoo work Hellyar had allegedly carried out. Despite officers entering Hellyar's home on 29th April 2014 and seizing all tattoo related equipment, Hellyar purchased new equipment and began to tattoo illegally again. Officers entered the property on the 23rd June 2014 and seized all tattoo related equipment from Hellyar. Hellyar was fined £4,050 for four offences and Magistrates ordered the confiscation of his equipment.

Richard Mark Battersby of Bargoed was convicted at Newport Magistrates Court on 9th January 2015 of two offences relating to illegal cosmetic piercing. Battersby had been operating as a cosmetic body piercer without being registered to undertake the activity and also failed to register the premises where the practice of cosmetic piercing was undertaken in accordance with the Local Government (Miscellaneous Provisions) Act 1982 (as amended). A resident had made the authority aware of Battersby's activities following a piercing procedure which had not been performed correctly. Battersby was fined £750 reduced to £500 because of his early guilty plea. He was also ordered to pay prosecution costs of £260 and a £50 victim surcharge. The Court also made a forfeiture and destruction order in relation to the items seized.

4.9 Environmental and Nuisance Legislation

Type of Enforcement Activity	12/13	13/14	14/15
Warnings for dog fouling	7	1	9
Warnings for litter	174	33	129
Fixed Penalties for Dog Fouling	71	46	44
Fixed Penalties for Litter	362	239	268
Prosecutions for Littering	10	2	4
Prosecutions for Dog Fouling	5	5	6
Abatement Notices for statutory nuisance (Noise, smell, smoke etc).	31	56	74
Public Health Notices (drainage, unauthorised access, prevention of damage by pests, etc.)	37	75	36

Confiscation of noise making equipment	3	3	1 destruction order
Prosecutions for Statutory Nuisance (Noise)	2	1	3
Stray Dogs Impounded	353	307	318
Prosecutions for Fly tipping	9	4	10
Cautions for Fly Tipping	N/A	2	0
Total	1064	773	920

Prosecutions

A summary of some of the cases prosecuted is provided below to illustrate the types of offences dealt with:

Mr Arkadiusz Aulejtners of Fochriw, owner of a commercial garage in Aberdare, was found responsible for illegally dumping waste including car maintenance materials, plastic, boxes and paperwork containing his name and address. The offence took place at Duffryn Industrial Estate in Ystrad Mynach. Aulejtners claims he gave an old car to a scrap dealer to dispose of and some of his paperwork was left in the car. He also claimed that the scrap dealer must have dumped the waste. Aulejtners was not able to provide details of the scrap metal dealer therefore he was prosecuted under the Environmental Protection Act 1990, Section 34 (1) for breaching his duty of care to control his waste. On the 13th June 2014, the defendant was convicted and fined £450 with costs of £448.93.

Nathan Edwards, of Penybryn, Gelligaer had previously been prosecuted for playing loud amplified music at his home. Despite his earlier prosecution, Edwards continued to cause noise nuisance problems for his neighbours. He demonstrated failure to comply with a Statutory Noise Nuisance Abatement Notice on dates in January 2014. Newport Magistrates Court issued a Warrant for seizure of his noise amplification equipment on the 21st January 2014. Equipment seized included flat screen televisions, DVD players, PlayStation 4 games console, and surround sound home entertainment system. The case was heard in Caerphilly Magistrates Court on 15th August 2014 and the defendant was found guilty and convicted of four further breaches of the Abatement Notice. Edwards was fined £4000 for the four offences, £1200 costs and £100 Victim surcharge. Magistrates also instructed disposal of all the noise making equipment, which had been seized.

David Andrew Boulton, of Cwmtillery, Abertillery failed to comply with a Statutory Noise Nuisance Abatement Notice by allowing noise from the playing of amplified live and recorded music and amplified speech from the Flour Mill, 56 High Street, Blackwood on the 13th of June 2014 and the 19th of July 2014. The case was heard in Newport Magistrates Court and the defendant was convicted of breaching the Abatement Notice. Boulton was fined £1200 for the first offence and £1400 for the second offence, £694.90 costs and £140 Victim surcharge.

4.10 Community Safety Legislation

Type of Enforcement Activity	12/13	13/14	14/15
Referrals by Community Safety Wardens into 4 Strike Anti-Social Behaviour process	21	25	14

Verbal Warnings (Name and address, date of birth taken)	144	159	89
Words of Advice given (acting contrary to acceptable standards of behaviour)	N/A	N/A	824
Items of Alcohol Confiscated	142	153	175 and 6 tobacco
Total no. of incidents monitored/dealt with by CCBC CCTV service	4157 incidents reported	4766	3829 including Police requests detailed below.
Evidence recorded and provided to Gwent Police	861 DVD's provided including working copies	886	834 DVDs burnt for evidential purposes and 787 provided.
Requests for monitoring from Gwent Police	1336 requests for assistance from Police.	1680	1358 requests from Gwent Police for CCTV assistance.

The CCTV Control Room refers incidents and suspicious behaviour directly to the Police for their action. Recent examples include theft, assault and criminal damage. 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.

Examples over the year where Operators have been proactive in determining offences include:

- 9th April 2014 – Female damaged shop windows in Bargoed. Female located on CCTV in train station, police directed and female arrested.
- 1st May 2014 – Report of possible abduction of female. Van located and police informed. Van stopped and male driver arrested.
- 3rd June 2014 – Intruders seen in Rhymney DLO. Police called and police plus dog handler attended. 2 males arrested.
- 5th July 2014 – Male seen dealing drugs in Blackwood. Police called, male searched and arrested.
- 6th September 2014 – Persons fighting in Blackwood. Police attended and arrest 2 males. 1 person unconscious and paramedics in attendance.

- 24th September 2014 – Male seen with knife in Ystrad Mynach town centre. Police called and male arrested.
- 12th October 2014 – Large quantity of small Butane gas canisters dumped in recycling bin in Caerphilly. Youths seen removing canisters. Police called and youths arrested.
- 20th October 2014 – Males in van with a gun in Rhymney. Van located and Armed Response directed to location by CCTV.
- 21st November 2014 – Doorman assaulted in Caerphilly. Police called and 1 person arrested.
- 29th November 2014 – Males in Blackwood making threats and in possession of 2 knives. Police called and person arrested.
- 16th February 2015 – Criminal Damage to car in Bargoed. Police called and male arrested.
- 23rd March 2015 – St David's Industrial Estate. 3 people in car causing nuisance to tenants. Wardens attend and call Police response. Car is stolen, 2 males in possession of drugs and 1 requires ambulance. 1 male is tagged and in breach of his bail conditions. Males arrested.

The CCTV Control Room monitors other activity. During the year 94 warnings were given for out of hours access to Civic Amenity sites, in some cases police response was required. 152 calls were received from the Storennet system to deal with suspected shoplifters. Police asked for assistance in monitoring 21 threats of suicide.

CCTV Operators are often the first service to notice vulnerable people, or those who may have been the victims of offences. Some recent examples are:

- 3rd May 2014 – Male collapsed in public toilets in Blackwood Bus station. Ambulance service called by CCTV Control Room operators.
- 14th December – Male falls over onto steel barrier in Blackwood and knocked unconscious. Police and paramedics called.
- 20th December 2014 – Male seen on floor unconscious in Nelson. Police and Ambulance called.
- 17th February 2015 – Report of child left unattended in car. Car located and police informed. Police attend and wait until parent returns.

The Public Open Space CCTV system comprises 157 cameras covering 28 town and village centres. Cameras in Blackwood, Caerphilly and Bargoed town centres are used to monitor the highest number of incidents followed by Rhymney, Risca and Ystrad Mynach cameras respectively. While cameras in villages tend to be used to monitor less incidents they are regarded as providing a significant deterrent effect and help in maintaining community reassurance. The location and number of permanently fixed cameras is considered as necessary, proportionate and effective.

4.11 Regulation of Investigatory Powers Act 2000 Authorisations

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).

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.

Within Caerphilly Council applications are reviewed 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 Monitoring Officer will also vet the applications, to ensure they are correctly authorised. The Monitoring Officer 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.

Once applications are Authorised, Officers must then apply to the Magistrates Courts and obtain Judicial Approval to carry out the activity. During 2014/15, Trading Standards obtained RIPA Authorisations as below:-

Directed Surveillance-	5
Covert Human Intelligence Sources-	0
Communications Data-	2

In relation to the Directed Surveillance Authorisations, 4 related to under age test purchase operations held throughout the year, covering alcohol and tobacco. 8 sales took place resulting in the issue of 4 Penalty Notices for Disorder to sellers, and 2 businesses being reported for prosecution, neither case having been heard yet. 1 Authorisation related to surveillance of problem premises identified by both Police and Trading Standards as possibly supplying alcohol to known local children. In this case the surveillance proved the allegations, a Penalty Notice for Disorder was issued and the business is being investigated for selling both alcohol and tobacco to children, in addition to facing a review of their licence to sell alcohol.

With regard to the 2 Communications Data requests, both related to incidents of Doorstep Crime, where elderly residents had been targeted and substandard work carried out for highly inflated prices. The subscriber details obtained assisted in identifying 2 individuals involved who are awaiting trial for a number of offences including Fraud.

5. EQUALITIES IMPLICATIONS

- 5.1 This report is for information purposes only, so the Council's Equalities Impact Assessment process does not need to be applied.

6. FINANCIAL IMPLICATIONS

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

7. PERSONNEL IMPLICATIONS

7.1 There are no personnel issues with regard to this report.

8. CONSULTATIONS

8.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.

9. RECOMMENDATIONS

9.1 Members are requested to note the report.

10. REASONS FOR THE RECOMMENDATIONS

10.1 To provide Members with an opportunity to note the annual review of enforcement activity in accordance with the Public Protection Enforcement Policy.

11. STATUTORY POWER

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

Author: Rob Hartshorn, Head of Public Protection – Ext. 5316
Consultees: Cllr. Nigel George, Cabinet Member for Community and Leisure Services
Dave Street, Corporate Director, Social Services
Kath Peters, Community Safety Manager
Ceri Edwards, Environmental Health Manager
Jacqui Morgan, Trading Standards & Licensing Manager
Gail Williams, Interim Head Of Legal Services And Monitoring Officer
David A. Thomas, Senior Policy Officer (Equalities and Welsh Language)
Mike Eedy, Finance Manager
Sian Phillips, HR Manager