

# AGENDA

## Regulatory Committee

Date: **Tuesday 8 May 2012**

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Time: **2.00 pm**

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Place: **The Council Chamber, Brockington, 35 Hafod Road,  
Hereford**

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Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

**Pete Martens, Committee Manager Planning & Regulatory**

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If you would like help to understand this document, or would like it in another format or language, please call Pete Martens, Committee Manager Planning & Regulatory on 01432 260248 or e-mail [pmartens@herefordshire.gov.uk](mailto:pmartens@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Regulatory Committee

## Membership

<b>Chairman</b>	<b>Councillor JW Hope MBE</b>
<b>Vice-Chairman</b>	<b>Councillor RC Hunt</b>
	<b>Councillor CM Bartrum</b>
	<b>Councillor PL Bettington</b>
	<b>Councillor BA Durkin</b>
	<b>Councillor Brig P Jones CBE</b>
	<b>Councillor PJ McCaull</b>
	<b>Councillor C Nicholls</b>
	<b>Councillor FM Norman</b>
	<b>Councillor GA Powell</b>

## GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

### What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

### What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

### What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

### What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

**AGENDA**

	<b>Pages</b>
<b>1. APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
<b>2. NAMED SUBSTITUTES (IF ANY)</b> To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
<b>3. DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
<b>4. DISCHARGE OF GUARDIANSHIP UNDER THE MENTAL HEALTH ACT 1983</b> To consider the Council's function in relation to Discharge of Guardianship under the Mental Health Act 1983 and whether it should be delegated to the Regulatory Sub-Committee.	1 - 4
<b>5. REPORT ON ACTIVITY OF COMMUNITY PROTECTION TEAM</b> To note the main activities of the Community Protection Team for the period 1 <sup>st</sup> October 2011 – 31 <sup>st</sup> March 2012.	5 - 8
<b>6. REPORT ON REGULATORY ACTIVITY BY ENVIRONMENTAL HEALTH &amp; TRADING STANDARDS, HEALTH &amp; WELLBEING SERVICE</b> To note the main regulatory activities of the Council's Environmental Health & Trading Standards (EHTS) service for the full year 2011/12 (period 1 <sup>st</sup> April 2011 – 31 <sup>st</sup> March 2012)	9 - 54



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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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## **HEREFORDSHIRE COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

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<b>MEETING:</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>8 MAY 2012</b>
<b>TITLE OF REPORT:</b>	<b>DISCHARGE OF GUARDIANSHIP UNDER THE MENTAL HEALTH ACT 1983</b>
<b>REPORT BY:</b>	<b>Principal Lawyer</b>

**CLASSIFICATION:** Open

### **Wards Affected**

County-wide

### **Purpose**

To request that Regulatory Committee delegates the Council's function in relation to Discharge of Guardianship under the Mental Health Act 1983 to the Regulatory Sub-Committee.

### **Recommendation**

**THAT:**

**The Committee notes that it will carry out the Council's functions in relation to Discharge of Guardianship under the Mental Health Act 1983 and delegates this function to the Regulatory Sub Committee.**

### **Key Points Summary**

- A Local Social Services Authority (LSSA) has duties and powers in relation to Guardianship under the Mental Health Act 1983. The Council is the LSSA for Herefordshire
- By virtue of the Mental Health Act 1983 and the statutory Code of Practice the Council has a power to discharge a patient from Guardianship.
- The Council must consider whether to use its power of discharge whenever a renewal of Guardianship takes place.
- No arrangements are in place to enable the Council to carry out its duties in this regards. This Recommendation rectifies the position thereby enabling the Council to comply with its statutory duties.

### **Alternative Options**

- 1 The statutory function must be carried out by the Council; a committee of the council or sub-

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Further information on the subject of this report is available from  
John Howarth Principal Lawyer (01432) 260217

committee of the Council. Alternative options would be for the Council to carry out the function or for a different committee or sub committee to be identified.

## **Reasons for Recommendations**

- 2 The function falls within the remit of the Regulatory Committee as 'other miscellaneous regulatory functions not within the remit of any other Council body'. Given the sensitive nature of the statutory function it should be carried out by a small number of members to comply with the council's duty of confidentiality to the patients concerned. Delegating the function to the Sub-Committee of the Regulatory Committee would minimise the circulation of sensitive personal information.

## **Introduction and Background**

- 3 Guardianship is a process prescribed by the Mental Health Act 1983 whereby a patient subject to the Act can be provided with care outside a hospital setting. The Guardian has certain specified powers including the right to decide where the patient must live. Guardianship involves a considerable curtailment of the rights of the patient. An application for Guardianship is made by an Approved Mental Health Professional and two doctors. There are strict statutory criteria. The application is made to the LSSA. If the LSSA accepts the application it becomes the Guardian. Guardianship lasts initially for 6 months. It can be renewed for a further period of 6 months and subsequently renewed for 12 month periods. A patient subject to Guardianship has a right of Appeal to the Mental Health Review Tribunal.
4. The LSSA has a power to discharge a patient from Guardianship at any time, but must consider the question whenever a renewal is proposed by the patient's clinician. Whereas other Guardianship functions can be delegated to officers, the function of discharge of Guardianship may not be delegated. The function must be carried out by the LSSA, or a committee or sub committee of the LSSA. In Herefordshire the LSSA is the Council. This proposal seeks to put in place a process for the council to carry out its duties in relation to discharge of guardianship. The subject matter of each case is highly sensitive and confidential. It follows that if the council is to comply with its duties towards patients the information should be restricted to the smallest number of members indicating a preference for a sub committee to carry out the function. It follows that the public should be excluded from deliberations. The members of the sub committee would need training on the relevant issues to carry out their role effectively. Guardianship has been used relatively infrequently in Herefordshire in recent times. At present one patient is subject to Guardianship.

## **Key Considerations**

- 5 The proposals for the Council to deal with its responsibilities under the provisions of the Mental Health Act 1983 will regularise what needs to be done, provide greater clarity and introduce a more flexible and robust procedure for the way in which it will be dealt with.

## **Community Impact**

- 6 The new arrangements will not have any community impact other than providing greater clarity about the decision making process.



## **Equality and Human Rights**

- 7 The use of Guardianship under the Mental Health Act 1983 engages Articles 5 and 8 of the European Convention on Human Rights. The proposal ensures that the Council complies with its procedural statutory duties thereby promoting the Rights of the patients involved.

## **Financial Implications**

- 8 There are no significant financial implications to the Council. Should the Council fail in its statutory duties however there could be the cost of litigation and damages to aggrieved parties.

## **Legal Implications**

- 9 The proposal complies with the Council's duties under the Mental Health Act 1983

## **Risk Management**

- 10 If the recommendation is adopted the Council will have in place a structure which complies with its statutory duties. There are no risks attached to this course of action.
- 11 If the recommendation is not adopted and no remedial steps are taken the council would knowingly be in breach of its duties under the Mental Health Act. Any future use of Guardianship would carry the risk of being declared unlawful subjecting the Council to considerable reputational damage and the potential for financial loss in the form of the cost of litigation and damages to aggrieved parties.
- 12 To avoid the consequences set out above the Council would have to make alternative arrangements for this function to be carried out by full Council; a Committee or a Sub Committee.

## **Consultees**

- 13 None.

## **Appendices**

- 14 None.

## **Background Papers**

- 15 The Mental Health Act 1983 and the statutory Code of Practice.



<b>MEETING:</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>8 MAY 2012</b>
<b>TITLE OF REPORT:</b>	<b>REPORT ON ACTIVITY OF COMMUNITY PROTECTION TEAM</b>
<b>REPORT BY:</b>	<b>SHANE HANCOCK, COMMUNITY PROTECTION MANAGER</b>

**CLASSIFICATION:** Open.

### **Wards Affected**

County-wide

### **Purpose**

To note the main activities of the Community Protection Team for the period 1<sup>st</sup> October 2011 – 31<sup>st</sup> March 2012

### **Recommendation**

**THAT:** the report be received and noted

### **Key Points Summary**

The report provides the Committee with an update on the activities of the Community Protection Team in respect of its key roles in dealing with:

- Fly-tipping
- Other environmental anti-social behaviour – litter, graffiti, fly-posting, & dog fouling
- Abandoned vehicles
- Stray dogs

### **Alternative Options**

- 1 There are no alternative options relevant to this information report

### **Reasons for Recommendations**

- 2 The report provides the Committee with information about the main activities carried out by the Community Protection Team and gives the opportunity for Members to ask for any additional information they require.

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Further information on the subject of this report is available from  
Shane Hancock, Community Protection Manager on (01432) 261752

## Report on Activity

### 3 Fly-tipping

- During the period 1 October 2011 to 31 March 2012 there were 352 incidents of fly-tipping recorded. The total recorded incidents in 2011/12 was 711 compared to 769 in 2010/11, representing a 7.5% reduction. This is the third consecutive year on year decrease in recorded incidents and a 16.6% reduction since 2008/09. The positive environmental impact of this aside, the financial consequence has been that removal and disposal costs of £49,144 in 2008/09 were reduced to £30,667 in 2011/12.
- In this same period (1/10/11 to 31/3/12) 98 duty of care inspections were carried out, designed to ensure that the producers of commercial waste have appropriate arrangements in place for its correct disposal.
- Twelve (12) Fixed Penalty Notices were issued for failing to produce waste transfer notes when required to do so.
- In November 2011 a male was issued with a formal warning for fly-tipping.
- In December 2011 a male was convicted at Magistrates Court for a duty of care offence that resulted in waste being fly-tipped. He was given a conditional discharge for 12 months and ordered to pay £299.68 costs.
- In January 2012 a male was convicted of a fly-tipping offence and fined £250.00 with £250.00 costs.
- In February 2012 a male was convicted of fly-tipping and duty of care offences linked with his trade as a licensee. He was given a conditional discharge for 18 months and ordered to pay £2466.06 costs. A second male was convicted of fly-tipping, given a conditional discharge and ordered to pay £345.56 costs.

### 4. Other environmental anti-social behaviour

- During the period October 2011 to March 2012 the team recorded and responded to 398 complaints falling into the 'other' category of environmental anti-social behaviour, namely litter, graffiti, fly-posting and dog-fouling. Total recorded complaints of this nature for 2011/12 was 713 compared to 754 in 2010/11, representing a 5.4% reduction.
- In response to these complaints, in the same six month period 305 targeted patrols were carried out, 46 Fixed Penalty Notices were issued in respect of litter offences (68 in full year); and 17 for dog fouling offences (21 in full year).
- In October 2011 a female was convicted of a littering offence, having failed to pay a Fixed Penalty Notice. She was fined £80.00 with £137.63 costs. A second female was convicted of an offence of failing to pick up dog faeces. She was fined £80.00 with £133.50 costs.
- In February 2012 a male was convicted of failing to pick up dog faeces, fined £140.00 and ordered to pay £159.67 costs.
- In March 2012 two females were given a written warning for littering offences.

5. **Abandoned vehicles**

- During this reporting period 67 reports were received about abandoned vehicles (130 in the full year 2011/12 compared to 248 in 2010/11, a reduction of 47%). Following enquiries 3 vehicles were seized as abandoned (7 in the full year).

6. **Stray Dogs**

- In the period October 2011 to March 2012 a total of 197 dogs were seized as stray (428 in full year 2011/12). Of the 428 seized 266 were returned to their owner, 154 were re-homed and 8 were destroyed.

7. In 2011/12 the total number of requests for service to the Community Protection Team was 3410 with 93.3% of these being dealt with within the 5 day response target.

8. Outside of these reactive matters the Community Protection Team has been involved in the following proactive initiatives between October 2011 and March 2012 –

- October 2011 – Operation Rogue Trader – a joint operation with the police and Trading Standards targeting unlawful and unscrupulous doorstep traders;
- November 2011 – Dog Fouling campaign focused on Ross-on-Wye – this campaign inspired Ross Town Council to initiate a project to introduce volunteer Community Dog Wardens which the Community Protection Team is supporting and which has already sparked some interest from other town councils;
- Operation Ignite – an ongoing police operation aimed at tackling the rise in theft of metal. A part of this operation has targeted scrap metal carriers, and the Community Protection Team has been able to add value to the operation with its knowledge and powers in respect of waste carrier registration, taking part in a number of 'roadside stop' days;
- Operation Tip - it has been established that the amount of waste passing through the Rotherwas household waste site is significantly more than a site of an equivalent size in Worcestershire. It is suspected that a reason for this may be that trade waste is being presented as household waste. Operation Tip brings an overt enforcement presence to household waste sites on selected days to challenge suspected trade waste presentations;
- March 2012 – the commencement of a 6 month joint-patrolling initiative around littering hot spots such as Cathedral Close, Castle Green, Churchill Gardens, and other areas across the County.

## **Community Impact**

9 The report provides information about those matters which have an impact on the public, specifically the environment and animal welfare.

## **Equality and Human Rights**

10 In its enforcement role the Community Protection Team works to the principles of the councils enforcement concordat and the Environmental Health and Trading Standards Prosecution policy which acknowledge equality and human rights issues.

## **Financial Implications**

11 There are no direct financial implications regarding the information set out in this report.

## **Legal Implications**

12 The Community Protection Teams activities are undertaken within the scope of the relevant legislation and Council policies.

## **Risk Management**

13 There are no particular risk management matters associated with the contents of this report.

## **Consultees**

14 None

## **Appendices**

15 None.

## **Background Papers**

- None identified.



<b>MEETING:</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>8 MAY 2012</b>
<b>TITLE OF REPORT:</b>	<b>REPORT ON REGULATORY ACTIVITY BY ENVIRONMENTAL HEALTH &amp; TRADING STANDARDS, HEALTH &amp; WELLBEING SERVICE</b>
<b>REPORT BY:</b>	<b>HEALTH &amp; WELLBEING</b>

**CLASSIFICATION:** Open

### **Wards Affected**

County-wide

### **Purpose**

To note the main regulatory activities of the Council's Environmental Health & Trading Standards (EHTS) service for the full year 2011/12 (period 1<sup>st</sup> April 2011 – 31<sup>st</sup> March 2012).

### **Recommendation**

**THAT: the report be received and noted.**

### **Key Points Summary**

The report provides the Committee with the activities of those service areas in the Council's Environmental Health & Trading Standards service involved in regulatory matters, namely:

- The Regulatory Sub-Committee;
- The Taxi & County Transport Badge Officers' Panel;
- Licensing Team;
- Environmental Protection Team;
- Air, Land & Water Protection Team,
- Pest control Team
- Gypsy Traveller Team,
- Trading Standards Teams,

For further information please contact

Marc Willimont, Acting Head of Environmental Protection and Licensing on 01432 261986

Mike Pigrem, Acting Head of Consumer & Business Protection on 01432 261658

- Environmental Health (Commercial) Team; and the
- Animal Health & Welfare Team.

## Alternative Options

There are no alternative options relevant to this information report.

## Reasons for Recommendations

The report provides the Committee with information about the main activities and regulatory responsibilities within the Environmental Health & Trading Standards service and gives the opportunity for Members to ask for any additional information they require.

## Introduction and Background

1. 2011/12 has been a particularly challenging year for the Council's Environmental Health & Trading Standards service (EHTS), given the implementation of the comprehensive spending review on the service and the subsequent budgetary savings of circa 30% made to date. In addition, the implementation of an end-to-end service review of all teams within EHTS during the autumn of 2011 was implemented on 1<sup>st</sup> January this year, in accordance with the corporate Organisational Design Project (OD3) principles laid down. This de-layered management and merged teams, making the service more streamlined and customer focussed, whilst also reducing expenditure.
2. This year has seen also EHTS further align to Public Health through integration within the Health & Wellbeing Division and through the direct reporting to the interim Director of Public Health. This alignment is seen as key to the continued improvement and success in the delivery of vital Environmental Health & Trading Standards service functions. It will also facilitate the successful transition and integration of the PCT's Public Health functions into the local authority, following implementation of the government's white paper on public health transformation, which has now been implemented as an Act.
3. The following paragraphs outline the regulatory activities on a team by team basis:

### LICENSING TEAM

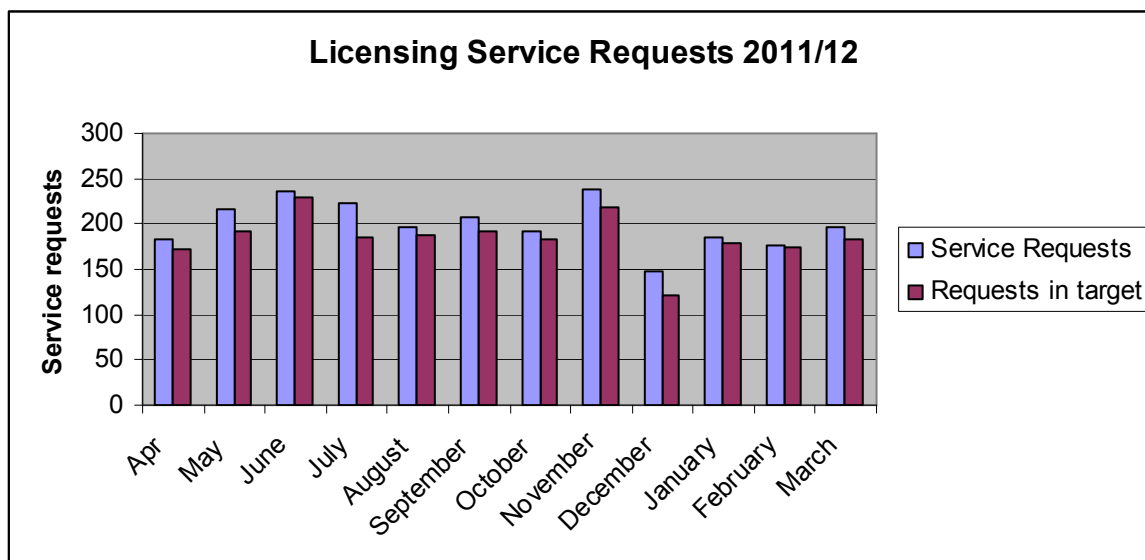
4. The Licensing Team encompasses key areas such as:-
  - Taxi Licensing
  - Licensing Act (pubs and clubs and events)
  - General Licensing (animal boarding, street collections etc)
  - Gambling Act licensing
5. During the year 2011/12 the Officers' Taxi Panel has met on 12 occasions and dealt with the following matters:
  - a. applications for a County Transport Badge – 23
  - b. applications for hackney carriage/private hire drivers licence – 12
  - c. suspension of a hackney carriage/private hire drivers licence - 6
  - d. disciplinary matters regarding the holder of a hackney carriage/private hire drivers licence - 3



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

6. During the year 2011/12, the Sub-Committee has met on 23 different occasions and has dealt with the 51 reviews/matters referred to in [Appendix 1](#) attached:
7. In addition to the above committee work, the licensing team also deals with many enquiries and complaints from the public. In 2011/12 there were 2396 such service requests, which compares to 2997 during the previous year. In 2011/12, 92% of these service requests were responded to in 5 working days which compares to a 91% response rate in the previous year. Therefore, although the work rates remain high, the trend implies that licensing activity was slightly down on last year, which probably reflects the economic situation for licensed premises. In contrast, the coming 2012/13 year looks like being much more busy due to events connected with the Olympics, the EuroCup and the Diamond Jubilee. The workloads and trends are shown in Graph 1 below. This shows an expected increase in workload in the build up to the summer months and in the month of November also, which is a historic renewal month for those premises that transferred over to premises licenses in 2005 with 'grandfather rights'. Throughout, the 5 day target response time has consistently been up in the 90 percents, which is an improvement on the previous year. Much of this has been aided by improved joint working with the Info Centres as well as through the implementation last year of the ability to make online applications. Complaints on the level of service were also down on the previous year.

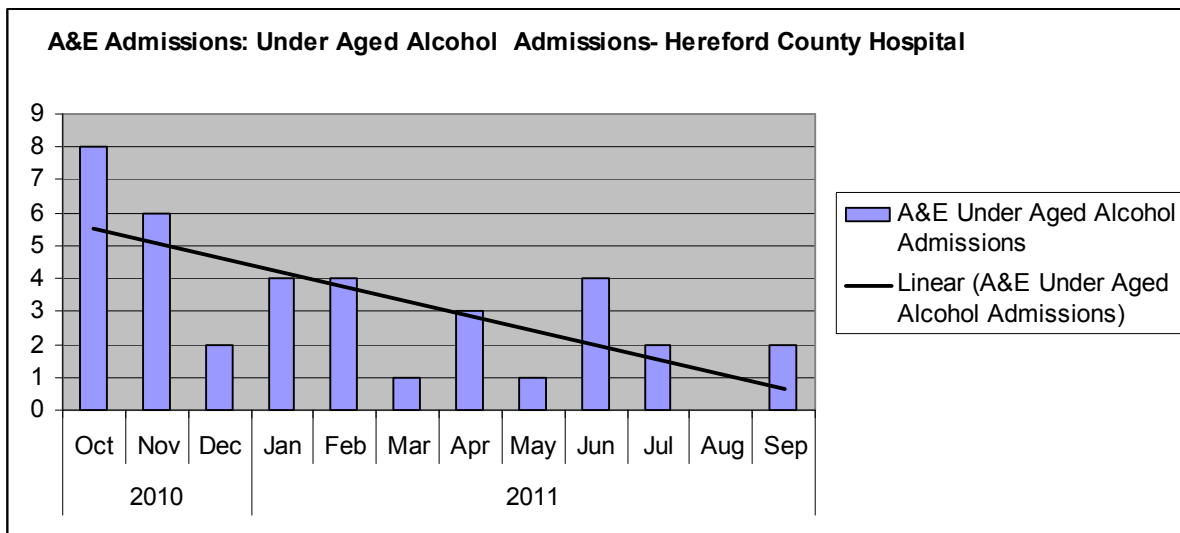
**Graph 1: Licensing Service Requests**



8. In 2011/12 there were 2294 licensing transactions (granting of licences and variations etc), compared to 2732 the previous year. This reduction correlates with a downturn in licensing service requests, again almost certainly linked with a county-wide reduction in economic and business activity last year.
9. 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 were a number of joint operations during the weeks before Christmas, including a very successful trial taxi marshalling scheme on 25/26<sup>th</sup> November and 2/3<sup>rd</sup> December 2011.

10. 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 2011 for 5 days, following a lengthy licensing hearing on the evening of 20<sup>th</sup> April 2011. This event catered for 22,500 people and complaints/incidents were minimised by 24/7 enforcement work by EHOs and Licensing officers. The Big Chill festival has been postponed in August 2012, although it is likely to return in 2013.
11. 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. The results of these operations 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. Front page newspaper coverage last week on effective licensing interventions at a Hereford public house and a grocery store in Leominster undoubtedly demonstrates public and media interest and support for such initiatives.
12. Although this reduction in underage test purchases may be in part due to the licensed trade better detecting covert operations, EHTS believes that a more likely explanation is 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 of action taken.
13. 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. Graph 2 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).
14. 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.

**Graph 2: Underage Test Purchasing Initiative Linkage to Underage Alcohol A&E Admissions**



The consequences of not undertaking Licensing Regulation or if service capability was diminished

15 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 restriction of sex establishments.
- Lose the opportunity to protect the welfare of animals and the protection from disease for licensed pet shops and animal establishments such as kennels, catteries, dangerous wild animals and riding stables.
- Be liable to financial compensation from the Ombudsman and subject to judicial review as a consequence of not issuing a licence and any harmful consequences to the public from this.
- Lose income in the region of £390k per year.

#### **ENVIRONMENTAL PROTECTION TEAM**

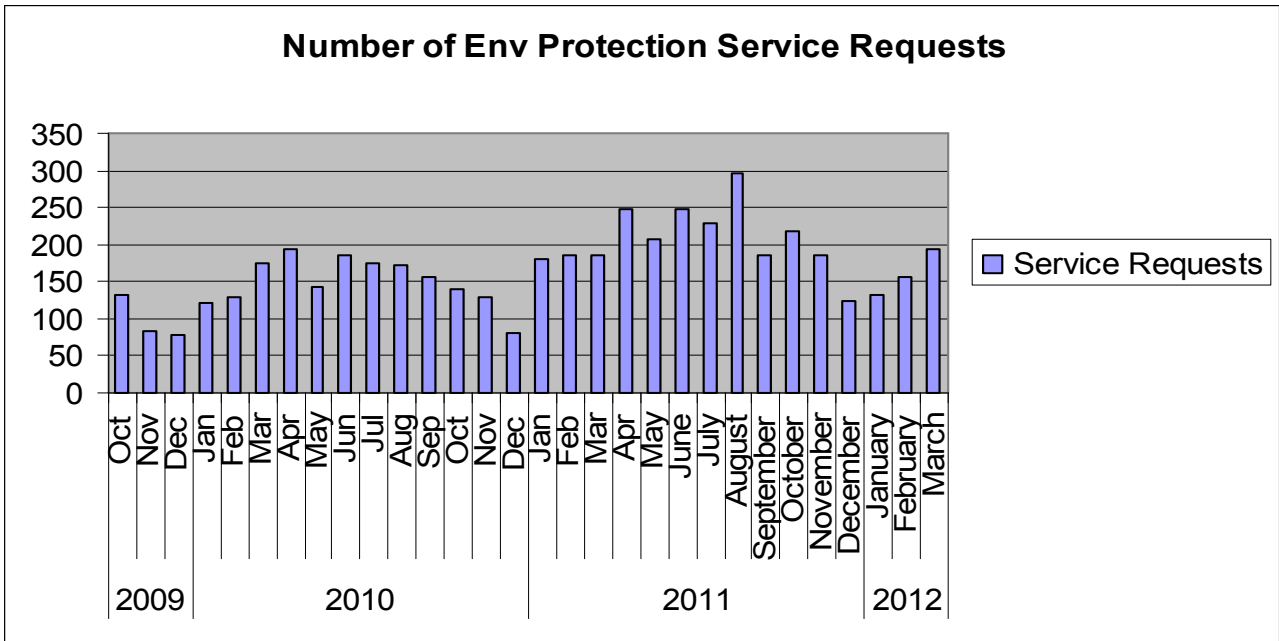
16. The Environmental Protection Team encompasses key areas such as:-

- 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

17. In the year of 2011/12 there were 2525 service requests, comparing to 1932 during the previous 2010/11 year. This is a marked increase and clearly reflects greater public expectation and demand on public services to resolve environmental and noise problems county-wide. 80% of the 2011/12 service requests were responded to within 5 working days, compared to 62% in the previous year, which is a marked improvement.

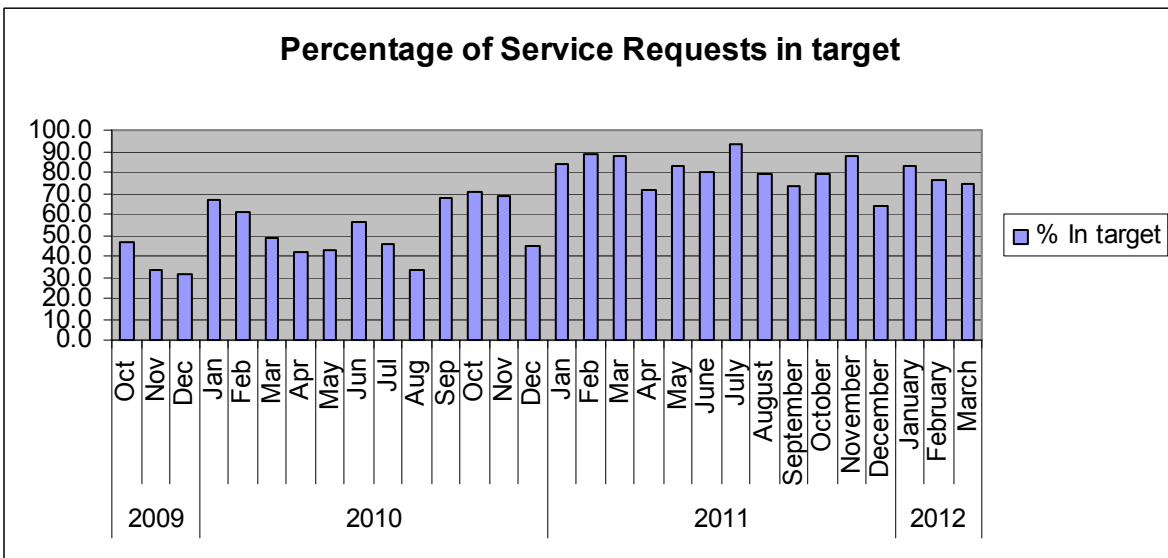
18. The graph below helps show the seasonality and long term trend compared to the previous year.

**Graph 3: Environmental Protection Service Requests since 2009**



19. Graph 4 below shows those service requests which met the tight 5 working day response target.

**Graph 4: Percentage of Service Requests in Target**



20. 944 of the 2525 service requests relate to noise which equates to about 37% of the total. This compares to 488 (35% of the total) in the previous year. Therefore noise seems to be the main reason for this increase and perhaps shows a rising trend in public expectation for improved noise levels and community cohesion.
21. The team ran a “Noise Action Week” initiative in May 2011, which not only publicised the regulatory role of the service, but also attempted to educate the public and therefore hopefully resolve problems before they needed to make a complaint to the

Council. This gained media attention and may have increased notification of noise complaints to the council.

22. The team also operated a pilot night time 'Noise Response Team' from July to September as an 8 week trial, working from 9pm to 2am on Fridays and Saturdays. This is the first time that such a service has ever been offered in Herefordshire, although similar night time teams operate elsewhere in the UK in some of the more forward thinking local authorities. Over this summer trial period, 57 calls were received about 47 different premises showing significant public usage.
23. Feedback from the public, police and housing associations was very positive and a survey was undertaken in conjunction with Public Health to review the impact of this initiative, particularly in relation to its effect on the health & wellbeing of those requesting the service. This survey has revealed an overwhelming support for such a service being repeated, with 83% of respondents being satisfied with the service and 69% stating that the noise team's intervention had improved and/or resolved their problem. Interestingly, 72% of respondents reported that the noise was affecting the health & wellbeing of their family and 58% reported that the intervention had improved this. Such improvements to health would be through better sleep, reduced stress and less dependency on medication, alcohol or tobacco as a consequence of abating the noise. The council is looking to fund a similar service in the summer of 2012 from savings made elsewhere, keeping the team cost neutral.
24. Rather than prosecute, the Council's enforcement policy encourages the service to utilise statutory notices to resolve problems and escalate this to prosecution only when absolutely necessary. During the year 2011/12 the following statutory notices were served by the Environmental Protection Team

**Table 1: Environmental Protection Notices Served**

<b>Type of Statutory Notice</b>	<b>Number Served since 1<sup>st</sup> April 2011</b>
Drainage Notices	8
Noise Abatement Notices	5 (including on a bag pipe player in the street)
High Hedge Notices	3
Unsecured Property	1
<b>TOTAL</b>	<b>17</b>

25. Following joint working with the police and Herefordshire Housing Association, noise equipment was seized from a house in Hoarwithy Road, Lower Bullingham which also led to a prosecution in April 2012.
26. In addition to this work, the team were consulted by Planning on 185 applications of which all were investigated and responded to. This is a considerable amount of preventative work undertaken with zero financial recharge to the service, and should therefore be seen as value added for the greater good of HPS.
27. 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 2011 which led to immediate compliance and in August 2011 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 or if service capability was diminished

28. 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 2500 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 was circa £230k.

**AIR, LAND & WATER PROTECTION TEAM**

29. 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
30. Although much of this team's remit is not enforcement based, during 2011/12 the following regulatory work was undertaken by this team:
- 97 of the 185 planning consultations requested by Planning were undertaken for potential contamination, which equates to 52% of all applications received by the service.
  - 1141 water samples from private supplies were programmed and 1040 of these were taken (91%). There were 161 bacteriological failures recorded

(15%) and 92 chemical failures recorded (9%). This regulatory work resulting in only 37 notices having to be served to improve unfit / unwholesome supplies. This is the first full year of undertaking such new work required under this recent legislation, so it is not possible to compare this data to previous years.

- 160 risk assessments required under the new Private Water Supply Regulations were programmed in for the calendar year and 140 of these were completed (89%).
- 3483 monitoring events were undertaken from a programmed number of 3827. This means 91% of the planned routine monitoring was undertaken. These sites are owned by the council and sampling is undertaken to ensure legal compliance with the Environment Agency's requirements.
- Members of the team have been working with the Environment Agency ( EA ) on the additional intrusive investigation of Sutton Walls closed landfill site. This included negotiating with landowners for the installation of 30 new monitoring boreholes and agreements to take samples. The boreholes were installed in January/February 2012. These boreholes are now being monitored by the EA's consultants together with sampling of 9 private abstractions for groundwater and 7 surface water locations. A final report on this work is due in June 2012. Five written communication updates have been sent on a regular basis to Moreton-on-Lugg, Sutton St Nicholas and Marden Parish councils and the local member.

31. 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, keeping them constant at about 450 breeding pairs. Predictions have suggested that this would be in the region of 1000 pairs if such control measures had not been undertaken these past 4 years. BBC Hereford & Worcester have featured this service and there is always considerable media interest. At a Hereford City Council meeting on 17<sup>th</sup> April 2012, it was agreed that the City Council would jointly fund this service with Herefordshire Council in 2012.
32. All 86 permitted industrial pollution control sites county-wide that required a risk based environmental compliance inspection were inspected. New permits have also been drafted for a number of processes.

The consequences of not undertaking Air, Land & Water Protection Regulation or if service capability was diminished

33. 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 2,800 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 450 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**

34. Although much of this team's remit is the management of the six council owned gypsy & traveller sites across the county, during the year 2011/12, regulatory activity occurred through intervention at approximately 20 illegal encampments which were moved on from council owned land by this team.
35. The team also manages the six council owned sites, which received an income in the region of £117k. A consultation exercise was undertaken in March 2012 to implement new fees from April 2012 onwards, which will fully recover the cost of operating the service. This exercise has now been completed with a 100% acceptance by residents of the necessary fee increases, hopefully raising extra council income in the order of £56k.

#### The consequences of not undertaking traveller regulation or if service capability was diminished

36. 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 and failure of the Council to meet its obligations for housing accommodation needs for the travelling community.
  - Loss of income from site rents in the order of £170k.

### **PEST CONTROL TEAM**

37. 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 year 2011/12 the team:
- Responded to 1867 service requests ranging from wasps fleas, rats, mice and moles
  - Has circa 130 contracts in place with businesses for pest control
  - Earned income of £120k, although this will increase as charges have been increased in April 2012 to move this service towards full cost recovery.
38. 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 or if service capability was diminished

39. Should Herefordshire Council not undertake a pest control service, it would lead to:



- An anticipated loss of circa £150k for 2012/13.
- An inability for the council to quickly react and respond to any public health incident associated with insects or rodents.
- The inability for people on benefit to have essential concessionary pest control work undertaken, with the obvious and inevitable public health implications of this.
- A recent briefing report for the Overview and Scrutiny Committee estimated that this service corporately saved the Council circa £30k, as HPS was able to look after its own properties and did not have to procure externally.

## TRADING STANDARDS TEAM

### 1. The trading standards service encompasses key areas such as :-

- Consumer safety - ensuring the safety of consumer goods and the application of the 'CE' mark.
- Food standards and agriculture standards – advising businesses on production and labelling ensuring that composition and description are correct and truthful including the manufacture & supply of animal feeding stuffs. Accreditation of Cider & Perry producers within the three counties in relation to PGI status (Protected Geographical Indications)
- Fair trading relating to numerous commercial practices including consumer credit, packaging, green claims, time share bogus property repairs etc., and especially protecting the elderly and vulnerable against cold calling and rogue traders
- 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
- Licensing of Petroleum & explosives storage ensuring that safety requirements are met
- Advice to business and 2<sup>nd</sup> tier support to consumers – especially those at risk.

### 2 Overview

- Over the course of the year, trading standards have either saved or recovered some **£91,704.94p** in respect of consumers and business through the provision of advice or intervention. This equates to over **£400,000** during the last four years.
- The team have undertaken a number of prosecutions during the year which are summarised at 'appendix.2'. There have been significant enforcement actions against those undertaking 'Rogue Trading' activities in line with our policy of zero tolerance of such matters which has resulted in one trader receiving a custodial sentence.
- During the year, the team have dealt with circa 4590 complaints and notifications, taken 118 samples, ranging from food products, animal feeding

stuffs to consumer goods covering description and safety. It has undertaken inspections of 132 high risk, 243 medium risk and 36 low risk premises. This equates to 100% inspection rate for high risk premises. Table 1 below provides a three yearly comparison. A full breakdown of annual activity is included at 'appendix 3'

Table 1

Year	2011/12	2011/10	2009/10
Complaints/Notifications.	4590	7205	5561
Total Samples	118	123	209
• Food stuffs	62	66	140
• Animal Feed	46	18	38
• Other	10	39	31
Inspections			
• High Risk	132 (100%)	112 (100%)	128 (89%)
• Medium Risk	243	922	282
• Low Risk	36	818	155

### **3. Complaints Analysis & Trends**

Traditionally, issues involving cars, whether its their purchase or their servicing, always generate a significant number of complaints and this is still the case now. The issue is not confined locally, but is a regional and national one. However, additional problems are being created with the ever increasing use of the internet and e-bay as a trading medium, which can cause complaints in their own right.

Consumer & business scams including sending spurious invoices, selling of advertising space or directories, or consumers agreeing to direct debit mandates and inadvertently entering into protracted contracts for goods and services, are also a topical area of complaint

The plethora of many different consumer watchdog and consumer investigation programmes as well as, the publication and highlighting of local issues such as illicit tobacco and alcohol, often generates increased consumer interest and demand of local trading standards services. This increasing demand and its associated expectation, together with a reduction in resources, is causing a significant strain on maintaining service provision and poses a number of challenges

New strategies and initiatives whether locally, regionally or nationally will need to be explored and developed if we are to meet these challenges. Collaborative working through the regional co-ordination body CEnTSA ( Central England Trading Standards Authorities) is well embedded within the authority and new initiatives such as improvement to citizens advice and the establishment of a National Trading Standards Board will, it is hoped, strengthen the provision of consumer and business protection.

### **4 Underage Sales/Age Restricted Products**

Test purchases using underage volunteers have been undertaken over a number of weekends throughout the year, 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 licence and on licence/pubs in both Hereford and the market towns. If a contravention should occur, then a review to the Sub Regulatory Committee under the Licensing Act is undertaken. 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%. Test purchasing is seen as a valuable tool to monitor the market place and to ensure compliance by licensees and their staff with regard to adherence of one of the main licensing objectives of 'protecting children from harm'

Other test purchasing activities have included tobacco (cigarettes) and firework sales.

See table 2 below

Table 1

**Under Age Sales Test Purchasing Activities**

Product	Alcohol (Off Licence)		Alcohol (On Licence)	Tobacco		Fireworks		
	Total TP's	Sales	Total TP's	Sales	Total TP's	Sales	Total TP's	Sales
Herefordshire	44	8	9	1	25	3	6	0
Action Taken		<p>5 - Licences reviewed –</p> <p>(4) Extra conditions placed on licence;</p> <p>(1) change of DPS;</p> <p>(1) awaiting decision notice;</p> <p>(1) application withdrawn; (1) licence surrendered; (1) licence suspended for 72 hours.</p> <p>3 – Action to be determined.</p>		<p>1 - Written warning letter.</p>		<p>2 -Interviews with seller and verbal warning.</p> <p>1 -Interview with seller, follow up letter offering advice, advisory CD and verbal warning.</p>		

For further information please contact  
 Marc Willimont, Acting Head of Environmental Protection and Licensing on 01432 261986  
 Mike Pigrem, Acting Head of Consumer & Business Protection on 01432 261658

## **5. Business advice and support**

Business advice and support is regularly provided in accordance with the 'home authority' principle. This ensures that legitimate business is supported through the regulatory framework with the aim of ensuring compliance without the need for enforcement.

In accordance with National Indicator 182 A business satisfaction survey for EH & TS regulatory services is undertaken monthly and the results are reported quarterly in arrears. Details of quarters 1,2 and 3 results are included in 'appendix 2'. The current cumulative figure for NI 182 is 73% and the current cumulative figure for question (7) How satisfied or dissatisfied were businesses with regulatory services overall is **94%**.

## **6. The consequences of not undertaking a trading standards service or if service capability was diminished**

- i. Herefordshire becoming known as an easy county to operate in as a rogue trader. This would inevitably lead to vulnerable members of society becoming more targeted, resulting in significant consumer detriment as well as seriously affecting their overall health & wellbeing.
- ii. Premises would be unchecked for the sale of alcohol, tobacco and fireworks to the under aged, and the likelihood of this happening would undoubtedly increase as this became known to the trade.
- iii. Ombudsman compensation claims.
- iv. High reputational risk to the council.

## **ENVIRONMENTAL HEALTH (COMMERCIAL) TEAM**

### **1. 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
- Food hygiene and Health and Safety advice and enforcement at Sports Grounds and Events e.g. Big Chill, Hereford United.

For further information please contact  
Marc Willimont, Acting Head of Environmental Protection and Licensing on 01432 261986  
Mike Pigrem, Acting Head of Consumer & Business Protection on 01432 261658

## **2. Service requests & data**

The team has implemented a daily duty officer rota to provide specialist advice to both businesses and residents and to respond to any incidents and complaints received.

Table 1.

	No. Received	Completed
Service Requests received	1271	1202
New food business registrations	304	304
Infectious disease notifications	304	304
Accidents Reported	112	109

No prosecutions were undertaken in 2011/12 but formal reports have been prepared for 3 matters and legal action may result in the next few months.

During the year food was seized or detained on 3 occasions and there were agreements with 2 businesses to voluntarily close while significant improvements were made.

Comparison of data reported to Food Standards Agency

	2008/9	2009/10	2010/11	2011/12
Food Premises	2337	2381	2460	2615
Inspections	707	1049	972	925
Other Interventions	524	398	340	265
Food Complaints	33	59	80	73
Premise hygiene complaints	102	119	92	59

## **3. Programmed food inspections**

All food premises are risk rated so that programmed inspections are proportionate to risk, with higher risk premises A, B and C1 given priority. A 98% inspection rate for these premises was achieved.

Table 2.

Risk rating	Number of premises on	Inspections Planned	Inspections completed	Number of premises on	Planned for 2012-13
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	1/4/2011			1/4/2012	
A	8	16	100%	3	6
B	60	60	58 (97%)	55	55
C1	304	199	195 (98%)	275	171
C2	458	300	271 (90%)	425	272
Lower risk	1630	175	110 (63%)	1843	91
Total	2460	810	647	2615	595

The team procured 279 food samples for analysis.

#### **4. Food Business - Star ratings profile**

Table 3.

Star Rating	2008 Jan	2012 19/4/12
5 - Excellent	28	354
4 – Very Good	203	402
3 - Good	142	306
2 – Broadly Compliant	250	88
1 - Poor	227	24
0 – Needs Improvement	28	3

Table 3 shows considerable improvement since the introduction of Scores on the Doors in January 2008.

#### **5. Health and Safety activity**

There are currently 3341 identified premises that are subject to enforcement responsibility by Herefordshire Council, although in reality, the actual number of premises are likely to be higher as there is no formal registration requirement. Most business interaction was in the form of projects, assessing accident reports, advice to new businesses and dealing with complaints. 43 inspections and 121 other visits were also carried out.

An Liquid Petroleum Gas initiative dealt with high risk gas installations initially notified to us by a joint Health and Safety Executive / Industry survey which had identified a number of severely corroded underground gas pipes and other ancillary issues. These issues were dealt with through targeted

inspection and further activity is proposed in this year's work plan to deal with this potential safety issue.

One officer has also received additional training in order to provide specialised support for asbestos enforcement in Herefordshire and Worcestershire.

## **6. Infectious Disease control**

304 infectious disease notifications were dealt with including a small contained outbreak involving E Coli O157

The serious E Coli outbreak in Germany led to further engagement with a local manufacturer in order to provide additional support and guidance as well as, liaising with the Food Standards Agency.

Looking forward to the coming year the team will implement government guidance on food hygiene rating of premises and also reduce the enforcement burden further, by concentrating its efforts where the risk is perceived to be greatest.

Lower risk businesses will only be visited or inspected when there is a good reason to do so for example following a credible complaint or as part of a local, regional or national sampling programme.

Projects are underway to assist local businesses that are diversifying, to further improve hygiene and training in the Asian food sector and also to identify and deal with the risks from unauthorised gas appliances in small businesses.

## **7. The consequences of not undertaking a food/health & safety/infectious disease function or if service capability was diminished.**

- Potential increase in outbreaks of food borne diseases such as E. Coli O157, Legionnaires disease, Salmonella etc.
- Other infectious disease outbreaks would not be investigated and contained.
- A decline in hygiene standards in unregulated businesses especially those with the lowest standards or least understanding of food hygiene. This would be coupled with complaints from citizens about food hygiene in businesses.
- 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, which in turn would have a negative impact on the health & wellbeing of the population.



## **ANIMAL HEALTH & WELFARE TEAM**

### **1. The Animal Health & Welfare team encompasses key areas of activity such as:-**

- Dealing with farms, livestock, abattoirs, hunt kennels 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.

### **2. Disease control**

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 fortunately proved to be negative. The incident however, provided a 'real life' opportunity to gain valuable experience in undertaking a controlled burn of the carcass and in dealing with the consequential media and public interest in the matter. In both cases the necessary Defra protocol was followed and the required action plans initiated.

### **3. Emerging threats**

Monitoring and responding to threats of new disease outbreaks such as the Schmallenberg Virus which is spread by midges and affects sheep. There has been a reported case in neighbouring Gloucestershire

### **4. The main work activity statistics are recorded in the following tables 1 & 2**



**Animal Health & Welfare Monthly Performance Report**

**Table 1 – Recorded Activities**

	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Abattoir	1	1	1	1	1	0	1	1	0	1	2	1	<b>11</b>
Business Advice	44	47	29	24	55	38	15	29	4	11	30	14	<b>340</b>
Farm	61	75	58	63	54	31	73	53	36	56	48	80	<b>688</b>
Knackers / Hunt / AB Processor	0	0	0	0	0	0	0	0	0	1	0	0	<b>1</b>
Market/cc	22	26	25	23	36	29	28	21	24	22	25	27	<b>308</b>
Reconciliation*	9	35	253	231	201	302	166	341	334	640	209	206	<b>2927</b>
Referrals	0	0	0	0	0	0	1	0	0	0	0	0	<b>1</b>
Show	0	0	0	0	1	1	0	0	0	0	0	0	<b>2</b>
WATO*	23	26	16	17	25	21	22	31	16	23	24	29	<b>273</b>
<b>Total</b>	<b>160</b>	<b>210</b>	<b>382</b>	<b>359</b>	<b>373</b>	<b>422</b>	<b>306</b>	<b>476</b>	<b>414</b>	<b>754</b>	<b>338</b>	<b>357</b>	<b>4551</b>
WATO													
Vehicles checked	358	412	377	369	373	468	401	418	380	350	359	448	<b>4713</b>
Animals Carried	0	12	0	0	0	0	0	0	0	0	17	18	<b>47</b>
<b>Total</b>	<b>358</b>	<b>424</b>	<b>377</b>	<b>369</b>	<b>373</b>	<b>468</b>	<b>401</b>	<b>418</b>	<b>380</b>	<b>350</b>	<b>376</b>	<b>466</b>	<b>4760</b>
TB referrals received (Civica/outbreak)	90	60	53	46	30	66	86	44	7	28	20	20	<b>550</b>

For further information please contact  
 Marc Willimont, Acting Head of Environmental Protection and Licensing on 01432 261986  
 Mike Pigrem, Acting Head of Consumer & Business Protection on 01432 261658

<b>Table 2 – Actions Taken</b>										
	No further action	Oral advice	Written advice	Oral Warning	Written warning	Home Office Caution	Prosecution initialised	Conviction	Other Formal Notice	Total
	G001	G005	G010	G015	G020	G025	G030	G035	GN01	
April	578	6	0	9	0	0	0	0	0	<b>593</b>
May	757	16	0	8	1	0	0	0	0	<b>782</b>
June	831	11	0	8	1	0	0	0	0	<b>851</b>
July	784	23	3	9	0	0	0	0	0	<b>819</b>
August	809	12	12	15	2	0	0	0	0	<b>850</b>
September	905	5	0	7	3	0	0	0	0	<b>920</b>
October	885	21	1	7	3	0	0	0	0	<b>917</b>
November	1107	7	0	8	0	0	0	0	0	<b>1122</b>
December	909	16	4	0	0	0	0	0	0	<b>929</b>
January	1227	22	14	8	0	0	0	0	0	<b>1271</b>
February	897	17	1	5	4	0	0	0	0	<b>924</b>
March	1003	21	12	5	1	0	0	0	0	<b>1042</b>
<b>Total</b>	<b>10692</b>	<b>177</b>	<b>47</b>	<b>89</b>	<b>15</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>11020</b>

## **5.The consequences of not undertaking an animal health & welfare function or if service capability was diminished**

- 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.
- Subsequent loss and detriment to the agricultural sector and economic vitality of Herefordshire
- Negative impact on tourism and marketing of Herefordshire
- Reputational risk to HPS

## **Key Considerations**

Since the new arrangements came into effect, The Regulatory Committee meets on a quarterly basis to consider policy matters within the framework decided upon by the Cabinet Member and information reports. The information reports provide the Committee with an overview of the regulatory activities on a Council-wide basis. The Committee has also decided to delegate certain matters to the Sub-Committee which enables it to meet less frequently but also to be provided with a more strategic overview of the matters which fall within its remit.

## **Community Impact**

The report provides information about the regulatory matters which have an impact on the public such as safeguarding, consumer & business protection, the environment and animal welfare.

## **Equality and Human Rights**

There are a number of areas within the Council's regulatory function which assist with the promotion or observance of equality and human rights.

## **Financial Implications**

There are no direct financial implications regarding the information set out in this report.

## **Legal Implications**

The Council's regulatory functions are undertaken within the scope of the relevant legislation and Council policies.

## **Risk Management**

There are no particular risk management matters associated with the contents of this report.

For further information please contact  
Marc Willimont, Acting Head of Environmental Protection and Licensing on 01432 261986  
Mike Pigrem, Acting Head of Consumer & Business Protection on 01432 261658

## **Consultees**

None

## **Appendices**

Appendix 1: Licensing Committees

Appendix 2: Summary of prosecution and formal enforcement activities for EH & TS

Appendix 3: Breakdown of trading standards activity statistics & Business Satisfaction survey results (National Indicator NI 182) for quarters 1,2 and 3.

## **Background Papers**

None identified.

# APPENDIX 1

2011/12	Reviews held by Sub Regulatory (Licensing) Committees
April	<p><u>20th April 2011</u></p> <ul style="list-style-type: none"> <li>• Preliminary points to consider regarding 'Big Chill Festival', Eastnor Deer Park, Ledbury</li> <li>• Application for a new premises licence 'Big Chill Festival', Eastnor Castle, Deer Park, Ledbury</li> </ul> <p><u>26th April 2011</u></p> <ul style="list-style-type: none"> <li>• Application for variation of a premises licence Malthurst Northside Service Station, Hereford Road, Hope Under Dinmore</li> <li>• Application for the grant of a licensed premises gaming machine permit for 4 machines, in respect of The Duke's Head, Corn Square, Leominster</li> </ul> <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"> <li>• Application for a review of the premises licence The Prince Of Wales, Church Lane, Ledbury</li> <li>• Application for a review of the premises licence The Bell Inn, 39 Etnam Street, Leominster</li> <li>• Application for a review of the premises licence The Man Of Ross, Wye Street, Ross-On-Wye</li> </ul> <p><u>25th May 2011</u></p> <ul style="list-style-type: none"> <li>• Application for an expedited review Raduni Indian Cuisine, 66 The Homend, Ledbury</li> </ul> <p><u>31st May 2011</u></p> <ul style="list-style-type: none"> <li>• Representations against interim steps - expedited review Raduni Indian Cuisine, 66 The Homend, Ledbury</li> </ul>
June	<p><u>17th June 2011</u></p> <ul style="list-style-type: none"> <li>• Full review Raduni Indian Cuisine, 66 The Homend, Ledbury</li> <li>• Application for variation of premises licence Mcdonalds Restaurant, Belmont Road, Hereford</li> </ul>

	<ul style="list-style-type: none"> <li>• Expedited/summary licence review of Premises Licence Korai Ltd, t/a Raduni Indian Cuisine, 66 The Homend, Ledbury</li> <li>• 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</li> </ul> <p><u>23rd June 2011</u></p> <ul style="list-style-type: none"> <li>• Application for a premises licence Beer On The Wye (2011), Hereford Rowing Club, Greyfriars Avenue, Hereford</li> <li>• Application For Grant Of Premises Licence 'Beer On The Wye (2011), Hereford Rowing Club, Greyfriars Avenue, Hereford - Licensing Act 2003</li> </ul> <p><u>28th June 2011</u></p> <ul style="list-style-type: none"> <li>• Further matters following the expedited/summary licence review of premises licence Korai Ltd, T/A Raduni Indian Cuisine, 66 The Homend, Ledbury</li> <li>• Application to re-instate an expired hackney carriage vehicle licence</li> <li>• Application for variation of premises licence Shooter's Bar Grafton House, Leominster</li> <li>• Application for a motor salvage operator's licence</li> </ul>
July	<p><u>19th July 2011</u></p> <ul style="list-style-type: none"> <li>• 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</li> </ul>
August	No hearings / committees
Sept	<p><u>6th September 2011</u></p> <ul style="list-style-type: none"> <li>• Application for grant of a Premises Licence 'The Queens Arms, 30 High Street, Bromyard, HR7 4AE – Licensing Act 2003</li> <li>• Application to licence a hackney carriage vehicle outside standard condition 5.2 (i)</li> </ul> <p><u>16th September 2011</u></p>

	<ul style="list-style-type: none"> <li>• Application for variation of a Premises Licence 'The Prince Of Wales', 6 Lane, Ledbury – Licensing Act 2003</li> <li>• Application for grant of a Premises Licence Bromyard Rugby Football Club, Tenbury Road, Bromyard – Licensing act 2003</li> </ul> <p><u>29th September 2011</u></p> <ul style="list-style-type: none"> <li>• Expedited/summary licence review of premises licence: Nataalka Polskie Delikstsey, 22 Eign Street, Hereford</li> </ul>
October	<p><u>4th October 2011</u></p> <ul style="list-style-type: none"> <li>• expedited / summary licence review of premises licence: the &amp; Sceptre Inn, Market Place, Ross-On-Wye.</li> <li>• notification of a Temporary Event Notice The Hop Pole, Bromyard</li> <li>• suspension Notices served on a two hackney carriage/private hire drivers</li> </ul> <p><u>11th October 2011</u></p> <ul style="list-style-type: none"> <li>• application for the diversion of part of Bridleway HU4, Humber</li> <li>• application for a new premises licence International Foods Ltd, 10 Commercial Road, Hereford</li> <li>• application for a review of a premises licence Jalsagar Restaurant, 60 St Owens Street, Hereford</li> <li>• notification of a Temporary Event Notice The Hop Pole, Bromyard</li> </ul> <p><u>17th October 2011</u></p> <ul style="list-style-type: none"> <li>• representation against Interim Steps 'Nataalka Polskie, 22 Eign Street, Hereford</li> </ul> <p><u>19th October 2011</u></p> <ul style="list-style-type: none"> <li>• application for a full review of a premises licence following an expedited review Nataalka Polskie, 22 Eign Street, Hereford</li> <li>• review of a decision of the Taxi &amp; County Transport Badge Panel</li> </ul>
November	<p><u>15th November 2011</u></p> <ul style="list-style-type: none"> <li>• review of a decision of the Taxi &amp; County Transport Badge Panel</li> <li>• application to licence two private hire vehicles outside standard conditions</li> <li>• review of suspension of a hackney carriage/private hire driver's licence</li> </ul>



	<p><u>25th November 2011</u></p> <ul style="list-style-type: none"> <li>• application review of a premises licence - Bargain Booze, 3 Road, Hereford</li> <li>• notification of four temporary event notices the Golden Galleon, Commercial Road, Hereford</li> <li>• application to licence a hackney carriage/private hire vehicle of standard condition 1.8</li> </ul>
Dec	<p><u>13th December 2012</u></p> <ul style="list-style-type: none"> <li>• application for a variation of the premises licence - The Hop Pole, 9 The Square, Bromyard, HR7 4BP</li> <li>• application for a review of the premises licence - McColls, 7 The Oval, Hereford</li> <li>• application for a review of the premises licence Stokes Stores, 4 Hoarwithy Road, Putson, Hereford</li> </ul>
January 2012	<p><u>24th January 2012</u></p> <ul style="list-style-type: none"> <li>• application for the diversion of part of footpath RR2A Ross Rural</li> <li>• application for the diversion of part of Footpath MR21, Marden</li> <li>• application for the diversion of part of Footpath KC16A, Kings Caple</li> <li>• review of the suspension of a dual driver hackney carriage licence</li> </ul>
February	<p><u>No Committee hearings</u></p>
March	<p><u>1st March 2012</u></p> <ul style="list-style-type: none"> <li>• expedited licence review of the premises licence relating to The Nags Head, Canon Pyon</li> </ul> <p><u>6th March 2012</u></p> <ul style="list-style-type: none"> <li>• review of the suspension of a dual driver hackney carriage/private hire driver's licence</li> </ul> <p><u>27th March 2012</u></p> <ul style="list-style-type: none"> <li>• Interim steps and expedited licence review of the premises licence relating to The Nags Head, Canon Pyon</li> </ul>

**ENVIRONMENTAL HEALTH AND TRADING STANDARDS**

**QUARTERLY PROSECUTIONS - 01.01.12 – 31.03.12**

PROSECUTIONS									
Name & Location	Defendants Trade	Nature of Offence	Act	No of Charges	Plea	Result	Costs Requested	Costs Awarded	Remarks
Paul Green New Bydawells Linley Green Worcestershire WR6 5RF	Self Employed Master Jeweller	Breach of Notice – work not done on septic tank	Building Act 1984 – S 59	1	Guilty	Guilty  Conditional Discharge 18 months  Hearing: 23.2.2012	£350	£350	Costs to be paid £50 p/m. 1 <sup>st</sup> payment in 28 days

For further information please contact  
 Marc Willimont, Acting Head of Environmental Protection and Licensing on 01432 261986  
 Mike Pigrem, Acting Head of Consumer & Business Protection on 01432 261658

Hersh K Hassan Flat 2 29 Brookend Street Ross on Wye Herefordshire HR9 7EE	Shop worker	Supply and possession for supply of illicit cigarettes and hand rolling tobacco	Tobacco Products (Manuf, Presentation and Sale)(Safety) Regs 2002, as amended	5	Guilty	Guilty 100 hours community service  Hearing: 23.2.2012	£1423.43  (£1223.43  EHTS &  £200 legal)	£400	Significant quantities of illicit tobacco were seized from these premises plus some illicit alcohol
Tony Small 9 Bert Evans Close Belmont Hereford HR2 7LN	Cold Calling - Property repairs , roof treatments	Undertaking poor quality roofing repairs, misleading pricing and actions	Consumer Protection from Unfair Trading Regulations  2008  Regs 3 & 8 +  [1 offence]  Regs 6 & 10 +  [1 offence]  Regs 5 & 9  [1 offence]	3	Guilty	Guilty  Total of 7.5 months imprisonment	£6500  (£2600 TS,  £2800 adv,  £1100 other)	£0	Offences were counts 3, 4 & 7.  Def. received 20% discount for guilty pleas on counts 3 & 4 and 33% on count 7 (as a new count)  Prison term for £ & 4 were concurrent but count 7 was consecutive and therefore tot prison = 7.5 mths  Spurious claims regarding roof cleaning & treatments. Older & vulnerable were targeted.

FORMAL CAUTIONS				
Daniel Carpenter 14 Oak Crescent Clehonger Herefordshire HR2 9RG		The Licensing Act 2003 – S146(1) – sale of alcohol to person under 18 years old	<b>DATE OF CAUTION</b>  28.02.2012	
Carl A Swift Panarama Canon Bridge Rd Madley Herefordshire	Farmer & ancillary business undertaken	Animal By-Products (Enforcement) (England) Regs 2011 & Article 14 of Regulations (EC) No 1069/2009 – burning of Animal Carcasses	<b>12.01.2012</b>	

## ENVIRONMENTAL HEALTH AND TRADING STANDARDS

QUARTERLY PROSECUTIONS - 01.04.11 – 30.06.11

PROSECUTIONS									
Name & Location	Defendants Trade	Nature of Offence	Act	No of Charges	Plea	Result	Costs Requested	Costs Awarded	Remarks
Nathan King Kimberley House Church End Lane Twynning Tewkesbury GL20 6DA	Property Repairs	Misleading omission – failed to let C know that a repair to fascia would suffice, instead quoted for full replacement work	Consumer Protection from Unfair Trading Regulations 2008 (Reg 6) – misleading omission	1	Guilty	Guilty £500 fine	£7000.00	£500.00	Cold called static park home and targeted older vulnerable residents.  Undertook poor quality work, not required and overpriced.
John Henry King 60 Castle View Tolney Lane Newark Nottingham NG24 1DA	As above	Misleading omission – failed to let C know that a repair to fascia would suffice, instead quoted for full replacement work	Consumer Protection from Unfair Trading Regulations 2008 (Reg 6) – misleading omission  (x 2 offences)	2	Guilty	Guilty £500 fine	£ ”	£500.00	As above



Name & Location	Defendants Trade	Nature of Offence	Act	No of Charges	Plea	Result	Costs Requested	Costs Awarded	Remarks
Daniel Wyatt The Slades Peterstow Ross on Wye Herefordshire HR9 6LJ	-Caravan sales	Engaging in Unfair Commercial Practice: failure to declare that Caravan's sold as only have slight damage, where insurance write offs	Consumer Protection from Unfair Trading Regulations 2008 (Reg 5 & 9 and Reg 6 & 10) – misleading actions	2	Guilty	Compensation Order  £18,300 compensation  Prosecution Date: 01/07/11		£4558.99	Multi £000 business selling caravans. Found that some of these were purchased with major faults, unsatisfactory repairs were carried out and consumers misled.  Safety of public at risk

Neil Winney Thorne Farm Glewstone Ross on Wye Herefordshire HR9 6DP	-As above	Engaging in Unfair Commercial Practice: failure to declare that Caravan's sold as only have slight damage, where insurance write offs	Consumer Protection from Unfair Trading Regulations 2008 (Reg 5 & 9) – misleading actions  (x 1 offence)  Plus  Road Traffic Act 1988 (Section 75(1) & 5)  (x 2 offences)	3	Guilty	Compensation Order  £1,600 compensation  Prosecution Date: 01/07/11		£3293.05	As above
Thomas Morgan Prince of Wales Inn Church Lane Ledbury	-Pubic house	Sale of alcohol to under 18 year old	Licensing Act 2003  S146	1	Guilty	£110 Fine  Prosecution Date: 22/09/11	£311.85	£311.85	License review undertaken and additional conditions imposed



FORMAL CAUTIONS			
Elizabeth Oxenham 26 Castlefields Leominster Herefordshire HR6 8BJ		Offence under the Licensing Act 2003 – Section 146 (1) <i>Selling alcohol to a person under the age of 18 years old</i>	<b>DATE OF CAUTION</b> 13.07.2011

## ENVIRONMENTAL HEALTH AND TRADING STANDARDS

### QUARTERLY PROSECUTIONS - 01.10.11 – 31.12.11

PROSECUTIONS									
Name & Location	Defendants Trade	Nature of Offence	Act	No of Charges	Plea	Result	Costs Requested	Costs Awarded	Remarks

<p>James O'Donoghue 35 The Drive Acton London W3 6AA</p>	<p>-Cold calling property repairs / garden maintenance.</p>	<p>1 x Not giving Cancellation Rights 1 x Misleading action, implying he was a qualified tree surgeon</p>	<p>1 x Cancellation of Contracts Made in Consumers Home or Place of Work Reg 2008 (Reg 7 &amp; 17)  1 x Consumer Protection from Unfair Trading Regulations 2008 (Reg 5 &amp; 9)</p>	<p>2 (summons 1 &amp; 3, 2 was withdrawn)</p>	<p>Guilty</p>	<p>3 year conditional discharge  Prosecution Date: 20/10/11</p>	<p>£1166</p>	<p>£400</p>	<p>Fine collection order issues in case he does not pay. Will be paying £15 p/w  Typically cold caler – targeting those at risk.</p>
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		Response Times :							
		a) Safety – 1 working day	0	0	0	19	n/a% in target	17	2
		b) Other - 5 working days	97	1	98	1542	98.9% in target	1515	27
					98	1561		1532	29
		Completion Times:							
		90% Enquiries to be completed within 60 days (8 weeks) of receipt	319	2	321	4351	99.3% in target	4321	30
		95% Enquiries to be completed within 120 days (16 weeks) of receipt	320	1	321	4351	99.7% in target	4343	8

2. Inspections		Target	Due 11/12	<b>ACHIEVED</b>	<b>% TARGET ACHEIVED</b>	COMMENTS
				In month    Cumulative		

Primary Inspections	High Risk	100%	116	29	116	100.0%	
	- Additional HR inspections		16		16		
	Medium Risk		243	2	19	7.8%	
	Low Risk		36	2	11	30.6%	
OTHER visits (Revisits, Adv/Educational, etc)	All risks	n/a	n/a	3	223	-	
Vapour Recovery	High Risk	100%	27*	0	9	33.3%	18 Downgraded to medium risk

Petroleum  TARGETED	High Risk-13- <i>HR amended to 14 was 31</i>	100%	<b>14*</b>	<b>0</b>	<b>14</b>	<b>100.0%</b>	
	Medium Risk49  <i>Amended to diff 18 + 31 was 50</i>	100%	<b>19*</b>	<b>7</b>	<b>19</b>	<b>100.0%</b>	
	Low Risk-2	100%	<b>1*</b>	<b>0</b>	<b>1</b>	<b>100.0%</b>	
OTHER VISITS	-	-	-	<b>2</b>	<b>17</b>		
Explosives	High Risk	100%	<b>23</b>	<b>0</b>	<b>23</b>	<b>100.0%</b>	
	Medium Risk	100%	<b>0</b>	<b>0</b>	<b>0</b>	<b>-%</b>	
	Low Risk	100%	<b>0</b>	<b>0</b>	<b>0</b>	<b>-%</b>	
OTHER VISITS	-	-	-	<b>0</b>	<b>0</b>		

<b>3. Performance Measure 3</b>		Total Inspected Cumulative	Mth Compliant Cumulative	Mth compliant Cumulative	Non- compliant Cumulative	COMMENTS  % Compliant for month	
Compliance Table A – Inspections	High Risk	<b>116</b>	<b>29</b>	<b>0</b>		<b>116 done - 100.0%</b>	
	<i>Additional HR</i>	<b>16</b>	-	-			
	Medium Risk	<b>243</b>	<b>2</b>	<b>0</b>			
	Low Risk	<b>36</b>	<b>2</b>	<b>0</b>			

SHOW - CUM NON COMPLAINT MADE COMPLAINT – LOOK AT R - LOOK AT TC3			High NC	0	All compliant	
			Med NC	0	-	
			Low NC	0	-	

4. Customer / Business Satisfaction	Quarter 1 – April to June	Quarter 1 & 2 – April to September	Quarter 1, 2 & 3 April to December	Quarter 4 January to March	COMMENTS
National Indicator 182 Satisfaction of business with local authority regulatory services  Upper quartile target = 75%	The NI 182 score for the period April 2011 – June 2011 is 73%.  This compares with 76% for the period April 2010 to March 2011.  • 90% of respondents agreed that their business was treated fairly, 5% disagreed. The corresponding figures for the period April 2010 to March 2011 were 96% and 1%.	The NI 182 score for the period April 2011 – September 2011 is 74%.  This compares with 73% for the period April 2011 to June 2011.  • 90% of respondents agreed that their business was treated fairly, 4% disagreed.  The corresponding figures for the period April 2011 to June 2011 were 90% and 5%.	The NI 182 score for the period April 2011 – December 2011 is 72%.  This compares with 74% for the period April 2011 to September 2011.  * 89% of respondents agreed that their business was treated fairly, 4% disagreed.  The corresponding figures for the period April 2011 to September 2011 were 90% and 4%.	<i>Awaiting results</i>	<i>Three quarter year average = 73%</i>  <i>2009/10 = 69%</i>  <i>2010/11 = 76%</i>

<p>(Q.7 ) How satisfied or dissatisfied were you with the service we gave you.. ..</p>	<ul style="list-style-type: none"> <li>• 90% of respondents agreed that the contact was helpful, 2% disagreed. The corresponding figures for the period April 2010 to March 2011 were 94% and 2%.</li> <li>• 95% were satisfied with the service received overall, 2% was dissatisfied. The corresponding figures for the period April 2010 to March 2011 were 95% and 1%.</li> </ul>	<ul style="list-style-type: none"> <li>• 89% of respondents agreed that the contact was helpful, 3% disagreed. The corresponding figures for the period April 2011 to June 2011 were 90% and 2%.</li> <li>• 94% were satisfied with the service received overall, 3% was dissatisfied. The corresponding figures for the period April 2011 to June 2011 were 95% and 2%.</li> </ul>	<ul style="list-style-type: none"> <li>* 88% of respondents agreed that the contact was helpful, 3% disagreed. The corresponding figures for the period April 2011 to September 2011 were 89% and 3%.</li> <li>93% were satisfied with the service received overall, 3% was dissatisfied. The corresponding figures for the period April 2011 to September 2011 were 94% and 3%.</li> </ul>		<p><i>Three quarter year average = 94%</i></p> <p><i>2009/10 = 94%</i></p> <p><i>2010/11 = 95%</i></p>
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5. Complaints/ Enquiries	Number received for month of MARCH 12	Cumulative for year	COMMENTS	
Home Authority (Referrals)	0	3		



CDWM Referrals	56	854		
CDWM Notifications	233	2906		
Other Complaint / Enquiries received from other sources	54	843		
Total received by Service	343 (110 dealt with by TS ext CD)	4590 (1684 dealt with by TS ext CD)		

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6. Age Restricted Sales/ Enforcement Actions	MONTHLY WORK ACTIVITY			COMMENTS  Cumulative for year	
	Inspections	Talks/ other	Test Purchases		
Tobacco	0	0	0	29	EVR = TP : COO LWI PM UAS TP operations will show all  (under J – Project)
Alcohol	0	0	0	41	EVR = Inspections : C01:Tob & YP Insp Operations (looking at notices, etc)
Explosives	0	0	0	6	CMR – Talks – TSC report

Lottery	0	0	0	0	
Intoxicating substances & Lighter Refills	0	0	0		
Offensive Weapons	0	0	0		
TOTALS	0	0	0	76	

7. Money saved/recovered for Consumers	Monthly (£)	Cumulative (£)	COMMENTS	
	Spreadsheet = £4,200.00	Spreadsheet = £91,704.94		

8. Enforcement Actions (from legal clerk)	Prosecutions	Formal Cautions	<b>WW &amp; IAN'S</b> Written Warning / Infringement/Advice Notices	<b>No of Files issued</b>	COMMENTS
	For month = 0	For month = 0	For month = 0 / Cum for yr = 14	For mth = 2	

9. Enterprise Act	Written Undertaking	Intermediate Order	Enforcement Order		No of Files issued	COMMENTS

10. Samples	No of samples taken Monthly	Cumulative for year	Analyst's costs (total month) (£) for	COMMENTS	
Food	0	62			
Agriculture Act	0	46			
Safety	0	3			
Other	0	7			

