

MEETING:	REGULATORY COMMITTEE
DATE:	15 NOVEMBER 2011
TITLE OF REPORT:	REGULATORY ACTIVITY OF ENVIRONMENTAL HEALTH & TRADING STANDARDS
PORTFOLIO:	HEALTH & WELLBEING

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To note the main regulatory activities of Environmental Health & Trading Standards service for the first half of 2011/12 (period April – September 2011) for the following service areas:

- i. Environmental Protection Team,
- ii. Licensing Team,
- iii. Air, Land & Water Protection Team,
- iv. Pest control Team
- v. Gypsy Traveller Team,
- vi. Trading Standards Teams,
- vii. Environmental Health (Commercial) Team and the
- viii. Animal Health & Welfare Team.

LICENSING TEAM

The Licensing Team encompasses key areas such as:-

- Taxi Licensing
 - Licensing Act (pubs and clubs and events)
 - General Licensing (animal boarding, street collections etc)
 - Gambling Act licensing
1. During the period 1st April – 30th Sept 2011 the Officers' Taxi Panel has met on five occasions and dealt with the following matters:
- i. applications for a County Transport Badge – 9
 - ii. applications for hackney carriage/private hire drivers licence – 6
 - iii. suspension of a hackney carriage/private hire drivers licence - 1
 - iv. disciplinary matters regarding the holder of a hackney carriage/private hire drivers licence - 1

Where necessary, these are referred onto the Sub Regulatory or Regulatory Committee.

2. During the period 1st April – 30th Sept 2011 and since new arrangements came into effect, the Sub-Committee has met on eight occasions and has dealt with the matters referred to it as follows:

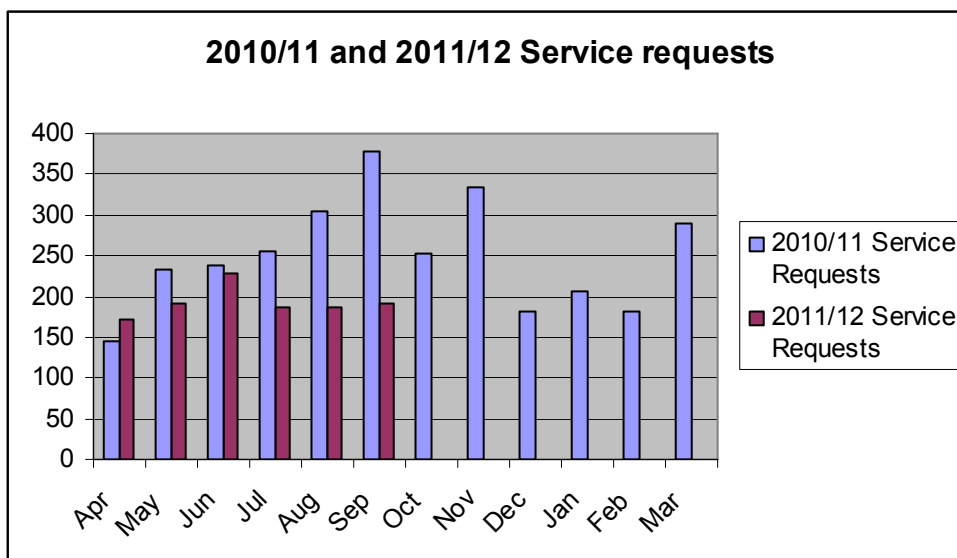
:2011/12	Reviews held by Sub Committees
April	<p><u>20th April 2011</u></p> <ul style="list-style-type: none"> • Preliminary points to consider regarding 'Big Chill Festival', Eastnor Deer Park, Ledbury • Application for a new premises licence 'Big Chill Festival', Eastnor Castle, Deer Park, Ledbury <p><u>26th April 2011</u></p> <ul style="list-style-type: none"> • Application for variation of a premises licence Malthurst Northside Service Station, Hereford Road, Hope Under Dinmore • Application for the grant of a licensed premises gaming machine permit for 4 machines, in respect of The Duke's Head, Corn Square, Leominster <p>Suspension notice served on a hackney carriage/private hire driver</p>
May	<p><u>13th May 2011</u></p>

	<ul style="list-style-type: none">• Application for a review of the premises licence The Prince Of Wales, Church Lane, Ledbury• Application for a review of the premises licence The Bell Inn, 39 Etnam Street, Leominster• Application for a review of the premises licence The Man Of Ross, Wye Street, Ross-On-Wye <p><u>25th May 2011</u></p> <ul style="list-style-type: none">• Application for an expedited review Raduni Indian Cuisine, 66 The Homend, Ledbury <p><u>31st May 2011</u></p> <ul style="list-style-type: none">• Representations against interim steps - expedited review Raduni Indian Cuisine, 66 The Homend, Ledbury
--	--

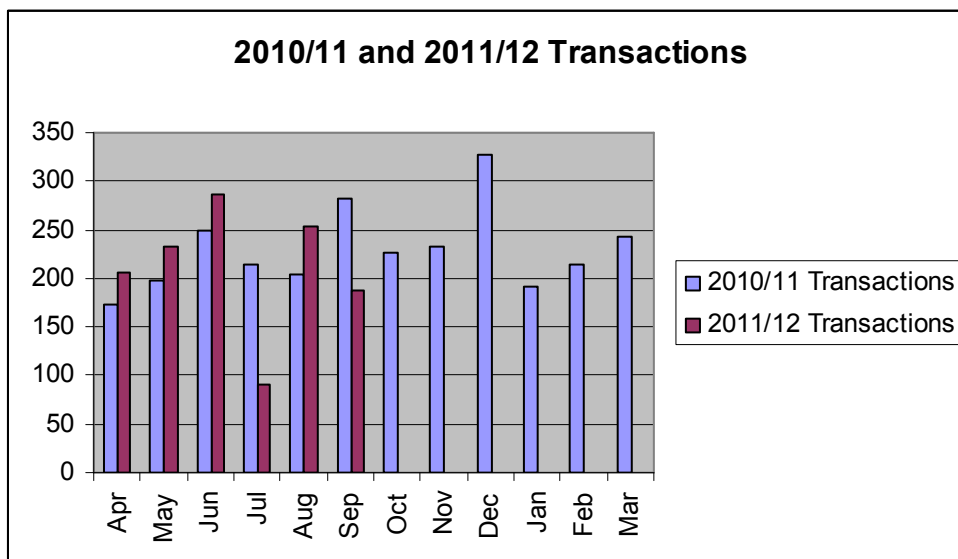
June	<p><u>17th June 2011</u></p> <ul style="list-style-type: none"> • Full review Raduni Indian Cuisine, 66 The Homend, Ledbury • Application for variation of premises licence Mcdonalds Restaurant, Belmont Road, Hereford • Expedited/summary licence review of Premises Licence Korai Ltd, t/a Raduni Indian Cuisine, 66 The Homend, Ledbury • To determine if a driver continued to be a fit and proper person to hold a hackney carriage/private hire drivers licence following his suspension <p><u>23rd June 2011</u></p> <ul style="list-style-type: none"> • Application for a premises licence Beer On The Wye (2011), Hereford Rowing Club, Greyfriars Avenue, Hereford • Application For Grant Of Premises Licence 'Beer On The Wye (2011), Hereford Rowing Club, Greyfriars Avenue, Hereford - Licensing Act 2003 <p><u>28th June 2011</u></p> <ul style="list-style-type: none"> • Further matters following the expedited/summary licence review of premises licence Korai Ltd, T/A Raduni Indian Cuisine, 66 The Homend, Ledbury • Application to re-instate an expired hackney carriage vehicle licence • Application for variation of premises licence Shooter's Bar Grafton House, Leominster • Application for a motor salvage operator's licence
July	<p><u>19th July 2011</u></p> <ul style="list-style-type: none"> • Notification of Temporary Event Notice in respect of Handlands Cross Farm, Lulham, Herefordshire and the issue of an Objection Notice given by the Chief Officer of Police for West Mercia.' - Licensing Act 2003
August	No hearings / committees

Sept	<p><u>6th September 2011</u></p> <ul style="list-style-type: none"> • Application for grant of a Premises Licence 'The Queens Arms, 30 High Street, Bromyard, HR7 4AE – Licensing Act 2003 • Application to licence a hackney carriage vehicle outside standard condition 5.2 (i) <p><u>16th September 2011</u></p> <ul style="list-style-type: none"> • Application for variation of a Premises Licence 'The Prince Of Wales', Lane, Ledbury – Licensing Act 2003 • Application for grant of a Premises Licence Bromyard Rugby Football Club, Tenbury Road, Bromyard – Licensing act 2003 <p><u>29th September 2011</u></p> <ul style="list-style-type: none"> • Expedited/summary licence review of premises licence: Nataalka Polskie Deliktsey, 22 Eign Street, Hereford
------	---

3. In addition to the above review work, the licensing team deals with many enquiries and complaints from the public. In 2010/11 there were 2997 service requests and by the end of Sept 2011 there have so far been 1259 service requests this year, comparing to 1552 for this same period last year. Therefore, although the work rates remain high, the trend implies that licensing activity is slightly down on last year, which probably reflects the economic situation for licensed premises. The workloads and trends are shown in the graph below.



4. In 2010/11 there were 2732 licensing transactions (granting of licences and variations etc). By the end of Sept 2011, we have so far had 1256 transactions comparing to 1303 for this same period last year. Therefore transaction totals remain high. The transaction workloads and trends are shown in the graph below.



Night Time Enforcement Work

5. The Licensing Team have undertaken a number of night time joint enforcement inspections with the police. Operation 'Verify' related to the procedures used by the city's pubs and clubs to challenge underage entry and sales of alcohol. Operation "Hansom" involved the Council's licensing officers and police checking taxis and challenging taxi drivers who are not using the city's taxi ranks legally. There will be further joint operations during the weeks before Christmas, hopefully including a trial taxi marshalling scheme on 25/26th November and 2/3rd December 2011.

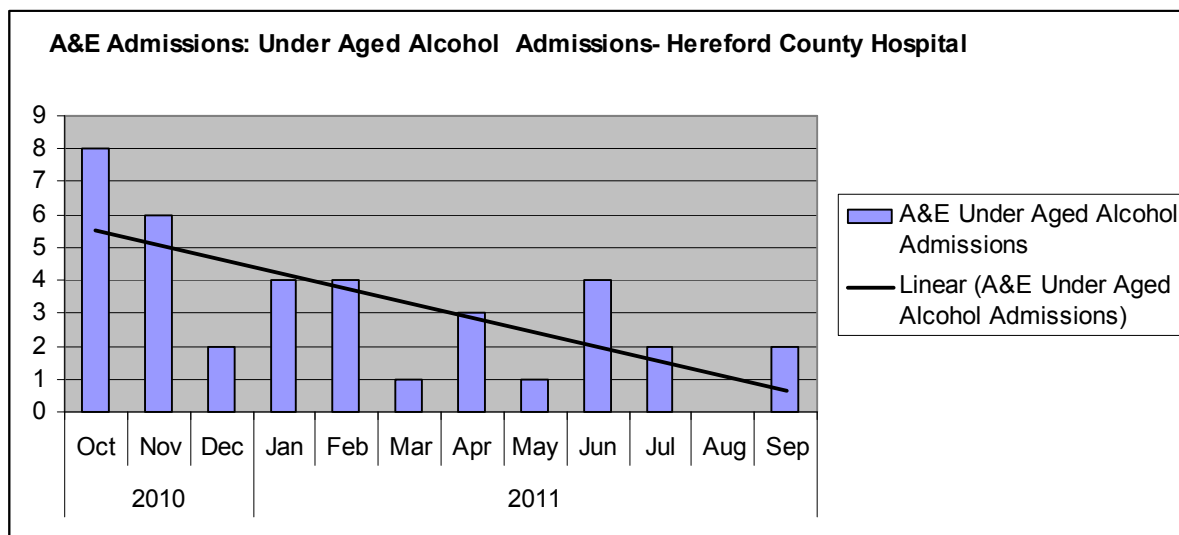
Festivals and Regulatory Work

6. A number of festivals during the summer months required extra regulatory effort in order to ensure compliance. Of particular note was the Big Chill Festival which was held in early August for 5 days. This event catered for 22,500 people and complaints/incidents were minimised by 24/7 enforcement work by EHOs and Licensing officers. Another Big Chill festival is scheduled for next year and work has already commenced in relation to its licence.

Underage Test purchases

7. The Licensing Team worked closely with the police and the Trading Standards Team in the continuation of covert underage test purchase of alcohol in licensed premises.
8. The results of this operation imply that there has been a marked improvement, as initially in 2010 the fail rate was as high as 40%, whereas the most recent levels are now as low as 5% or less.
9. Although this may be in part due to the licensed trade better detecting covert operations, it is probable that the shop keepers and door staff at the pubs and clubs have markedly improved their challenge of the under-aged, particularly for those premises that have had their licences reviewed as a consequence.

10. In order to measure the outcomes from this licensing work, the team receives regular data from the NHS in relation to A&E admissions related to alcohol. The graph below is derived from this data and clearly shows the linkage between joint licensing/trading standards covert test purchasing for under aged persons, which was initiated in December 2010 (see later section on trading standards for dates of these events).
11. The graph below plots A & E alcohol related admission data to monitor the number of people under 18 who have sought medical attention from the hospital, typically on Friday and Saturday nights.



The consequences of not undertaking Licensing Regulation

13. Should Herefordshire Council not undertake licensing work, it would:
 - Lose the opportunity to protect the health and wellbeing of the public insofar as the Licensing Act's four licensing objectives are concerned, namely:
 - i. crime and disorder
 - ii. protection of children from harm
 - iii. public nuisance (noise)
 - iv. public safety (health & safety at events)
 - Lose the opportunity to protect the safety of the travelling public by not screening taxi drivers as being 'fit & proper', by not ensuring that vehicles are safe and by not ensuring vehicles have disabled access.
 - Lose the opportunity to properly regulate and control gambling activities as well as the un-restrict of sex establishments.
 - Lose the opportunity to protect the welfare of animals for licensed animal establishments / pet shops etc.
 - Be liable to financial compensation from the Ombudsman and subject to judicial review.
 - Lose income in the region of £370k per year.

For further information please contact
 Marc Willimont, Acting Head of Environmental Protection and Licensing on 01432 261986

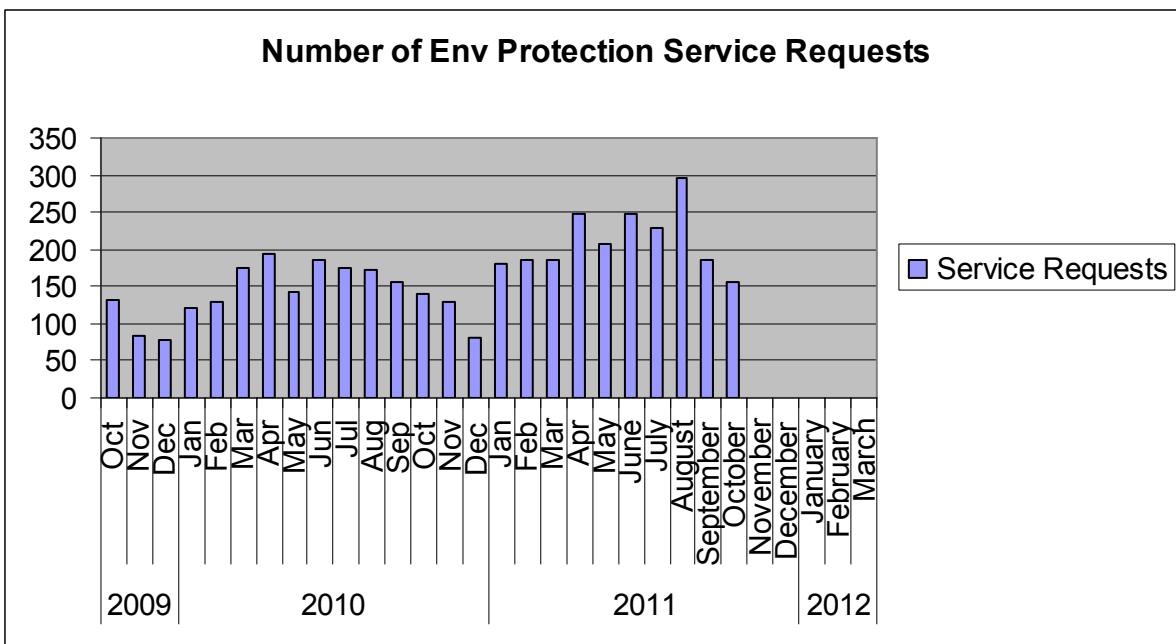
ENVIRONMENTAL PROTECTION TEAM

- 14 The Environmental Protection Team encompasses key areas such as:-
- Noise nuisance – investigation and service of abatement notices
 - Other nuisances – e.g. odour, dust, smoke etc
 - High Hedge complaints
 - Burial of deceased without means
 - Smoke offences – e.g. Clean Air Act and dark smoke offences
 - Drainage – clearance of drains and sewers and broken septic tanks
 - Public Health – clearance of land or housing with rats, mice or rubbish
 - Planning Consultations
 - Licensing Consultations

15 In the calendar year of 2010/11 there were 1932 service requests in total.

16. During the period April – end Sept 2011 there have so far been 1413 service requests compared to 1028 for the same period last year, therefore workloads have increased.

17. The graph below helps show the seasonality and long term trend compared to the previous year.



18. 488 of the 1413 service requests relate to noise which equates to about 35%. The team ran a “Noise Action Week” initiative in May 2011, which might have affected this data.

19. The team also operated a night time 'Noise Response Team' from July to September as an 8 week trial, working from 9pm to 2am on Fridays and Saturdays. Over this period, 57 calls were received about 47 different premises showing significant public usage. Feedback from the public, police and housing associations has been very positive and we will be looking to fund this in the summer of 2012 from savings made elsewhere in the service, keeping the team cost neutral.
20. During the period April – end Sept 2011 the following statutory notices were served by the Environmental Protection Team

Type of Statutory Notice	Number Served since 1 st April 2011
Drainage Notices	4
Noise Abatement Notices	5 (including on a bag pipe player in the street)
High Hedge Notices	2
Unsecured Property	1
TOTAL	11

21. Following joint working with the police and Herefordshire Housing Association, noise equipment was also seized from a house in Hoarwithy Road, Lower Bullingham.
22. Of notable interest for out-of-hours work during this period, a notice was served on a rave near Marstow over a weekend in July which led to immediate compliance and a flat in Ross on Wye had to be cleared of rubbish on a Sunday afternoon to enable the police and undertakers to remove a deceased person who had sadly died some 4 weeks earlier.

The consequences of not undertaking Environmental Protection Regulation

23. Should Herefordshire Council not undertake environmental protection work, it would:
- Miss the opportunity to protect the public by not resolving statutory nuisance complaints (like noise nuisance) in a timely fashion which could invariably affect their health and wellbeing through depression, stress and lack of sleep.
 - Not bury or cremate 'unclaimed' persons who have died outside of hospital or nursing homes, creating a serious public health situation with significant public outcry.
 - De-restriction of smoke offences, affecting the health & wellbeing of persons prone to respiratory conditions.
 - Not resolve overflowing and defective drainage, creating public health problems.
 - Not require the clearance of rubbish and rat infested land, again leading to public health problems.
 - Planning and licensing consultations would not be answered, leaving the planning

service and licensing team prone to ombudsman complaints.

- As most functions are statutory, ombudsman complaints would almost certainly be received for a significant percentage of the 2000 or so service requests received each year. Recent investigation and research into average ombudsman outcomes elsewhere implies that this could cost the service something in the region of £1m / annum if 50% of the claims were successful, resulting far in excess of the total service cost which is £265k.

AIR, LAND & WATER PROTECTION TEAM

The Air, Land & Water Protection Team encompasses key areas such as:-

- Closed landfill site management – monitoring and project managing engineering works etc.
- Contaminated land – responses on planning applications and investigations
- Private and mains water supply monitoring and regulation
- Industrial pollution control – issuing of environmental permits for large factories
- Air Quality – monitoring and assessment of air quality across the county
- Seagulls – managing the contract for egg and nest removal

24. Although much of this team's remit is not enforcement based, during April – Sept 2011 the following regulatory work was undertaken by this team:
25. 112 planning Consultations undertaken for potential contamination.
26. There were 641 water samples taken from private supplies resulting in only 24 notices having to be served to improve unfit / unwholesome supplies.
27. Approximately 3800 landfill monitoring exercises were undertaken at the county's closed landfill sites. These sites are owned by the council and sampling is undertaken to ensure legal compliance with the Environment Agency's requirements.
28. The seagull control programme was started in April and continued until the end of August 2011. The contractors report on the number of eggs taken and nests removed and this data implies that the actions taken are still having a marked effect on the colonies in Hereford. This year, industry and business are contributing to the cost of running this service. BBC Hereford & Worcester have featured this service.
29. 11 industrial pollution control inspections have so far been made to 86 permitted processes and factories countywide. New permits have also been drafted for two processes. Most of the risk assessment based inspection work is scheduled for the Nov – March period.

The consequences of not undertaking Air, Land & Water Protection Regulation

30. Should Herefordshire Council not undertake this specialist environmental protection work, it would:
- Be liable to prosecution from the Environment Agency for not managing its closed landfill sites. It would also be liable to compensation from the public should gas migration or leaching of contamination into the aquifer cause harm to public health or property.
 - Miss the opportunity to ensure that the county's 2,700 private water supplies are wholesome and do not cause any public health incidents or outbreaks
 - Leave the council liable to a compensation claim via the ombudsman for not annually reviewing and assessing its air quality and acting upon this.
 - The seagull population of 500 – 600 pairs in Hereford would increase from its static level by about 10 – 20% each year, as is occurring in comparable cities which do not have a management programme in place.
 - Lose about £40k income from unregulated and unpermitted industrial processes/factories and about £42k income from recharged water sampling.

GYPSY & TRAVELLER TEAM

31. Although much of this team's remit is the management of the six council owned gypsy & traveller sites across the county, during the period April to end Sept 2011 there have been 12 illegal encampments moved on from council owned land by this team.

The consequences of not undertaking traveller regulation

32. Should Herefordshire Council not undertake a traveller service, it would lead to:
- Unauthorised encampments on council owned land within Herefordshire which would remain in situ and unchallenged, unless undertaken by that specific part of the council.
 - Closure of council managed sites which would lead to more unauthorised encampments.
 - Loss of income from site rents in the order of £104k.

PEST CONTROL TEAM

33. The Pest control team deals with the eradication of most domestic pest infestations through treatment and prevention. They also operate a number of contracts with businesses for pest control services including the council's crematorium and cemeteries. During the period April – Sept 2011 the team has:
- Responded to 1819 service requests ranging from wasps fleas, rats, mice and moles
 - Has circa 120 contracts in place with businesses for pest control
 - Actual income is currently tracking about £20k down from 2010/11 due to a poor wasp season, although the team is still expecting to reach about £120k income at year end against its predicted £134k.

34. The team continues to assist the Environmental Protection Team with regulatory work about overgrown gardens and land and is also available on call in case of any unforeseen public health incident or outbreak requiring immediate pest control treatment.

The consequences of not undertaking a pest control function

35. Should Herefordshire Council not undertake a pest control service, it would lead to:
- A loss of circa £135k income (at current rates) per year.
 - An inability for the council to quickly react and respond to any public health incident associated with insects or rodents.

TRADING STANDARDS TEAM

The Trading Standards service encompasses key areas such as :-

- i. Consumer safety - ensuring the safety of consumer goods and the 'CE' mark.
 - ii. Food standards and agriculture standards – advising businesses on food labelling ensuring that composition and description are correct and truthful including animal feeding stuffs relating to labelling and composition .
 - iii. Fair trading relating to numerous commercial practices including consumer credit, packaging , green claims, time share etc., and especially protecting the elderly and vulnerable against cold calling and rogue traders
 - iv. Metrology – ensuring that weights and measures used in trade are correct and that suitable equipment is used, checking the quantity of goods sold ranging from bread to petrol
 - v. Licensing of Petroleum & explosive storage
 - vi. Advice to business and support to consumers
36. The team has undertaken a number of prosecutions from April – end Sept 2011. This includes:
- 2 x cases about misleading omissions – resulting in two £500 fines and £500 costs to the Council
 - 2 x cases about engaging in unfair commercial practice: - resulting in compensation to the victims of £18,200 and £1,600 with £400 costs awarded to the council.
 - 1 x licensing case for sale to an under-aged person – resulting in a prosecution, fine of £515.
37. In the April to September period the team has also dealt with 437 complaints and undertaken 62 samples.
38. Test purchases using underage persons have been undertaken over a number of weekends throughout the April to end of Sept period, utilising trading standards officers,

licensing staff and police. These have been covert operations primarily to check compliance for underage alcohol sales from both shops/off licences and pubs in both Hereford and the market towns. If a contravention occurs, this is followed up with a review to the Sub Regulatory Committee under the Licensing Act. Initial underage alcohol test purchase operations for pubs revealed a disturbingly high 40% failure rate, which contrasts with the more recent rates which are below 5%, implying that pubs are now much more compliant. Test purchasing will therefore continue to ensure this trend remains favourable.

39. Other test purchasing has been for tobacco, with firework sales planned for October/November.
40. The team hopes to continue leading the 'Crucial Crew' initiative into 2012, whereby schools are visited and healthy lifestyles are encouraged, including the discouragement of smoking and excessive alcohol / binge drinking.
41. Business advice is also regularly provided, which ensures compliance without the need for enforcement. This is favourable received with good feedback from customer satisfaction questionnaires.

The consequences of not undertaking a trading standards service

42. Should Herefordshire Council not undertake a trading standards service, it would lead to:
 - a. Herefordshire would become known as an easy county to operate in as a rogue trader, leading to vulnerable society members becoming more targeted, affecting their health & wellbeing.
 - b. Premises would be unchecked for the sale of alcohol, tobacco and fireworks to the underaged, and the likelihood of this happening would undoubtedly increase as this became known to the trade.
 - c. Ombudsman compensation claims
 - d. Reputational risk to the council

ENVIRONMENTAL HEALTH (COMMERCIAL) TEAM

43. The commercial team encompasses key areas such as:-
 - Food hygiene - ensuring basic food hygiene of food registered premises as well as promotion of 'Scores on the Doors' indicating a star rating of premises, provision of business advice and support to new and existing businesses
 - Health & Safety at Work – providing advice and assistance to businesses, investigating accidents and fatalities and instigating criminal prosecutions
 - Dealing with infectious disease notifications and outbreak investigations
 - Ensuring Smoke Free Workplaces

Consequences of not undertaking a food/health & safety/infectious disease function

44. Should Herefordshire Council not undertake an environmental health (commercial) service, it would lead to:

- Potential outbreaks of food borne diseases such as E. Coli O157, legionella, salmonella etc.
- Other infectious disease outbreaks would not be investigated and contained.
- Food complaints (e.g. mouldy unfit meat) etc would go unchallenged and would lead to serious public health issues.
- Accidents and fatalities at work would increase as businesses become aware of no regulation.
- Smoking would gradually return into commercial premises, as employers become aware that there is no regulation any more.

ANIMAL HEALTH & WELFARE TEAM

45. The Animal Health & Welfare team deal with farms, livestock and farmers to ensure that disease control measures are in place and are adhered to, providing support and guidance in relation to animal health & welfare legislation, the control of animal by-products, bovine TB notifications, livestock market surveillance, transport of animals, primary food producers and welfare of animals on farm.

46. The team had to deal with one suspected avian flu case in July which turned out to be negative. Most notably it also had to handle a more recent suspected anthrax case near Hereford which again proved to be negative. In both cases the necessary Defra protocol was followed and the required action plans initiated.

Consequences of not undertaking an animal health function

47. Should Herefordshire Council not undertake an animal health service, it would lead to:

- Potential outbreaks of animal related infectious diseases such as foot and mouth and avian flu no longer being effectively controlled at a local level.
- Welfare issues going unchallenged at both the market and the farm.