

# **BIRMINGHAM CITY COUNCIL**

## **LICENSING AND PUBLIC PROTECTION COMMITTEE**

**WEDNESDAY, 10 NOVEMBER 2021 AT 10:30 HOURS**  
**IN BMI MAIN HALL, 9 MARGARET STREET, BIRMINGHAM, B3 3BS**

### **A G E N D A**

1 **NOTICE OF RECORDING/WEBCAST**

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's meeting You Tube site ([www.youtube.com/channel/UCT2kT7ZRPFCXq6\\_5dnVnYlw](http://www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 **DECLARATIONS OF INTERESTS**

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

3 **APOLOGIES**

To receive any apologies.

4 **APPOINTMENT OF COMMITTEE MEMBER**

Appointment by the City Council on 2 November, 2021 of Councillor Mike Ward to serve on the Licensing and Public Protection Committee for the remainder of the Municipal year.

**3 - 8**

5 **MINUTES**

To confirm and sign the Minutes of the meeting held on 8 September, 2021.

**9 - 12**

6 **HACKNEY CARRIAGE & PRIVATE HIRE DELEGATIONS UPDATE REPORT**

The report of the Interim Assistant Director of Regulation and Enforcement

- 13 - 20**      7      **STREET TRADING – FEES & CHARGES REPORT**  
The report of the Interim Assistant Director of Regulation and Enforcement
- 21 - 32**      8      **LICENSING AND PUBLIC PROTECTION FINANCIAL MONITORING  
2021/22 – QUARTER 2**  
The report of the Interim Assistant Director of Regulation and Enforcement
- 33 - 40**      9      **BEGGING AT TRAFFIC LIGHTS (COMMUNITY SAFETY)**  
The report of Community Safety
- 41 - 46**      10      **UNAUTHORISED ENCAMPMENTS UPDATE REPORT – NOVEMBER  
2021**  
The report of the Interim Assistant Director of Regulation & Enforcement
- 47 - 60**      11      **REGULATION & ENFORCEMENT ACTIVITY REPORT –  
JULY/AUGUST/SEPTEMBER 2021 (QUARTER 2)**  
The report of Interim Assistant Director of Regulation and Enforcement
- 61 - 80**      12      **PROSECUTIONS AND CAUTIONS – JULY/AUGUST 2021**  
The report of Interim Assistant Director of Regulation and Enforcement
- 81 - 82**      13      **CHAIRS AUTHORITY REPORT – OCTOBER 2021**  
The report of Interim Assistant Director of Regulation and Enforcement
- 14      **DATE AND TIME OF NEXT MEETING**  
To note the date and time of the next meeting.
- 15      **OTHER URGENT BUSINESS**  
To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.
- 16      **AUTHORITY TO CHAIR AND OFFICERS**  
Chair to move:-  
  
'In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.
- 17      **PRIVATE MINUTES**  
  - Confidential – Other

# BIRMINGHAM CITY COUNCIL

**LICENSING AND  
PUBLIC PROTECTION  
COMMITTEE  
8 SEPTEMBER, 2021**

**MINUTES OF A MEETING OF THE LICENSING  
AND PUBLIC PROTECTION COMMITTEE HELD  
ON WEDNESDAY, 8 SEPTEMBER, 2021 AT  
1030 HOURS AT BMI, MAIN HALL, MARGARET  
STREET, BIRMINGHAM**

**PRESENT:** - Councillor Phil Davis in the Chair;

Councillors Alex Aitken, Adam Higgs, Diane Donaldson,  
Nagina Kauser, Mike Leddy, Mary Locke, Simon Morrall and  
Mike Sharpe.

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**NOTICE OF RECORDING/WEBCAST**

1392 The Chair advised that this meeting will be webcast for live or subsequent broadcast via the Council's meeting You Tube site ([www.youtube.com/channel/UCT2kT7ZRPFCXq6\\_5dnVnYlw](http://www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

**The business of the meeting and all discussions in relation to individual reports are available for public inspection via the web-stream.**

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**DECLARATIONS OF INTEREST**

1393 Members were reminded that they must declare all relevant pecuniary and non pecuniary interests relating to any items of business to be discussed at the meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting.

There were no declarations made.

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**APOLOGIES**

1394 Apologies were received from Councillors Nicky Brennan and Martin Straker-Welds for non-attendance.

**CHAIRMAN’S ANNOUNCEMENTS**

- 1395 The Chair announced that it was his sad duty to note the death of Councillor Neil Eustace a serving Member on the Committee. Councillor Neil Eustace had been a former Chair of the Committee in 2004 to 2012 and a Member from 1999 to 2012 and served as a Member on the Committee for another nine years. There will be a tribute made at the City Council meeting however it was appropriate that the Licensing and Public Protection Committee should mark his passing and remember his work and service to the Committee. A one minute silence followed.
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**MINUTES**

- 1396 The Minutes of the meeting held on 23 June, 2021 having been previously circulated were confirmed as a correct record:-

(See Document no. 1)

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**LPPC 2020-21 OUTTURN REPORT**

The following Report of Interim Assistant Director of Regulation & Enforcement was submitted:-

(See document no. 2)

The Chairman requested that speakers should introduce themselves when speaking.

David Jones made introductory comments relating to the report giving a summary of the report and financial position outlining the main service areas.

In response to questions from Members the Chairman agreed with Councillor Mike Leddy’s comment that with regard to the recommendation at 2.1 he felt that the LPPC Committee was more than entitled to just note the report and should endorse the report as budget holders. In response to a question from the Chair about Covid related pressures the Committee was informed that for most service areas costs for Covid related pressures were not rising and costs in some areas were tailing off. Councillors agreed that the City was not out of the woods with regard to Covid however the budget was being well managed and would be kept under review.

Mark Croxford recommended and it was agreed that a vote of thanks should be placed on record to the Director of Public Health for his work during the Covid Pandemic. Members also placed on record their thanks to all BCC staff for the positive work during the pandemic in tackling the issues.

- 1397 **RESOLVED:-**

That the Licensing and Public Protection Committee.

## **Licensing and Public Protection Committee – 8 September, 2021**

- i. endorse the revenue outturn non-Covid related underspend of £0.270m shown in Appendix 1;
  - ii. endorse the expenditure on ring-fenced licensing services in Appendix 2;
  - iii. endorse the expenditure on grant funded programmes in Appendix 3; and
  - iv. endorse the position on reserves, as detailed in Appendix 4.
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### **LPPC 2021-22 QUARTER 1 FINANCIAL PERFORMANCE**

The following Report of Interim Assistant Director of Regulation & Enforcement was submitted:-

(See document no. 3)

1398

#### **RESOLVED:-**

That the Licensing and Public Protection Committee

- i. note the latest Revenue budget position at the end of June 2021 (Quarter 1) including Forecast Outturn £0.469m and COVID-19 response implications as detailed in Appendix 1.
  - ii. note the analysis of ring-fenced Licensing expenditure and income set out in Appendix 2
  - iii. note the analysis of ring-fenced grant funded services as set out in Appendix 3 ; and
  - iv. note the position on reserves and balances, as detailed in Appendix 4; and
- 

### **ANNUAL REPORT ENVIRONMENTAL HEALTH/IMLT/RIT**

The following report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document no. 4)

Mark Croxford made introductory comments relating to the report giving a summary of the report and financial position. He informed the Committee that with regard to the work during the year it had been an amazing year in terms of the work carried out thanks to Managers and officers without whom the work could not have been done.

Councillor Higgs added his thanks to officers. He requested a detailed report on the current position with work related to unauthorised encampments mentioning in particular the mess left behind. He felt that more could be done. The Chairman agreed with Councillor Higgs that a report should be

submitted to the next meeting to keep Members informed adding that the situation had changed with regard to sites. Councillor Locke thanked officers and the whole team for the work carried out in her Ward. In reply to Councillor Leddy the Committee was informed that Covid Marshalls were still in place funded until March 2022. At present they were supporting Covid testing sites and high profile events etc. Details were included in the report.

Housing and Planning were working together on transit sites and an application for funding had been made. Housing had been asked to take on some management of the sites. The Chairman added that sites needed to be available all year round.

Tony Quigley thanked staff from the illegal money lending team and gave a summary of this section of the report. In reply to Councillor Simon Morrall's reference to the influences on the Web individuals were advised they could not use the Web in this manner. Some work was being done to protect individuals on the internet. Paul Lankester reported that this work could not happen without the Heads of Service and staff and thanked those involved for all that had been achieved. The Chairman said that a visit would be made to officers in the future when conditions allowed.

1399

**RESOLVED:-**

That the report of the Interim Assistant Director of Regulation and Enforcement be noted.

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**IMPACT OF STREET TRADING POLICY 2021**

The following report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document no. 5)

Sajeela Nasser gave a summary of the report highlighting the main points. In response to a question from Councillor Morrall figures on how many of the new applicants were now traders could be provided, however she suggested that most applications had been approved and any refusals were related to highway issues. Paul Lankester undertook to supply figures for applications received and those approved. Paul Lankester stated that in future the information would be included in the activity report.

1400

**RESOLVED:-**

That the report of the Interim Assistant Director of Regulation and Enforcement be noted.

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**ANNUAL SAFETY AT SPORTS GROUNDS**

The following report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document no. 6)

Paul Lankester gave an overview of the report.

Councillor Aitken declared a non pecuniary interest as a season ticket holder of St Andrews Stadium. He understood that 2 stands had been closed following an inspection and queried when the issue would be resolved. The item would be discussed in the private section of the meeting.

1401

**RESOLVED:-**

That the report of the Interim Assistant Director of Regulation and Enforcement be noted.

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**REGULATION AND ENFORCEMENT ACTIVITY REPORT – APRIL/MAY/JUNE 2021/QUARTER 1**

The following report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document no. 7)

Paul Lankester made introductory remarks in relation to the report. The Chairman was pleased to note that food hygiene inspections would start in October 2021.

1402

**RESOLVED:-**

That the report of the Interim Assistant Director of Regulation and Enforcement be noted.

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**PROSECUTIONS & CAUTIONS – MAY/JUNE 2021**

The following report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document no. 8)

Paul Lankester made introductory remarks relating to the report.

1403

**RESOLVED:-**

That the report of the Interim Assistant Director of Regulation and Enforcement be noted.

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**CHAIRS AUTHORITY REPORT – JULY 2021**

The following report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document no. 9)

1404

**RESOLVED:-**

That the report of the Interim Assistant Director of Regulation and Enforcement be noted.

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**OTHER URGENT BUSINESS**

Councillor Mike Sharpe raised the issue of begging at traffic lights with beggars causing a hazard to themselves and others mentioning in particular a person on Tyburn Road with a young child. The Chairman undertook to take up the issue with the Cabinet Member. Paul Lankester asked Members to let him know any concerns relating to safeguarding with dates and times etc. Bristol Road/Belgrade junction was also mentioned.

1405

**RESOLVED:-**

That a report on begging at traffic lights be submitted to the Committee.

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**AUTHORITY TO CHAIRMAN AND OFFICERS**

1406

**RESOLVED:-**

That in an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

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**EXCLUSION OF THE PUBLIC**

1407

**RESOLVED:-**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Exempt Paragraph 3

**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**10 NOVEMBER 2021  
ALL WARDS**

**HACKNEY CARRIAGE AND PRIVATE HIRE DELEGATIONS UPDATE**

1. Summary

- 1.1 In June 2021 a report was brought to your Committee concerning certain measures implemented in direct response to the COVID-19 pandemic.
- 1.2 These measures included a request to continue with the concessions regarding late renewal of licences, and also sought the continuance of the delegation to senior officers, matters usually reserved to licensing sub-committees.
- 1.3 Approval was given for both matters, with a request that a further report (this report) be brought back to a later Committee.

2. Recommendations

- 2.1 That the Committee considers the hackney carriage and private hire delegations and determines whether to
  - a) Confirm the delegation as standard, subject to annual reporting with all other delegations. Or
  - b) Cease the delegation and return the matters to the sub-committee meetings held 'in-person' from February 2022. or
- 2.2 That the Committee considers and agrees the continuation of the measures detailed in Paragraph 6 to this report regarding renewal of hackney carriage and private hire licences.

Contact Officer: Emma Rohomon, Licensing Manager  
Telephone: 0121 303 9780  
E-mail: [emma.rohomon@birmingham.gov.uk](mailto:emma.rohomon@birmingham.gov.uk)

### 3. Background

- 3.1 In April 2021 a report was brought to your Committee concerning certain measures implemented in direct response to the COVID-19 pandemic.
- 3.2 These measures included a request to continue with the concessions regarding late renewal of licences, and also sought the continuance of the delegation to senior officers, matters usually reserved to licensing sub-committees.
- 3.3 Approval was given for both matters, with a request that a further report (this report) be brought back to a later Committee.

### 4. Licensing and Public Protection Committee

- 4.1 The licensing function of the City Council is disposed of through the processes and procedures of the Licensing and Public Protection Committee, sub-committees and officers by virtue of the Local Government Acts and other relevant statutory provisions.
- 4.2 The Court of Appeal stated in the “Hope and Glory” case (2011) that the licensing function of the licensing authority is an administrative function, by contrast with the function of the magistrates, which is a judicial function. The Court of Appeal said this:

*“The licensing authority has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure, but the decision itself is not a judicial or quasi-judicial act. It is the exercise of power delegated by the people as a whole to decide what the public interest requires.”*

This means that it must act in accordance with the two rules of natural justice. These are firstly that everyone has a right to be heard and secondly the rule against bias.

- 4.3 The right to be heard requires that a person directly affected by the matter under consideration must be given a fair opportunity both to state his/her case and to know of and to respond to any objections.
- 4.4 The rule against bias prohibits members participating in any decision if they have a financial or other interest in the outcome. Members will be familiar with this requirement from their general duties as Councillors.

## 5. Delegated matters

- 5.1 In order to allow matters to be dealt with expediently and in a covid-secure manner, matters which would ordinarily have been referred to a sub-committee were delegated to an officer 'panel' process. The process has been in operation for over 18 months now and has been found to be an effective method to deal with matters for consideration. Reports are still produced, and questions are put to applicants/ subjects who have an opportunity to respond. Legal advice is still sought and provided.
- 5.2 The process being used for these matters has been challenged by way of appeal against decisions to the Magistrates' Court without success. Magistrates have found, on multiple occasions, that the appellant had been given appropriate opportunity to respond to the matters under consideration. There has been no significant increase in the number of appeals against decisions compared to those determined by sub-committees.
- 5.3 This delegated process has proved to be an effective way of dealing with these matters – and has eliminated the inefficiencies suffered by the previous arrangements. In the past, the sub committees were beset with issues of timing – with matters either overrunning, or time lost due to non-attendance.
- 5.4 It is proposed these delegations should continue. It is a matter for Members to decide if you wish this delegation to remain temporary, with a further review report brought to your Committee in future, or if they wish the delegation to become standard, to be reviewed annually as part of the yearly policies Procedures and Delegations report.
- 5.5 Unlike sub committees convened to address Licensing Act 2003 or Gambling Act 2005 matters, those convened to hear 'driver' cases would be required to be held in person not remotely. If members are minded to cease the delegation of sub-committee matters, a 3 month lead in time would be required, in order to make the necessary adjustments, and arrangements.

## 6. Licence renewals.

- 6.1 The following measures had also been agreed, and are proposed to continue until April 2022:
  - 6.1.1 Where a driver or vehicle licence due for renewal during this period of imposed restrictions ('lockdown') expires, the licence holder will, once the lockdown has ended, be permitted to apply for a 'late renewal'. Once the lockdown is over, and trade begins to recover, licence holders will then be able to submit an application to, to all intents and purposes, resurrect their previous licence without undertaking additional tests. They WILL still be required to fulfil any suitability requirements as to MOT's, medicals and DBS checks where appropriate. such a transaction would be carried out at the standard renewal fee and will not be required to be put before a committee for determination.

6.1.2 Where a hackney carriage vehicle licence expires as a result of the circumstances detailed above, the licence holder will be permitted to 'renew' the licence unimpeded by the moratorium. There will be no effective increase in the number of vehicles in operation, and so the moratorium should not be applied in these circumstances.

## 7. Consultation

7.1 This is an update report for Members and as such no consultation has been carried out.

7.2 Any new policies or significant amendments to existing policies are subject to a consultation process where appropriate.

## 8. Implications for Resources

8.1 It is the responsibility of the Committee Chairman and the Interim Director of Regulation and Enforcement to ensure the services provided by the Committee are contained within the approved budget.

8.2 The measures introduced in response to the Covid-19 pandemic have resulted in different ways of working, particularly in terms of sub-committees. This will have led to more flexibility, greater efficiencies, and reductions in officer travelling time and meeting room requirements.

8.3 Changes to the Hackney Carriage and private hire sub-committees have resulted in greater efficiency as the previous arrangements had been beset with delays and scheduling difficulties predominantly caused by non-attendance of applicants.

## 9. Implications for Policy Priorities

9.1 The issues addressed in this report relate to the City Council priorities associated with creating a cleaner, greener and safer city and providing excellent services.

## 10. Public Sector Equality Duty

10.1 This report seeks to update members on an existing arrangement. It does not seek to introduce any changes which would impact upon the protected characteristics.

## **INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Birmingham City Council Constitution

## **BIRMINGHAM CITY COUNCIL**

### **REPORT OF THE INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**10 NOVEMBER 2021**  
**ALL WARDS**

#### **REVIEW OF STREET TRADING CONSENT FEES AND CHARGES 2022/2023**

1. **Summary**

- 1.1 The Corporate Charging Policy and Financial Regulations require that fees and charges levied by the Licensing and Public Protection Committee be reviewed on an annual basis to ensure the continued full recovery of costs.
- 1.2 It should be noted that some of the fees relating to areas which come within your Committee's remit are set nationally through statute, and these cannot be varied by your Committee.

2. **Recommendations**

- 2.1 That the changes to the Street Trading Service fees and charges as detailed in Appendix 1 be approved to take effect from 1<sup>st</sup> December 2021 for all applications for the year 2022/23.
- 2.2 That the new renewal application fee detailed in Paragraph 4.6 and Appendix 1 be approved to take effect from 1<sup>st</sup> December 2021 for all applications for the year 2022/23.

Contact officer: Shawn Woodcock, Licensing Operations Manager  
Telephone: 0121 303 9922  
Email: [shawn.woodcock@birmingham.gov.uk](mailto:shawn.woodcock@birmingham.gov.uk)

### 3. Background

- 3.1 The City Council's Corporate Charging Policy and Financial Regulations require that Chief Officers, at least annually, report to and seek approval from Committee on a review of all fees and charges levied for services provided. This report also takes account of the legal framework within which certain licence fees must be set.
- 3.2 The Street Trading service receives no corporate budget allocation and as such must meet any and all expenditure from within its own income. The level of income is entirely dependent upon the number of consents applied for, issued or renewed in a particular year.
- 3.3 In order to ensure the fees accurately reflect the true cost of administering and processing consents the fee calculations are based on the finalised accounts from 2020/21. This is more reliable than trusting in projections and estimates and is accepted as best practice in fee calculations of this kind.
- 3.4 Members will note a blanket percentage change has not been applied, but that each fee has been reviewed to take into account the use of carry forward balances (where applicable), changes in overhead costs and processing times.
- 3.7 The fees proposed in this report are calculated to recover the full cost of carrying out the service. This includes all administrative costs, any recharge of officers' time in appropriate cases when carrying out inspections of premises and other compliance duties (where applicable).
- 3.8 The fees proposed fulfil the main requirement of assuring that full costs are recovered from the income generated wherever possible.
- 3.9 The legal requirement for a Licensing Service to recover only "reasonable costs" takes precedence over the City Council's Corporate Charging Policy and the requirement to maximise income. Licence fees prescribed by statute also take precedence over the Corporate Charging Policy.
- 3.10 In setting the fees we have also taken account of the various precedents set by case law in the various areas of licensing. A summary of these cases is provided at Appendix 2

### 4. The Proposed Fees:

- 4.1 In order to ensure the fees reflect the cost of administering the consent scheme and processing the consents, as well as compliance with those consents (and a proportion for enforcement against illegal street traders), the fee calculations are based on the finalised accounts for the street trading service for 2020/21.
- 4.2 Members will note that the fees are split into a non-refundable application fee and a consent fee. This split is required further to case law set by R (Hemming and Others) vs Westminster City Council. Each fee takes account

of salary costs, overhead costs, and processing and activity times.

- 4.3 The time taken to process and administer (including compliance) each consent type has been calculated using actual costs. Costs for peripheral items such as the installation of electrical supplies for trading units, legal costs and mileage costs are added in after the time is calculated, as has any restitution of carry forward balances.
- 4.4 The reason for the higher cost for annual consents in the city centre is that street traders in this area will be visited weekly to ensure compliance and to resolve any logistical or other issues. Outer city traders and occasional traders over 12 days will be visited at least monthly.
- 4.5 The reason for the higher cost of an Occasional Sports Stadia Consent is because compliance visits at these venues will need to be done in pairs to ensure health and safety both due to the crowded environment and also the time of day (some evening work)
- 4.6 The proposed renewal fee has been calculated based on the time it is expected to take to process a shortened renewal application process where a trader wants to remain in situ and there are no changes to the way they operate.
- 4.7 Should there be significant changes to the street trading unit or the way the trader operates, then a full application fee will be required.
- 4.8 It should be noted that, with the exception of two, there has been a reduction of the actual fees compared to last year. There are a number of reasons for this, including the removal of the appeals process; the fees are based on full year spend rather than an estimate of costs; updating the timings for the process based on actual times rather than predicted times.
- 4.9 The increase in fees for annual non-stadia consents has increased slightly, this is based on the extra enforcement activity attributed to these areas.

## 5. Consultation

- 5.1 Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA 82), a district council may charge such fees as they consider reasonable for the grant or renewal of a street trading licence or a street trading consent. There is no requirement to consult.

## 6. Implications for Resources

- 6.1 The proposals are consistent with the proposed budget for 2022/23 for the Licensing and Public Protection Committee that will be reported to you in March, subject to prior approval by City Council. This will ensure that the services continue to be managed within the approved cash limits and in line with the financial regulations relating to these services.

- 6.2 The fees and charges proposed within this report are calculated based on historic income and expenditure for 2020/21 and include the direct costs of the delivery of services and a proportion of indirect central business support costs e.g. Human Resources, Legal, IT, Finance, Procurement and Democratic costs.
- 6.3 It should be noted that fees and charges are reviewed annually and that they may increase or decrease depending on the cost of delivering the service in the previous year and any carry forward balances.
- 6.4 There are three possible ways in which the fees could be challenged:
- Judicial review of the Council decision based on the decision being Ultra Vires or considered to be unreasonable or irrational (known as Wednesbury Principles).
  - Through the District Auditor – if a Birmingham resident objects to the Local Authority accounts on the grounds that an item is contrary to law or
  - If the Council proposes to set an unlawful fee. This must be reported to and considered by the Monitoring Officer.
- 6.5 The proposed fees have been calculated having regard to finalised accounts in accordance with best practice advice and also with regard to significant case law. There is no statutory method in which to calculate the fees.
- 6.6 Any decision to set fees otherwise than in accordance with the proposals within this report without appropriate justification is likely to increase the risk of challenge.

## 7. Implications for Policy Priorities

- 7.1 The recommendations are in accordance with Financial Regulations and budget requirements.
- 7.2 The legal requirement for a Licensing Service to recover only “reasonable costs” takes precedence over the City Council’s Corporate Charging Policy and the requirement to maximise income.

## 8. Public Sector Equality Duty

- 8.1 The fees that are proposed in this report will relate to all consent holders and applicants for consents regardless of their protected characteristics. The fees are calculated on the cost of delivering the service and consequently an Equalities Assessment has not been undertaken.

Background Papers:  
Birmingham City Council – Corporate Charging Policy

**The Proposed Fees**

Transaction Type	Current Fee	Proposed fee 22-23	Difference	% Change
Application Fee for any type of Consent	£ 724.00	£ 528	-£ 196	-27
Renewal Application Fee for any type of Consent	£ -	£ 271	£ 271	
Annual City Centre Licence fee	£ 5,160	£ 5,501	£ 341	7
Annual out of city Licence fee	£ 2,218	£ 2,357	£ 139	6
Occasional 21-30 Licence fee	£ 1,589	£ 1,146	-£ 443	-28
Occasional 11-20 Licence fee	£ 708	£ 618	-£ 90	-13
Occasional up to 10 Licence fee	£ 425	£ 348	-£ 77	-18
STADIA Annual Licence fee	£ 3,728	£ 3,027	-£ 701	-19
STADIA Occasional 21-30 Licence fee	£ 3,225	£ 2,525	-£ 700	-22
STADIA Occasional 11-20 Licence fee	£ 1,416	£ 1,237	-£ 179	-13
STADIA Occasional up to 10 Licence fee	£ 849	£ 696	-£ 153	-18

## APPENDIX 2

**Summary of Relevant Case Law****R (on the application of Carl Cummings and others) v The County Council of the City of Cardiff [2014] EWHC 2544 (Admin)**

The Claimants challenged successfully the lawfulness of the taxi and private hire fees set by Cardiff City Council, resulting in the refund of some £1.2 million to the taxi trade in respect of overpaid fees. This case was a Judicial Review of a Cardiff City Council decision. The court found that the Council had not been properly accounting and keeping record of any surplus or deficit dating back to 01 May 2009, and that the fees that had been set over the subsequent years had therefore been set without taking into account any such surplus or deficit. These surpluses and deficits can only be accounted for and taken into account within the specific regime that they cover (either hackney carriage or private hire), and surpluses from one regime cannot be used to offset deficits in the other regime. In other words, Councils are required to keep separate accounts for both the hackney carriage regime and the private hire regime and must ensure that one is not supporting the other financially. Councils ought to separate out the five streams of taxi licensing (comprising vehicles, drivers and

operators) when collecting their licence fees, to ensure no cross-subsidy within these streams. Moreover, Councils must not use the licensing fees as an income generating scheme.

R (on the application of Abdul Rehman on behalf of the Wakefield District Hackney Carriage and Private Hire Association) v Wakefield District Council and the Local Government Association (intervener) [2019] EWCA Civ 2166

This case, known as Rehman v Wakefield Council, was a Court of Appeal matter which clarified the law on taxi and private hire enforcement costs. Wakefield Council had imposed the cost of enforcement activity in relation to drivers onto the vehicle licence fees. Wakefield's Taxi and Private Hire Association challenged this, on the basis that Wakefield's calculations were unlawful because it was a form of cross-subsidising fees. The case clarified the correct procedure that councils must apply when setting taxi and private hire fees – namely that costs associated with monitoring and enforcing driver conduct must be factored into to driver licensing fees under s53 LG(MP)A 1976, and not vehicle licence fees under s70 (as had been the practice in Wakefield). The case therefore reaffirmed the principle that cross-subsidisation of taxi and private hire fees is not permitted in law.

R v Manchester City Council ex parte King (89 LGR 696 [1991]; The Times, 3 April 1991)

This was a street trading case that established that local authorities may only charge reasonable fees for licences and cover the Council's costs in the administration of those application types and issue costs - but not use them to raise revenue. The Council had set licence fees at a commercial rate, considering that the calculation of a 'reasonable fee' was a matter for their own discretion. But the court held that the fees must be related to the street trading scheme, and the costs of operating that scheme. The Council could therefore charge such fees as it reasonably considered would cover the total cost of operating the street trading scheme (or such lesser part of the cost of operating the street trading scheme as they considered reasonable). NB – this does not mean that any surplus revenue makes the fee structure invalid. The original position will remain valid provided that it can be said that the Council reasonably considered such fees would be required to meet the total cost of operating the scheme, even if the fees levied turn out to exceed the cost of operating the scheme.

R v Westminster City Council ex parte Hutton (1985) 83 LGR 516

This case was tried and reported with R v Birmingham City Council, Ex p Quietlynn Ltd (1985) 83 LGR 461, 517 and confirmed the principle that licensing fees may lawfully include amounts calculated to cover the cost to the licensing authority of regulation and enforcement. Hutton challenged the fee set for applying for a licence to operate a sex shop, on the basis that the administrative costs on which the fee was

based included a sum representing the supposed shortfall in fee income against administrative costs in the previous year. The court held that the fee could reflect not only the processing of applications, but also ‘inspecting premises after the grant of licences and for what might be called vigilant policing ... in order to detect and prosecute those who operated sex establishments without licences’. The Council was free to fix fees reflecting those necessary elements on a rolling basis, without adjusting surpluses and deficits in each year. This was on the basis that the statutory accounts of local authorities are structured such that shortfalls in one year must be carried into the next year’s accounts. The court accepted Westminster’s contention that when a charge is based on an annual budget, which must be concerned with situations which themselves will not be verifiable until after the end of the year in question, the only sensible way to fix the level of the charge is to take one year with another.

R (on the application of Hemming (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2015] - 29th April 2015; [2015] UKSC 25, [2015] BLGR 753, [2015] PTSR 643, [2015] WLR(D) 193, [2015] AC 1600, [2015] 3 CMLR 9, [2015] LLR 564, [2015] 2 WLR 1271, UKSC 2013/0146

The Hemming case was a Supreme Court decision which overturned a Court of Appeal decision which had in turn upheld the decision of the lower court. Many commentators feel that the Supreme Court decision “restored common sense to the question of what licensing and other regulatory fees can lawfully include”. The Supreme Court affirmed the principle in *ex p. Hutton* – namely that licensing fees may lawfully include amounts calculated to cover the cost to the licensing authority of regulation and enforcement.

Hemming’s argument was that the approach approved 30 years before in *ex p. Hutton* was no longer lawful due to the effect of an EU Directive which had been implemented into domestic law under Regulations. Hemmings asserted that the Directive and Regulations precluded Westminster from including costs of enforcement activities against unlicensed operators in determining the licence fees payable by licensed operators; he felt that these costs should be covered by revenue from Council Tax and business rates. The huge importance of the case, not only to all other Council licensing departments but also to other (entirely unrelated) regulatory bodies, was such that when the case came before the Supreme Court there were nine Interveners before the Court - including the Architects Regulation Board, the Solicitors Regulation Authority, the Bar Standards Board, the Local Government Association and HM Treasury.

The decision was that the Directive and Regulations were solely concerned with ensuring that the costs charged for authorisation procedures (ie the clerical and administrative aspects of authorisation) were reasonable and proportionate to the actual costs of those procedures; they in no sense precluded licensing authorities from also including the costs of regulatory and enforcement activities in the total licence fees payable by licensed operators. The court saw no reason why the fee should not be set at a level enabling the authority to recover from licensed operators “the full cost of running and enforcing the licensing scheme, including the costs of enforcement and

proceedings against those operating sex establishments without licences." Likewise, with regard to other areas of licensable activity (where licensing authorities are empowered by domestic legislation to recover the costs of enforcement activity through licence fees) and regulated activity (e.g. practising as an architect, barrister or solicitor) - the decision of the Supreme Court has made clear that the Directive and Regulations do not preclude licensing authorities, or other regulatory bodies, from continuing to recoup their enforcement costs through fees charged to licensed operators or certified practitioners.

There is a related point - the Supreme Court said that one aspect should be referred to the European Court of Justice, namely Westminster's chosen method of exercising its right to recover the costs of enforcement. Westminster charged all applicants for sex establishment licences a fee that included both a sum to cover the cost of administering the application and a sum representing a contribution towards Westminster's costs of enforcement. The latter sum was refunded to unsuccessful applicants, whilst the former sum was not.

The Supreme Court asked the ECJ to determine whether that particular method of charging, which effectively deprives unsuccessful applicants of the use of the latter sum whilst their application is being considered, fell foul of the Directive (as opposed to an alternative method of charging only the successful applicants with the contribution towards the costs of enforcement).

In its judgment the ECJ concluded that the Directive must be interpreted as precluding a requirement for the payment of a fee, at the time of submitting an application for the grant or renewal of authorisation, part of which corresponds to the costs relating to the management and enforcement of the authorisation scheme concerned, even if that part is refundable if that application is refused. The citation of this ECJ decision is: Hemming (Judgment) [2016] EUECJ C-316/15 (16 November 2016): [2017] 3 WLR 317, [2017] LLR 189, [2016] WLR(D) 608, [2017] PTSR 325, ECLI:EU:C:2016:879, [2018] AC 650, [2017] CEC 920, EU:C:2016:879, [2016] EUECJ C-316/15

<b>Report to:</b>	<b>LICENSING AND PUBLIC PROTECTION COMMITTEE</b>	
<b>Report of:</b>	<b>INTERIM ASSISTANT DIRECTOR REGULATION AND ENFORCEMENT AND INTERIM DIRECTOR FINANCE</b>	
<b>Date of Decision:</b>	<b>10 NOVEMBER 2021</b>	
<b>SUBJECT:</b>	<b>LICENSING AND PUBLIC PROTECTION FINANCIAL MONITORING 2021/22 - QUARTER 2</b>	

<b>1. Purpose of Report:</b>
<p>1.1 This report sets out the position on the Licensing and Public Protection Committee's Revenue Budgets at the end of September 2021 (Quarter 2) and the forecast position for the year end. It highlights any issues that have arisen and informs the Licensing and Public Protection Committee of any action being taken to contain spending within the approved cash limits.</p> <p>1.2 The report also details the latest performance within the Licensing and Public Protection Committee including progress against the approved Savings Programme for 2021/22.</p> <p>1.3 The report is in line with the current City Council established financial monitoring framework to ensure that expenditure is managed within cash limits.</p>

<b>2. Decision(s) Recommended:</b>
<p>The Licensing and Public Protection Committee is requested to:</p> <p>2.1 Note the latest Revenue budget position at the end of September 2021 (Quarter 2) including Forecast Outturn £0.323m and COVID-19 response implications as detailed in Appendix 1.</p> <p>2.2 Note the analysis of ring-fenced Licensing expenditure and income set out in Appendix 2</p> <p>2.3 Note the analysis of ring-fenced grant funded services as set out in Appendix 3</p> <p>2.4 Note the position on reserves and balances, as detailed in Appendix 4.</p>

<b>Lead Contact Officer(s):</b>	<b>David Jones, Finance Manager – Services Finance</b>
<b>Telephone No:</b>	0121 675 0580
<b>E-mail address:</b>	<a href="mailto:david.jones@birmingham.gov.uk">david.jones@birmingham.gov.uk</a>

### **3. Consultation**

#### **3.1 Internal**

The financial position on the revenue and capital budget is reported on a monthly basis to the Management Team and the Interim Assistant Director of Regulation and Enforcement is briefed on the major financial issues, as required in line with the Council's framework.

#### **3.2 External**

There are no additional issues beyond consultations carried out as part of the budget setting process for 2021/22.

### **4. Compliance Issues:**

#### **4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?**

The budget is integrated within the Council's Financial Plan 2021+, and resource allocation is directed towards policy priorities.

#### **4.2 Financial Implications (Will decisions be carried out within existing finances and Resources?)**

The Licensing and Public Protection Financial Monitoring 2021/22 - Quarter 2 report provides details of monitoring of service delivery within available resources.

#### **4.3 Legal Implications**

Section 151 of the 1972 Local Government Act requires the Interim Director of Finance (as the responsible officer) to ensure proper administration of the City Council's financial affairs. Budgetary control, which includes the regular monitoring of and reporting on budgets, is an essential requirement placed on directorates and members of Corporate Management Team by the City Council in discharging the statutory responsibility. This report meets the City Council's requirements on budgetary control for the specified area of the City Council's Directorate activities.

#### **4.4 Public Sector Equality Duty**

There are no additional specific Equality Duty or Equality Analysis issues beyond any already assessed and detailed in the budget setting process and monitoring issues that have arisen in the year to date. Any specific assessments will be made by the Directorates in the management of their services.

## 5. Relevant Background/Chronology of Key Events:

### Revenue Budget 2021/22

- 5.1 The City Council approved the overall budget on 23 February 2021.
- 5.2 The Licensing and Public Protection Committee noted the net revenue budget of **£6.445m** on 10 March 2021.
- 5.3 Adjustments in Quarter 2 were presented to Licensing and Public Protection Committee at their sitting on 08 September.
- 5.4 There was one adjustment in the second quarter – as set out below

<b>Budget Movements from April 2021 - Quarter 2</b>	
Description	£'m
<b>Budget at start of year – LPPC 10 March 2021</b>	<b>6.445</b>
Licensing Street Trading – remaining funding transfer	0.063
Additional funding for increments (part of corporate allocation)	0.251
Approved transfer from Register Office to Mortuary to support funding of CTPM programme	(0.080)
<b>Budget at Quarter 1 – LPPC 08 September 2021</b>	<b>6.679</b>
Centralisation of postage budgets (Environmental / Coroners)	(0.006)
<b>Budget at Quarter 2</b>	<b>6.673</b>

- 5.5 The current approved budget for this Committee is now £6.673m.
- 5.6 The City Council has well-established arrangements for monitoring spending against the cash limited budgets allocated to Directorates and Committees.
- 5.7 Reports are presented to Cabinet on a quarterly basis on the overall city-wide financial position. The Licensing and Public Protection Committee will normally receive quarterly financial performance reports during the financial year.

### Revenue – Financial Review and Year End Projections (Appendix 1)

- 5.8 An overall year end net pressure of £0.323m is being forecast formally.
- 5.9 Of this forecast net pressure £0.484m pressure is directly attributable to the COVID-19 responses of these service areas.
- 5.10 Mitigating action has been implemented in most service areas – including additional contract work that has been delivered by Pest Control. All COVID-19 pressures reported here are also included in the corporate reporting of the overall Council responses.
- 5.11 Budgets continue to be managed rigorously. Any changes will be reported in future reports.

5.12 The table below is a high-level summary of the projected year end by service (details in Appendix 1) and how this is comprised of Base budget and Covid related pressures.

<b>Forecast Year End Variations – Quarter 2</b>				
	<b>Savings Programme</b>	<b>COVID-19 Pressures</b>	<b>Base Budget Pressures</b>	<b>Total Pressure</b>
<b>Budget Head</b>	<b>£'m</b>	<b>£'m</b>	<b>£'m</b>	<b>£'m</b>
Environmental Health	0.000	0.010	0.000	0.010
Pest Control	0.000	0.000	(0.011)	(0.011)
Register Office	0.000	0.142	(0.168)	(0.026)
Coroners Courts	0.000	0.123	0.018	0.141
Trading Standards	0.000	0.209	0.000	0.209
<b>TOTAL</b>	<b>0.000</b>	<b>0.484</b>	<b>(0.161)</b>	<b>0.323</b>

The key components of the projection include:

- **Registration Service (forecast net surplus £0.026m)**

The Registration Service continues to play a key role in COVID responses with death registrations continuing throughout the pandemic. Additional hours have been contracted from staff. Equipment and infrastructure have been installed to enable public access to the building.

The mainstream service is delivering a number of mitigations and in addition is seeing positive growth in income with wedding ceremonies increasing after a prolonged period of lockdown and including preference for civil ceremonies where other venues have been slow to reopen at full capacity.

- **Coroners Court Service (forecast £0.141m pressure)**

As part of the COVID-19 response, the Coroners have an increased workload and have contracted additional staff and additional hours to ensure that there is continuous cover.

Additional venues have had to be hired to ensure that inquests can be facilitated with the correct social distancing requirements.

Non-COVID-19 pressure follows a review of the Service Level Agreement with South Staffordshire that identified a small repayment of £0.018m that is to be made. Mitigations are being developed to reduce this pressure.

- **Trading Standards (£0.209m pressure)**

Trading Standards have had reduced income through the courts due to the slowdown caused by Covid and resultant changes in justice system.

The service incur expenditure in defending court cases and in normal circumstances would have had the right to the income legally awarded to us in court. As such, these cannot be recovered at any later date.

In addition, the team are also spearheading several investigations onto COVID-19 related financial fraud.

### **Savings Programme**

5.13 There are no items on the Corporate Savings Programme for 2021/22 for this committee.

### **Mitigations and Management Actions 2021/22**

- Managers of services reporting to this committee are involved in a number of actions this financial year to mitigate budget pressures for current and future financial years.

### **Licensing and Street Trading**

5.14 Within Licensing: each category is a separately ring-fenced service where income is only intended to be used to cover the reasonable and proportionate costs of providing the service.

5.15 This is being implemented in actual expenditure and income and set out in Appendix 2.

5.16 The budget set corporately is not currently net neutral (this is being addressed in 2021/22) and so this creates a variation between actual and budget in some reports. This does not affect either the operation of the ring-fence nor postings to and from reserves which are based on the actuals.

### **COVID-19 Compliance and Enforcement**

5.17 Environmental Health are coordinating a council-wide compliance and enforcement programme. For 2021/22 this is entirely funded through the Director of Public Health's Track and Trace programme.

## **6. Grant Funded Programmes (Appendix 3)**

6.1 Within Regulatory Services, there are two grant funded programmes:

### **Illegal Money Lending**

6.2 The Illegal Money Lending Team (IMLT) England investigate and take legal action against Illegal Money Lending or "Loan Shark" perpetrators across the whole of England.

6.3 The project is funded through specific grant from HM Treasury, with resources of up to £4.254m in 2021/22.

6.4 The expenditure at the end of September 2021 was £1.998m (47%) this is a reasonable level for half way through the year - and it is anticipated that the programme will fully spend the grant allocated and has a good track record of achieving this.

### **Regional Intelligence Team**

6.5 The Regional Intelligence Team (Scambusters) investigate and take legal action against fraudsters operating across council boundaries in the central region.

6.6 Funding has been confirmed at £0.327m for 2021/22.

6.7 The expenditure at the end of September 2021 was £0.167m (51%) again, reasonable level for half way through the year - and it is anticipated that the programme will fully spend the grant allocated and has a good track record of achieving this.

<b>7. Proceeds of Crime Act</b>
7.1 Regulatory Services secures funding through the Proceeds of Crime Act 2002 (PoCA) in response to financial investigations undertaken following sentencing by the courts.
7.2 PoCA monies are held by the Local Authority and ring-fenced for expenditure on community and crime prevention projects
7.3 Expenditure specifically recorded as planned PoCA items will be funded routinely through a combination of appropriations from PoCA reserves and income received during the year.
7.4 For Birmingham Trading Standards the balances brought forward were £0.493m.
7.5 For England Illegal Money Lending the balances brought forward were £0.581m.

<b>8. Balances and Reserves (Appendix 4):</b>
8.1 The reserves are shown in Appendix 4. These currently total £0.434 and forecast to increase to 741m by the end of this financial year.
8.2 All planned income and expenditure on reserves will be reported to this Committee.
8.3 The current balance for Hackney Carriage and Private Hire is deficit £0.863m and it is anticipated that at least 1/3 <sup>rd</sup> of this value (£0.290m) will be incorporated into the fee calculations.
8.4 The current balance for Entertainment and General Licensing is a deficit £0.169m and as with the above, it is anticipated that at least 1/3 <sup>rd</sup> of this value (£0.060m) will be incorporated into the fee calculations.

<b>9. Evaluation of Alternative Option(s):</b>
9.1 During the year ahead the financial position will continue to be closely monitored and options identified to resolve budgetary pressures as necessary.

<b>10. Reasons for Report:</b>
10.1 The Report informs the Licensing and Public Protection Committee of the Revenue Budget for 2021/22, and the forecast outturn, including COVID-19 response financial implications for Quarter 2 (April to September 2021)
10.2 The latest position in respect of the Licensing and Public Protection Committee's use of reserves, Savings Programme and risks are also identified.

**Signatures**

Paul Lankester  
Interim Assistant Director Regulation and Enforcement .....

Rebecca Hellard  
Interim Director of Finance .....

Date .....

**List of Background Documents used to Compile this Report:**

Licensing & Public Protection Revenue and Capital Budget 2021/22 – 10 March 2021

Licensing & Public Protection Financial Monitoring 2021/22 - Quarter 1 – 08 September 2021

**List of Appendices accompanying this Report (if any):**

Appendix 1 - Financial Performance, Forecast Outturn Quarter 2

Appendix 2 - Ring Fenced Licensing Services

Appendix 3 - Ring Fenced Grant Funded Services

Appendix 4 - Ring-Fenced Balances and Reserves

<b>Report Version</b>	2.0	<b>Dated</b>	14 October 2021
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## Licensing and Public Protection Committee - Quarter 2 2021/22

## Analysis A - Total per Service Area

CBP620 - Corporate Monitoring Report - Revenue	2021/22 Quarter 2					
	Current Budget 2021/22	Budget Profile at Quarter 2 2021/22	Actual Quarter 2 2021/22	Variation at Quarter 2 2021/22	Forecast Covid 2021/22	Forecast Non-Covid Variance 2021/22
	£'000	£'000	£'000	£'000	£'000	£'000
<b><u>Neighbourhoods Directorate / City Operations</u></b>						
Environmental Health	3,193	1,645	1,468	(177)	10	0
Pest Control	280	146	305	159	0	(11)
Registration Service	712	434	235	(199)	142	(168)
Coroners Courts	1,611	1,042	1,419	377	123	18
Trading Standards	1,047	523	577	54	209	0
-						
Licensing (see Appendix 2)	(79)	(260)	192	452	0	0
Grant Funded and PoCA (Appx 3)	(35)	(42)	(74)	(32)	0	0
<b><u>Inclusive Growth Directorate</u></b>						
Public Rights Of Way	49	24	14	(10)	0	0
Highway Licences	(47)	71	(179)	(250)	0	0
NRSA Licences	(58)	(29)	(31)	(2)	0	0
<b>Net Expenditure</b>	<b>6,673</b>	<b>3,554</b>	<b>3,926</b>	<b>372</b>	<b>484</b>	<b>(161)</b>

## Analysis B - Total per Type of Expenditure/Income

CBP620 - Corporate Monitoring Report - Revenue	2021/22 Quarter 2					
	Current Budget 2021/22	Budget Profile at Quarter 2 2021/22	Actual Quarter 2 2021/22	Variation at Quarter 2 2021/22	Forecast Covid 2021/22	Forecast Non-Covid Variance 2021/22
	£'000	£'000	£'000	£'000	£'000	£'000
Employees	15,210	7,611	7,249	(362)	187	10
Premises	914	566	349	(217)	0	0
Transportation	243	121	152	31	0	0
Supplies and Service	2,949	1,540	1,149	(391)	88	0
Capital Financing	212	106	107	1	0	0
Recharge Expenditure	744	50	277	227	0	0
<b>Total Expenditure</b>	<b>20,272</b>	<b>9,994</b>	<b>9,283</b>	<b>(711)</b>	<b>275</b>	<b>10</b>
Rev Income	(13,387)	(6,334)	(5,270)	1,064	209	(171)
Capital Funding, levies, interest	(212)	(106)	(87)	19	0	0
Appropriations to/from Reserves	0	0	0	0	0	0
<b>Net Expenditure</b>	<b>6,673</b>	<b>3,554</b>	<b>3,926</b>	<b>372</b>	<b>484</b>	<b>(161)</b>

Licensing and Public Protection Committee - Quarter 2 2021/22  
Expenditure on Licensing Ring Fenced Activities

**VAN04F1200 Licensing Hackney Carriage Private Hire**

CBP620 - Corporate Monitoring Report - Revenue	Actual
	Quarter 2
	£'000
Employees	266
Premises	4
Transportation	19
Supplies and Service	19
Recharge Expenditure	298
<b>Total Expenditure</b>	<b>606</b>
Income from Licensing	(503)
<b>Net Expenditure</b>	<b>103</b>

**VAN04F1300 Licensing Entertainment & General**

CBP620 - Corporate Monitoring Report - Revenue	Actual
	Quarter 2
	£'000
Employees	153
Premises	0
Transportation	0
Supplies and Service	10
Recharge Expenditure	199
<b>Total Expenditure</b>	<b>362</b>
Income from Licensing	(278)
<b>Net Expenditure</b>	<b>84</b>

**VAN04F1400 Street Trading**

CBP620 - Corporate Monitoring Report - Revenue	Actual
	Quarter 2
£'000	£'000
Employees	46
Premises	5
Transportation	1
Supplies and Service	
Recharge Expenditure	27
<b>Total Expenditure</b>	<b>79</b>
Income from Licensing	(74)
<b>Net Expenditure</b>	<b>5</b>
<b>Licensing Net Expenditure</b>	<b>192</b>

## Licensing and Public Protection Committee - Quarter 2 2021/22

## Expenditure on Grant Funded Activities

## England Illegal Money Lenders Team

CBP620 - Corporate Monitoring Report - Revenue	2021/22 Quarter 2			
	Current Budget	Budget Profile at Quarter 2	Actual Quarter 2	Variance
	£'000	£'000	£'000	£'000
Employees	3,549	1,774	1,635	(139)
Premises	74	37	8	(29)
Transportation	77	38	24	(14)
Supplies and Service	431	194	179	(15)
Capital Financing	58	30	30	0
Recharge Expenditure	90	40	122	82
<b>Total Expenditure</b>	<b>4,279</b>	<b>2,113</b>	<b>1,998</b>	<b>(115)</b>
Grant Income	(4,254)	(2,126)	(2,162)	(36)
Capital Funding, levies, interest	(58)	(29)	(25)	4
Appropriations to/from Reserves	0	0	0	0
<b>Net Expenditure</b>	<b>(33)</b>	<b>(42)</b>	<b>(189)</b>	<b>(147)</b>

## Regional Intelligence Team

CBP620 - Corporate Monitoring Report - Revenue	2021/22 Quarter 2			
	Current Budget	Budget Profile at Quarter 2	Actual Quarter 2	Variance
	£'000	£'000	£'000	£'000
Employees	230	115	117	2
Premises	2	1	1	0
Transportation	2	1	0	(1)
Supplies and Service	71	37	43	6
Capital Financing				0
Recharge Expenditure	20	10	6	(4)
<b>Total Expenditure</b>	<b>325</b>	<b>164</b>	<b>167</b>	<b>3</b>
Grant Income	(327)	(164)	(86)	78
Capital Funding, levies, interest	0	0	0	0
Appropriations to/from Reserves	0	0	0	0
<b>Net Expenditure</b>	<b>(2)</b>	<b>0</b>	<b>81</b>	<b>81</b>

## Proceeds of Crime Act

CBP620 - Corporate Monitoring Report - Revenue	2021/22 Quarter 2			
	Current Budget	Budget Profile at Quarter 2	Actual Quarter 2	Variance
	£'000	£'000	£'000	£'000
Expenditure	4	2	199	197
Income	(4)	(2)	(165)	(163)
Appropriations to/from Reserves	0	0	0	0
<b>Net Expenditure</b>	<b>0</b>	<b>0</b>	<b>34</b>	<b>34</b>
<b>Grants Net Expenditure</b>	<b>(35)</b>	<b>(42)</b>	<b>(74)</b>	<b>(32)</b>

## Licensing and Public Protection Committee - Quarter 2 2021/22

	Balance at 01Apr2021	Forecast Use of Reserves in 2021/22	Forecast Contribution to Reserves in 2021/22	Forecast Balance at 31Mar2022
	£'000	£'000	£'000	£'000
<b><u>Ring-Fenced Licensing Reserves</u></b>				
Hackney Carriage and Private Hire *	863	0	(290)	573
Entertainment and General *	169	0	(60)	109
<b><u>Ring-Fenced Grant Reserves</u></b>				
England Illegal Money Lending Team	(348)	0	0	(348)
Regional Intelligence Team	(43)	43	0	0
<b><u>Ring-Fenced Proceeds of Crime Act</u></b>				
Trading Standards (Birmingham)	(493)	0	0	(493)
Regional Intelligence Team (Midlands)	(1)	0	0	(1)
Illegal Money Lending (England)	(581)	0	0	(581)
<b>Total</b>	<b>(434)</b>	<b>43</b>	<b>(350)</b>	<b>(741)</b>
		Forecast Net appropriations in 2021/22	<b>(307)</b>	

\* Hackney Carriage / Private Hire - 1/3 debit balance to be included in the licence fee calculations

**BIRMINGHAM CITY COUNCIL**

**REPORT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**10 NOVEMBER 2021**  
**ALL WARDS**

**COMMUNITY SAFETY TEAM BEGGING AT TRAFFIC LIGHTS REPORT**

1. Summary

1.1 The purpose of this report is to provide the Committee with information related to begging within Birmingham and the Community Safety Team and partnership approach.

1.2 Birmingham Community Safety Partnership Team (CSPT) covers a range of statutory functions, held within the Crime & Disorder Act 1998, ASB Act 2014 and Modern Slavery Act 2015 these include distribution and enforcement activities.

2. Recommendation

2.1 That the content of the report be noted.

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E-mail: [pamela.a.powis@birmingham.gov.uk](mailto:pamela.a.powis@birmingham.gov.uk)

### 3.0 Background

- 3.1 The 2020 autumn count in England recorded 2,688 people sleeping rough, representing a fall of 37% on 2019 but 52% higher than the number recorded in 2010. The 2020 count coincided with a national lockdown in response to the Covid-19 pandemic, which is likely to have impacted the numbers recorded.
- 3.2 In Birmingham, rough sleeping, as measured on a single night, has more than halved with 17 people recorded as sleeping rough in the 2020 count, compared to 52 in the previous year 2019 and 91 in 2018, a 67% reduction from the previous year. A July 2021 snapshot recorded 26 rough sleeping; but with around 126 known to be begging across Birmingham, of whom 17 were on the rough sleeping list.
- 3.3 Birmingham City Council commissioned outreach service Trident Reach has engaged with 151 individuals, 43 of whom have been engaged while begging at traffic lights. This does not include general interaction made. In July 2021, a single morning sweep of the inner ring-road identified 38 individuals begging at roadsides. This often includes debris and tents and attracting other nuisances including litter and public urination.
- 3.4 The last 18 months, including lockdown periods, had an effect upon the street community moving people out of the city centre and onto roadsides, shopping areas and high streets around Birmingham. This partly reflected the reduction in footfall in the city centre, as well as the greater presence of police, Community Safety Officers, BID staff and other agencies. Several individuals are now on exclusion orders and as a result excluded from the city centre. Overall, there has been some displacement.
- 3.5 Birmingham City Council Community Safety Team officers have completed 2,567 recorded interactions with the street community in the last 12 months: 234 of which have escalated into some form of enforcement action and 172 of which have been referred to support services, 17 of which were engaged in begging at traffic lights.
- 3.6 In the year 2020/21 Streetlink received 1,115 referrals 100% have been followed up. So far within 2021/22 there have been 316 referrals received: April–June 2021 splits out rough sleeping from begging, in summary from the rough sleeper partnership 85 related to people sleeping rough; 62 to people begging, but not sleeping rough.
- 3.7 There is a commitment to ensure that services commissioned to help people who are sleeping rough, maintain a focus on helping homeless people. The identification of and any assistance given to people who are begging but not sleeping rough, is as a result of the initial need to understand a person's circumstances and a view that street begging can be both a route into rough sleeping and a mechanism to trap in a cycle of rough sleeping.
- 3.8 The above information is a snapshot of begging across Birmingham, while noting that the intelligence and resources available for the city centre are greater than for other areas. The Acting Head of Housing Solutions and Support (formerly Strategic lead for Rough Sleepers), is working with the Department for Levelling Up, Housing and Communities and the lead for Community Safety and have now secured funding to increase capacity within Community Safety, introducing 2 new

Intervention Officers that will work outside the city centre. Their role will be to mirror the approach found in the city centre, ensuring that anyone begging is identified, offered support and, if required, enforcement steps are taken. West Midlands Police have acknowledged that they do not have the resources to consistently police begging outside of the city centre, the challenge being made greater by the multiple neighbourhood teams covering the areas in question.

3.9 The issues surrounding begging at traffic lights is difficult to enforce, in most cases as soon as officers are seen approaching traffic lights individuals leave the area. That being said, working in partnership, we have been able to identify certain individuals. In a number of cases this involves tracing their address and issuing warnings after the event.

#### 4. Partnership Working

4.1 Since October 2020 a Street Tasking Partnership Group (STPG) has been in place which meets fortnightly. Partners include West Midlands Police, Trident Reach, BCC Rough Sleeper lead and BCC Community Safety Team, who also facilitate.

4.2 The objective of the partnership is to work together to provide a tiered approach to each individual causing anti-social behaviour (ASB) related to begging:

- Engagement: is the individual fully engaged and working with services.
- Non engagement: individual refusing to engage and causing ASB is referred into the partnership tasking group for support.
- Contact: the individual is contacted by West Midlands Police and/or BCC Community Safety Officer and warned of consequences if ASB continues.
- ASB Continues: A Community Protection Warning (CPW) is issued and is monitored. A Community Protection Notice (CPN) is issued if there is a breach. Breach of a CPN can result in a fine and if not paid possible criminal action.
- ASB Continues: An injunction is issued. Breach of an injunction is a criminal offense and can result in the individual being imprisoned and banned from a location on release.

4.3 To date there have been 130 cases escalated to the STPG for enforcement action. Currently there have been 42 Community Protection Warnings (CPW) issued, 18 Community Protection Notices (CPN) and we have assisted West Midlands Police with 3 Injunctions/Criminal Behaviour Orders.

4.4 There are currently 61 active cases within the STPG street beggars of which 44 are known to have accommodation but are not necessarily maintaining it. There is a split between the type of accommodation they are living in - Housing First accommodation, council rented properties and hostel accommodation. The remaining 17 have all been offered accommodation on multiple occasions but have refused and are currently listed as having no fixed abode. It's worth noting that this figure can change on a daily basis as people either accept accommodation or fail to maintain it.

4.5 Partnership activities:

- Partners have been working together to deliver partnership activity at different locations throughout the city when locations have been identified with increased ASB. Trident Reach have been leading on this process and it has been focused on engagement.
  - To support the re-launch of Change into Action on 3 September 2021, a partnership activity day was arranged with a focus on begging at traffic lights. In attendance was West Midlands Police, BCC Regulation and Enforcement, BCC Community Safety Officers, Trident Reach and DWP. Ten locations were visited, and 19 individuals engaged (a number moved away from locations when officers were seen) 15 agreed to engaged with services.
  - Regular activity days are now being planned; further locations will be city-wide.
- 4.6 Modern Slavery and exploitation risks related to begging of any type is constantly monitored. We work in partnership with WM Anti-Slavery Unit, WM Police, Adult Social Care, Birmingham Children’s Trust through EmpowerU and work with the Regional Organised Crime Unit (ROCU) as well as the Birmingham Police Serious Organised Crime Unit. Within the CSPT we have a Modern Slavery Coordinator who coordinates the partnership working. Victims’ pathways are in place and anyone identified as a victim of modern slavery is referred into the National Referral Mechanism (NRM) The NRM is a framework for identifying and referring potential victims of modern slavery and ensuring they receive the appropriate support

## **5. Powers Available**

- 5.1 Begging is a criminal offence under section 3 of the Vagrancy Act 1824 (as amended). The maximum sentence is a fine at level 3 on the standard scale (currently £1,000). Nationally in 2019, there were 926 prosecutions and 742 convictions for begging. There has been a decline in the number of prosecutions in each year since the recent peak of 2,219 prosecutions and 1,727 convictions in 2014. Most convictions for these offences result in a fine or a conditional discharge, however offenders are sometimes sentenced to custody. There have been widespread calls to repeal the legislation. A Private Members’ Bill sponsored by Layla Moran - the Vagrancy (Repeal) Bill 2019-21 - would repeal the 1824 Act. The Bill received its First Reading in the House of Commons on 18 March 2020, a date has not yet been set for Second Reading.
- 5.2 Section 137 of the Highways Act 1980 states that “if a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence”. The penalty for this offence is a fine and not imprisonment. The person responsible can receive a £100 Fixed Penalty Notice and be fined up to £1,000 if prosecuted.
- 5.3 Using threatening or abusive words or behaviour is an offence under section 5 of the Public Order Act 1986, which also carries a level 3 fine.

5.4 Birmingham City Council (in the main the Community Safety Team) and West Midlands Police have a range of powers under the Anti-Social Behaviour, Crime and Policing Act 2014 to tackle anti-social behaviour:

- **Civil Injunction:** An Injunction to Prevent Nuisance and Annoyance (IPNA) to tackle people repetitively engaging in low level anti-social behaviour. An IPNA can both prohibit an individual from engaging in certain behaviour and/or impose requirements to engage in a particular activity to address the underlying causes of their anti-social behaviour. For example, an IPNA can require someone to attend alcohol awareness classes for an alcohol-related incident. Breach of an injunction is treated as civil contempt of court and is not a criminal offence. The maximum penalty for breach of an injunction is two years in prison and/or an unlimited fine.
- **Criminal Behaviour Order (CBO):** This can be issued by any criminal court when a person is convicted of a criminal offence, alongside any sentence or conditional discharge. The prosecution can apply to the court for a CBO to be issued. The anti-social behaviour which the offender has been involved in need not be part of the offence for which they were convicted.
- **Community Protection Notice (CPN):** This can be issued if the behaviour of an individual or organisation: detrimental to the quality of life of local community; unreasonable; and persistent. A CPN can direct a person or organisation to stop a behaviour or require them to take specific action to prevent the problem from reoccurring. Before issuing a CPN, a written warning to the person committing the unreasonable behaviour must be issued this is a Community Protection Warning (CPW). The warning must explain that should the behaviour continue, a CPN will be issued. Failing to comply with a CPN is a criminal offence which may result in the issue of a Fixed Penalty Notice.
- **Public Spaces Protection Order (PSPO):** This can be used to place restrictions or impose conditions on activities that people may carry out in a designated area. PSPOs are designed to deal with issues identified in problem areas which have a detrimental impact on the quality of life in a community. It is a criminal offence for a person to breach the terms of a PSPO for which an enforcement officer (police constable, police community support officer or council officer.) may issue a Fixed Penalty Notice. In Birmingham we issue a warning on any first breach.

*Home Office guidance on the use of ASB powers makes clear therefore that powers should be used as appropriate and proportionately to ensure that orders do not disproportionately target vulnerable groups such as rough sleepers. The guidance followed feedback from charities and other groups who raised concerns that the orders were being used to disproportionately target certain groups in some areas rather than focusing on behaviour that is genuinely anti-social and causing others distress or alarm. The guidance helps local authorities and frontline workers to focus*

*on specific and actual problems rather than blanket bans of behaviour which are not in themselves anti-social – such as rough sleeping.*

- **Dispersal Powers:** Section 35 of the ASB Act 2014 allows a police officer to disperse individuals or groups causing or likely to cause anti-social behaviour in public places or common areas of private land (such as shopping centres or parks), directing them to leave a specified area and not return for up to 48 hours. It is a criminal offence for someone to fail to comply with a direction made under section 35 for which the maximum penalty is a level 4 fine (currently £2,500) or three months' imprisonment

5.5 Some of the powers referred to above under the Anti-Social Behaviour, Crime and Policing Act 2014 are powers that must be introduced, for example a PSPO.

5.6 The guidance (last updated January 2021) emphasises “the importance of ensuring that the powers are used appropriately to provide a proportionate response to the specific behaviour that is causing harm or nuisance without impacting adversely on behaviour that is neither unlawful nor anti-social”. We must also consult with the police and relevant community representatives before making a PSPO and publish the draft order in the form of a public consultation before it is made. There must clear evidence that supports the introduction.

## **6. Conclusion**

6.1 Within the Community Safety Partnership Team (CSPT) we have seen an increased in reports of ASB/aggressive begging. Within the first two quarters of 2021/22 (April–October 2021), we have engaged with 1,105 individuals who have been causing ASB related begging. In the same period last year 2020, the number of contacts were 872.

6.2 Reports received into the CSPT and to West Midlands Police show that locations for ASB/aggressive begging are changing and we are seeing an increase of reports related to begging at traffic lights, supermarkets and pay and display car parks. Not all these reports are related to ASB incidents and referrals are made to Streetlink to ensure support services are the first contact. We are also receiving increased reports in locations outside the city centre. Between June and July 2021 outreach services reported that they had received 60 referrals that were city centre-based and 22 referrals from north Birmingham (Erdington / Sutton Coldfield area).

6.3 Support services are commissioned with a focus upon, and targets to achieve, around homeless people bedded down as rough sleepers, and not with a focus upon those who beg.

6.4 The approach to resolving these issues must be partnership lead. Currently the CSPT and West Midlands Police are using powers under the ASB Act 2014 in the form of

Community Protection Warnings/Notices and Injunctions, this is resource intensive as each individual needs to be case managed. Currently this work takes place within the fortnightly Partnership Street Tasking Meeting, which is an informal agreement and relays on partnership commitment, and this can be challenged if a organisations priorities change. If we want to resolve a location issue, the powers available to CSPT is a Public Space Protection Order.

6.5 Although West Midlands Police have the powers to stop begging under the Vagrancy Act 1824, this is an antiquated piece of legislation. A Bill to repeal the Vagrancy Act 1824 is currently within the House of Commons and has had its Second Reading, as local government officers we need to be lobbying central Government to amend, update and bring in legislation that is more appropriate for modern times. West Midlands Police do recognise that begging at traffic lights is increasing, however it is not a force priority, but they are committed to support partnership working.

## **7. Public Sector Equality Duty**

7.1 No further equality issues have been identified, as all enforcement activities are carried in accordance with the adopted enforcement policy, which was the subject of an equalities impact assessment.



**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE INTERIM ASSISTANT DIRECTOR OF  
REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**10 NOVEMBER 2021**  
**ALL WARDS**

**UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS**

1. Summary

- 1.1 This report provides Committee with an update on work being undertaken to further manage unauthorised encampments in the city since the last report on the 12<sup>th</sup> February 2021.

2. Recommendations

- 2.1. That the report is noted.

Contact Officer: Mark Croxford, Head of Environmental Health  
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### 3. Background

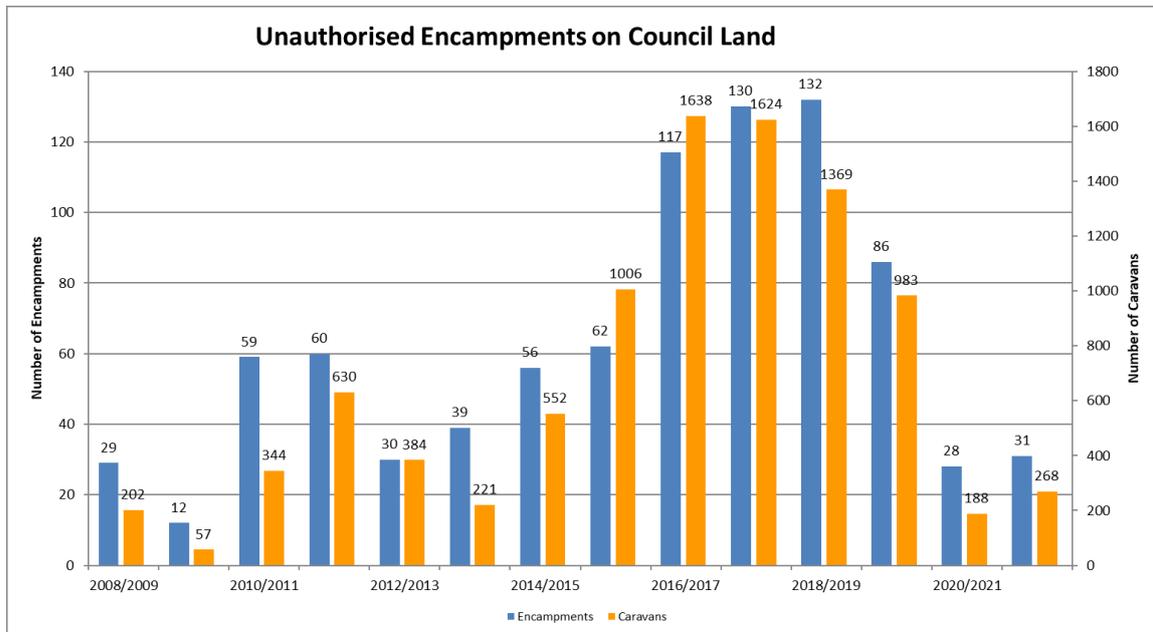
- 3.1 This report is an update on activities since the last report to your Committee on 12<sup>th</sup> February 2021.
- 3.2 An unauthorised encampment is one which is established on land without the express permission of the landowner. The groups responsible generally comprise elements of Gypsy, Romany, Traveller or other ethnic groupings and are collectively known colloquially as “travellers” or more correctly GRT.
- 3.3 The strategy employed by the City Council to manage unauthorised encampments is contained within a Memorandum of Understanding between the City Council and West Midlands Police (WMP) and is entitled a ‘Joint Protocol on the Management of Unauthorised Encampments’ and is currently at edition 9 dated March 2020. This edition incorporates the presence of the transit sites.

### 4. Transit Sites

- 4.1. As previously reported, colleagues in Housing and the Inclusive Growth Directorate have applied for capital funding to develop the two transit sites identified in the Birmingham Development Plan (BDP). Currently £50k has been approved from the Homes England Grant and a further capital expenditure of £290k has been identified for 2019/20 and 2020/21.
- 4.2. Proctor Street transit site has been operational since 1<sup>st</sup> November 2020 and has seen almost constant use. Prior to the advent of the pandemic that use was normalised with a small number of families occupying the site and adhering to the conditions of occupancy.
- 4.3. During the pandemic the instruction from Government was to tolerate encampments and avoid moving groups to comply with lockdown provisions. The cycle of lockdown and easing of restrictions allowed groups to travel in-between and resulted in difficulties in managing the transit site. Groups would be effectively become stuck on the transit site when restrictions were brought in. Unfortunately with the Council having no provision to move them on, this resulted in the groups not paying fees and effectively becoming unauthorised encampments on the transit site.
- 4.4. During this time, the site has suffered some damage to the toilet block and drainage system necessitating full closure in order to effect repairs. The Environmental Health service has had to recover the site on three instances, whether by resorting to bailiffs or court action and this has repeatedly delayed the repairs and is having a resultant impact in an increase in unauthorised encampments in the cities’ parks (see following section). Following each recovery the site has been increasingly secured with chains, padlocks and concrete obstructions but in each instance access has been forced, preventing the repairs.
- 4.5. The site at Aston Brook Street is presently vacant awaiting development.
- 4.6. Legal advice on Tameside Drive site has been requested but cannot be reported. as the matter remains with legal services.

## 5. Unauthorised Encampments

- 5.1. The number of incursions has dropped markedly since the opening of the transit site as evidenced by the following graph which shows the trend data for total encampments per year since 2008 with the data for 2021/2022 being up to the end of August 2021.



- 5.2. Although the number of encampments on Council land has dropped since the transit site opened in 2019 it should be borne in mind that this also covers the period encapsulated by the pandemic and as such the actual benefit arising from the transit site cannot be clearly realized as the circumstances have not been 'normal'.
- 5.3. It should also be noted that the issues arising from unauthorised occupancy of the transit site have been disproportionate in effort than compared to a typical encampment on other public land e.g. parks land. That is to say, the regulatory effort involved in repossessing the transit site and associated management of the site has been a greater burden on Environmental Health. This has however protected residents from antisocial behaviors associated with some unauthorised encampments.
- 5.4. Despite the uncertainties at 5.2 and the issues outlined at 5.3 the advent of the transit site remains a success as it has seen a reduction in encampments on the cities' parks and other public open space.

## 6. Strategic Management of Unauthorised Encampments

- 6.1. As noted in the background the strategic approach to managing unauthorised encampments is contained within a joint protocol between BCC and WMP. This protocol presently relies on the use by WMP or powers under the Criminal Justice and Public Order Act 1994 to direct groups to the transit site where their stay in the city can be 'managed'.

- 6.2. At present the transit site needs to be repossessed and repaired, following which the new normal service can commence. Given the issues we have experienced on the site from members of the travelling community there may be a need to review the joint protocol in conjunction with WMP. In conjunction with this Environmental Health are reviewing how we deal with unauthorised encampments on the transit site and in the wider city with a greater reliance on injunctions to ban identified individuals from establishing unauthorised encampments in Birmingham once an evidence base is obtained.
- 6.3. As well as the regulatory aspect, colleagues in Housing are leading on devising a mechanism for management of occupancy on the transit site, having regards to fee collection and the issuing of occupancy agreements. An invitation to tender (ITT) will be released in the near future to seek third party support in delivering this function.
- 6.4. Colleagues in Planning are working on delivering the outputs specified in the most recent Gypsy and Traveller Accommodation Assessment (GTAA) from February 2019 which sought to identify need for the community in terms of permanent and transit pitch provision.
- 6.5. The GTAA identified the need for 20 additional permanent pitches up to 2033 with the spread by year show in the table below.

Years	0-5	6-10	11-13	13-15	Total
	2018-2023	2023-2028	2028-2031	2031-2033	
	15	1	1	2	19

- 6.6. With regards to transit pitches the GTAA identified that the proposed provision of sites (Proctor Street, Aston Brook Street and Tameside Drive) “should be sufficient to either deal with smaller groups of Travellers stopping off in Birmingham or as a means of requiring households to leave Birmingham.” Furthermore the GTAA recommended that for larger groups that “the Council consider establishing a larger overspill transit site(s)” that can be used in a similar vein to the small sites for smaller groups.
- 6.7. The GTAA also recommended the use of injunctions against identifiable individuals who have been found to have caused problems in the past as a result of fly-tipping or other anti-social behaviour.
- 6.8. The GTAA is in the process of being refreshed.

## 7. Consultation

- 7.1. The report is for information and, therefore, no consultation has been undertaken.
- 7.2. Information continues to be made available to MPs and elected members to offer support in reducing the impact on communities that unauthorised encampments have and to reduce the burden on land owning departments.

## 8. Implications for Resources

- 8.1. Regulation and Enforcement is responsible for the assessments leading up to legal action, the service of notices and arrangement of resources for an eviction to occur. The default costs (bailiff actions), the repair of land and its cleansing, is borne by the land owning departments. The Environmental Health resources employed in carrying out the work detailed in this report are contained within the approved budget available to your Committee.
- 8.1. The resources required for developing and managing transit site operations moving forward is currently being explored with a preferred solution being to outsource this provision through a procurement exercise. City Housing and City Operations are working collectively to take this forward.

## 9. Implications for Policy Priorities

- 9.1. This work supports the Regulation and Enforcement Division's mission statement to provide 'locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors'.

## 10. Public Sector Equality Duty

- 10.1. The management of unauthorised encampments is a process that affects groups and individuals who are (mostly) from specific and defined ethnic minorities e.g. Romany Gypsies, Irish Travelers.

## **INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil



**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE INTERIM ASSISTANT DIRECTOR OF  
REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**10 NOVEMBER 2021**  
**ALL WARDS**

**REGULATION & ENFORCEMENT ACTIVITY REPORT**  
**JULY/AUGUST/SEPTEMBER (QUARTER 2) 2021**

1. Summary
  - 1.1 Birmingham City Council's Regulation and Enforcement Division covers a range of statutory functions including enforcement activities.
  - 1.2 The purpose of this report is to provide the Committee with information as to the scale and type of activities that have been ongoing in the current financial year. This period covers the months of July, August, September (Quarter 2) 2021.
  
2. Recommendation
  - 2.1 That the content of the report be noted.

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3.0 Background

3.1 The range of functions exercised by officers on behalf of the City Council are varied and occur across all parts of the city. The overview of activities in July, August, September (Quarter 2) 2021 is set out in the Appendix to this report.

4. Consultation

4.1 No public consultation has taken place, as this is an information report.

5. Implications for Resources

5.1 None

6. Implications for Policy Priorities

6.1 None

7. Public Sector Equality Duty

7.1 No further equality issues have been identified, as all enforcement activities are carried in accordance with the adopted enforcement policy, which was the subject of an equalities impact assessment.

**INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil

**REGULATION & ENFORCEMENT ACTIVITY REPORT**  
**JULY, AUGUST & SEPTEMBER (QUARTER 2) 2021**

**Introduction**

The way the Council enforces its regulatory activities under the terms of the relevant legislation has altered significantly since the Covid 19 pandemic. Changes have been made to comply with national guidance and the introduction of new legislation. This report provides a snapshot of enforcement activity for the services in Regulation and Enforcement since 1 July to 30 September 2021. While services are seeking to enter the recovery phase, many services are reliant on changes to Government legislation and guidance.

**Detailed Action**

The table below sets out the activities undertaken in Q2 (July to September 2021)

**Environmental Health and Trading Standards**

Activity	Env. Health				Trading Standards			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Prosecution agreed*	22				1	1		
Simple Cautions	0				0	1		
Statutory Notices served	77	111			1	0		
Coronavirus Enforcement	9	0			0	0		
Requests for Assistance Received	12,463	12,253			1,393	1,338		
Requests for Assistance closed	10,886	8,364			1,385	1,207		

**Environmental Health**

Work type	Q1		Q2		Q3	Q4	Year Total
	RFA Total	PI Target met	RFA Total	PI Target met	RFA Total	RFA Total	RFA Total
H&S Accidents	91	100%	113	100%			
Dogs	537	100%	581	99.5%			
Infectious Disease	187	98.4%	228	98.3%			
Pest Control	4811	89.2%	4,801	81.4%			
Request for Assistance	6837	79.5%	6,530	80.2%			
<b>Total</b>	<b>12,463</b>	<b>85.5%</b>	<b>12,253</b>	<b>82.1%</b>			

### *Analysis of Requests for Assistance (RFA)*

The analysis of the types of activity in Environmental Health is shown above.

The Environmental Health team also respond to consultation requests from Planning Management covering a wide range of large scale and major developments. The number of applications (QTY) and the percentage responded to in time (%) is shown in the following table. The number of major schemes are also shown (these are included in the QTY and % for the Planning Consultations).

Work Type	Q1		Q2		Q3		Q4	
	QTY	%	QTY	%	QTY	%	QTY	%
Planning Consultations	758	99%	849	89%				
Major Schemes	123		120					

### **Covid compliance**

Throughout this reporting period the Covid 19 legislation and guidance for businesses changed regularly as part of the stepped move out of Covid restrictions. The Service continued to undertake inspections and provide advice on Covid compliance to many businesses across the city. This work has continued to be funded through monies provided by the Director of Public Health (DPH) including the Covid Marshal team. The DPH is keen to keep some resilience in case of further variants of concern

The Environmental Health Covid Response Team (Enforcement, compliance, outbreaks and contact tracing) consists of temporary Enforcement Officers and Covid Marshals. These additional temporary staff continue to compliment the Environmental Health substantive Covid response team and management.

Enforcement activity did continue at some premises who were still prohibited from reopening. Included was an operation between officers from Environmental Health and West Midlands Police at a premises who breached the lockdown restriction on several occasions and where the final course of action was to seizure equipment to stop the business trading.

This team has been pivotal in the work around contact tracing undertaking visits to all people who had tested positive or self-isolating for which Public Health England (now UK Health Security Agency (UKHSA)) had not been able to contact at their isolating address to ensure compliance. In Q2 the team carried out 201 visits and of these just under 20% were found to be non-compliant and these cases have been referred to West Midlands Police for further intervention. Alongside this work 242 Covid outbreaks were reported to the team where investigations were undertaken to help control the spread of the virus.

Covid Marshals continue to provide a presence within the wards which have the highest number of Covid cases and in high activity shopping areas to support to the public and businesses in being Covid compliant by promoting social distancing, supplying face covering and advising businesses on other measures to ensure Covid security.

During this period other programmed regulatory activity within environmental health has been primarily limited to investigation of complaints, accidents and other potential causes of ill health as required by Government.

### **Environmental Protection**

The service continues to monitor air quality at eight real time air quality monitoring stations and around a hundred diffusion tube sites. Officers are working on bringing a further six real time air quality monitoring stations on-line to help monitor the Clean Air Zone (CAZ). Officers also continue to progress the CAZ Monitoring & Evaluation programme by compiling monthly factsheets on the response of the network to/and performance of the CAZ.

The Local Government Ombudsman (LGO) has reported on three cases during this period which involve allegations of Council failings when investigating noise and odour nuisances. In all three cases the LGO has found no fault with the way the Environmental Health service dealt with the investigations. One case involved a mini slaughterhouse in a residential area whilst another case related to a Council owned waste facility. These two cases were complex and involved extensive investigations.

Officers from the service have been monitoring remediation works at residential sites on Foremans Road, Sparkhill following a large fire in April at a set of nearby industrial units from which asbestos was released into nearby gardens. Officers served legal notice on owners of the land requiring the clean-up of the land and to the best of our understanding this has now been completed.

### **Food Hygiene**

The Food Standards Agency (FSA) confirmed that proactive food inspections will start in October. In the period July to September food authorities are required to plan for this, we have therefore been assessing unrated businesses and prioritising them for inspection. Officers were successful in securing a grant of approximately £43,000 to assist with this assessment and prioritisation.

Until the commencement of the food programme in October inspections of food businesses continue in accordance with guidance from the FSA. Inspections have been prioritised and include manufacturers and premises where a complaint has been made, in addition to appropriate follow up activities e.g. revisits. Officers are providing substantial support to businesses to enable them to continue trading safely at this time.

The food statistics for July to Sept 2021:

- |  |     |
|--|-----|
| • Programmed Inspections completed           | 193 |
| • Enforcement revisits undertaken            | 93  |
| • Ratings revisits requested and carried out | 20  |
| • Food business closures                     | 6   |
| • Statutory notices served                   | 69  |
| • Allergen stop requirements issued          | 86  |

New allergen rules were introduced, coming into force on 1<sup>st</sup> October 2021. These require the labelling of foods that are designated as pre-packed for direct sale such as grab and go foods, sandwiches etc with a name and full list of ingredients with allergens highlighted. Env. Health have undertaken training of officers, developed enforcement protocols and supported businesses in preparation for this new legislation.

### **Health and Safety**

The section has recommenced the health and safety inspection programme which will look at a number of different work activities across various sectors which we are responsible for regulating. This work will be in line with the national code set by the Health and Safety Executive and includes managing the risks from work at height, workplace transport and exposure to a range of breathable dusts and fumes which can cause ill health.

As more businesses are reopening after the Covid 19 restrictions we have seen an increase in formal incident reports between July and September with 113 health and safety accidents having been reported to Environmental Health and categorised in accordance with standard convention and investigated accordingly. Of the cases concluded during this period they include the prosecution of a butchers following the partial amputation of an employee's finger whilst using an unguarded bandsaw. The company was fined over £46,000 and the director given a 12-week suspended prison sentence. In another investigation a landlord was fined over £16,000 and their tenant over £26,000 for allowing a dangerous lift to be used. The lift was discovered during a routine inspection and found to have significant defects putting staff at risk of falling and being trapped by the lift. In both case the court also awarded the investigation costs to the Council

### **Animal Welfare**

Officers in the Animal Welfare Team continue to respond to a variety of complaints and enquires in relation to stray and lost dogs, dog fouling, microchipping and animal cruelty. The team is also responsible for animal related licensed premises, including Pet Stores, Animal Boarding Establishments, Dog Breeders, Riding Schools, Zoos and people who train and exhibit animals. This involves a wide range of activities involving verbal advice, visits and inspections.

The on-line sales of puppies and kittens remain a significant cause for concern. This can involve people breeding and selling animals without a licence or the illegal importation and subsequent sale of animals. In one such case officers investigated a report of an illegally imported Doberman puppy at a Birmingham address, the puppy had been moved to premises in Staffordshire, the matter was referred to the relevant local authority and the puppy was subsequently seized and taken to quarantine kennels. A further referral from Dover Port Authorities involved the importation of five pregnant bitches, two of which were destined for addresses in Birmingham. All dogs had been seized by the Port Authorities under the Animal Welfare Act in respect of poor transport conditions. Our officers investigated the addresses provided and found the information/addresses to be incorrect.

As a result of this the Port Authorities did not release the animals to the purported owners. Officers investigated a further complaint regarding the selling of kittens in poor conditions. The address provided to a major on-line animal sales website was again found to be false. The seller has been blocked from the site and officers continue to look at other information provided in order to identify the seller and the trading address.

From July to September 2021 activities included: -

- A response by the Dog Wardens to 329 complaints concerning stray and lost dogs, uncontrolled dogs, resulting in the seizure of 79 stray dogs. Two Notices were served on dog owners where it was discovered their dogs were not microchipped in accordance with regulation.
- Some 127 dog fouling complaints dealt with, involving visits, affixing appropriate signage, request for additional street cleansing and 13 pro-active surveillance exercises being undertaken in dog fouling hot spots.
- Investigating 102 animal cruelty complaints.
- Processing 12 animal-related licence applications, resulting in 3 licences being issued with the remainder ongoing.
- Emergency animal boarding, where the owner has been taken to hospital or detained for mental health reasons– 3 referrals all involving cats.
- Assisting colleagues in housing in relation to 16 evictions and forced entries.
- A total of 4 assessments being carried out in relation to the suitability or otherwise of dogs kept by persons looking to adopt or foster children.

### **Unauthorised Encampments**

The number of unauthorised encampments in the second quarter saw an increase from Q1 (19 in Q2 as opposed to 12 in Q1). The majority of these appear to be from a single group of around 16 caravans moving from park to park in the south of the city.

Another group have taken up occupation of housing land in Ward End and officers have prepared documentation for the Courts to repossess that site. This is complex as the group is mixed and one family have certain protected characteristics which complicate proceedings.

The final issue relates to the Proctor Street Transit Site which is under occupancy by a group who have been aggressive to both the Council officers and West Midlands Police. Officers have again prepared papers to progress this through the Courts whilst more strategic discussions are underway between the Council and the Force.

## Licensing

Activity in the Licensing Service has increased of late and the service is close to returning to 'business as usual', though lockdown restrictions do impact on this extensively. Activity in Licensing Sub Committees did increase following the opening of the hospitality sector.

140 matters have been finalised through the delegated process, which would have ordinarily come before the sub-committee, 29 of which were finalised in December /January.

During quarter two of 2021/22 five Summary / Expedited Review applications were submitted by West Midlands Police under section 53A of the Licensing Act 2003 as amended by the Violent Crime Reduction Act 2006 which related to the following premises:

- Casey Joes Public House & Restaurant, 1293 – 1295 Warwick Road, Olton, Birmingham, B27 6PU.
- Pavo Birmingham (Formerly Latin Pavo Bar and Restaurant), 88 – 90 Vittoria Street, Jewellery Quarter, Birmingham, B1 3PA
- Bambu, 1<sup>st</sup> Floor Kotwall House, Wrottesley Street, Birmingham, B5 4RT
- Simply Local, Unit 8 Norfolk House, 84 – 86 Smallbrook Queensway, Birmingham, B5 4EG.
- The Rocket Club, 258 Broad Street, Birmingham, B1 2HF

Activity	Licensing							
	HCPH*				General			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
<b>Prosecution agreed</b>								
<b>Simple Cautions</b>								
<b>Licence applications</b>	650	656			544	639		
<b>Licence sub-committees</b>	n/a	n/a			38	47		
<b>Of which were reviews:</b>	n/a	n/a						
<b>Interim steps</b>					0	7		
<b>Expedited</b>					0	2		
<b>Standard</b>					4	10		
<b>Licence renewals</b>	1384	1064			23	15		
<b>Requests for Actions Received</b>	477	479			110	102		
<b>Requests for Actions closed</b>	406	376			83	78		

## Analysis of RFAs

The breakdown of types of Requests for Assistance in Licensing is shown below.

	Q1		Q2		Q3		Q4	
	Received	Closed	Received	Closed	Received	Closed	Received	Closed
<b>Total</b>	<b>587</b>	<b>489</b>	<b>581</b>	<b>454</b>				
Hackney Carriage	68	59	63	54				
Private Hire	409	347	416	322				
Licensing Act 2003	96	76	100	70				
Gambling Act 2005	0	1	0	0				
Scrap Metal Dealers	10	3	2	6				
Sexual Entertainment Venues	0	0	0	0				
Massage & Special Treatments	0	1	0	0				
Charitable Street Collections	2	0	0	1				
Street Trading	1	1	0	1				
Skin Piercers	1	1	0	0				

## Scrap Metal Dealers

There are currently 63 licences issued in Birmingham under the Scrap Metal Dealers Act 2013. The breakdown of licences issued is as follows:

Type of Licence	Number of active licences
Scrap Metal Site Licences	30
Scrap Metal Collector Licences	33

There has been the following actions taken with regards to Scrap Metal Site licences:

Type of Enforcement	April 2021	May 2021	June 2021	July 2021	August 2021	September 2021
Complaints	1	0	0	0	0	0
Inspections	2	2	1	0	0	2

Nb. This section is included for completeness, but enforcement of scrap metal dealer licensing is the responsibility of the Cabinet.

## **Trading Standards**

Trading Standards received 1338 Requests for Assistance (RFA) in the first quarter. They are across a broad range of issues, including car sales, household repairs, product safety, scams, supply of illicit tobacco and alcohol as well as underage sales and consumer frauds. Some RFAs require direct intervention whilst others are logged for intel purposes. The table below shows just a selection of the 37 categories of jobs received.

	Q1	Q2	Q3	Q4	Year Total
<b>Work type</b>	<b>RFA</b>	<b>RFA</b>			
Consumer Fraud	209	186			
Age Restricted Sales	37	41			
Product Safety	50	56			
Counterfeit Goods	79	67			
Car Sales	108	81			
Advice and Assistance	435	399			

## **Proceeds of Crime**

- Our Financial Investigators continue with Proceeds of Crime investigations.
- Some payment has been received from a defendant convicted of fraudulently taking money from consumers for non-existent flight tickets. This money is being forwarded to the victims who were witnesses in the case.

## **Notable Convictions and Outcomes**

- On 28 July 2021 in Birmingham Crown Court Mohammed Asghar trading as Priory Square Phone Shop was sentenced to 18 months community order with 20 days Rehabilitation requirement and an Early evening curfew for 12 weeks. Mr Asghar had in possession for supply around 700 Apple brand accessories in his business. The items were found to be counterfeit contrary to the Trade Marks Act 1994. The court ordered forfeiture of the products. The proceeds of crime proceedings continue.

- On 4 August 2021 DC Mini Market's alcohol licence was revoked. The case was brought following an inspection on 12 March 2021 by TS with tobacco detection dogs. During the inspection 107 packets of illicit tobacco was found hidden behind a display unit. The tobacco found was both counterfeit products and products with no duty paid.

### **England Illegal Money Lending Team (IMLT)**

During quarter 2, the England Illegal Money Lending Team (IMLT) received 86 reports of illegal money lending leading to 28 new investigations and 62 new illegal money lenders being identified.

The team executed 11 warrants across Local Authorities within England, with 11 people arrested and 87 victims provided direct or indirect support from the team.

### **JULY**

- Operation Vantage, Liverpool – One arrested and Released Under Investigation (RUI).
- Operation Chart Hills, Southwark – Two arrested and RUI.

### **AUGUST**

- Op Calcium, Romford – One arrested and RUI.
- Op Redwing, Manchester – One arrested and RUI.
- Op Pentane, Salford – One arrested and a warning given.

### **SEPTEMBER**

- Operation Mallard, Preston – One arrested, and a warning given.
- Operation Pacific, Cumbria – One arrested, and a police caution was given.
- Operation Abalone, Croydon – Voulantry interview to be arranged.

The IMLT continued its investigation into fraudulent Covid business grants as part of Operation Sander. As a result, two further warrants were executed, which led to four arrests and all suspects being charged.

During September, Irene Murunge, aged 51, of Watford Way in Barnet, was found guilty of illegal money lending by a jury following a week-long trial at Harrow Crown Court. Jurors heard evidence from two victims during the trial and unanimously found Murunge guilty. She is due to be sentenced on 8<sup>th</sup> November 2021. (Greater London region)

During this quarter, the total amount of loan capital and interest due, written off at the point of IMLT intervention, was £882,848.70

## Registration Service

### Death Registrations

The service is processing death registrations in line with the Coronavirus Act and the direction of the General Register Office (GRO). In late March 2020 a new process for registering was enacted and the service implemented this and honed the processes to improve performance. The table below shows the level of death registration for April to September 2021 compared to the same period in 2020-21.

Deaths	2020/21	2021/22	% change
April 2021	2260	811	-64.12
May	982	812	-17.31
June	767	772	+0.67
July	800	826	+ 3.25
August	714	877	+22.83
September	804	979	+21.77
Year to date	<b>6327</b>	<b>5077</b>	<b>-19.76</b>

### Birth Registrations

The Government reintroduced the registration of births in June 2020, with an optional alternative procedure, both procedures require face to face meetings. For operational reasons the service followed the standard process and was fully operational from mid-June. As at 27 September 2021 there were 2763 outstanding birth registrations, of which 518 were over the statutory 42 days registration period- this is a continued reduction on previous months. The table below shows the level of birth registrations for April 2021 through to September 2021 compared to the same period in 2020-21.

Birth Registrations	2020/21	2021/22
April 2021	5	1959
May	16	1650
June	543	1832
July	2820	1402
August	2048	1405
September	2375	1732
Running Total	<b>7807</b>	<b>9980</b>

### Ceremonies

Following the first national lockdown in 2020, the Government announced ceremonies could recommence in Covid 19 secure venues from July 2020. In line with national guidance the Register Office implemented measures to recommence ceremonies from 4 July 2020. Registrar General Licence Marriages were permitted to take place during the lockdown. During April – May 2021 citizenship ceremonies continued to be delivered by a combination of socially distance ceremonies and virtual ceremonies. The Service resumed the holding a citizenship ceremonies at the Register Office from

June 2021. The tables below show the level of ceremonies and notices from April 2021 to September 2021 compared to the same period in 2020-21.

<b>Ceremonies</b>	<b>2020/21</b>	<b>2021/22</b>
April 2021	0	103
May	0	131
June	3	172
July	52	210
August	71	193
September	425	373
<b>Running Total</b>	<b>551</b>	<b>1182</b>

<b>Notice of Marriage and Civil Partnership</b>	<b>2020/21</b>	<b>2021/22</b>
April 2021	0	644
May	2	603
June	141	684
July	405	700
August	368	585
September	373	425
<b>Running Total</b>	<b>1289</b>	<b>3641</b>

<b>Citizenship Ceremonies</b>	<b>2020/21</b>	<b>2021/22</b>
April 2021	0	397
May	0	387
June	0	531
July	156	424
August	246	434
September	170	267
<b>Running Total</b>	<b>562</b>	<b>2440</b>

10 November 2021

**Paul Lankester**  
**Interim Assistant Director Regulation and Enforcement**



## BIRMINGHAM CITY COUNCIL

### REPORT OF THE INTERIM ASSISTANT DIRECTOR REGULATION AND ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE

10 NOVEMBER 2021  
ALL WARDS

#### PROSECUTIONS AND CAUTIONS – JULY AND AUGUST 2021

1. Summary
  - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the months of July and August 2021.
2. Recommendation
  - 2.1 That the report be noted.

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City Operations Directorate  
Telephone: 0121 675 2495  
E-Mail: **Paul.Lankester@birmingham.gov.uk**

### 3. Results

3.1 During the months of July and August 2021, the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- 29 Environmental Health cases were finalised resulting in fines of £865,459 and a suspended prison sentence. Prosecution costs of £149,664 were awarded. Two simple cautions were administered as set out in Appendix 1.
- Two Licensing cases were finalised resulting in fines of £410 together with 6 penalty points. Prosecution costs of £2,035 were awarded. No simple cautions were administered as set out in Appendix 2.
- No Trading Standards cases were finalised in August 2021. One simple caution was administered as set out in Appendix 3.
- Four Waste Enforcement cases were finalised resulting in fines of £2,917. Prosecution costs of £1,660 were awarded. No simple cautions were administered as set out in Appendix 4.
- Appendix 5 lists cases finalised by district in July and August 2021 and April 2021 to August 2021.
- Appendix 6 lists the enforcement activity undertaken by the Waste Enforcement Team from April 2021 to August 2021.
- Appendix 7 lists Penalty Charge Notices issued by Parking Enforcement specifically for individuals parking on Taxi Ranks across the City from April 2021 to August 2021. Please note this does not include other parking tickets issued anywhere else in the City.

### 4. Consultation

4.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and business in terms of the regulation duties of the Council. Any enforcement action[s] taken as a result of the contents of this report are subject to that Enforcement Policy.

### 5. Implications for Resources

5.1 Costs incurred in investigating and preparing prosecutions, including officers' time, the professional fees of expert witnesses etc. are recorded as prosecution costs. Arrangements have been made with the Magistrates Court for any costs awarded to be reimbursed to the City Council. Monies paid in respect of fines are paid to the Treasury.

5.2 For the year April 2021 to August 2021 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)

£320,658 has been requested with £297,821 being awarded (93%)

Licensing

£3,742 has been requested with £2,535 being awarded (68%)

Trading Standards

£24,592 has been requested with £6,534 being awarded (26%)

5.3 For the months of July and August 2021 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)

£154,659 has been requested with £151,324 being awarded (98%)

Licensing

£2,874 has been requested with £2,035 being awarded (71%)

Trading Standards

No costs have been requested.

5.4 The following income has been received so far from the courts in 2021/22.

Licensing

£1,280 has been received.

Environmental Health

£33,292 has been received including Waste Enforcement cases.

Trading Standards

£2,270 has been received.

(Total £36,841).

5.5 This will not directly correlate to the values awarded in the same time period as individual cases are often cleared in instalments with the associated fines and court costs taking precedence over the settling of BCC legal costs. Therefore, income received may relate to cases from the previous financial year or earlier.

6. Implications for Policy Priorities

6.1 The contents of this report contribute to the priority action of ensuring business compliance with legislation to protect the economic interests of consumers and businesses as contained in the Council Business Plan 2015+.

7. Public Sector Equality Duty

7.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Licensing and Public Protection Committee which ensures that equality issues have been addressed.

**DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil

**ENVIRONMENTAL HEALTH CASES**

**FOOD HYGEINE OFFENCES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
1	19/8/21	Zurbiyan Restaurant Ltd 392 Coventry Road Small Heath Birmingham B10 0UF	Food Safety and Hygiene (England) Regulations 2013.  Found guilty in their absence of four offences relating to conditions found at Zurbiyan Restaurant Ltd, 392 Coventry Road, Small Heath, Birmingham. Adequate procedures were not in place to control pests as mouse droppings were found throughout the premises. The premises were not kept clean, there was dirt and grease on gas pipework and plugs beneath the cooking equipment. There was raw meat splattered on the floor and on crates in the walk-in chiller. There was evidence of food debris within the double silver fridge in the kitchen as well as cracked plastic containers storing food. Washbasins used for cleaning hands were not provided with hot and cold running water. There were no procedures based on HACCP.	£20,000  £1,707 (£1,707 requested)	Bordesley Green	Bordesley Green

## HEALTH & SAFETY OFFENCES

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
2	20/7/21 at Birmingham Crown Court	Vue Entertainment Ltd 10 Chiswick Park 566 Chiswick High Road London W4 5XS	Health & Safety at Work etc. Act 1974  Pleaded guilty to two offences: one of failing to ensure the health and safety of persons not employed by the company in connection with the installation, maintenance and use of powered cinema seating at Vue Cinema, Star City, Watson Road, Birmingham and one of failing to make a suitable and sufficient risk assessment of the risks to health and safety in connection with the use of the powered seating	£750,000 – 1 <sup>st</sup> offence  No separate penalty – 2 <sup>nd</sup> offence  £130,000 costs (£130,000 requested)	Out of area	Nechells
3	2/8/21	Younis and Sons Limited 50 Edgbaston Street 102 Indoor Market Birmingham B5 4RQ  Nadeem Hussain Birmingham	Health and Safety at Work etc. Act 1974.  The Company and Director each pleaded guilty to one offence of failing to ensure the health, safety and welfare of all employees at Younis and Sons, 102 Indoor Market, Birmingham by failing to maintain a Medoc BG220 band saw in efficient working order and in good repair, to prevent access to the moving saw blade; and to ensure that an (un-named and unmarked) band saw was provided with a suitable adjustable guard so as to prevent access to the dangerous moving saw blade.	Company - £46,800  £3,776 costs  Director – 12 week prison sentence (suspended for 12 months)  £3,775 costs  (£7,551 requested)	Bordesley & Highgate	Bordesley & Highgate

4	6/8/21	365 Services Ltd 18-22 Stoney Lane Yardley Birmingham B25 8YP  Blue Tyres Birmingham Ltd Unit 13, 201 Coventry Road Small Heath Birmingham B10 0RA	Health & Safety at Work etc Act 1974  365 Services Ltd, being the landlord and person in control of the premises and plant at Unit 13, 201 Coventry Road, Birmingham, pleaded guilty to one offence of failing to ensure, so far as was reasonably practicable, safety and absence of risks to health arising from the platform lift which served the ground to first floor of the premises and Blue Tyres pleaded guilty to one offence of being the person in control of the premises and failing to ensure the safety of, or the absence of risk to health of employees, in connection with the use and handling of articles and substances on the platform lift.	365 Services - £16,666  £4,000 costs (£4,774 requested)  Blue Tyres - £26,667  £3,751 costs (£3,751 requested)	Yardley East	Bordesley Green
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#### LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
13/7/21	13	£2,860	£1,105	£2,275
10/8/21	6	£1,146	£950	£1,050
24/8/21	6	£1,320	£600	£1,050

	Date Case Heard	Name	Fine/Penalty & Costs	Ward of defendant
5	13/7/21	Roma Bailey Leicester  Proved in absence	£220  £85 costs (£175 requested)	Out of area
6	13/7/21	Anthony Burke Widnes  Proved in absence	£220  £85 costs (£175 requested)	Out of area

7	13/7/21	Robert David Shrewsbury  Proved in absence	£220  £85 costs (£175 requested)	Out of area
8	13/7/21	Gjika Eduart Solihull  Proved in absence	£220  £85 costs (£175 requested)	Out of area
9	13/7/21	Sarah Harris Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Yardley East
10	13/7/21	Michael Jones Southend-on-Sea  Proved in absence	£220  £85 costs (£175 requested)	Out of area
11	13/7/21	Carmen Moreno Market Rasen  Proved in absence	£220  £85 costs (£175 requested)	Out of area
12	13/7/21	Sian Radcliffe Market Rasen  Proved in absence	£220  £85 costs (£175 requested)	Out of area
13	13/7/21	Shane Rolinds Redditch  Proved in absence	£220  £85 costs (£175 requested)	Out of area

14	13/7/21	Salah Turki Solihull  Proved in absence	£220  £85 costs (£175 requested)	Out of area
15	13/7/21	Cristina Elisabeta Vasile Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Ladywood
16	13/7/21	Irena Wiczerzynska Birmingham  Proved in absence	£220  £85 costs (£175 requested)	Edgbaston
17	13/7/21	Andrew James Williams Shrewsbury  Proved in absence	£220  £85 costs (£175 requested)	Out of area
18	10/8/21	Dean Banks Runcorn  Proved in absence	£220  £175 costs (£175 requested)	Out of area
19	10/8/21	Elisa Chinta Worcester  Guilty plea	£46  £75 costs (£175 costs)	Out of area
20	10/8/21	Thomas Keenan Bilston  Proved in absence	£220  £175 costs (£175 requested)	Out of area

21	10/8/21	Robert MacArthur Nottingham  Proved in absence	£220  £175 costs (£175 requested)	Out of area
22	10/8/21	Seleman Munyamdekwe Coventry  Proved in absence	£220  £175 costs (£175 requested)	Out of area
23	10/8/21	Viorel Nitu Newcastle Upon Tyne  Proved in absence	£220  £175 costs (£175 requested)	Out of area
24	24/8/21	Liberty Bodycot Leicester  Proved in absence	£220  £100 costs (£175 requested)	Out of area
25	24/8/21	John Paul Jones Liverpool  Proved in absence	£220  £100 costs (£175 requested)	Out of area
26	24/8/21	Peter Jones Wrexham  Proved in absence	£220  £100 costs (£175 requested)	Out of area
27	24/8/21	Edward Stanton Birmingham  Proved in absence	£220  £100 costs (£175 requested)	Sparkbrook & Balsall Heath East
28	24/8/21	Xudong Sun Birmingham  Proved in absence	£220  £100 costs (£175 requested)	Bordesley & Highgate

29	24/8/21	Thomas Uppard Westcliffe on Sea  Proved in absence	£220  £100 costs (£175 requested)	Out of area
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### **ENVIRONMENTAL HEALTH SIMPLE CAUTIONS**

Two simple cautions were administered during July and August 2021.

#### **Food Safety Act 1990 Section 10(2)**

One caution was issued for failing to comply with an Improvement Notice

#### **Food Safety and Hygiene (England) Regulations 2013**

One caution was issued for failing to comply with Food Hygiene Regulations

**LICENSING CASES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
30	19/7/21	Muhammed Shazad West Bromwich	Town Police Clauses Act 1847 and Road Traffic Act 1988  Pleaded <u>not guilty</u> to two offences; one offence of plying for hire on Ladywell walk, Birmingham and one offence of consequently invalidating his insurance.  Case found proved following trial. Notice of appeal against conviction and sentence has been received	£200 – plying  No separate penalty – no insurance  + 6 penalty points  £1,000 costs (£1,839 requested)	Out of area	Bordesley & Highgate
31	19/8/21	Robert Shufflebottom Dudley	Local Government (Miscellaneous Provisions) Act 1982  Pleaded guilty to one offence of engaging in street trading in a consent street, namely High Street, Birmingham, without being authorised to do so.	£210  £1,035 costs (£1,035 requested)	Out of area	Ladywood

**LICENSING SIMPLE CAUTIONS**

No simple cautions were administered during July and August 2021.

**TRADING STANDARDS CASES**

No cases were finalised in July or August 2021

**TRADING STANDARDS SIMPLE CAUTIONS**

One simple caution was administered during July and August 2021.

**Tobacco and Related Products Regulations 2016**

One caution was issued for having packets of chewing tobacco for supply which failed to contain the required health warnings on the packaging

**WASTE ENFORCEMENT CASES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
32	8/7/21	Mohammed Safian Smethwick	Environmental Protection Act 1990  Pleaded guilty to one offence of causing controlled waste, namely a bed base, black table and drawers, to be deposited from a motor vehicle on Winson Street, Birmingham.	£1,600  £660 costs (£660 requested)	Out of area	North Edgbaston
33	19/8/21	Imran Zafar Birmingham	Environmental Protection Act 1990 Fraud Act 2006  Pleaded guilty to two offences; one offence of depositing controlled waste, namely over 1,000 cellophane wrapped bundles of BT Phone Book directories, from a motor vehicle on Burbidge Road, Birmingham and one offence of making a false representation by notifying the Letterbox Team of Effipap Limited that he had completed an allocated route and delivered 1001 BT Phone Book directories when in fact they had been deposited on Burbidge Road, Birmingham and intending to make a gain for himself, or to cause loss to another, namely to obtain payment for the delivery of the fly tipped directories.	£440  £400 costs (£667 requested)	Alum Rock	Bordesley & Highgate
34	19/8/21	Jamal Hamasalih Karim Smethwick	Environmental Protection Act 1990  Pleaded guilty to one offence of knowingly causing or permitting controlled waste, namely several black bags, to be deposited from a Ford Transit Van of which he was the registered keeper and insurance holder, on to land on Crick Lane, Handsworth, Birmingham.	£692  £400 costs (£628 requested)	Out of area	Birchfield

35	19/8/21	Anthony Humphries Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of depositing controlled waste, namely a flat screen television, black bin bags, some wooden planks and a headboard, from a motor vehicle on land around Kingsbridge House, Faulkners Farm Drive, Birmingham.	£185  £200 costs (£546 requested)	Castle Vale	Stockland Green
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**WASTE ENFORCEMENT SIMPLE CAUTIONS**

No simple cautions were administered during July and August 2021.

**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – JULY AND AUGUST 2021**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	2	0	0	0	0	0	0	<b>2</b>
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	25	0	0	0	0	0	0	<b>25</b>
Environmental Health (including WEU)	0	1	0	0	6	0	1	0	0	0	0	<b>8</b>
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>

**CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) JULY AND AUGUST 2021**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	0	0	0	0	0	0	2	<b>2</b>
Environmental Health (FPNs) Not paid and prosecuted	1	0	1	0	2	0	0	0	0	1	20	<b>25</b>
Environmental Health (including WEU)	0	1	0	1	2	0	0	0	0	1	3	<b>8</b>
Trading Standards	0	0	1	0	0	0	0	0	0	0	1	<b>0</b>

**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL-AUGUST 2021**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	3	0	0	0	0	0	0	<b>3</b>
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	197	0	0	0	0	0	0	<b>197</b>
Environmental Health (including WEU)	1	2	4	4	11	2	3	2	3	3	0	<b>35</b>
Trading Standards	0	0	2	0	0	0	0	0	0	1	0	<b>3</b>

**CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) APRIL-AUGUST 2021**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	1	0	0	0	0	0	0	2	<b>3</b>
Environmental Health (FPNs) Not paid and prosecuted	3	5	11	13	21	6	12	4	1	7	114	<b>197</b>
Environmental Health (including WEU)	0	5	2	4	8	1	4	1	2	3	5	<b>35</b>
Trading Standards	0	0	1	0	1	0	0	0	0	0	1	<b>3</b>

**WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY**

Waste Investigation Outcomes													
	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22	Total
Duty of care inspections into the waste disposal arrangements of commercial premises	19	55	23	29	35								161
Section 34 Environmental Protection Act demand notices issued:(trade waste statutory information demands)	19	33	17	29	17								115
Section 34 Environmental Protection Act Fixed Penalty Notices issued to businesses (£300)	1	0	3	0	0								4
Section 87 Environmental Protection Act Fixed Penalty notices issued for commercial and residential litter offences (£80)	0	0	0	0	0								0
Section 33 Environmental Protection Act Fixed penalty notices issued for fly tipping (£400)	4	5	6	5	6								26
Prosecutions													
Number of prosecution files submitted to legal services, (number produced quarterly.	2	10	6	5	3								26

**APPENDIX 7**

Monthly Parking Pcns Issued in Taxi Ranks	Processing
April 2021	103
May 2021	154
June 2021	142
July 2021	106
August 2021	114
September 2021	
October 2021	
November 2021	
December 2021	
January 2022	
February 2022	
March 2022	
TOTAL	619



**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE INTERIM ASSISTANT DIRECTOR OF  
REGULATION AND ENFORCEMENT  
TO THE LICENSING & PUBLIC PROTECTION COMMITTEE**

**10 NOVEMBER 2021**  
**ALL WARDS**

**ACTION TAKEN BY THE CHAIR OF THE LICENSING  
& PUBLIC PROTECTION COMMITTEE:  
OCTOBER 2021**

1. Summary
  - 1.1 This report advises the Committee of action taken by the Chair under authority from the Licensing & Public Protection Committee, together with an explanation as to why this authority was used.
  
2. Recommendation
  - 2.1 That the report be noted.

Contact Officer: Sajeela Naseer Head of Licensing  
Telephone: 0121 303 6112  
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### 3. Background Information

- 3.1 On 16 March 2007 Section 52 of the Road Safety Act 2006 came into force. This has had the effect of enabling a licensing authority to suspend or revoke a hackney carriage or private hire driver's licence with immediate effect – meaning that the suspension or revocation takes effect immediately once notice of the authority's decision has been given to the driver – where this decision is considered necessary in the interests of public safety.

### 4. Summary of Action Taken for September 2021

- 4.1 On 01 September 2021 authority was sought to suspend with immediate effect the Hackney carriage driver licence held by driver reference 4003. On 01 September 2021 West Midlands Police arrested the driver who had been accused of raping a fare paying passenger.
- 4.2 The interests of public safety being considered paramount, an authorisation of the Director of Regulation and Enforcement, acting in consultation with the Chair, was obtained and on 02 September 2021 notice was hand delivered personally to driver 4003's last known address, advising that his private hire driver licence was suspended with immediate effect, in accordance with Sections 61(1)(b) and 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

### 5. Implications for Resources

- 5.1 No specific implications have been identified; however, drivers retain the right to appeal through a Magistrates' Court, which may result in the imposition of costs either to or against the City Council.

### 6. Implications for Policy Priorities

- 6.1 The contents of the report contribute to the City Council's published policy priority of improving the standards of licensed vehicles, people and premises in the City.

### 7. Implications for Equality and Diversity

- 7.1 The actions identified in this report were taken in accordance with the Regulatory Services enforcement policy, which ensures that equality issues have been addressed.

**INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**