

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

WEDNESDAY, 28 JUNE 2023 AT 10:30 HOURS
IN COMMITTEE ROOMS 3 & 4, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

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 Public-I microsite ([please click this link](#)) 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 they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

3 **APOLOGIES**

To receive any apologies.

4 **APPOINTMENT OF LICENSING AND PUBLIC PROTECTION COMMITTEE**

To note the appointment by the City Council of the Committee and Chairman for the Municipal Year 2023/2024 as follows: -

Labour Group (10)

Councillor Phil Davis (**Chairman**)
Councillor Diane Donaldson
Councillor Barbara Dring
Councillor Sam Forsyth
Councillor Zafar Iqbal
Councillor Ziaul Islam
Councillor Narinder Kooner
Councillor Mary Locke
Councillor Saddak Miah
Councillor Sybil Spence

Conservative Group (2)

Councillor Adam Higgs
Councillor Simon Morrall

Liberal Democrat Group (2)

Councillor Izzy Knowles
Councillor Penny Wagg

Green Party (1)

Councillor Julien Pritchard

5 **ELECTION OF DEPUTY CHAIR**

To elect Deputy Chair for the municipal year.

7 - 10

6 **FUNCTIONS, POWERS AND DUTIES**

To note the Committee's Functions, Powers and Duties, as set out in the attached schedule B13 of the Constitution.

11 - 20

7 **COMMITTEE CODE OF PRACTICE FOR MEMBERS AND OFFICERS**

To note the Committee's Code of Practice for Members and Officers as set out in C9 of the Constitution.

8 **DATES OF MEETINGS OF LICENSING AND PUBLIC PROTECTION COMMITTEE**

The Committee is recommended to meet on the following Wednesdays at 1030 hours in the Council House, Victoria Square, Birmingham B1 1BB: -

2023

26 July 2023
20 September 2023
25 October 2023
15 November
13 December

2024

17 January 2024
14 February 2024
13 March 2024

9 **LICENSING SUB-COMMITTEES 2023/2024**

(i) To note the membership of Sub-Committees A, B and C appointed by the City Council for the Municipal Year 2023/2024 as detailed below:

(ii) Each Sub-Committee comprises 3 Members (with a quorum of 3) and will determine matters relating to The Licensing Act 2003, The Gambling Act 2005, Hackney Carriage Licences, Private Hire Licences and such other business as may be referred to them by the Director of Regulation and Enforcement Services.

(iii) The Chair of the Licensing and Public Protection (Licensing Sub-Committee's role is to chair the Licensing Sub-Committee meetings, deal with subsequent actions of appeals and assist in finding substitutes for Members as required.

Any Member nominated must have had formal training as set out in the Licensing Procedure Rules.

Licensing Sub-Committee A – Mondays (1000 hours)

Cllrs	Phil Davis (Chairman)	Lab	Billesley Ward
	Mary Locke	Lab	Stirchley Ward
	Adam Higgs	Con	Highters Heath

Licensing Sub-Committee B – Tuesdays (1000 hours)

Cllrs	Diane Donaldson	Lab	Bromford & Hodge Hill
-------	--------------------	-----	--------------------------

Saddak Miah
Simon Morrall

Lab
Con

Ward
Garretts Green
Frankley Great
Park

Licensing Sub-Committee C – Wednesdays (1000 hours)

Cllrs	Sam Forsyth	Lab	Quinton Ward
	Narinder Kooner	Lab	Handsworth
	Penny Wagg	L/D	Wood Ward
			Acocks Green
			Ward

21 - 26

10 **MINUTES**

To confirm and sign the Minutes of the meeting held on 15 March, 2023.

27 - 88

11 **REGULATION & ENFORCEMENT ANNUAL REPORT 2022-23**

The report of the Director of Regulation & Enforcement (Presenting Officer: Sajeela Naseer)

89 - 106

12 **FOOD LAW ENFORCEMENT PLAN 2023-2024**

The report of Director of Regulation & Enforcement (Presenting Officer: Bethany Bannigan)

107 - 118

13 **HEALTH & SAFETY LAW ENFORCEMENT REPORT**

The report of the Director of Regulation & Enforcement (Presenting Officer: Gary James)

119 - 124

14 **UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS**

The report of the Director of Regulation & Enforcement (Presenting Officer: Mark Croxford)

125 - 162

15 **ENFORCEMENT POLICY REVIEW REGULATION & ENFORCEMENT 2023**

The report of the Director of Regulation & Enforcement (Presenting Officer: Sajeela Naseer)

163 - 196

16 **PROSECUTIONS AND CAUTIONS JAN-FEB-MARCH 2023**

The report of the Director of Regulation & Enforcement (Presenting Officer: Sajeela Naseer)

17 **CHAIRS AUTHORITY REPORT - FEB-MARCH-APRIL 2023**

The report of the Director of Regulation & Enforcement (Presenting Officer: Sajeela Naseer)

18 **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.

19 **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'.

B13. LICENSING AND PUBLIC PROTECTION COMMITTEE

13.1 Role

- i. To exercise the powers and duties of the Council with regard to regulatory, licensing and registration matters under all relevant legislation relating to the Licensing service, waste enforcement, Trading Standards service and Environmental Health Service;
- ii. Exercise and monitor the Council's powers; in respect of regulation and enforcement, monitoring performance of the Councils regulation and enforcement services as well as any hosted regional or national programmes;
- iii. Set fees, as applicable, in respect of trading standards, environmental health, licensing, highways skip permits, street trading, registration of births deaths and marriages (all services); private rented services.
- iv. Set conditions relating to Hackney carriage and private hire matters. v. Set conditions for any licensable activity allowed by legislation as appropriate
- vi. To exercise the powers and duties of the Council with regard to public protection matters which are non-executive functions.

13.2 Functions

- i. The Licensing and Public Protection Committee is authorised to discharge the following functions:
 - Set fees and charges, grant, refuse Issue, renew, suspend, revoke, or otherwise control any licences, authorisations, permits, registrations as appropriate under the scheme of delegations or powers provided to the council through enactments, regulations or bylaws;
 - Where applicable approve any pre application tests and requirements, in relation to any licences, authorisations or registrations issued by the Licensing Service
- ii. Members of Licensing Sub-Committees will sit as a statutory Licensing Committee as defined by the Licensing Act 2003 and the Gambling Act 2005 when carrying out functions of and ancillary to those Acts and is not required to observe political balance. Members of the Licensing & Public Protection Committee will sit as a general Licensing Committee when dealing with any other licensing functions of the Council and appointments must be politically proportionate.
- iii. The Committee is authorised to exercise the powers and duties of the Council under all relevant legislation and relating to the non-executive functions of the Committee except where Birmingham City Council Constitution Part B Roles, Functions and Rules of Procedure May 2023
 - Any function of the licensing authority under the Licensing Act 2003 the 2003 Act), the Gambling Act 2005 (the 2005 Act), or the Police Reform and Social Responsibility Act 2011 (the 2011 Act) has been reserved to full Council; or

- Any licensing function where Council has referred a matter to another committee.
- Functions relating to any other hearings required under the 2003 Act or the 2005 Act that have not been reserved to the Licensing Committee.
- The function of determining any matter where an officer has considered they should not exercise their delegated authority and has referred the matter to the subcommittee for determination. iv.

A Sub Committee is not authorised to discharge functions where the application relates to an event in the open air, in a temporary structure and where the proposed capacity of the event exceeds 30,000 people.

13.3 Membership

- Members of the Licensing and Public Protection Committee, and its Chair, are appointed by Full Council. There are fifteen members of the committee, and the quorum is five.
- Substitute Members: no substitute Members are appointed for the Licensing and Public Protection Committee. In relation to each ordinary business Licensing Sub-Committee, the Licensing Committee has appointed substitute Members, comprising all other suitably trained members of the Licensing and Public Protection Committee.
- A substitute Member shall be entitled to attend in place of a regular Member provided that Committee Services has been notified of this before the meeting begins. Once the meeting has begun, the regular Member in respect of whom notification has been received, shall no longer be entitled to attend that agenda item as a Member of the Licensing SubCommittee concerned.
- A substitute Member will have all the powers and duties of any regular Member of the Licensing Sub-Committee but will not be able to exercise any special powers or duties exercisable by the person for whom s/he is substituting.
- The Licensing Committee Code of Practice for Councillors and Officers can be found in Part C9 of the Constitution.

13.4 Procedure Rules

- Committee meetings will be called in accordance with Part C2 of the Constitution: Access to Information.
- The provisions of the Licensing Act 2003 (Hearings) Regulations 2005 shall apply to any hearings conducted under the provisions of the Licensing Act 2003 and in the event of any conflict between the Relevant Regulations and the Council Procedure Rules/Access to Information Procedure Rules in relation to such hearings the provisions of the Relevant Regulations shall prevail. Licensing Act 2003 matters fall outside of the remit of the Local Government Act 1972.
- The provisions of the Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 shall apply to the exercise of functions under Section 162 (1) and (2) and Section 201 (4) of the Gambling Act 2005 and in the event of any conflict between the Relevant Regulations and the Council Procedure Rules/Access to Information procedure

rules in relation to the exercise of such functions the provisions of the Relevant Regulations shall prevail.

- iv. The Licensing functions of the Council shall be carried out by the following bodies:
- Licensing and Public Protection Committee (15 Members with a quorum of 5)
 - Sub-Committees to be established by the Licensing and Public Protection Committee, comprising three Members drawn from the full Committee, to deal with matters under the Licensing Act 2003 and the Gambling Act 2003 as assigned and matters in respect of hackney carriages, private hire, vehicles drivers and operators. The Chairs of the Licensing and Public Protection (Licensing Sub)-Committee's role is to chair the licensing sub-committee meetings, deal with subsequent actions of appeals and assist in finding substitutes for members as required.
- v. Before any Councillor who is a member of the Licensing Committee can attend a meeting and participate in the determination of an application or appeal by any individual or body, that Councillor must have attended a suitable training course dealing with the quasi-judicial nature of the role of the Committee.
- vi. Except where authorised by statute, business shall not be transacted at a meeting unless a quorum is present.

C9. LICENSING COMMITTEE CODE OF PRACTICE FOR MEMBERS AND OFFICERS

Purpose of This Code

- i. This Licensing Code of Practice ('the Licensing Code') has been prepared to guide Members and officers in the discharge of the City Council's statutory Licensing functions. This Code will also inform potential applicants and the public generally of the high standards of ethical conduct adopted by the Council in the exercise of its Licensing powers.
- ii. The Licensing Code is in addition to Birmingham's Code of Conduct for Members, which was adopted by the City Council in June 2012. For the avoidance of doubt, when an Executive Member attends and participates in the decision-making of the Licensing Committee, s/he does so as a Member of the Committee and not as a Member of the Executive. Accordingly, s/he must, along with other Members of the Committee, exercise an independent mind on issues before the Committee.
- iii. The provisions of this Licensing Code are designed to ensure that Licensing decisions are taken on proper grounds, are applied in a consistent and open manner and that Members making such decisions are held accountable for those decisions. The Licensing Code is also designed to assist Members and officers in dealing with approaches from applicants or those who already have a relevant Licence/permit, etc.
- iv. Throughout this Code, reference is made to the Licensing Committee. This refers to the Licensing and Public Protection Committee ("LPPC"), in the context of its determination of applications for licences i.e where the Committee performs the functions of the Licensing Authority, rather than in the context of non-Licensing Authority decisions.
- v. Any reference to Licensing Committee equally refers to any Licensing Sub-Committee.

Context

- i. This Licensing Code applies to both Councillors and officers– it is not therefore restricted to Licensing Committee members. The successful operation of the Licensing system relies on mutual trust and understanding of each other's role. It also relies on both Members and officers ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.
- ii. The Human Rights Act provides additional safeguards for citizens, and encourages the application of best practice. Article 6 is concerned with guaranteeing a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations.
- iii. This code must be read in conjunction with (where appropriate):
 - The LPPC Policies, Procedures and Delegations; Committee Code of Practice for Members and Officers

- The Statement of Licensing Policy;
- Home Office Guidance (s182) – issued under S182 Licensing Act 2003;
- The Statement of Gambling Principles and relevant guidance issued by the Gambling Commission;
- The Sexual Entertainment Venue Policy;
- Code of Conduct for Members;
- Code of Conduct for officers.

General Considerations

- i. In relation to Hackney Carriage and Private Hire applications (generally speaking) the Licensing Authority **MUST NOT** issue a licence to a driver, operator or vehicle proprietor unless they are satisfied the applicant is a fit and proper person.
- ii. In relation to Licensing Act matters, where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn, the licensing authority **MUST** grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act.
- iii. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations.
- iv. Birmingham City Council's Code of Conduct for Members (section C4) must be complied with throughout the decision making process, which includes mandatory requirements with regard to Member interests.
- v. The responsibility for declaring an interest rests with individual Members and officers of the Council. This Licensing Code outlines further rules applicable to the Licensing process in Birmingham.
- vi. Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole. This applies equally to traditional forms of political management based on Committees and to models based on forms of executives or elected mayors. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to officers through a decision of the Council, the Executive or a Committee. A successful relationship between Councillors and officers can only be based upon mutual trust, respect, courtesy and understanding of each other's positions. This relationship, and the trust which underpins it, should never be abused or compromised.

- vii. Both Councillors and officers are guided by Codes of Conduct, Birmingham's Code of Conduct for Members (section C4) provides standards and guidance for Councillors. Employees are subject to the Employees' Code of Conduct (sections C6). In addition to these codes, a Council's standing orders set down rules which govern the conduct of Council business. There is also a Member / Officer Protocol that assists in defining the relation with both.
- viii. Birmingham's Code of Conduct for Members sets out the requirements on Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests, but also appropriate relationships with other Members, staff and the public, which will impact on the way in which Councillors participate in the Licensing process. Of particular relevance to Councillors serving on the Licensing Committee or Executive, or who become involved in making a Licensing decision, is the requirement that a Member must not use their position improperly for personal gain or to advantage friends or close associates.
- ix. The basis of the Licensing system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved.
- x. From time to time applicants or other parties may submit confidential information, for example a financial appraisal, or evidence from an ongoing criminal matter in relation to an application. Such information will be taken into account in relation to determination of the application, but such information may be exempt from the requirement from disclosure.

Public Speaking

- xi. During public speaking at Licensing Committee, the following should not occur:-
 - Members should not cross-examine members of the public at any time;
 - Members should not ask leading questions of officers or members of the public as by way of introducing new facts to the debate;
 - Members should only ask relevant questions; and
 - Late evidence should not be introduced by speakers at Committee – unless authorised at the discretion of the Chairperson with the agreement of all parties.

Conflicts of Interest

- xii. Some Members in general are more likely than others to be uncomfortable in the role of Licensing Committee Member owing to the combined pressures of their local business interests, the Ward Member advocate role, and the constraints of the Licensing system.

Any potential licence-related background may also give rise to a perception by the public that they are more likely to be in favour of an application, even where they are determining cases completely impartially. In order to minimise the risk for the Council

and the Member concerned, the Member in question should discuss their position carefully with the Assistant Director of Regulation and Enforcement and Monitoring Officer for the Council, to see whether it would be suitable for him/her to become a Member of Licensing Committee or if already a Member take part in the determination of any applications before them.

Lobbying and Attendance at Public Meetings

General

- i. Given the requirement that Members of the Licensing Committee should exercise an independent mind to applications in accordance with the relevant considerations, Members must not favour any person, company, group or locality. Members can, of course, form and express a personal opinion on Licensing applications but they are advised to indicate that they will only form a final opinion about an application after full consideration of all the evidence, representations and submissions made. Members should be careful not to publicly commit themselves to a particular outcome on an application prior to its full consideration at Committee, as to do so could be perceived by others as the Member having closed his/her mind to hearing all the relevant considerations. If that were to happen, he/she should be asked by the Chairman of the Committee, the Assistant Director of Regulation and Enforcement and/or the Monitoring Officer (or their representatives) not to:
 - a) Take any further part in the consideration of the application; and
 - b) Vote on the application. This can only be transparently demonstrated by the relevant Member not attending the meeting or leaving the Committee Room in order to ensure the integrity of the whole decision making process. If the relevant Member wishes to speak at Committee then they should declare their pre-determined position and withdraw from the meeting. This is to ensure Members of the Licensing Committee do not, by their presence, influence or seek to influence the remainder of the decision making body. Members should always notify Committee of any approach by any group, person or company prior to the discussion of the relevant matter.
- ii. Members of the Committee who may be involved in the determination of an application are, of course, free to listen to a point of view about a proposal, give procedural advice and agree to forward any comments, but should then refer the person to officers. Members in this situation may indicate (or give the impression of) support for or opposition to a proposal, but should avoid giving the impression of a closed mind.
- iii. Whilst Members involved in making decisions on applications may begin to form a view as more information and opinions become available, a decision can only be taken by the Committee after all available information is to hand and has been duly considered. In this regard, any political group meetings prior to the Committee meeting should not be used to determine how Councillors should vote. Decisions can only be taken after full consideration of the evidence, representations and submissions made.
- iv. The Chairman of the Committee should attend a briefing with officers prior to a Full Committee meeting, to help give an effective lead in the Committee.
- v. Councillors involved in decision making on Licence applications should not, whether orally or in writing, organise support or opposition to a proposal, lobby other Councillors, act as

advocate or put pressure on officers for a particular recommendation. However, other Councillors (who are not part of the decision making process) within that Committee Member's Ward, can make written representations to the Licensing Committee.

- vi. A Member involved in determining applications may respond to lobbying by openly expressing an opinion prior to the full report of the Assistant Director of Regulation and Enforcement to a Committee meeting (and there may be particular local circumstances where this is considered appropriate) but should indicate they will not make a final decision until after full consideration of all the evidence, representations and submissions.
- vii. If a Member involved in determining applications goes so far as to make it clear beyond doubt that they have a completely closed mind which could not be shifted, this would amount to predetermination and the Member concerned should respond as in C9.4i.
- viii. Where Members involved in the determination of applications are in attendance at public meetings or Ward meetings they may listen to the debate on current applications, provide advice about procedures involved in determining an application and express a view about an application but should respond as in C9.4vi.

Members Predetermination of Applications

- ix. Section 25 of the Localism Act 2011 states that prior indications of a view of a matter do not amount to predetermination in the following situations:
 - (2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because
 - o (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter and
 - o (b) the matter was relevant to the decision.
- x. The advice provided by the Monitoring Officer is that this is the present position with regard to the Legislation but, whilst Members are entitled to express a view in relation to an application, Members should indicate they still have an open mind in relation to an application until they have had the opportunity to consider the report of the Assistant Director of Regulation and Enforcement and that the final decision in relation to the application can only be made by Committee. This caveat is intended to safeguard so far as possible the decision made by Committee from Judicial Review until further case law and guidance has assisted with the interpretation of Section 25 of the Localism Act 2011.

Dealing with Correspondence

- xi. Members of the Committee and Executive often receive correspondence from constituents, applicants and other interested parties asking them to support or oppose a particular proposal. Members should forward a copy of the correspondence to the Director of Regulation and Enforcement or inform him/her at the Committee if time is

short. Merely forwarding the correspondence onto the relevant officer would not prevent the Member being involved in determining the application.

- xii. Communication which is intended to be an objection to (or support for) a licence application MUST be properly served on the Licensing Service, not with elected members or other Council Officers. Such communication should be forwarded immediately to the Licensing Offices.

Pre-Application Discussions

- xiii. When involved in pre-application discussions, officers should always act fairly to all and completely impartially by providing accurate advice and assistance when required or requested by the general public, applicants or Members. A written record of all such discussions must be retained on the Licensing file.

Site Visits by Members with Officers (Uncommon)

- xiv. The deferral of a relevant application for a site visit should not be on the basis of exposing members of the Committee to local opinion, but should be on sound and proper Licensing reasons, which shall be recorded in the minutes of the meeting.
- xv. Under the Chairman's guidance the role of the Licensing Officer attending the site visit will be:
 - a) To brief Members on the Licensing applications(s), the subject of the visit and explain the reasons why the application was deferred for a visit;
 - b) To ensure that the views of all interested parties are heard by all Members on the site visit and accurately recorded. Officers will prepare a written report of the site visit which will be taken back to Licensing Committee to form the basis of a further discussion at a subsequent meeting.
- xvi. The Chairman (or Member chairing the visit) shall explain the purpose of the visit and how it will be conducted to all persons present at the site visit.
- xvii. Officers shall ensure, where practical, that applicants, Members and interested parties are invited to attend the visit and that they are able to view all key parts of the site, which is the subject of the Applications.
- xviii. The purpose of a site visit conducted by Members and officers is to gain information relating to the land or buildings which are the subject of the Licensing application and which would not be apparent from the Licensing application to be considered by the Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area, and is an opportunity to hear the views of the members of the public, applicants and other interested parties. Discussions on site visits shall be confined to the application as currently submitted. A Member of Committee who has an interest in a Licensing application, or who has acted in a way that amounts to predetermination, cannot attend the site visit in his or her capacity as a Member of Licensing Committee. However, the

Member concerned would be entitled to attend the site visit in his or her personal capacity as a member of the public.

- xix. Whilst on site visits, Members of Committee can express an opinion on the application or its merits, but should avoid making comments or acting in a way which makes it clear beyond doubt that they have a completely closed mind, as this would amount to predetermination. Whilst Members of Committee are not prevented from engaging individually in discussion with applicants or objectors, to ensure transparency of public dealing by Members and effective /orderly management of the site visit, it is recommended that any question of the applicant(s) / objector(s) by the Licensing Officer and/or Members should be made in the presence of the other parties (or their representatives if there is a large scale public interest).
- xx. Members and officers are obligated not to waste Council resources and, as such, a site visit is only likely to be necessary if:
- the impact of the proposed application is difficult to visualise from the plans and any supporting material, including photographs taken by officers (although if that is the case, additional illustrative material should have been requested in advance); or
 - there is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.
- xxi. Where there is substantial public interest in a proposal and relevant representations have been made, the Council may invite all parties to visit the site so that they may point out all the areas of contention to Members of the Licensing Committee and give their views. A note of proceedings will be taken at these meetings and minutes kept as part of the official record
- xxii. Results of the site visit will be reported to the next available meeting of the Committee.
- xxiii. Once the results of a site visit have been reported back to Committee, Members of the Committee who were not present at the site visit can ask questions, offer opinions, take part in discussions and vote in relation to that Licensing application.

The Role of Ward Councillors and MPs on Site Visits

- xxiv. Where relevant representations have been made, Ward Councillors and MPs may attend and participate in site visits putting forward their point of view. However, the determination of Licensing applications rests solely with the Licensing Committee and no indication should be given by Members of the Committee of the likely decision during the course of the site visit.

Meetings of the Licensing Committee

- i. A Member shall not vote in relation to any Licensing application unless he or she has been present in the meeting of the Licensing Committee for the whole of the deliberations on that particular application.

- ii. A senior legal officer should always attend meetings of the Licensing Committee to ensure the probity and propriety of the Licensing and decision-making processes.
- iii. Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chairman prior to dealing with the next agenda item, by requesting from each Member as to how they have voted, noting this and the Member's name.
- iv. Chairmanship: the chairman should ensure
 - Members' comments at Committee only relate to the relevant merits of the application before them;
 - Reference at Committee to matters which are not relevant should be disregarded;
 - The cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined; and done in accordance with the appropriate Procedural Rules for the Hearing in question.

Training

- i. Members dealing with Licensing issues will attend such training sessions as required each year to receive guidance in relation to Licensing matters and processes and on procedural matters such as declaration of pecuniary or non-pecuniary interests. Training will be conducted in accordance with the training for Councillors standard. Members who fail to attend such training will be excluded from meetings of Licensing Committee. This training should include a balance of the following:-
 - Short (half day) sessions on special topics of interest or where appeals have indicated problems with Licensing policy;
 - Special topic groups to consider thorny issues in depth;
 - Formal training by internal and external speakers;
 - Quick presentations by officers on hot topics, e.g. new legislation, white papers and their impacts, followed by a brief question and answer session.

Licence Applications Submitted by Councillors and Officers

- i. Serving Councillors or their relatives who act as agents for people pursuing a Licensing matter will not be permitted to play any part in the decision making process for that proposal. Similarly, should they or their relatives submit their own proposal to the Council, they will take no part in its processing, as in both cases they will have an interest in the matters.
- ii. In cases where officers of this Department or members of their family submit a licence application, or where they have an interest in a particular application they should inform the Assistant Director of Regulation and Enforcement and Monitoring

Officer accordingly (e.g. where an application is submitted by a limited company and an Officer is a director (or similar) of the company).

Registration and Declaration of Interests

- i. The Localism Act 2011 and the Birmingham Code of Conduct for Members place requirements on Members on the Registration and Declaration of their interests and the consequence for the Members' participation in consideration of an issue in the light of those interests. These requirements must be followed scrupulously and Members should review their situation regularly. Guidance on the registration and declaration of interests is dealt with by the Birmingham Code of Conduct for Members.

Complaints about the Determination of Licensing Applications

- i. Whatever procedures the City Council operates, it is likely that complaints will be made. However, the adoption of the advice in this guidance should greatly reduce the occasions on which complaints are justified. It should also provide less reason for people to complain in the first place.
- ii. There is a city-wide procedure for dealing with complaints, as well as customer comments and compliments. Complaints alleging a breach of the Birmingham's Code of Conduct for Members must be reported to the Monitoring Officer.
- iii. So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. The guiding rule is that every application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, why and how it had been reached. Particular care needs to be taken with applications determined under the powers delegated to the Assistant Director of Regulation and Enforcement, where there is no report to a Committee. Such decisions should be well documented and form part of the case file.
- iv. It is preferable to use the complaints procedure prior to any recourse to the Local Government Ombudsman.
- v. Where any right of appeal exists against a decision of the Licensing Committee, that right is to be communicated at the time of the notification of decision.
- vi. Where the complaint relates to the decision made by the Licensing Committee, this decision cannot be overturned other than by following the statutory appeal process if one exists. No complaint procedure can overturn the decision of the Committee.

10. Concluding Remarks

- vii. Maintaining high ethical standards enhances the general reputation of the City Council, its Members and its officers. Open and transparent decision making enhances local

democracy and should lead to better informed citizens. A common understanding of the various roles, responsibilities and accountabilities should also enhance citizen participation. This Licensing Code, along with Birmingham City Council's Code of Conduct for Members, therefore, serves an essential part in the local and corporate governance of Birmingham City Council.

- vii. The City Council's Head of Paid Service, the Monitoring Officer and the Section 151 Officer have been consulted over this Licensing Code.
- viii. If any person believes that a Member or Officer has breached any aspect of this Licensing Code, s/he should refer the matter to the City Council's Monitoring Officer.
Birmingham City Council Constitution Part C Codes and Protocols May 2023

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE 15 MARCH, 2023

MINUTES OF A MEETING OF THE LICENSING AND PUBLIC PROTECTION COMMITTEE HELD ON WEDNESDAY, 15 MARCH, 2023 AT 1030 HOURS AT THE COUNCIL HOUSE, BIRMINGHAM B1 1BB

PRESENT: - Councillor Phil Davis in the Chair;

Councillors Barbara Dring, Sam Forsyth, Adam Higgs, Ziaul Islam, Izzy Knowles, Mary Locke, Saddak Miah, Julien Pritchard and Penny Wagg

.....

NOTICE OF RECORDING/WEBCAST

- 1513 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) 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.

DECLARATIONS OF INTEREST

- 1514 Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation. If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>

This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

The Chair highlighted that Members had received a letter from the Monitoring Officer regarding agenda items 10 and 11 on the agenda related to Private Rented Sector Selective Licensing Fees and Charges and Smaller Houses in Multiple Occupation – Additional Licence Fees and Charges.

Councillor Phil Davis declared a pecuniary interest in the matters to be discussed at items 10 and 11 on the agenda and stated his intention to leave the meeting for the two items. Councillor Sam Forsyth would chair the meeting for those items.

APOLOGIES

- 1515 Apologies were received from Councillors Diane Donaldson, Iqbal, Narinder Kooner for non-attendance.
-

MINUTES

- 1516 The minutes of the last meeting held on 18 January, 2023, having been previously circulated were confirmed and signed by the Chair.
-

UPDATE FROM CHAIR

- 1517 The Chair stated his intention to vary the agenda order for item 7 to enable the officer to be present for the item.
-

BCC HOSTED ENGLAND ILLEGAL MONEY LENDING TEAM

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

(See document no. 1)

Tony Quigley gave a summary of the report giving an update on the work of the England Illegal Money Lending Team (IMLT) hosted by Birmingham City Council's Regulation and Enforcement Division up to 6th February 2023.

During the discussion that ensued the following points were made:-

- In response to Councillor Islam's query regarding the 400 plus prosecutions for illegal money lending and related activity, Tony Quigley informed that a global national picture had been provided without matching the areas as they were reliant on people to come forward.
- With regard to examples of recent cases, operation Mamba had been referred to the Crown Court and had been deferred.

- Councillor Sam Forsyth thanked Tony Quigley and his team for their work and offered any assistance that could be given in light of the Cost of Living Crisis.
- The Chair concurred with the comments made by Councillor Sam Forsyth and said that the extra resources that would be made available was good news.

1518 **RESOLVED:-**

That the report be noted.

PROSECUTIONS & CAUTIONS – NOVEMBER & DECEMBER 2022

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

(See document no. 2)

1519 **RESOLVED:-**

That the report be noted.

BCC HOSTED NATIONAL TRADING STANDARDS REGIONAL INVESTIGATIONS TEAM (CENTRAL ENGLAND)

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

(See document no. 3)

Tony Quigley gave an update on the work of the National Trading Standards Regional Investigations Team (Central England) (RIT), hosted by Birmingham City Council's, Regulation and Enforcement Division. He added that there had been more organised crime related to counterfeit products and also the issue of slave labour in the production of the goods. The Chair noted the valuable work that had been undertaken.

1520 **RESOLVED:-**

That the report be noted.

HIGHWAY AND REGISTRATION SERVICES FEES AND CHARGES ADDENDUM 2023-24

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

(See document no. 4)

Mark Croxford gave a summary of the report correcting the error related to room bookings at the Register Office and providing the missing fee table in appendix 6(a) that applied to the Highways fees and charges.

1521

RESOLVED:-

- i) That the changes to the non-statutory fee for the Registration Service, as detailed in 4.1, is approved to take effect from 1 April 2023.
 - ii) That the changes to the fees and charges for Highway Licences as detailed in Appendix 6, are approved to take effect from 1 April 2023.
-

Councillor Phil Davis declared a pecuniary interest in items 10 and 11 on the agenda and left the meeting taking no part in the discussion.

(Councillor Sam Forsyth in the Chair)

PRIVATE RENTED SECTOR SELECTIVE LICENCING FEES AND CHARGES 2023-24

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

(See document no. 5)

- Sajeela Naseer gave a summary of the report explaining that from the 5 June 2023, 25 of the city's wards will become subject to the Council's selective licensing fees. Members were requested to consider the selective licensing fees and charges as detailed in Appendix 1 of the report to be approved to take effect from 1 April 2023 for any licence commencing on or after 5 June 2023.
- In response to a query about the fees Sajeela Nasser explained that the fee calculations were based on projections for salary, premises and other costs for the duration of the designation. If the cost of the fees needed to be reviewed a further report would be submitted to the Committee with the reason for the variation.
- Licensing had the ability to issue a one year licence if they felt it was necessary. The report was welcomed by the Committee and the officers were thanked for their hard work.

1522

RESOLVED:-

That the selective licensing fees and charges as detailed in Appendix 1 be approved to take effect from 1 April 2023 for any licence commencing on or after 5 June 2023, which is the date of commencement of the scheme

**SMALLER HOUSES IN MULTIPLE OCCUPATION- ADDITIONAL
LICENCE FEES AND CHARGES 2023-24**

Councillor Phil Davis remained absent for this item having declared a pecuniary interest.

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

(See document no. 6)

Sajeela Naseer gave a summary of the report asking the Committee to consider the report for approval. In response to a query regarding the occupancy of a property requiring a mandatory licence, each licence would be considered on its merits.

1523

RESOLVED:-

That the additional licensing fees and charges as detailed in Appendix 1 be approved to take effect from 1 April 2023 for any licence commencing on or after 5 June 2023, which is the date of commencement of the scheme.

Councillor Phil Davis attended the meeting at 1125 hours.

(Councillor Phil Davis in the Chair)

UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS

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

(See document no. 7)

Mark Croxford together with Guy Chaundy and Uyen-Phan Han gave the background to the unauthorised encampments and an update on work being undertaken to further manage unauthorised encampments in the City as detailed in the report.

Guy Chaundy added that some resources had been identified from Housing to take the project forward. They had been working with Mark Croxford and Planning on a business plan however a dedicated management resource was required. Members queried the number of sites available and a comment was made that more capacity was required however they were pleased with the progress made. In reply to questions regarding areas and land that could be used the officers undertook to provide a further briefing on the scope of the review. The timelines will be shared and work was ongoing to identify land to provide permanent provision. They were working with Legal Services regarding an equality assessment for a transit site. The Chairman said that a further report on progress should be submitted.

1524 **RESOLVED:-**

That the report be noted.

DATE AND TIME OF NEXT MEETING

1525 **RESOLVED:-**

It was noted that the next proposed formal meeting of the Licensing and Public Protection Committee was scheduled to take place on Wednesday, 28 June, 2023.

OTHER URGENT BUSINESS

1526 There was no urgent business.

AUTHORITY TO CHAIRMAN AND OFFICERS

1527 **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'.

The meeting ended at 1158 hours.

.....
CHAIR

BIRMINGHAM CITY COUNCIL

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

28 JUNE 2023
ALL WARDS

**REGULATION AND ENFORCEMENT
ANNUAL REPORT FOR WORK DELIVERED IN 2022/23**

1. Summary

- 1.1 The report advises on the work undertaken during the year April 2022 to March 2023 by the Regulation and Enforcement Sections: Environmental Health, Trading Standards, Private Rented Sector, the Register Office, Licensing, the Coroners and Mortuary service and the England Illegal Money Lending Team which report to your Committee.

2. Recommendation

- 2.1 That the report be noted.

Contact Officer: Sajeela Naseer, Director of Regulation and Enforcement
Telephone: 0121 675 2495
Email: sajeela.naseer@birmingham.gov.uk

3. Background

3.1 The sections of Regulation and Enforcement that report to your Committee are:

- i. Environmental Health.
- ii. Trading Standards.
- iii. Register Office.
- iv. Coroners and Mortuary service
- v. Licensing.
- vi. England Illegal Money Lending Team
- vii. Regional Investigations Team (RIT)
- viii. Private Rented Sector service

3.2 The operating model for Regulation and Enforcement seeks to deliver both statutory and other services that fulfil the corporate priorities of Birmingham City Council. The model enables new services to be integrated within it and most recently the Private Rented Sector service joined in September 2021.

3.3 The Environmental Health section delivers services in the areas of: public health; food safety; health and safety at work; environmental protection; animal welfare; statutory nuisance; drainage; and pest control.

3.4 The Trading Standards section delivers consumer protection and business support services in the areas of: consumer advice and assistance; commercial investigations; product safety; underage sales; consumer credit; internet crime; proceeds of crime; metrology; and fair trading.

3.5 The Register Office Service is responsible for the registration of births, marriages and deaths, the legal preliminaries to marriages (other than those in the Church of England), the arranging and conducting of civil marriage ceremonies, the issuing of certified copies of register entries and the legal preliminaries to and registration of civil partnerships.

3.6 The Licensing Service consists of the General Licensing, Hackney Carriage and Private Hire Licensing, Street Trading and Licensing Enforcement teams.

3.7 The Coroners Service and the Public Mortuary provide support staff to the Senior Coroner for Birmingham and Solihull.

3.8 Birmingham City Council Regulation and Enforcement continue to host the England Illegal Money Lending Team for England and the Regional Investigations Team.

3.9 The Private Rented Sector service is responsible for House in Multiple Occupation mandatory licensing, bringing empty properties back into use, tackling illegal eviction and harassment and ensuring safety and standards in private rented sector properties.

3.10 Within the division, administrative support, management information and the co-ordination of legal proceedings with the Chief Legal Officer is undertaken by appropriate teams and Business Support Services.

3.11 The NHS Primary Care Teams was disbanded in April 2013 and the public health role was moved into the Local Authority. Officers continue to work closely with the Director of Public Health to deliver significantly on public health outcomes in Birmingham.

4. Implications for Resources

4.1 The activities detailed in this report were undertaken within the resources available to your Committee.

4.2 The Illegal Money Lending project for England and the Regional Investigations Team are currently fully funded by Central Government by the Treasury and Department of Business and Trade through a governance arrangement with the relevant funding Boards. The budgets for these projects have been increased in line with inflation and in recognition of the work undertaken. These resources are ring fenced for this specific activity and claimed through an expenditure invoicing procedure.

4.3 There has been a reduction in resources available to deliver services within Environmental Health, Trading Standards and the Register Office over recent years in order to deliver the efficiencies required.

Service	£ K 2010/ 2011	£ K 2011/ 2012	£ K 2012/ 2013	£ K 2013/ 2014	£ K 2014/ 2015	£ K 2015/ 2016	£ K 2016/ 2017	£ K 2017/ 2018	£K 2018/ 2019
Licensing	204	376	490	215	(139)	(874)	(764)	(8)	1
Environmental Health	6,337	5,593	5,153	3,836	4,036	3,532	3,532	4,047	3,820
Trading Standards	3,414	3,133	2,857	2,004	1,931	1,593	1,566	1,454	1,264
Register Office	1,167	1,195	1,205	835	741	386	450	877	868
Coroners Mortuary		1,642	1,662	1,460	1,386	1,025	1,122	1,196	1,574
Pest Control	0	0	(67)	(73)	(355)	(1,720)	(3)	4	310
Service	£K 2019/ 2020	£K 2020/ 2021	£K 2021/ 2022	£K 2022/ 2023	£K 2023/ 2024				
Licensing	-84	-259	20	0	0				
Environmental Health	3,127	3,106	3,260	3,527	3,725				
Trading Standards	1,175	957	1,067	1,227	1,315				

Register Office	739	724	782	1,009	1,154
Coroners Mortuary	1,600	1,524	1,641	1,985	2,441
Pest Control	279	277	302	359	377

5. Implications for Policy Priorities

- 5.1 The services delivered through your Committee, contribute to the Birmingham City Council Corporate Plan 2022- 2026
- 5.2 The issues addressed in this report support the City Council Vision: We will help make Birmingham a city where all citizens share in the creation and benefits of sustainable economic growth and can live longer, healthier, and happier lives.
- 5.3 To deliver this vision we focus on the Council's five priorities of a prosperous, safe, inclusive, healthy, and green Birmingham
- 5.3 Our work delivers Regulation and Enforcement Mission Statement: Locally accountable and responsive fair regulation for all – achieving a safe, clean, green and fair-trading city for residents, business and visitors.

6. Public Sector Equality Duty

- 6.1 The various actions identified in the report were undertaken in accordance with the Regulation and Enforcement's enforcement policies which ensure that equalities issues have been addressed.

7. Consultation

- 7.1 Consultation is undertaken with members of the public, traders and elected members wherever possible to ensure that our services are delivered and tailored to the needs of our customers and stakeholders.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background papers:

Various files and computer records in the Licensing, Environmental Health, Trading Standards and Register Office Services.

ENVIRONMENTAL HEALTH

Background

Environmental Health provides a range of interventions at a local and city-wide level with the principle aims of protecting public health and the environment as well as supporting businesses to succeed. The range of services includes

Food hygiene; health and safety; pest control; infectious disease control; noise nuisance; environmental protection; animal welfare; defective drains; dangerous trees; and environmental crime such as littering and fly posting.

All our services are statutory such that the City Council has a legal obligation to deliver them, and they are reported through the Licensing and Public Protection Committee.

All Environmental Health's services contribute towards the public health agenda helping to protect the health of our residents, with the ultimate aim of reducing inequalities in health.

Officers are required to deliver both reactive and pro-active services, e.g. delivering the food, health and safety and environmental protection inspection programmes as well as providing reactive services responding to requests for assistance from members of the public, elected Members and partner agencies. Our officers are highly skilled and ensure that work is prioritised according to public health risk, the impact on peoples' lives and our statutory responsibilities. There are a wide range of options available to officers to bring about improvements including the provision of education and advice or where necessary, taking proportionate enforcement action.

The work undertaken by the Environmental Health Service is précised in the table below and more descriptive detail is given in the following pages:

All Environmental Health and Pest Control Requests for Assistance		
Total Jobs		45,459
	Env Health RFAs total	19,464
	Pest Control RFAs total	14,372
	All Inspection Total	9,947
	Other Jobs not RFAs	1,676

Environmental Health Breakdown		
Waste related enquiries	RFAs & Waste Incidents not subject to complaint	551
Statutory nuisance	Noise	8,268
	All others	1,652
Animal Welfare	Dog Wardens	3,119
	Animal Welfare (not dogs)	117
Food complaints		3,669
Infectious diseases		1,057
Licensing enquiries		365
Health and Safety	Enquiries	238
	Incidents (Accidents)	426
Unauthorised encampments	On council land	407
Other		1,078
Source of RFAs	Cllr, MP, CX & SD	424
	Public	19,040

Pest Control Breakdown		
Rats	Rat in Garden	7,660
	Rat in House	5,174
	Mice reported as Rat in House	37
Pests other		1,501
Source of RFAs	Cllr, MP, CX & SD	63
	Public	14,309

Environmental Health Inspections Breakdown		
Inspections	Food Inspections	5,786
	Food Standards Inspections	1,684
	Health and Safety	686
	Environmental Protection	114
	No Smoking Compliance	737
	Duty of Care	740
	Animal Welfare	106

Number of Criminal Prosecutions undertaken by Environmental Health:

CASES FINALISED BY LEGISLATION 2022/2023

LEGISLATION			CASES	OFFENCES	FINES	COSTS AWARDED
Environmental Protection Act 1990						
Section 80			2	6	£650	£766
Food Hygiene (England) Regs 2006 ***			24	234	£263,500	£41,681
Food Information Regs 2014			2	4	£24,300	£2,082
Health & Safety at Work Etc. Act 1974 Sec 3(1) **			1	2	£50,000	£20,000
Environmental Protection Act 1990 Sec 87 Litter			992	992	£218,440	£132,719
TOTALS			1021	1238	£556,890	£197,248

Total Submitted Prosecutions 46 EH and 992 Littering offenders

Total Submitted Cautions 3

Litter Reduction Initiatives

During the year a programme to support continued reductions in litter levels was run across the city that involved anti-litter and free printed matter distribution scheme compliance patrols. Working with the support of West Midlands Police, a total of 6,540 Fixed Penalty Notices were issued which is an increase of 1,925 over last year. During the year 992 criminal prosecutions were instigated against persons who committed litter offences and who declined to discharge their liability to prosecution by paying a fixed penalty amount. The average fines and court costs imposed by the court on conviction were £220.20 plus costs of an average £133.79.

Over the course of the year 60 consents were issued to permit the distribution of free printed matter in the City's designated control areas. These consent zones continue to be an effective tool in reducing defacement from discarded promotional material.

Domestic Noise Complaints

This section deals with noise problems impacting on residents caused by loud amplified music, intruder alarms, barking dogs, and mechanical noise, from either a domestic, industrial or commercial source.

During 2022/2023 a total of 8,464 noise complaints were received. Many of these were resolved through informal action. Where informal action proves unsuccessful and the noise is continuing, evidence of the noise is gathered from installing noise monitoring equipment into the complainant's property and/or by officers visiting the resident's property to listen to the noise during the day or at night. Environmental Health provides an out of hours service which operates between the hours of 19:00 hours until 01.00 hours Sunday to Thursday and from 20:00 hours until 03:00 hours on Friday and Saturday. This provides an invaluable service to residents to enable evidence of the noise to be gathered at unsociable hours.

44 noise abatement notices were served for noise offences affecting residents and 11 seizures of sound equipment took place following breaches of notices. In the majority of cases, after 28 days those who pay for the costs incurred by the city in undertaking the seizure of the noise equipment, have their property returned. In cases where further breaches of notices occurs after seizure i.e. where new or returned equipment is used to create a further problem, criminal proceedings are taken against the offender and the courts asked to give a forfeiture order for the seized equipment.

This service continues to be an effective way of preventing noise nuisance, and our actions have a dramatic impact on those members of the community whose lives are impacted by statutory noise nuisances.

Smoke Free Birmingham

Environmental Health and Trading Standards work closely with other partners to control illicit and counterfeit tobacco products, underage sale and inappropriate use and sale of tobacco in Birmingham, including Shisha and E-cigs. Tobacco control requires an integrated approach with partners because as well as being more cost effective there are other factors that require consideration:

1. Reducing smoking prevalence reduces the harm to people's health and contributes to reducing health care and economic costs (worklessness) associated with early onset of morbidity and mortality from smoking related diseases.
2. Reducing the availability of tobacco products to young people under the age of 18 contributes to reducing the uptake and subsequent addiction to tobacco.
3. Securing tobacco control has a direct economic benefit to Birmingham which is directly linked to reducing/preventing the impact from counterfeit and non-duty paid tobacco on society.
4. A regulatory focus on responsible smoking and tobacco-use directly supports compliance and tackles unfair competitive advantage within businesses [smoke free] premises, and underpins community safety initiatives relating to reducing crime and increasing safety at venues and on public transport.

The core tobacco control activities that Trading Standards and Environmental Health contribute to are:

- Protecting people from harm (from illicit tobacco; second hand smoke).
- Helping people to quit (smoke free environments and policies; working with stop smoking services).
- Preventing people from starting smoking (underage sales, point of sale displays; smoke free).
- Smoke free workplaces and public places (businesses; services and travel).

Environmental Health has responsibilities for enforcing the smoke free provisions contained in the Health Act 2006. This prohibits smoking in public places that are indoors or publicly shared vehicles or commercial vehicles. To facilitate this during 2018/2019 we continued and implemented a number of targeted interventions which included:

- enforcement exercises involving the smoking of shisha, working extensively within a multi-agency setting.
- Maintained partnership working with planning to ensure Environmental Health is a consultee with planning applications with any proposed smoking shelter.

These activities were also supported by Trading Standards around the under-age sales and Health Warnings, and by Her Majesty's Revenues & Customs in relation to illegal importation of tobacco based products. Planning, Public Health, West Midlands Fire Service and Police Service have also provided support.

Shisha Premises

Shisha is a sweetened form of tobacco and involves the use of a pipe or hookah which is used to inhale the smoke once it has been passed through water. The list of health effects associated with tobacco shisha is similar to those associated with cigarettes.

The practice of smoking shisha is not in itself illegal. However, businesses are still required to comply with the same smoke free legislation that relates to smoking in any premises where the public have access to.

Compliance and safety of Shisha premises in Birmingham has continued using a partnership approach. Working collectively with Trading Standards, Licensing, Public Health, West Midlands Fire Service, West Midlands Police Service and Planning, these agencies form a cohesive working partnership, working with both businesses and residents to increase the safety and compliance of the businesses and increase resident's confidence in their neighbourhood.

Inspections of shisha premises occurs where capacity allows and where complaints of premises are raised.

City Centre Project

Environmental Health continued in 2022/2023 to provide assistance with reducing impacts from noise levels and antisocial behaviour within the City Centre. In August 2022, two Public Space Protection Orders were declared restricting the use of amplification equipment, musical instruments and items being used as musical instruments within two key areas of the city centre close to residential properties. Patrols are now being undertaken 7 days a week (including some late-night patrols) to ensure compliance with the PSPOs. This has resulted in formal enforcement action being taken against a number of individuals for breaches of the PSPOs. Outside of the PSPO areas, Environmental Health are continuing to work with residents and businesses with regards to complaints about noise levels on the street as and when they are received.

Pest Control

During 2022/2023, the Pest Control Section continued to offer a range of services to both domestic and commercial customers in the city. In domestic premises we continued to include free treatment for rats. The section also continued to provide free advice on the control of all other pests and supplied free poison for the treatment of mice. The latter is available through all Birmingham City Council Customer Service Centres. In addition, between July and October the section

offered a chargeable service for the treatment of wasps' nests to both domestic and commercial customers.

Commercially the section provided a wide range of competitively priced pest control services which are reported in the City Council's Fees and Charges Policy. The section has treated all pests (except rats at domestic properties) on a chargeable basis to all private non-food businesses and all City Council Departments. We have successfully obtained new contracts and continue to expand our portfolio of chargeable treatments.

Furthermore, the section provided specialist support services to the Environmental Health Section and other City Council Departments such as Housing, Birmingham Property Services, Parks and Leisure and the Land and Property team. These included the clearing of 'filthy and verminous' premises; the disinfection and cleaning of areas which may have become contaminated with bodily fluids following a death; Clearing land and buildings; removing faeces and needles.

• ***Key achievements of the Pest Control section during 2022/2023 include:***

- The section has dealt with a total of 14,309 requests for assistance (RFA) from residents of Birmingham. Of these 12,834 were to resolve problems associated with rats either in gardens or within domestic properties.
- Pest Control has continued to liaise and promote our Property Clearance Service to internal and external partners. The role has grown in terms of capability, size of land and size of contracts. Work enquires for clearance work have increased.
- We have successfully been working closely with Birmingham Property Services clearing their void properties; clearing land of rubbish or overgrowth; treating pests; and generally assisting in supporting their commercial estates.
- We work with Land and Property Team clearing their land and properties of rubbish and overgrowth.
- We also support the returning of land which has been adversely affected by unauthorised encampments and has waste and human waste on it.

Food Safety Inspections

More than 5,500 food hygiene inspections including over 2,800 programmed inspection and 2,200 revisit inspections to ensure improvements were being made. In addition to these food hygiene inspections over 1,600 food standards inspections were carried out during 2022/2023. Items covered during inspections include hygiene of premises and practices, Compliance with allergen controls, compositional standards, claims and advertising, traceability, food fraud, date coding, sampling and training.

Food Hygiene Rating Scheme

Following the launch of the National Food Hygiene Rating Scheme in November 2012, the scheme continues in popularity with scores displayed on the doors and on the FSA web site. The ratings website where hygiene scores for businesses are displayed features over 10,000 Birmingham food businesses. As part of the scheme officers provide window stickers for all businesses in the scheme. The scheme, in addition to providing information to consumers, is seen as a useful tool to encourage

businesses to improve. This is demonstrated by the increasing number of businesses applying for a rescore after making improvements, over 100 made such an application in 2022/2023.

There has also been a significant increase in new food registrations being submitted to us. Where new businesses open then they are required to register with their Council. The council in-turn is required to inspect these new businesses within 28 days. Over the last few years, we have been averaging around 1,600 new registrations and struggle to meet this demand. There is no commensurate requirement to de-register a business.

Food Enforcement Action

During 2022/2023, 81 premises were found to present an imminent risk to health and were closed immediately until all necessary works were carried out. Although this could be considered a large number, compared to the total number of inspections carried out, 3,316, it only represents about 2.4% of premises which seriously failed to meet basic hygiene requirements and put their customers at risk.

Throughout 2022/2023, 26 prosecutions were finalised for food hygiene and food labelling related offences, with total fines amounting to £287k and costs awarded of over £43.7k.

Officers are increasingly getting involved in dealing with allergen controls, due to the increased number of incidents in this matter.

Primary Authority

Regulatory Services has formal partnerships for food safety and food standards matters with:

- | | |
|-------------------|--|
| • Mondelez | Chocolate and confectionery manufacturer |
| • Wing Yip | Chinese importer and wholesaler |
| • Avanti Trains | Catering outlets on train services |
| • Marks & Spencer | Food Retailer |

This is a resource intensive exercise as additional meetings and inspections are required in order to properly advise both the business and other local authorities. Where Primary Authority Partnerships have been agreed, we operate a cost recovery system from the company, with approximately £76,000 recovered this year.

Infectious Diseases and Food Poisoning

All sporadic cases and outbreaks of gastro-enteritis are investigated. During 2022/2023, 1,057 sporadic cases and 4 outbreaks were investigated. Investigations of outbreaks of gastro-intestinal disease includes the promotion of regular hand washing and disinfection of surfaces as well as other controls in order to reduce the spread of infection as quickly as possible. Officers work with the Health Protection

Unit to ensure a joined up approach to controlling the spread of gastro-enteritis and food poisoning.

Outdoor Events

There are significant numbers of outdoor events within the city that have temporary food concessions which require inspections. Currently we are working with the Events Team to specify the highest standards of business attending each event to mitigate impacts on Environmental Health.

Health and Safety Regulation

The City Council has the responsibility for enforcing health and safety law in approximately 21,000 commercial premises. During 2022/2023 there were over 1,400 health and safety related activities were recorded, these included inspections; dealing with requests for assistance; investigating accidents, incidents and cases of occupational disease; and targeted interventions (project work).

Inspections

During the 2022/2023, 118 premises received proactive inspections. These were undertaken in accordance with the National Local Authority Enforcement Code ('the Code'). The majority of these inspections were undertaken as part of the Commonwealth Games Legionella Assurance in Accommodation Premises project which included the inspection of 94 premises to ensure visitors to the city were not at an increased risk from Legionella. Other inspections comprised of: high-risk rated business sectors; activities identified nationally as high-risk by the Health and Safety Executive; and high risk sectors and activities identified using local intelligence. They included:

- Inspection of warehouses to ensure that risks from falls from height and workplace transport are controlled. This activity was a national priority as defined by the HSE.
- Undertake intervention work with the 7 cooling towers in Birmingham, for which the council has enforcement responsibility so as to ensure that the risk from legionella is being controlled.
- Undertake assessment and inspection of notified works to remove asbestos from premises for which the council has enforcement responsibility.
- Checks of gas appliances and catering equipment identified a number of unsafe catering appliances.
- Work has been continuing to carry out inspection of machinery at food businesses. Prohibition Notices were served where unsafe food machinery was found (e.g. safety guards were missing or not used). As a result of ongoing concerns and reported accidents this work will continue in the forthcoming year.

Requests for Health & Safety Assistance

During 2022/2023 officers responded to 238 requests for assistance concerning working conditions or practices. These included concerns regarding staff welfare and dangerous work practices.

Incident Investigations

There were 446 notifications of accidents, dangerous occurrences and cases of occupational disease reported during 2022/2023. Whilst not all of these required investigation, a number of investigations into serious incidents were either begun or continued during the year. Some of these investigations take a considerable investment of time and have included working with expert witnesses, the coroners Court and other regulators.

This year, incident investigations include:

- Conclusion of a fatal accident at Birmingham Wheels after a sponsor was hit by a race car recovery tractor in which the organisers pleaded guilty to Health and Safety offences for not taking suitable steps to protect people on the site.
- Investigations have also been started following a gas explosion at a barbers shop and the death of a member of public at a social club within the city. Officers have also recently started an investigation after a car park barrier swung out and through the windscreen of a vehicle of which the occupants were lucky not to sustain serious injury.

Enforcement Action

As a result of enforcement activities, 49 Prohibition Notices were served requiring the cessation of dangerous activities. These related to areas such as defective fork lift trucks, dangerous gas appliances, unguarded catering equipment, employees working at height without edge protection and dangerous electrical systems and 23 Improvement Notices were served, requiring improvements in safety standards.

Role in National Health and Safety Agenda

Birmingham City Council continues to maintain a prominent role in the national health and safety agenda. On a regional and national level we have been prominent in representing local authorities on groups including:

- Officers representing the Council as chair of the West Midlands Health and Safety Liaison Group and member of the Midlands Health and Safety Regulators Group.
- We continue to work closely with our Primary Authority Partners Marks and Spencer, John Lewis Partnership, Claires Accessories and Gala Bingo which has provided a positive impact through the generation of inspection plans and assured advice to reduce unnecessary inspections.
- Our officers contributed to the Primary Authority Supermarket Group and the expert panel for warehousing which consists of local authority Primary Authority Partners who work within these sectors helping to direct consistency and improve safety both nationally and within Birmingham.

Environmental Protection

During 2022/2023 the Environmental Protection Unit (EPU) worked to safeguard public health and the environment from adverse emissions across all environmental media (land, air, and water), including emissions of noise / vibration and the control of waste. EPU comprises of four disciplines that contribute to this aim: Acoustics, Air Quality, Contaminated Land and Pollution Control and these are utilised to cover core environmental health work as well as providing advice and assistance to

Planning Management and Licensing with regards to relevant applications for planning consent or premises licences / TENs respectively.

Acoustics

The development of policy and provision of services to address problems concerning both noise nuisance and environmental noise continued to play an important role in our work during 2022/2023. EPU continue to provide advice and noise monitoring services to support noise/vibration complaint investigations, planning and licensing consultation issues. The primary work delivered by the service for Environmental Health covered:

Receiving 153 requests for noise monitoring to support noise nuisance complaint investigations (an almost 50% reduction on the last pre-Covid year) and installing equipment at 70 residential properties across the city (a 50% decrease on the last pre-Covid year). The drop reflects changes in wider service demand reflected by an ongoing reduction in requests in the pre-Covid years and changes in delivery following the move to Ashted Locks and further staff reductions in the last pre-Covid year. The wider EH service is now reshaping the offer around noise monitoring to reflect the new post Covid norm including having a wider cadre of officers to deliver the service in response to demand – this does not mean more officers working on a reduced service, rather more officers able to do this work should demand increase, a reflection of a shift from the work being centralised in a dedicated and reducing team to one which provides more options for the Service and incorporating continuity planning.

Continuing to provide support to the wider Environmental Health on technically complex noise nuisance cases and noise reports presented in support of planning applications, and also provide support to the Licensing Section with regards to outdoor events.

The service continues to provide advisory support to premises licence holders when setting noise limiters imposed as conditions on premises licences although with officer reductions this is more desk based and relies on applicants employing competent consultants / engineers who provide relevant reports to review.

Air Quality

The monitoring and improvement of air quality across the City has continued to be an important aspect of the role of the EPU with attention on local and national air quality being focussed by the on-going need to improve air quality at key locations in response to various statutory obligations (Local Air Quality Management, Clean Air Zone) and other duties (Clean Air Strategy, Environment Act 2021).

The work carried out during 2022/2023 focused on two pollutants, nitrogen dioxide (NO₂) and particles [(coarse particles (PM₁₀) and fine particles (PM_{2.5})).

Officers from the service have worked closely with colleagues from a range of other Council services, specifically within the Clean Air Zone Team, to progress the Clean Air Zone (CAZ) obligations now the CAZ has gone live. The CAZ Team fund an officer who works within the EPU and who's primary role revolves around the monitoring and evaluation of the CAZ. To this end a number of reports have been

produced including a baseline and first post launch report, and the team are now focussing on the post launch monitoring and evaluation with a view to determining at what point success will be determined to have been achieved.

In order to demonstrate the quality of the air in Birmingham the service maintained the following monitoring network:

- Air quality was continuously monitored at fifteen locations across the city, most being within or around the city centre. This incorporates six new sites in and around the CAZ, one Defra site and eight sites belonging to EH. A further Defra site in Acocks Green remains out of commission (it is not operated by EPU). The CAZ sites were established by EPU using CAZ funding and are continually funded (maintenance costs) through the CAZ team. All stations and associated data and reports may be viewed at www.birminghamairquality.co.uk
- Officers from the service undertook non-continuous monitoring of nitrogen dioxide using diffusion tubes at around 155 sites around the city.
- Birmingham continues to support the national polycyclic aromatic hydrocarbon, benzene and Black Carbon monitoring networks for which the Council receives payment.

The outputs from the monitoring are used to demonstrate compliance (or otherwise) with legislative limits.

Contaminated Land

The work carried out by the team around contaminated land function includes fulfilling the Council's obligations in respect of Part 2A of the Environmental Protection Act 1990. This involves implementation of the Contaminated Land Inspection Strategy, and ensuring that the legacy of historic land contamination is addressed during the regeneration of the City.

- A revised Contaminated Land Inspection Strategy has been drafted but challenges relating to financing as a result of the loss of Government funded grants require consideration before this can be formally progressed. There has been no progression on this from the previous year.
- During the year officers continued to review site assessments and/or remediation strategies in response to applications for planning consent. The majority of these related to the redevelopment of brownfield sites.
- There were 108 formal requests for environmental information to support conveyancing reports. This work is income generating and resulted in revenue of over £11,490.

Pollution Control

The work of the team also covers the proactive regulation of emissions from industrial processes, the investigation of complaints relating to environmental emissions from industrial and construction sites and licensed entertainment premises in the city centre and providing consultation responses to both Planning Management and Licensing on environmental matters. Significant achievements in 2022/2023 included:

The emissions produced by 217 industrial and commercial processes were regulated, ranging from petrol stations to the Jaguar car manufacturing plant. During 2022/2023 we aimed to conduct 152 inspections, but due to resources only completed 114. The remaining processes are all low risk and will be inspected in the next financial year (2023/2024) either through a new recruit joining the team to replace officers who have left the team or via the commissioning of agency staff.

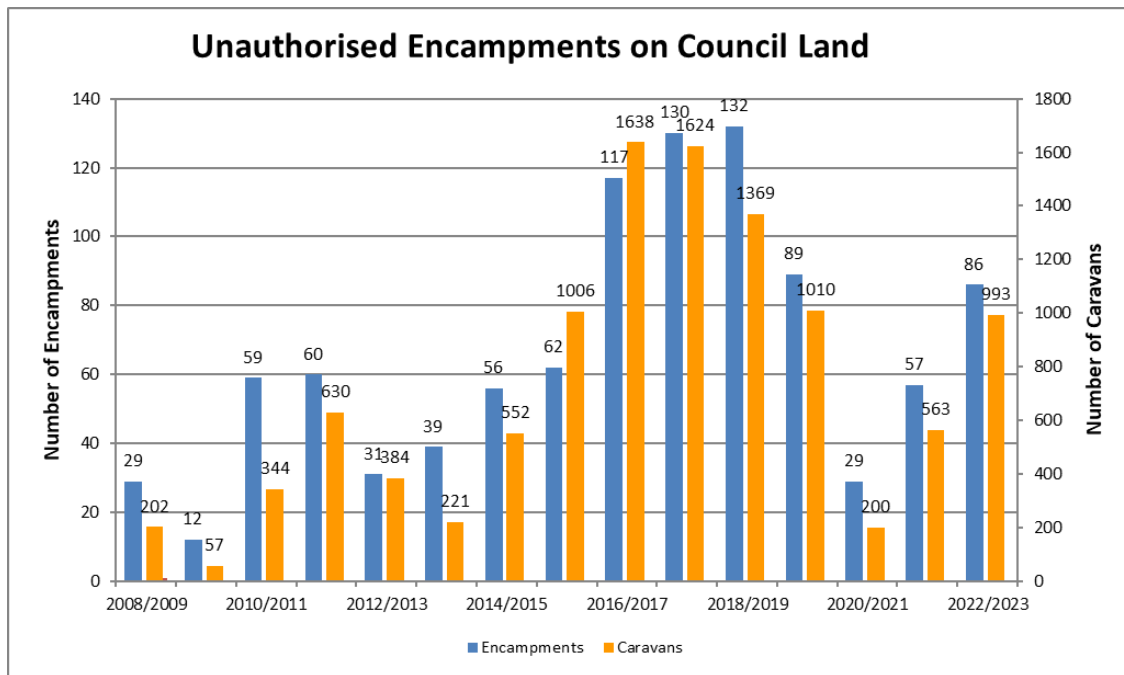
The prevention of future environmental problems is also an important element of work. During 2022/2023 Planning Management consulted us in relation to the environmental consequences of proposed developments relating to 3,003 requests for comment on specific planning applications, this being a slight increase on the pre-Covid numbers reflecting a normalisation of development and a continuance of the upwards trend in this area. These included major developments which can have significant consequences within the city. The primary challenges arising are within the city centre and stem from noise concerns due to residential developments being proposed close to existing entertainment uses (pubs, bars, clubs) or due to air quality concerns from residential developments adjacent to major traffic routes. In both cases officers have raised objections but the issue of planning balance is the deciding factor having regards to competing needs for residential units versus the immediate environmental risks. These are demanding cases for officers and take considerable time to complete, often across months and in some cases years.

Officers are asked to comment on applications made under the Licensing Act 2003. They assessed 136 licence applications for new Premises Licences or variations of existing licences. Officers also assisted in assessing Temporary Event Notifications. Officers regularly raised representation and attended the relevant Committee to explain their concerns with Committee being attended on 3 occasions and representations withdrawn on 8 instances. This further assists in preventing future noise problems.

Officers were also been involved in the investigation of nuisances arising from industrial premises and from licensed entertainment premises within the city centre and also assisted the Environmental Agency in investigations pertaining to permitted installations. The two largest ongoing cases involved Agency sites, the first being the longstanding low frequency noise arising from Speciality Minerals (Minteq) in Kings Norton and affecting residents in the residential areas to the south within Druids Heath & Monyhull ward, the second being odours from the Kiely Brothers site on Cherrywood Road within the Bordesley & Highgate ward. Both are complicated cases and involved a lot of dedicated officer time to support the Agency in their investigations and undertake citizen liaison. Both are ongoing.

Unauthorised Encampments

Environmental Health leads on the response to notifications of illegal or unauthorised encampments (UE), principally due to travelling families. In 2022/2023 officers dealt with 86 such encampments on Council land. This year has seen a normalisation of UE following the pandemic although it is unclear if the number has peaked or will continue to risk.



Officers continue to support colleagues in Housing with regards to the Proctor Street Transit Site whilst Housing procure sufficient management function services. Officers are also working with colleagues on a revised Traveller assessment and in the search for further alternate sites.

Animal Welfare

The Animal Welfare Team is responsible for a wide range of inspection and enforcement activities and includes the Dog Warden Service. The team respond to enquiries involving a variety of pet animal and livestock keepers. The Licencing of Activities Involving Animals (England) Order 2018 provides for the licencing of pet shops, commercial kennels and catteries, home dog boarders, dog day care facilities, riding establishments, dog breeders and people who train and exhibit animals. Zoos and Dangerous Wild Animals are dealt with under separate and specific legislation. Significant achievements in 2022/2023 included:

Dog Warden Service

- The Dog Warden service responded to 2,734 requests for assistance and advice, regarding stray and lost dogs, dog fouling and dog welfare issues.
- A total of 538 stray dogs were seized, of which 500 were impounded at kennels and 38 returned directly to their owners. This is a significant increase from 2021/2022 when 322 stray dogs were seized. It is thought the increase in stray or unwanted dogs is due to the high numbers of dogs acquired through lockdown, that are no longer wanted, or the owners need to go back to office working and the dogs cannot be left. A total of 188 of the dogs impounded were claimed by owners, which resulted in additional income of £5,880 in respect of claim charges.
- The Dog Warden/Enforcement Officers (DWEO) provide the stray dog collection service for Solihull Metropolitan Council and seized 55 dogs on their behalf, this resulted in additional income of £3,467.20.

- Concerns over the fouling of public areas by dogs resulted in 644 complaints. Some 71 warning letters were issued to those reported for failing to clear up after their pets. Approximately 10,000 signs advising dog owners of their legal responsibility to clear up have been affixed to lamp posts in affected areas. Dog fouling hot spots were identified and information provided to litter enforcement agencies for additional patrols.
- Other initiatives to deal with dog fouling nuisances, involve the use of anti-dog fouling stencils and larger enforcement signage. Some 20,000 free poop-scoop bags were also handed out to dog owners, to promote clean up campaigns.
- Other regulatory controls in place under Public Space Protection Orders and the Environmental Protection Act and Dangerous Dogs Act, resulted in 134 warning letters sent in respect of dogs reported to be either dangerous and/or being allowed to stray onto public or private land.
- DWEO continue to promote the legal requirements for compulsory dog microchipping, through discussions with and visits to dog owners and Birmingham Dogs Home, who are responsible for the kennelling of the City's stray dogs.
- Dog cruelty and neglect is an emotive and high-profile issue and officers noted a significant increase in these reports and investigated a total of 479 (increased from 315 in 2021/2022) requests for assistance, which related to poor living conditions, abandonment, lack of veterinary treatment or the malnourishment of dogs.

Animal Related Complaints and Other Activities

- Some 88 animal related licences remained in place, 11 traders ceased trading and 6 new licence applications were processed and approved.
- Concerns over Avian Influenza resulted in an Avian Influenza Prevention Zone being declared across the UK in November 2022, which required poultry keepers to house their birds and increase their biosecurity arrangements on site. Officers responded to complaints of noncompliance through visits and warning letters being sent. Several confirmed cases of Avian Influenza in the wild bird population across Birmingham, required extensive partnership working with other Council departments, Defra, RSPCA, UK Health Security Agency, to identify and remove potentially infected birds and provide relevant and accurate information to the public.
- A total of 12 visits were made to the 4 abattoirs in the city to ensure compliance with animal movement controls and the safe disposal of animal by-product waste.
- Fulfilling the service level agreement with the Children, Young People and Families Directorate to effect an assessment of a dog when kept by a prospective adoptive or foster parent, resulted in 22 assessments being carried out and reports being submitted. This resulted in additional income of £3,428.98

- DWEO continue to assist in the emergency removal and boarding of animals should their owners be taken to hospital or detained under the Mental Health Act. This is a valuable service improvement involving vulnerable people, often in difficult circumstances. The Animal Welfare team take the lead on such matters and liaise with Social Services, Funerals and Protection of Property, hospital staff, police and private kennels and catteries. A total of 22 referrals were dealt with, involving a variety of animals. This resulted in additional income of approximately £2,017.90
- The importation of dogs and puppies continues to be an issue of concern. Officers investigated 2 enquiries regarding dogs illegally imported into the UK, with one puppy found to fail the import rules and was therefore seized and placed into quarantine kennels as required by legislation. All expenses incurred being paid by the dogs' owners
- Officers have also responded to enquiries from colleagues at the Dover port authority in respect of dogs imported and destined for premises in Birmingham. Where details of the person/s supposedly receiving ownership of dogs/puppies could not be verified, though interrogation of systems or visits to the property, the dogs were detained at the port and were not permitted to continue their journey to an unknown destination/recipient.

Sports Ground Safety

Currently the Environmental Health are issuing the sports ground safety certificates for Aston Villa & Birmingham City Football Clubs, Edgbaston Cricket Ground, Alexander Stadium, Moseley Rugby Club and Perry Barr Greyhound and Speedway stadiums. This work also includes the issuing of Special Safety Certificates for events outside of the normal activities.

WASTE ENFORCEMENT UNIT

The Waste Enforcement Unit (WEU) investigates and enforces against most elements of Waste Crime with the exception of littering.

Flytipping

The WEU conducts investigations into dumped waste across the City. The Unit carried out 2865 investigations into alleged tipped waste during 22/23. This resulted in 101 fixed penalty notices being issued and prosecuting 23 offences of flytipping. The Unit investigates waste on public and private land which may include the use of overt or covert surveillance techniques, the seizure of vehicles (3 in 22/23), bag searches etc.

Other waste on Land

Officers of the WEU are increasingly tackling waste on private land that may not be the result of flytipping (for example waste in gardens). Steps are being put in place to capture the statistics around this area of enforcement which do not form part of the standard reports to committee.

Waste in accessways

Working as a coordination service for various teams within Waste Management, officers of the Unit work to engage with residents that abut unregistered land to enable clearance and buy-in by attending and supporting the Love Your Streets days and working closely with colleagues in the Waste Prevention Team.

Commercial Waste (Duty of Care)

Any business that transfers waste within the city is required to keep waste transfer notes for 2 years from the transfer. WEU officers regularly conduct inspections of businesses (847 in 22/23) and issue fixed penalty notices 176 in 22/23) or report companies for prosecution (2 in 22/23) where transfer notes are not provided upon request. Inspections are mostly intelligence led, meaning there is evidence to suggest, or direct complaints that a company is failing to control their waste adequately. This change to a reactive approach is in direct response to the volume of work facing the team across the city.

Neighbourhood Enforcement

The permanent team that we have was formed in January 2023. Following on from some shadowing and training the officers have had most of their impact since the end of March 2023, however a good amount of work was carried out during that period. Currently the NEO duties are as follows:

- Patrolling their wards and proactively conducting investigations into waste
- Responding to queries from members of the public, other departments and Councillors – predominantly this is via MAPSS reports
- Carrying out bag searches both proactively or in partnership with waste collection crews
- Carrying out duty of care inspections and issuing Demand for Information Notices on businesses
- Conduct door knocks and enquiries in Flytipping hot spots including generating reports for officers to carry out enforcement action where required

e.g. where we receive an admission of guilt or evidence pertaining to an offence.

- Generating cases of waste on private land for officers to issue Community Protection Warning and Community Protection Notices as required
- Liaising with Councillors and members of the public for “on site” meetings to discuss ongoing waste issues. This also includes spending time educating the public on best practical means for disposing of their waste.

Due to changes in the way the NEO work is being recorded the following are statistics for April/May 2023:

Duty of Care Inspections – 79

S.34 Fixed Penalty Notices for non-compliance – 19

S.33 Fixed Penalty Notices for Fly-tipping – 16

MAPSS Case Closures – 201

Community Protection Warnings for waste on land – 47

Community Protection Notices – 5 (we have seen a good compliance rate with CPWs and land being cleared)

As a result of the efforts of the NEOs, albeit yet at full capacity, 2 out of the 6 wards that were highlighted for the project areas due to levels of flytipping reports have, as of the end of 22/23 moved out of the top 6 wards for the total cumulative numbers of flytipping reports since 1st January 2022. On a monthly reporting bases for example reports received in March 2023, following the work of the NEOs, the priority wards were the 1st, 3rd, 5th, 15th, 17th and 29th wards. Steps are now being taken to review the wards within which the NEOs operate to reflect changing levels of reported flytipping.

Bins on Streets

Bins on streets are a persistent issue across the city. With the decriminalisation of the s46 Environmental Protection Act 1990 process officers are now seeking alternate means of enforcing against persistent offending. Whilst still in its infancy the Unit are trialling the use of Community Protection powers (this approach is mirrored in other local authority settings) and have started a process of applying for a Public Space Protection Order in a pilot area of the city where bins on streets are a particular issue. This role also includes working closely with the Waste Prevention Team.

TRADING STANDARDS SERVICE

The Trading Standards service deals with a wide range of enforcement activities. Details of our priority areas are provided below:

Age Restricted Products

The prevention of the supply of age restricted products to minors remains a priority for the Service. Work in this area includes the sale of alcohol, cigarettes, vapes, knives, glue and other solvents, spray paints, fireworks and nitrous oxide. Prevention work includes advisory visits to retailers where complaints may have been received or to those who may have applied for a licence to supply alcohol. Most of this work is reactive rather than proactive due to resources. However, following funding provided by public health, two officers were employed to look at vapes and issues concerned with vapes during the year. This is detailed under Operation Miasma below

Further, intelligence-led test purchase exercises with the assistance of young volunteers are still undertaken. Where sales are made, enforcement action as well as licence reviews are considered.

Trading Standards received 139 requests for assistance concerning alleged underage sales of regulated products. Of these:

- 74 related to alleged sales of Ecigs/vapes to 27 young persons
- 27 related to alleged sale of cigarettes
- 20 related to alleged sale of alcohol.

In October 2022 13 test purchase attempts were made for vapes, six businesses failed the test and supplied to the young volunteer.

In a further test purchase exercise conducted in February, targeting vapes, cigarettes and alcohol, 7 premises were visited, and no sales were made.

A later exercise conducted in February at 9 premises resulted in two failures, one for alcohol and one for cigarettes.

Where an underage sale takes place, each case is subject to an investigation. Where the premise is an off licence, a review of the license is also instigated (see below)

Operation Guardian Knives Sales

Operation Guardian is a combined unit of dedicated Police Officers plus Trading Standards, and is area driven rather than complaint response directed. Non-evidential enforcement exercises are done where several shops are visited by a young plain clothes officer (18) who attempts to buy a variety of offensive weapons, knives, axes, hatchets. machetes etc. Irrespective of whether a sale is made or not, the premises is then visited immediately by uniformed officers and Trading Standards. The owners are subjected to an intensive advisory visit and inspection, with an attempt to sign the

owner /premises up to a Responsible Retailer scheme. Two operations were conducted a) 8 visits made and 3 sales, b) 7 visits made and 5 sales made.

Nitrous Oxide

There has been considerable concern at the supply of nitrous oxide cannisters. However, the product is not subject to age restricted legislation enforced by Trading Standards. Legislation enforced by the police does not allow a business to supply nitrous oxide to a person who they know does not intend to use it for legitimate purposes. However, this is very difficult to enforce in practice. Trading Standards have undertaken some advisory visits only to some retail premises. Government have announced intention to bring in additional legislation, the details of which are awaited.

Used Car Sales

Buying a vehicle remains one of the single most expensive purchases a consumer will make (apart from property). Consumers are entitled to know 'material information' regarding a vehicle's condition and history before deciding to buy. They need to be assured that the vehicle is safe, correctly described and the status of the seller is not misleading in an attempt to erode the rights of the buyer.

Example: Yew Tree Cars Vibart Road -Mohammed Sajid et al

Birmingham City Council Trading Standards received numerous complaints from unsuspecting motorists. Mohammed Sajad, with two other co-defendants, sold dozens of vehicles, with consumers often being given false and misleading information about the vehicle. After a lengthy investigation, Trading Standards has sought to prosecute the individuals responsible.

At times, the defendant purported to be a private seller using the name 'Adam' or James. A catalogue of complaints included, fake service history, vehicles in dangerous condition such as having corroded fuel tank or holes in the car floor. Cars were often described as in excellent condition, and when consumers complained, they would either be ignored or be met with an angry reaction.

In addition, complaints were also received from neighbours who claimed the trading activity, in what should have been a quiet residential road, was causing a misery to other residents.

Sajad has now pleaded guilty with sentence being imminent

Clean Neighbourhoods and Environment Act – nuisance car sales and repairs

Trading Standards enforces the provisions of this legislation, which prohibits traders from displaying for sale two or more vehicles within a certain distance or repairing vehicles on the public highway.

Fifty-five complaints were received, often involving persons who have started a car sales /repair business trading from their home. Where a breach has been identified, the seller is given advisory information. In some cases, planning enforcement are also notified as there may be a change of use of the property that requires planning permission. Officers also attend the area and place notices on the vehicles warning

the sellers that it is illegal to expose vehicles for sale on the road (if they were acting in the course of a business). This can act as a deterrent to potential buyers and make the sellers aware that trading standards are in the location monitoring cars exposed for sale on the highway.

Rogue traders

Many trades people operate in the city across a broad breadth of professions without issue and without cause for concern. However, there is a minority of individuals that target vulnerable members of our society to scam, mislead and steal from them for personal gain. Trading standards deals with rogue builders, roofers and other home improvement trades due to misleading claims, overcharging for the work carried out, poor or unfinished work, unnecessary work or dangerous repairs.

Trading standards also deals with issues regarding targeted scams by letter, telephone calls and text messages and online. Victims of this type of pernicious crime are often elderly or considered vulnerable. Officers have been trained in dealing with victims and use those skills when undertaking visits with them. The Trading Standards Officer will also use this opportunity to raise awareness about a range of scams to try and empower the individual for the future. Officers will also gain intelligence from any business cards or flyers that may be left, and this is shared with the wider trading standards community.

Victims that have come to our attention have, on occasion, also been referred to Adults Safeguarding, as some victims have been and are at further risk of being financially abused by rogue traders. What we have found by doing these referrals is that Adults Safeguarding are not always able to assist with preventing these issues from recurring.

The service visits vulnerable people that have been or are being targeted. The national scams team will send through intelligence of vulnerable people that they have identified in Birmingham. Trading standards visit, and refer if necessary, these individuals for support. This is also the case when dealing with the banking protocol and calls that rogue traders are operating in certain areas of the city and taking their victims to the banks to draw out large amounts of cash.

Waheed Butt

A rogue trader was sentenced to 6 years at Birmingham Crown Court on 16 May 2022.

Waheed Butt (49) of Waylen Street, Reading RG1 7UP was jailed after pleading guilty to an offence of fraudulent trading under the Companies Act 2006. He was also disqualified from being a company director under the Company Directors Disqualification Act 1986 for eight years.

Following his guilty plea, Butt agreed to pay part refunds for 12 victims, including supplier companies, totalling £152,500.

Birmingham City Council's Trading Standards team launched an investigation in December 2019 after receiving numerous complaints from Butt's victims regarding WB Infrastructure Ltd, which had been contracted for various building works to their properties between February 2019 and September 2020.

Thousands of pounds were paid for extensions to be built, kitchens to be replaced and roofing, electrical and plumbing work to be done. In most cases, little or no work took place, and it was alleged the work that had been carried out was found by an independent building surveyor to be in a dangerous condition and required demolition.

The case was widely publicised in the local and the national press.

Hickman & Rose (24/7 Roofing Ltd)

In May 2023, Gavin Hickman pleaded guilty to three counts of contravening the requirements of professional diligence contrary to regulations 3 and 8 of the Consumer Protection from Unfair Trading Regulations 2008. Matthew Rose, his co-defendant, pleaded guilty to two counts. Mr Hickman was then a Director of a company called 24/7 Roofing Ltd, involved in roofing and other building maintenance work, and Mr Rose was his employee. Much of the work they completed on properties fell below the standard typically expected of a reasonably competent contractor, caused through a lack of due skill and care.

Hickman & Rose worked on the properties of many consumers, often giving inflated quotes, charging for work they had not done and leaving work incomplete and/or work completed to a poor standard. The prosecution focused on 5 victims who had complained to Trading Standards or the Consumer Service. Between them, the victims paid out more than £16,000. They defendants are due to be sentenced at Birmingham Crown court on 07/06/2023

Rogue roofer

A Birmingham consumer was persuaded to pay out £56,500 to two men who knocked at his door in November 2021, claiming to work for a legitimate roofing company based in Rugby. They were contracted to replace the main roof and a rear flat roof. They did minimal work, and by December 2021, no longer attended and the consumer could not reach them on their contact numbers. The Consumer was not given any paperwork.

A report conducted by an independent surveyor confirmed that the work to the main roof was not necessary and minimal work had been carried out. No work had been undertaken on the flat roof.

Trading standards have been unable to identify the 2 male suspects, but the consumer paid by bank transfer. The bank account holders were identified as 2 women based in Poole in Dorset. They were interviewed in November 2022 for Money Laundering offences.

A report is submitted to legal services

Lettings agents, Landlords and estate agents.

Trading Standards are responsible for ensuring that consumers entering the rental market are protected, that they are not misled and that any monies paid are protected in the appropriate deposit schemes and client accounts.

Lettings agents are required to protect their clients' money and to ensure fair and honest trading is provided in this industry.

M..... Properties

A fixed penalty was issued to a letting agent under the Client Money Protection Schemes for Property Agents (Requirements to Belong to a Scheme etc). Regulations 2019

M..... Properties Limited, Birmingham was issued with a fixed penalty notice for the sum of £9450 for failing to have a client money protection scheme in place. Officers requested details of the scheme from the agent on several occasions, but no evidence was provided. Under the regulations, agents that hold client monies i.e., rent from tenants for landlords must have a government approved client money protection scheme in place. The business failed an appeal against the notice. Failure to have one could result in a fixed penalty fine of up to £30,000. A further breach is also for not having the details of the scheme published on the trader's website if they have one or at their place of business. This carries a penalty notice of up to £5,000.

Operation Jupiter

Birmingham trading Standards continues to work with Centsa and Powys County Council who are hosting the national trading standards Estate and Letting Agency Team (NTSELAT). This team deal with referrals relating to agents that are not part of a property redress scheme (as required by the Redress Schemes for Lettings Agency work and Property management work/ requirement to belong to a scheme etc England order 2014 and client money protection regulations). Birmingham trading standards will look at all applicable interventions and seek to bring agents into compliance. Fixed penalty notices can be issued, depending upon the severity of the breach and may take criminal prosecutions against agents in some cases.

Intel Led Approach

The Central England Trading Standards Authorities (CEnTSA) is a collaboration of 14 Trading Standards Services from Local Authorities across the West Midlands. The aim is to maximise the impact individual services have by establishing and maintaining good working relationships with a wide range of regional business partners, supporting businesses in the region and by promoting economic growth.

The service works closely with CEnTSA and is a member of its Regional Intelligence Group. The group is used to identify emerging criminal threats and prolific offenders who operate across the CEnTSA region. It allows authorities within the region to pool resources in order tackle serious and organised crime.

The service continues to receive referrals from the Citizens' Advice Consumer Service (CACS) about potential scams, many of which relate to on-line transactions. Many of these scams emanate from outside the EU and are virtually impossible to trace. However, intelligence is logged and referrals are made to Action Fraud and the National e-Crime Unit.

The intel indicates for example most complained about traders. An assessment is then made as to what, if any, intervention is required. In the last year two companies based in Birmingham but operating nationally raised a significant number of complaints:

Consumer Advice and Assistance

Members of the public requiring consumer advice are referred to the Citizens' Advice Consumer Service (CACS). CACS provide consumers with advice about their rights, and what actions are open to them to resolve their civil disputes.

Referrals will be made to our Service by CACS where it is considered that there may be a criminal element to the complaint, or where the consumer is considered to be vulnerable.

A total of 4654 requests for assistance were received by the service last year.

Product Safety

Trading Standards enforce the provisions of the Consumer Protection Act 1987 and the General Product Safety Regulations 2005, which are both aimed at ensuring all consumer products are safe to use. In addition to this, there are several Regulations aimed at specific products.

Trading Standards received 222 safety related enquiries over the year. These related to various product types, but the highest numbers of complaints were about electrical goods, toys/games and then cosmetics.

Big Living Sanitiser safety case

In July 2022, Big Living Ltd was found guilty of offences under the General Product Safety regulations, Business Protection from Misleading Marketing Regulations and Consumer Protection from Unfair Trading Regulations, for selling an unsafe hand sanitiser. The amount of ethanol contained in the "Chemistplus" hand sanitiser was false. Instead of being 75% in some samples it was found to be less than 30% rendering it to be ineffective as a sanitiser. The sales of the sanitiser took place during the covid pandemic. The ethanol content was so low that the sanitiser would not have protected users from covid. All three directors of the company were found guilty of offences. The case was adjourned to the 2 September 2022 for sentence and pre-sentence reports to be prepared. The company have since appealed

Personal Protective Equipment

A business selling motorcycle protective wear equipment was visited in March 2023. The traceability and labelling of goods held in the warehouse was found to be wholly inadequate. All goods in the warehouse were suspended whilst testing of the equipment is being undertaken under the OPSS funding project. The investigation is on-going.

Referrals from Port Authorities

The National Trading Standards (NTS) Safety at Ports and Borders provides direct funding to 15 local authority trading standards teams. Officers inspect items at ports, airports and postal hubs and detain unsafe and non-compliant consumer goods, including electrical goods, cosmetics and toys. Since 2015 over 6 million such items have been detained saving the UK economy an estimated £54m.

This is the first point of intervention, identifying suspect products entering the UK and carrying out initially screen testing where appropriate. The Ports Authorities are then identified, and contact made with the local Trading Standards Authority where the products were destined.

Birmingham Trading Standards receives many such referrals on a regular basis and where further investigation is required, the trader/importer is contacted.

Such interventions can lead to suspension of goods, forfeiture of goods and or prosecution.

Preventing scams

Raising awareness and prevention is key in the fight against scams and rogue traders. We rely on those attending our events and presentations to spread the word and become more aware. It is often too late to take enforcement action as often the scammers are untraceable and rogue traders notoriously use bogus details and deal in cash.

NTS referrals Scams project

TS are receiving around 5 monthly scam victim referrals. TS are updating the National Trading Standards Scams Team on the outcome of the referrals.

TS are doing full background checks on victims to see if any further support is required by Adult Social Care. TS continue to provide scam awareness advice to those who have entered bogus prize draws and other scams.

Scam Alerts

TS has been posting scam alerts of current scams on their twitter account and supporting the NTS Scams Team on campaigns on social media.

Scam Awareness Fortnight

TS supported Scam Awareness fortnight 13-26 June 2022; the theme was scams around the cost-of-living crisis. The aim was to create a network of confident, alert consumers who know what to do when they spot a scam. TS promoted the campaign on their Twitter account. The social media campaign was well received, and one tweet alone earned 3,792 impressions

Operation Miasma Vapes / E cigarettes

The supply of Vapes /Ecigs has grown significantly in recent years. Evidence indicates there is also significant prevalence of non-compliance amongst vapes suppliers.

The two main areas of concern are the non-compliance of the products themselves to UK Legislation, and the supply of vapes to young persons under 18.

Legislation imposed a maximum tank size on vapes of 2ml which equates roughly to 600 puffs. However, products with 'puff' counts of 3500 were widely available.

An Inspection in 2022 at a wholesaler In Birmingham resulted in the seizure of 3900 non-compliant vapes. Samples have confirmed many exceed the maximum tank size or do not comply with labelling requirements. An investigation ensued, with a report being submitted to legal services.

Through funding from Public Health England, proactive work was undertaken. The first phase involved raising awareness amongst the retail trade. Over the year some 250 businesses have been visited and advised about the legislation applying to vapes. Evidence from the officers indicated 90% of the businesses visited had at least some non-compliant vapes.

Later in the year further inspections have been carried out. At one wholesaler 9780 vapes were seized. The matter is under investigation with a report to be submitted to legal services. Further significant seizures have also taken place at retailers who had been previously advised. A number of these are also subject of investigations.

Underage sales exercises where vapes test purchases have been made have been reported above. Tackling underage sales of vapes remains a high priority.

Acquisitional Crime

Illicit alcohol, cigarettes and counterfeit items.

Trading in illicit goods undermines legitimate business, creates a negative perception of the City resulting in a lack of investment in the City, and deprives the public purse of millions of pounds per year.

Trading Standards work hard to combat the manufacture, sale and supply of counterfeit consumer goods. National research indicates that UK manufacturing loses £11 billion a year as a result of counterfeit products. Tackling the sale of counterfeit goods provides a level playing field for Birmingham businesses, which in turn supports local jobs and improves the local economy.

The trading standards actively pursue those individuals profiting from the ghost and illegal economy. There is recognition and evidence that this type of activity is operated by organised crime gangs, and that proceeds are used to fuel other activity that exploits individuals to grow the power base of these gangs.

Using the intelligence led approach, targeted visits are conducted at premises identified through consumer complaints or via information from other agencies.

Throughout the year, numerous consumer complaints were investigated, and premises visited to ensure compliance, resulting in the seizure of:

Operation CeCe Illicit Tobacco

This is a joint initiative between National Trading Standards (NTS) and HMRC and its objective is to stop those that produce and smuggle illegal tobacco products and at a local level, to disrupt this activity including the seizure of illicit tobacco products at local retail premises.

Birmingham Trading Standards focuses on this local disruption activity, working closely with tobacco detection dog teams to target those who supply these products by carrying out enforcement exercises.

Over the course of the year, Birmingham Trading Standards has carried out 3 such enforcement exercises, visiting 18 retail premises, 17 of which were found to be non-compliant and removing/seizing more than 123,000 sticks of illicit cigarettes and 33kg of counterfeit hand rolling tobacco. Where appropriate, Licensing Reviews and prosecution of offenders are being taken forward.

A few worthy of note are:

- An Asian Sweet Centre where following intelligence received by Trading Standards, 188 packets of illicit packs of cigarettes were found concealed around the premises.
- A local store in the Small Heath area of the it, again following intelligence received, Officers discovered illicit tobacco - 369 packs vapes of either 3500 or 4000 puffs - well over the legal limit of 600 puffs, 105 packs chewing tobacco, 4147 packs various cigarette brands smuggled and or counterfeit and 81 pouches of counterfeit hand rolling tobacco. Trading Standards officers also found the seller was an illegal immigrant and, in the basement, 3 men sleeping in squalid conditions, also thought to be illegal.
- In another store in the Northfield area, over 500 illicit and or counterfeit products were discovered by Trading Standards officers concealed above the ceiling and within the wall of a rear storeroom of the premises.

Below are a few further examples of further investigations surrounding Trademark and Copy right infringement:

Example: Sports/Movies Streaming

A business was being operated which allowed consumers to watch premium sports and movie content without making payments to official providers. An investigation was commenced into the business for suspected offences under the Copyright, Designs and Patents Act 1988. The business is believed to have generated a

revenue over £300k during a three year period. Offences have been laid at the Magistrates' Court with the hearing scheduled for April 2024.

Example: Op Indica

Investigations have continued following an exercise where 4 vehicles full of counterfeit goods were intercepted on the motorway, in a joint operation with West Midlands police.

A number of reports have been submitted with some defendants having been charged and awaiting trial dates.

Typical of these where more than 3000 items were taken from a fully loaded van, the value of genuine goods would have been approx. £400,000.

Counterfeit Alcohol Times Wines - Haunch Lane, Kings Heath

An Investigation continued following the seizure of 400 bottles of counterfeit wine in 2021. The company, along with others, were charged. The company has pleaded guilty, the case against others is part heard and will be completed later in June.

Example: eBay business selling counterfeits

A business selling counterfeit clothing on eBay has been under investigation for offences under the Trade Marks Act 1994. The business is suspected of purchasing transfers with trademarks which were ironed on to blank pieces of clothing from their home address and then sent to consumers through Royal Mail.

Example: Two Online / Facebook retailers

Trading Standards received intel that a trader in Tyseley was selling copy branded homeware items such as bedding, vases, clocks, lamps, lampshades, ornaments, handbag, clothing, footwear, rugs, towels, hair clips through Facebook.

An inspection by a team officers revealed a large quantity of counterfeit household goods an investigation is pending

Indus Food Ltd - Ahmed Pickles

This case concerns the defendant company; INDUS Foods Ltd, who had imported a variety of AHMED branded pickle products directly from a manufacturer called Ahmed Foods International, based in Pakistan.

However only Ahmed Foods (Private) Ltd have their brand trademark protected in the UK. Consequently, all the 'Ahmed' pickles at Indus were deemed counterfeit, some 14004 jars were seized and a further 3444 embargoed.

INDUS FOODS LTD have pleaded guilty to all offences in September 2022 and are currently awaiting POCA and sentencing.

Role of Responsible Body under the Licensing Act 2003

Trading Standards is designated as a Responsible Authority for the purposes of the Licensing Act 2003.

Applicants for new or varied Premises Licences must serve a copy of their application on Trading Standards to enable them to raise objections or suggest measures for improvements. Applications were received and processed; these included new applications, and variation requests and reviews.

This year, Trading Standards submitted three licence reviews to be heard before the Licensing Sub-Committee.

Example: Hockley Convenience Store

In October 2021 and January 2022, several issues had arisen with the business. There had been complaints of underage sales. On two visits, the running of the business appeared in disarray, there appeared to be sales of single cigarettes taking place, illicit tobacco was also discovered, and furthermore a small quantity of fireworks was also found on the premises.

At a review held on 25th April 2022 the business premise license was revoked Mr Sirwan Ibrahim Rashid was removed as the Designated Premises Supervisor

Example: S.A.T.Convenience Store, Hunters Road Lozells

Following an underage sale of vapes and representation being made by Trading Standards, licence was suspended for 2 weeks with additional conditions being imposed, including further CCTV, regular staff training and records and keeping up to date refusals book.

Example: Seans Local Convenience Store Coventry Road, South Yardley

Following an underage sale of vapes in October 2022, and subsequent representations by Trading Standards, the licence was suspended for 2 months. Conditions were imposed such as following Challenge 25 approach, asking for ID, keeping a refusals record, and having regular staff training.

Primary Authority

Primary Authority gives companies the right to form a statutory partnership with a single local authority regarding areas of regulation. Birmingham Trading Standards has four such arrangements with the Royal British Legion, Marks & Spencer's, Cadburys and Wing Yip.

Operation Beorma – NTS lead by Regional Investigation Team

In 2017 Birmingham Trading Standards was tasked by National Trading Standards (NTS) with drawing together intelligence surrounding purported significant

distributors of counterfeit goods, which were being sold at markets across the country. Birmingham was chosen as there was indication several of the distributors emanated from the Midlands area.

Since the beginning of the exercise, over 40 enforcement exercises have been conducted, with the Team working their way up the supply chain to those manufacturing and wholesaling the counterfeit goods.

The value of the seized goods now exceeds £10m, with significant cash seizures and Proceeds of Crime action on top of this.

The Team currently has 7 cases actively being worked on, with some trials set for later 2023 and other matters either in with Legal or due for submission to legal.

In the last year, two cases have concluded in court and one case with a partial conclusion

Usman Sikander and Wasim Mahmood had previously both pleaded guilty to offences relating to the supply of counterfeit goods. Usman Sikander was sentenced to 12 months imprisonment, suspended for 2 years, and ordered to do 20 days rehabilitation and have 3 months electronic curfew

Wasim Mahmood was ordered to a community order of 12 months, to undergo 25 days of rehabilitation and do 50 hours of unpaid work.

Usman Sikander was ordered to repay £25,000 as part of a POCA order

Saqlain Nawaz had pleaded not guilty, and the matter went to trial at Birmingham Crown Court. He was found guilty of all offences relating to the supply of counterfeit goods from 2 separate premises, with the offending being committed some 18 months apart. This showed a pattern of continuing offending.

Saqlain Nawaz is due to be sentenced on 30 May 2023.

Another case involved multiple defendants where one defendant has pleaded guilty to entering a conspiracy to supply counterfeit goods. The remaining defendants are set for a trial later in 2023

Anti-Counterfeiting Group Award

On 16 June 2022 the Anti-Counterfeiting Group (ACG) announced the winners of the 2022 ACG Awards for Excellence in Anti-Counterfeiting Enforcement at an event hosted by Phil Lewis, Director General at the ACG at the Chartered Trading Standards Institute (CTSI) Conference in Bristol.

ACG Special Awards were awarded to CENTSA Regional Investigations Team with special mention to Mohammed Tariq.

Mohammed Tariq, a Senior Trading Standards Officer from Birmingham Trading Standards also won the highly commended 'Dave Hankinson Memorial Award for Individual Excellence' in recognition of his specific contributions to anti-counterfeiting enforcement work during 2021/22.

Weights and Measures

There were 47 enquires and requests for assistance about weights and measures issues this year.

The majority of these related to short measure fuel complaints and Trading Standards Officers went out on several occasions with the petrol measuring equipment to ensure consumers were getting the correct measure.

Officers inspected stalls at the Frankfurt Christmas Market in the City Centre, to ensure their compliance with UK legislation. Officers tested a wide range of weighing and measuring equipment, including spirit measures and beer dispensers.

The service continues to maintain a variety of test equipment that is used by officers to investigate weights and measures complaints such as weights, both small and large from 0.1g up to 150kg, as well as weighing machines, measures for beer, wine and spirits and a variety of length measures including one used to measure the size of shops for Sunday trading law compliance.

Frankfurt Christmas Market

Trading Standards Officers continue to support inspections of the Christmas Market testing weighing machines at several stalls. And checking for compliance across the range of consumer protection legislation.

Prior to the event opening, an information pack compiled by Trading Standards is provided to the event organisers for the stall holders. This covers a variety of consumer protection legislation such as those relating to weights and measures, product safety and pricing. This year 400 glasses/optics inspected 20 weighing machines tested

This is a key event for the City and plans begin early on in the year to ensure that visitors to the market are safe and that only safe products are available for sale

Other Trading Standards Cases

Copy Cat website for Birmingham clean air zone payments is currently being investigated at an early stage. POCA officers are also involved.

Proceeds of Crime

Trading Standards has two Accredited Financial Investigators whose roles are to confiscate money and assets under the Proceeds of Crime Act 2002, in order to prevent offenders from benefiting from their crimes.

All criminal cases taken by Trading Standards, along with the wider Councils Regulation and Enforcement functions are assessed to decide whether a Proceeds of Crime confiscation investigation will apply. In addition, the Financial Investigators' powers and skills are also used to assist Trading Standards Officers and other enforcement teams in securing evidence and analysing financial data.

Throughout the past year, over 35 cases have been referred to the Financial Investigators from Trading Standards and other enforcement teams within the City Council and other Local Authorities. As a result, 15 applications were made for over 50 Productions Orders to enable financial data and information to be obtained from banks, building societies, solicitors firms and other organisations. All applications for Production Orders were granted.

Cash seizures of £150,000.00, £9,500.00, £3415.00 and £1050.00 have been made. The criminal element to all is still ongoing.

Restraint Orders were made against 6 defendants restraining property valued at over £1/2 million. These cases have not yet been concluded.

During the period 2022/2023 there were 6 Proceeds of Crime Act confiscation hearings at the Crown Court, involving 9 defendants. All 6 hearings were found in favour of Birmingham City Council and, 9 Confiscation Orders were made, totalling £195,564.00.

Out of the Confiscation Orders made £42,205.68 was ordered to be paid as compensation to victims who gave evidence as part of their respective cases.

During 2022/23, over £150,000.00 was paid in by various defendants as a result of Confiscation Orders made during this year and in previous years.

All funds that are confiscated during these investigations are reinvested into the criminal justice system, with Trading Standards receiving 18.75% under the 'Asset Recovery Incentivisation Scheme'.

As part of a disruptive exercise, working in conjunction with the national Crime Agency a major fraud involving the none supply of "Air fryers" was prevented with all victims receiving their money back.

Trading Standards Website

The Trading Standards website consists of 20 pages within the Birmingham.gov.uk website. The pages cover a variety of subjects and include useful information and links for consumers and businesses. The pages and content are regularly updated by the Trading Standards editor. The total number of views of the Trading Standards website was 47,528 in the last year. On the landing page there is a live Twitter feed, which was created so that our latest Tweets appear on the page.

Trading Standards Twitter

The @bhamts twitter account has 3,019 followers. Many advisory tweets are posted each day on scams awareness, current scam warnings, doorstep crime, financial abuse, electrical safety, weights and measures, hallmarking and other current issues. The account has supported the following campaigns e.g., Sun safety, button battery safety, Gas safety week, NTS Scamnesty month Scam awareness, Loan sharks Christmas scams, Take Five scam fraud campaigns every month etc.

The TS account also supports the main Birmingham City Council twitter account on various campaigns such as Mental health awareness week, Commonwealth Games, Cost of Living, Council tax support, Covid 19 vaccines, International Women's Day, Rough sleepers. Birmingham Pride, Queens funeral etc.

Commonwealth Games

In the weeks building up to and including the Games duration, Trading Standards Officers worked with colleagues from Environmental Health and Licensing with police assistance.

Trading Standards were tasked specifically with ensuring no illegal trading took place in the controlled zones, under legislation specifically introduced for the Commonwealth Games.

Officers dealt with issues of pedlars operating in the controlled zones, buskers in the controlled zones. The individuals were advised and moved out of the controlled zones. Officers seized some flags that were being sold from the controlled zones, the individual was warned on 3 occasions to move out of the controlled zone. Officers seized some toys that did not comply with product for safety law.

One gentleman who was persistent in attempting to sell food near the stadium had some of his goods removed

In the city centre, one busker who refused to move had his amplifier seized.

Trading Standards Outputs 2022/23

The work of Trading Standards positively impacts the entire 1,073,045 Birmingham residents, 30,380 businesses and 33,000,000 visitors to the City each year.

A total of 4654 requests for assistance were received by the Service last year. 38 of these were requests for advice from businesses. 17 prosecution files were submitted.

Due to the court backlog following the pandemic 6 successful prosecutions and 3 cautions were concluded.

LEGISLATION	ses	Offences	Fines	Costs Awarded	Other Penalty
Companies Act 2006 Tobacco and Related Products Regulations 2016**	1 2	1 12	0 £2,500	0 £4,309	6 years imprisonment & company director disqualification x 8 years 80 hours unpaid work
Consumer Protection from Unfair Trading Regs 2008 ***	1	5	£0	£0	14 weeks imprisonment and £750 compensation
Trade Marks Act 1994	1	1	£360	£1,185	
Fraud Act 2002	1	1	£0	£1,000	26 weeks custody suspended for 12 months and 26 weeks curfew and 15 rehabilitation days
TOTALS	6	20	£2,260	£6,494	

Birmingham City Council hosted England Illegal Money Lending Team.

34 warrants were executed in 28 operations this year, culminating in 33 arrests and the seizure of cash and documentation relating to illegal money lending. The total amount of cash seized during the execution of these warrants was £151,535 and legal proceedings have been initiated against 23 individuals.

There were 355 contacts with victims in 2022-23, the majority of these were offered emotional support and safety advice. There were also referrals to credit unions, housing, debt advice and mental health services. The team dealt with over £920,365 of new victim debt during the year.

The team have trained over 23,000 frontline staff, the majority being online but face to face training sessions beginning to increase over the year.

The team has developed two types of new training. One is an online training session that can be done as part of mandatory training rolled out annually by Councils and other public sector bodies. This will be piloted with Birmingham City Council. The second is workshop style training aimed primarily at the debt advice sector around having “difficult conversations”.

Work is ongoing with Birmingham NHS Wellbeing Team to deliver:

- Face to face training session for Staff, HR and Managers
- Anti-loan shark Information on social media internal and external
- Partner recognition program

Work is ongoing with the Centre for Social Justice and the debt advice sector to identify blockages in intelligence flow to IMLT from debt advice agencies. Report launched 3 April. IMLT have developed new training for debt advisers and have offered it to every FCA regulated debt advice agency in England.

Work is ongoing with Incuto to develop an algorithm that helps identify illegal lending in bank transactions.

Fortem are the Birmingham City Council repairs contractor. Meetings are held with them, and they have several contracts across England. They will look at giving out IMLT leaflet as part of their repair visit. Training was held in early March, and this will be rolled out across England.

Trading Standards Institute Young Consumers Award

A creative competition for West Midlands schools is being co-ordinated by the Trading Standards Institute with winners (short story/rap/song) being announced at the conference in June 23.

Regional investigation Team

Operation Beorma is an investigation in to counterfeiting and its association with networked organised crime. This investigation has been ongoing for 5 years and

has resulted in numerous cases being undertaken and concluded. We have had two cases conclude in court in the last year.

Case 1

Usman Sikander and Wasim Mahmood had previously both pleaded guilty to offences relating to the supply of counterfeit goods.

Usman Sikander was sentenced to 12 months imprisonment, suspended for 2 years, and ordered to do 20 days rehabilitation and have 3 months electronic curfew
Wasim Mahmood was ordered to a community order of 12 months, to undergo 25 days of rehabilitation and do 50 hours of unpaid work.

Usman Sikander was ordered to repay £25,000 as part of a POCA order

Case 2

Saqlain Nawaz had pleaded not guilty, and the matter went to trial at Birmingham Crown Court and was heard over 5 days.

He was found guilty of all offences relating to the supply of counterfeit goods from 2 separate premises, with the offending being committed some 18 months apart. This showed a pattern of continuing offending.

Saqlain Nawaz was sentenced in May 2023 to 27 months imprisonment.
We continue to pull together multiple files relating to other matters, with cases currently with legal and still in the compilation phase. These include case files against alleged manufacturers as we have worked our way up the supply chain to the UK source of the suspected counterfeit goods.

Case 3 – Part concluded

Finally, we have a case involving multiple defendants where one defendant has pleaded guilty to entering a conspiracy to supply counterfeit goods. The remaining defendants are set for a trial although the trial has very recently been put back to October 2024.

We have multiple other cases either with legal or in the case building process. The value of the seized goods across the many enforcement exercises now exceeds £10m, with significant cash seizures and Proceeds of Crime activity on top of this. The RIT continue to pull together multiple files relating to matters such as rogue builders, scams and cons and other consumer detriment, as well as support the central region Trading Standards to investigate cross border matters. Several court cases are currently in the system but have been delayed due to the pandemic.

REGISTER OFFICE

The Registration Service is a statutory function which Birmingham City Council is required by law to provide in terms of accommodation and adequate staffing to register all civil events within a specified national time frame. These events include:

- the registration of births, deaths, stillbirths, marriages and civil partnerships,
- conversions of civil partnership to marriage,
- attesting the legal preliminaries to marriages, civil partnerships and conversions,
- the provision of a certificate service
- the provision of citizenship ceremonies.

All events to be registered are those which occurred within the boundary of the city. In discharging these functions, registration employees officiate at ceremonies at the Register Office in addition to approximately 60 approved premises. They also attend and register marriages taking place at religious buildings. The service also provides the statutory citizenship ceremonies, a change of name service and other non-statutory civil ceremonies. The Service is directed by the Registrar General, whose General Register Office is part of HM Passport Office. It is administered locally by Birmingham City Council and the Proper Officer for Registration Matters is Sajeela Naseer, Director of Regulation and Enforcement City Operations Directorate

Service Delivery

Event	2018/19	2019/20	2020/21	2021/22	2022/23
Birth registrations	23335	21628	20446	20228	20093
Still –birth registrations	133	109	111	113	116
Death registrations	9099	10372	13418	10960	11702
Birth re-registrations	667	563	76	230	357
Marriage Ceremonies	1499	2351	639	2376	2344
Civil Partnership Ceremonies	8	31	42	66	53
New British Citizens	2809	2874	1973	4872	4638
Notice of Marriage	7058	6838	4108	4062	6982
Notice of Civil Partnership	22	119	119	116	142
Total Primary Customers	53217	54224	45840	49643	55948

In 2022-2023, 2397 marriage and civil partnership ceremonies took place, 453 of which were at the City's approved venues. There have been 10 marriages under the Registrar General's Licence Act which allows a person who is terminally ill and cannot be moved to a place where marriages take place, to get married wherever they are. There were also 3 housebound marriages.

Registration staff made 167 S24 reports of possible offences relating to sham marriages during the year.

53 civil partnership ceremonies took place in the City over the year, of which 12 were same sex and 56 marriages were same sex.

Certificates Issued by Section	2018/19	2019/20	2020/21	2021/22	2022/23
Births and Deaths	96823	72263	34152	41984	69253
Certificates Section	19487	18833	54166	40052	21874

69253 certificates of birth, marriage, death and civil partnership were issued to the public at first time registrations. The declining trend in issued certificates is likely to be due to an increase in the number of organisations utilising the Tell Us Once service and death notification service and organisations accepting scanned copies of certificates rather than an original following measures put in place during the Covid 19 pandemic. The Service processed 4950 priority applications for certificates.

During 2022/23, the Service received £2,435,446.50 income generated from statutory and non-statutory fees. It should be noted that statutory fees which form the majority of fees have not increased since 2018.

In addition to providing statutory registration services officers have:

- Attended Faith Advocacy and NHS Bereavement Group meetings.
- Attended various homes, hospitals, and secure units to obtain a birth or death registration in emergency circumstances.
- Participated in valuable partnership working with central government bodies such as, DWP and the General Register Office.
- Participated in more local partnership working with organisations such as BCC Children Centres, Approved Premises and religious bodies as well as supported MacMillan Nurses as the staff member's nominated charity.
- Continued to report suspected Sham marriages and Civil Partnerships and fraudulent applications for certificates

The Registration Service has continued to provide the Emergency Bereavement Service to enable families to bury their deceased relatives or to repatriate the body to a Country outside of England and Wales within a very short period of time when required by religion or culture.

Furthermore, the Service has provided a 365 -day service for marriages and civil partnerships, where one party is terminally ill, in accordance with the Registrar General's Licence Act.

Challenges to the Service

During 2022/23, the Service remained in covid 19 recovery dealing with a number of backlogs including births registrations caused in part by the legislative suspension of birth registrations, re-registrations and corrections during the early months of the pandemic. It caught up with the demand for notices of marriage/civil partnerships and orders for certificates whilst continuing to register a higher than average number of deaths. The Service is continuing to deal with a significant backlog of birth registrations.

Reducing backlogs was achieved against a back drop of reductions in staffing levels during 2021/22 – 2022/23 . The Service had a number of vacancies at every grade resulting in a concentrated recruitment effort leading to the recruitment to over 20 posts. The pandemic has led to changes in working patterns with an emphasis on hybrid or home working. During the Covid 19 pandemic temporary legislation permitted remote death registrations, which enabled designated registration staff to work from home. The ceasing of this easement in March 2022 however resulted in a return to in person registrations and office based working. Attracting staff to office based working has proved to be a challenge and, in keeping with the national trend, the recruitment of staff new to registration services has been of limited success. Over the last two financial years, significant resources have been channelled into recruitment and subsequent training. Appointing to remaining vacancies is ongoing.

Legislative changes have permitted documentation such as the Medical Certificate of Cause of Death (MCCDs) to be transmitted electronically. Although designed to improve the customer journey this change has resulted in the need for an additional resource to triage the documentation upon receipt, which has impacted on registration capacity. The Service has experienced delays with the receipt of documentation due to NHS resourcing issues and the Medical Examiner Scheme, which has impacted on the timeliness of death registrations.

The Service has experienced higher levels of sickness, particularly long- term sickness following the commencement of the Covid 19 pandemic which has impacted on availability and flexibility of staffing resources.

Key Performance Indicators

The continuing heavy workload of the Registration Service and limited employee resource has impacted on the ability of the Service to deliver civil registration in a timely manner. The General Register Office which has overall responsibility for civil registration has raised concerns about the failure of the Service to meet some of its Key Performance Indicators particularly around the timeliness of birth and death registrations. Measures have been introduced to improve against these KPIs, including partnership working with Solihull, however significant inroads will be made as staffing numbers increase.

Designated Register Office (DRO) status

Prior to changes in legislation, Birmingham was one of two registration Districts in the Midlands with Designated Register Office (DRO) status i.e. it dealt with citizens wishing to marry who are subject to immigration control. Under legislative changes, which came into effect on 01.07.21, all Register Offices were granted DRO status. This had the potential to impact on the volume of notices the Service took from foreign nationals, however the Service has continued to take over 1000 notices from foreign nationals a year, consistent with pre-pandemic and pre-law change.

Service managers have strengthened partnership working with faith advocacy groups, GPs and hospitals to help reduce factors which delay the death registration process.

Marriage Schedules

In May 2021, marriage registers ceased and marriage schedules were introduced. This change required additional resource as marriages and civil partnerships were required to be recorded by local registration services rather than the General Register Office and all hard copy registers were required to be obtained from religious buildings.

Service Improvements

There has been significant investment in the ceremony suite with all rooms redecorated, and new furniture purchased for the largest ceremony room including a feature backdrop and arch, shown below.

Framed royalty free images from local photographers of Birmingham' landscape are displayed around the ceremony suite and office. Large landscapes in public corridors are to also to be displayed.

Public reception areas have also been refreshed to improve the customer experience. Stylised images of ceremonies displayed in key public areas have increased uptake of the ceremony rooms in a matter of weeks.

The ceremony courtyard is in the process of being refurbished with new features and planting schemes. Focal photographic points have been included to encourage guests to take pictures/selfies to post on social media to drive engagement, shown below.

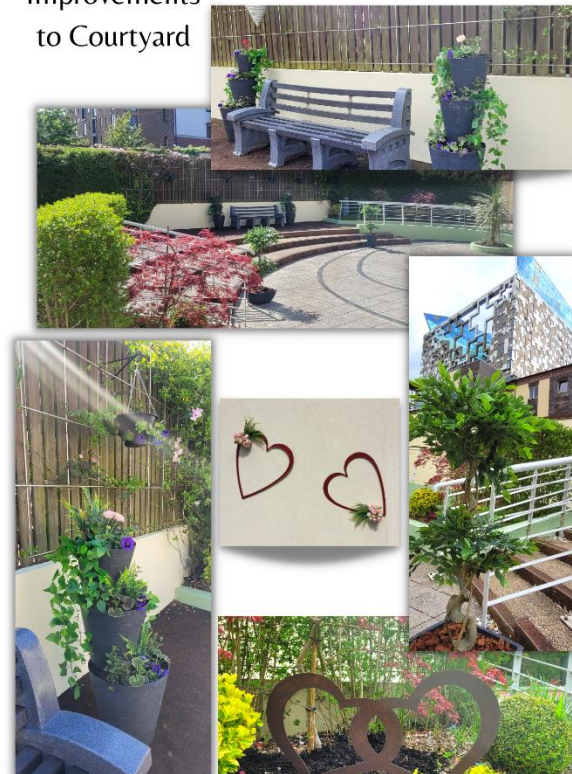
The Service has been successful in opening dedicated register office social media accounts. Social media will be used to advertise the ceremony suite related services such as baby naming ceremonies as well as spotlighting approved premises around the city such as the council's own venues e.g. the Council House and Highbury Hall.

The Service is at the scoping stage of a digitisation of historic registration records.

Improvements to Ceremony Suite 3



Improvements to Courtyard



Income Generation

The ability of the Service to generate additional income is limited as the majority of the fees are of a statutory nature.

The provision of a birth or death registration has to be given free at the point of service. The fee for a birth, death or marriage certificate was increased by statute to £11.00 in February 2018. A statutory priority certificate production fee was also implemented in February 2018. These changes impacted Birmingham's ability to generate income since following legal advice, the Service is no longer able to provide its popular and lucrative tiered certificate production service or apply a certificate processing fee. The remaining statutory fees have not been increased. There is an ongoing national review of statutory services which are currently provided free of charge. The cost of provision of statutory services continues to be cost ineffective.

The non- statutory fees and charges are reviewed annually with a number of none statutory fees having been revised to help improve the Services' financial position.

The Service recommenced its change of name service in 2022/23 and was able to offer an increasing number of private citizenship ceremonies.

By having a social media presence and refurbishing the ceremony suite and courtyards the Service aims is to attract more business and generate more income.

Coroners & Mortuary Service

Statutory requirements

The City Council's Coroner's and Mortuary Service (the Service operates a calendar year for statistical data) provide the Coroner's service for Birmingham and Solihull together with the Public Mortuary facilities for the city. Both services are required by statute and supported with guidance from the Chief Coroner for England and Wales.

The Coroners and Justice Act 2009 places a statutory duty on the city council to appoint and pay a Senior Coroner and where appropriate an Area Coroner together with self-employed Assistant Coroners to discharge the functions of the Coroner. The Senior Coroner's statutory duty is to establish the cause of and circumstances of deaths in their area where:

- The deceased died a violent or unnatural death.
- The cause of death is unknown.
- The deceased died in custody

The Senior Coroner orders Post Mortems, conducts investigations and enquiries into the death (which are presented at inquests in the Coroner's Court) authorises bodies to be taken out of England and makes recommendations based on their findings with a view to improving health and wellbeing.

The statutory duties on the City Council in relation to the Senior Coroner are to:

- Secure the provision of whatever officers and other staff are needed by the Senior Coroner to carry out the function – it is the Senior Coroner who dictates what these requirements are and the local authority cannot interfere with the judicial role of the Senior Coroner and, therefore, has to provide and pay for what is asked for. In the case of Birmingham this has included the provision of Birmingham City Council staff.
- Provide and maintain accommodation that is appropriate to the needs of the Senior Coroner – the Coroner's Courts and offices to accommodate the Senior Coroner, Area Coroners and Assistant Coroners together with BCC staff.
- Pay the expenditure associated with the Senior Coroner and cannot refuse to pay the expenditure incurred by the Senior Coroner.
- Provide proscribed performance information in the form of statutory returns to the Ministry of Justice.

The statutory duties on the city council under the Public Health Act 1936 include:

- The provision of a mortuary for the reception and storage of bodies of people who have died in Birmingham and Solihull where the Senior Coroner orders a Post Mortem.

- Additionally the Human Tissue Act 2004 regulates how Post Mortems are conducted and the security of the bodies and associated tissues.

The services provided for the Senior Coroner by the Council include:

- Appointment of the Senior Coroner and Area Coroners, including salary/pension and Assistant Coroners (who are paid a daily rate)
- Provision, maintenance and management of the Coroner's Court in the city centre (and availability of additional courts when required) together with associated office accommodation, secretarial, front of office and comprehensive telephone, IT and administrative services for Coroners, the public and partners
- Receipt of all deaths notified to the Senior Coroner and their entry onto the CIVICA system for processing and conducting all investigations required to enable the Senior Coroner to perform her legal duties.
- Word Processing resources for all staff in preparing files for investigations
- Opening inquests, all in one inquest, comprehensive witness support and Jury arrangements and dealing with all correspondence and administration relating to inquests, and witness, pathologists and expert witness fees
- Presenting evidence to the Coroners in inquests.
- Liaising with Register Offices, hospitals, lawyers, families, police, emergency services, prisons and the military in relation to coronial matters.
- Dealing with all certification resulting from coronial involvement – death certification and removals out of England.
- Providing statutory information required by the Ministry of Justice on performance.

The service provided by the mortuary staff (which is licenced by the Human Tissue Authority, HTA) **includes:**

- Admitting and properly handling bodies with dignity, respect and traceability.
- Arranging the attendance of pathologists and assisting them in undertaking post mortems.
- Arranging Computed Tomography post mortems (CTPM), arranging for collection of the deceased, transfer to and from the CTPM facility, dealing with reports and assisting the pathologists with their examination of the deceased.
- Taking blood and tissue samples for analysis and administering their processing through to disposal in accordance with HTA requirements.
- Preparing bodies to facilitate viewings and identifications of the deceased by the bereaved and release to undertakers.

- Providing a 24/7 call out service to accept bodies in liaison with police, ambulance, hospitals etc.
- Securing personal belongings.
- Release of bodies to funeral directors.
- Cleaning of the mortuary and laundry of clothing used.
- Supporting the DCI in respect of HTA requirements

Birmingham and Solihull Coroner's Service

The Coroner's and Mortuary services are provided by Birmingham City Council for the Birmingham and Solihull Coroner's Area. Solihull Metropolitan Borough, through agreement, is not involved in the management of these Services, but contributes to the net cost of the service by an annual payment based on the relative population of the Borough – currently Solihull MBC pays 16.1% of the net cost of the services provided.

All figures in this report include deaths in Birmingham and Solihull

Current Organisational Assessment

There continues to be a year on year increase in death referrals since the benchmark figure was set in 2014 (see below tables) and a significant increase in the number of post mortems undertaken.

This has been further impacted by the significant winter pressures and increased deaths partly due to flu and Covid experienced nationally during the winter of 22/23. As a result, the Coroners service has seen a high increase in the number of referrals in the past year.

Following the pandemic, which saw changes in the ways doctors communicated with their patients to use of telephone appointments as well as other virtual means and the cessation of the Coronavirus Act on 24th March 2022, referrals to the Coroner have increased. This is because medical examiners and some doctors are unable to provide the medical certificate of cause of death for the deceased, due to the fact that although the provision for a doctor who has treated the patient in the last 28 days to offer this remains, consulting with the patient over the telephone does not constitute seeing the deceased, this large increase in referrals looks set to be sustained unless legislation is changed.

This increase in work for the coroner's service and has resulted in cases taking longer than prior to the pandemic. This has also created an increase in the volume of inquests required.

The Coroner's service also directly supports criminal investigations undertaken by the police. The results of Inquests on occasions provide the ability for the bereaved to take action against negligent care or practices that contributed to a death.

Quantity of work

Birmingham and Solihull jurisdiction is one of the most complex and busiest Coronial areas nationally covering a population of over 1.3 million.

The following tables indicate the workload of the service:

Number of deaths notified to the Coroner

Year	Number of deaths notified to the Coroner	Year on Year increase	Increase on 2014 baseline
2014	4,284	-	-
2015	4,805	12.2%	12.2%
2016	5,080	5.7%	18.6%
2017	5,203	2.4%	21.5%
2018	5,327	2%	24.3%
2019	5362	0.6%	25.1%
2020	5693	6.1%	32.8%
2021	5851	2.8%	36.5%
2022	6000	2.5%	40%

From this table the number of deaths notified to the Coroner has increased every year and not gone down after the Covid pandemic as expected. This is following changes in legislation and the fact that Doctors are not seeing patients face to face as often, and where they have not done so within 28days of death, they are unable to provide a death certificate. Since the baseline of 2014 there has been an increase of 40% in the Coroners workload.

Number of inquests completed

Year	Number of inquests
2014	1,135
2015	601
2016	746
2017	810
2018	708
2019	757
2020	794
2021	722
2022	795

Inquests were halted for a period during the covid pandemic and were limited prior to moving to the new court building once they resumed due to the inability to facilitate social distancing in the old court, resulting in a heavy backlog. Despite this the average time for an Inquest to be concluded is 14 weeks compared to the national figure of 30 weeks. 44% of Inquests are dealt with in less than a month, with 55% in less than 6 months (99% less than the target of 6 months). During the calendar year 2022 there were 795 inquests closed. 33 of which had been open for more than 12 months. As of 31 December 2022 there were 242 open Inquests of which 50 had been open for more than 12 months

The number of Out of England Forms

Year	Number of Out of England Forms Issued
2014	141
2015	176
2016	227
2017	241
2018	233
2022	252

In 2022, 252 cases resulted in Out of England forms being issued, representing 4% of all deaths reported to the Coroner, higher than the national average of 3%.

Percentage of notified deaths resulting in inquest

Year	% resulting in inquest	National average%
2014	14	14
2015	12	14
2016	15	16
2017	16	14
2018	14	13
2022	14	17

Benchmarking

The key figures are not available currently for the KPI's due to problems with data security protocols within BCC which are being addressed by IT.

People Resources

In addition to the increasing trend in referrals since 2014, extra pressures on the Coroners Service have resulted from the Covid19 pandemic, and the cessation of the Coronavirus Act in March 2022. Additional resources have been provided to the service in a variety of ways since 2020, current resources shown below with pre 2023 shown in brackets.

The service is provided by the Senior Coroner together with two full time Area Coroners (was 1.5) who are salaried and sessional Assistant Coroners who provide cover in the absence of the Senior and Area Coroners, and are paid a daily rate. Currently due to the extreme pressures on the service 1 of the assistant Coroners is working 3 days a week.

The Senior Coroner, Area Coroners and their Assistants are supported by 8.2 Coroner's Investigators (was 6), 3 Coroner's Support Officers and 11.2

Administrative Officers (was 8) and a position for an apprentice assistant paralegal secretary is being job evaluated.

There are 6 (was 5) Mortuary Technicians who provide the Public Mortuary Service to the Senior Coroner and the citizens of Birmingham and Solihull.

There is a national shortage of qualified pathologists to undertake this work. Officers are working hard to secure additional support and to alleviate the demands on the core group supporting the coroner.

Capital Projects

The New Coroners' Court



The old Birmingham Youth Court on Steelhouse Lane in the City Centre was purchased by Birmingham City Council in May 2020. The building underwent considerable refurbishment to create 3 courts, including a jury court and a multi faith room. The service moved to the new facility in November 2021.

The Central Mortuary

The number of Post Mortems carried out

Year	Number of Post Mortems	% of PMs with toxicology	% of PMs with histology
2014	1,562	19.2	12.9
2015	1,702	16.0	10.5
2016	1,542	20.3	14.4
2017	1,762	21.3	14.0
2018	1,768	22.3	13.6
2019	1519	Not currently available	
2020	1665	"	
2021	1800	"	
2022	1850	"	

The number of Post Mortems being carried out increased in 2022 reflecting the increase in number of referrals and the percentage of referrals that required a post-mortem to establish the cause of death. 56% (1052) of post mortems were standard, 44% were non standard requiring special skills such a paediatric/pathologist specialist and are charged at a higher rate.

With effect from 1 July 2019, with funding provided by BCC, the Birmingham and Solihull Coroner agreed to a 12 month pilot for provision of Computed Tomography Post Mortems (CTPM) with IGENE (now Digital Autopsy UK) for a minimum of 250 suitable cases. The pilot was extended further during covid and subsequently extended to the 30th September 2023 for an increased number of 500 cases. We are currently looking to extend this contract for up to a further 2 years as this is the single supplier within a 25 mile radius of the City.

This increased the work within the mortuary since 2017 and is not clearly reflected in the above statistics. 11 CTPM's were carried out in 2017, this has increased to 213 in the calendar year 2022.

A capital bid programme was launched in 2022/23 to produce a business case to determine if the current central mortuary is suitable for the future or whether the council should look for a new facility. Acivico and a Birmingham Property project Officer are producing a study and options report for the council to consider. This is expected around December of 2023.

LICENSING

Background

The Licensing Service consists of the General (Alcohol and Entertainment) Licensing, Hackney Carriage and Private Hire Licensing and Licensing Enforcement teams. All three teams are located at Phoenix House, Garretts Green.

The service moved to this location from its former premises at Ashted Lock in February 2020, just weeks before the first COVID-19 lockdown was announced. These 2 events in such quick succession led to a significant impact on the service. Applications which would have been made in person with hard-copy documents had to be rapidly replaced with a makeshift system of emails with attachments.

New Software System

The Licensing service previously worked with two separate software systems: SOPRA which was used to administer and issue the majority of licences, (LA2003, GA2005, HC & PH driver, vehicle and operator licences), and MAPPS: the system used to record complaints and inspections for licensed people and premises, and to administer and issue low volume licences such as sex establishments and charitable collections.

The two systems (SOPRA and MAPPS) did not link into each other, nor did they link into the finance systems which made annual fee recovery difficult. Neither system could accommodate online applications. SOPRA would not function correctly on Windows 10 machines and has not been supported by the provider for a number of years. It was not possible to amend the system to accommodate changes to the service. A further burden imposed by the system was the inability to attach documents without physically scanning them into the system – which meant, during Covid, emails had to be printed and scanned, which was massively inefficient.

It was a recommendation of the Casey report into Child Sexual Exploitation that the complaints management system should be the same as, or interlinked to the licence issuing system.

After many years of trying, a new system was identified which could meet the current requirements and had capacity to adapt to future challenges and demands.

The implementation has been significantly hindered by Covid – preventing face to face meetings and development or training workshops – but the first phase of the implementation- (back office function and public register) is now complete.

Phase two will involve the ability to make online applications and payments – enabling customers to track the progress of their application online. Phase two is currently in the test phase, but is anticipated to go live by Autumn.

Commonwealth Games

Officers from Licensing contributed to the Games in several ways:

In the planning stages, officers provided advice on the need for new or amended premises licences, contributed to Safety Advisory Groups and produced guidance and information on licensing matters.

During the Games, officers carried out inspections and compliance activities, in partnership with colleagues across the Directorate and other partner agencies, building good relationships between teams which continue to provide a positive impact.

Training

Officers have provided and facilitated training for Licensing and Public Protection Committee Members and also Responsible Authorities under the Licensing Act 2003 regarding their roles and functions.

General Licensing

The General Licensing Team is responsible for administering over 20,000 licences registrations and permits across a wide range of licensing functions, which includes amongst others:

- Licensing Act 2003: sales of alcohol, late night refreshment, regulated entertainment,
- Local Gov't (Miscellaneous Provisions) Act 1982: Sex shops, sex cinemas and sexual entertainment venues; skin piercers and tattooists
- Charitable collections, - on street and house to house
- Gambling Act 2005: amusement machines, gambling premises, and
- Scrap Metal Dealers Act 2013

The number of licences, registrations and permits issued by the team during the year 1st April 2022 until 31st March 2023 can be broken down as follows:

FUNCTION	LICENCE TYPE	NUMBER ISSUED
Licensing Act	Premises New	180
	Variation	52
	Variation DPS	233
	Transfer	129
	Provisional	0
	TENs	955
	Personals	479
	Minor Variation	121
	Club Premises New	0
	Club Premises Variation	1
	Club Premises Minor Variation	1
Gambling Act	Premises New	3
	Premises Transfer	6
	Premises Re-Instatement	0
	Premises Variation	3
	Gaming Machines Alcohol New	3
	Gaming Machines Alcohol Transfer	0
	Gaming Machines Alcohol Variation	9
	Gaming Machines Alcohol Notification	7
	Prize Gaming Permit	0
	Gaming Machines Club Fast Track Conv.	0
	Gaming Machines Club New	0
	Provisional Licence	0
	TUNs	0
	OUNs	1

Sex Establishments		
Sex Shop/Cinema	Grant	0
	Renewal	5
	Transfer	0
	Variation	0
Sexual Entertainment Venue	Grant	1
	Renewal	5
	Transfer	0
	Variation	0
	Minor Variation	0
Massage & Special Treatments	Grant	31
	Renewal	50
	Variation (Additional Treatments)	0
	Transfer	0
Societies Lotteries	Grant	14
Street Collections	Grant	79
House to House Collections	Grant	32
Skin Piercers	Grant	279
Scrap Metal - Collectors	Grant	3
	Renewal	1
Scrap Metal - Sites	Grant	5
	New Site Manager	0
	Renewal	2
	Minor Variation	0
Total for year		2690

A further 155 transactions, when copy/replacement licence and other sundry transactions are taken into account.

The figures shown do not reflect the number of current licences, registrations or permits at any given time, but detail the number of applications completed during the period 1st April 2022 until 31st March 2023.

Hackney Carriage and Private Hire Licensing

The Hackney Carriage and Private Hire Licensing Team issued 8,163 licences during 2022/2023, and conducted a further 436 transactions, when replacement, transfer and other sundry transactions are taken into account.

The number of licensed operators fluctuated throughout the course of the year but at the end of March 2023 the number was 110 (compared to 105 on 4 April 2022).

Licences are required for Hackney Carriage and Private Hire drivers, Hackney Carriage and Private Hire vehicles and Private Hire operators.

Licence holder details are shared with the City Council's Data Warehouse to prevent and detect benefit fraud and to cross reference information about individual licence holders to verify its accuracy.

Licensing Policy

In 2023 a new, standalone Hackney Carriage and Private Hire Policy was approved by City Council. This policy incorporates all of the elements of the licensing process in a simpler cohesive format and ensures compliance with the Department for Transport Statutory Guidance.

Licensing Enforcement

The Licensing Enforcement Team is responsible for the inspection of licensed vehicles and premises, as well as dealing with requests for assistance in respect of general licensing, hackney carriage and private hire matters.

In addition to the team's own Licensing Enforcement Officers, a Police Officer is seconded to the team as Taxi Liaison Officer. PC Greg Ward joined Licensing in February 2022.

The team undertakes regular exercises to combat the persistent problem of illegal plying for hire, as well as conducting targeted stop check exercises to check compliance with vehicle and driver conditions. Where non-compliance is discovered, the team takes appropriate legal action according to the circumstances and whether the non-compliance relates to a breach of a licence holder's conditions of licence or amounts to a criminal offence, in accordance with Regulation and Enforcement's approved Enforcement Policy.

The team also investigates more complex issues including unlicensed vehicles, false insurance documents, false insurance claims, and applicants making false or misleading representations on application forms.

Apart from the routine matters of illegal plying for hire and driving without insurance, the following are some examples of cases that were concluded in 2022/2023:

- An unlicensed driver was prosecuted for two offences of fraud, 3 times plying for hire, 3 x no insurance 3 x acting as a private hire driver following a

complaint from a passenger about overcharging. We were assisted in this case by Digbeth Coach Station and Wolverhampton City Council staff.

- Unusually this year we prosecuted two cases against private hire drivers for parking on a hackney carriage ranks resulting in £200 in fines and £624 in costs.
- Two cases of illegal street trading were finalised with fines totalling £2000 and costs awarded of £2,207

One of the primary duties and responsibilities of the team is to ensure all requests for assistance received are investigated fully and fairly. This is carried out in accordance with the Regulation and Enforcement BSI accredited management system and published service standards.

Requests for Assistance (RFAs) are categorised and coded in order to identify possible trends. This also makes it possible to identify repeat offenders and take proportionally more severe enforcement action if appropriate.

During the period of 1 April 2022 to 31 March 2023, the team dealt with 1,912 requests for assistance. In accordance with our Enforcement Policy, based on a risk approach, we routinely inspect Private Hire Operators, sex establishments and premises licensed for sexual entertainment and Massage and Special Treatments. Hackney carriage and private hire vehicles are inspected at unannounced stop-check exercises. In addition, 493 licensed premises were inspected in response to either a request for assistance (RFA) from a member of the public or other business or as part of an ongoing assessment of risk.

Inspections completed 2022/23 by type:

Complaint Inspection – 2

Driver Inspection – 51

GA05 Inspection – 40

LA03 Inspection – 244

Licensing Compliance – 124

Licensing Enforcement Inspection – 60

Licensing Initial Inspection – 1

Licensing renewal Inspection – 2

Scrap Metal Inspection – 6

Scrap Metal Site – 2

Sex Establishment Inspection – 12

Vehicle Inspection – 43

Total – 587

During the year stop check exercises were conducted across the city in conjunction with officers from West Midlands Police as part of police MARSO exercises. At a stop check, vehicles and drivers are inspected to ensure compliance with our conditions of licence. Licensed drivers caught committing non-licensing offences such as not wearing seat belts or other road traffic offences are dealt with by the police. Motorway patrol officers (and the Licensing service's own police officer) are approved vehicle inspectors who are authorised to inspect vehicles to determine their condition under the Road Traffic Act 1988.

Prosecutions

Numbers of Cases

In 2022/2023 Licensing Officers submitted prosecution reports against 14 defendants and administered 54 simple cautions. During the same period 8 prosecution cases were finalised at Court.

Costs and Fines

Fines totalling £3,379 were imposed and costs of £7,256 were awarded to the City Council.

LEGISLATION	CASES	OFFENCES	FINES	COSTS AWARDED	OTHER
Local Government (Miscellaneous Provisions) Act 1976 S64	2	2	£200	£624	
Local Government (Miscellaneous Provisions) Act 1982 Schedule 10(1)(b)	2	5	£2,000	£2,207	
Licensing Act 2003	1	5	£660	£2,861	
Town Police Clauses Act 1847/Road Traffic Act 1988	2	4	£519	£1,188	14 penalty points
Fraud Act 2002 Sections 1 & 2 (includes 3 x TPCA, 3 x RTA & 3 x LGMP Sec 48)	1	12	0	£500	12 mth comm order, 60 hrs unpaid work + 24 points & 6 mth disqualification
TOTALS	8	27	£3,379	£7,380	

Work of the Licensing Sub-Committees

Sub Committees considered 104 applications:

Grant of Licence	50
Variation	5
Temporary Event Notice (TEN)	13
Personal	2
Expedited Review	7
interim steps	8
Review	9
Transfer	1
Gambling Act	7
SEV grant	1
SEV renewal	1

Hackney carriage and private hire matters have been delegated to a senior officer panel since 2020. In 2022/23 the panel determined **326** matters.

Immediate Suspensions and Revocations.

In instances where public safety is believed to be at risk, it is possible for a driver licence to be suspended or even revoked with immediate effect. These decisions are taken in consultation with the Chair of Licensing and Public Protection.

In 2022/23 there were six suspensions and two revocations for issues such as: sexual assault; drugs related matters; alcohol related offences and other assaults.

Appeals against Sub Committee (and delegated) Decisions April 2022-March 2023

Outcome	Magistrates' Court	Crown Court	Total
Dismissed	5	1	6
Allowed	4	1	5
Allowed in part	1		1
Withdrawn pre- or at Court	3		3
Other	2 x Consent Order 2 x adjourned		4
TOTAL			19

Street Trading

The street trading portfolio was transferred from the Markets Service to the Licensing Service in August 2020 and the City Council approved the new Street Trading Policy 2020 on 3 November 2020. This was reviewed in 2021 and since its introduction has seen a significant change in the way street trading is consented within Birmingham.

In 2022/2023 we had 43 applications for street trading consent of these five were declined as being unsuitable either because of design, location or failure to pay fees.

The location breakdown of the approved traders is

8 City Centre locations

10 Football Stadia

20 outside City centre

The team continues to work with partners including the police, City Centre management and other departments to prosecute those illegally street trading. These prosecution numbers are included with the Licensing enforcement figures above and a further four files have been submitted to our legal team for consideration.

Private Rented Service

The Private Rented Services comprises several teams and service areas.

The Private Tenancy Unit – are responsible for offering advice and guidance to tenants about their rights and to landlords about their statutory responsibilities. The team supports tenants where landlords are not following processes for ending tenancies and acting illegally. Officers will determine whether the correct legal processes have been followed where tenant are issued notices to end tenancies and aim to prevent homelessness wherever possible. Enforcement action can be taken where there is evidence of illegal eviction. In 2022/23 the team received 3,072 enquiries from tenants seeking advice following issues with their landlord. In addition, officers investigated 68 complaints of harassment, dealt with 72 threats of illegal eviction, and carried out 146 possession procedure checks.

The Customer Service Advisors – provide the customer face to the whole of the service and ensure that the correct teams get the referrals through from the duty phone line and the PRS mailbox. They provide the administrative support for the service, including handling complaints, and they raise invoices and check manual HMO applications. They also assist officers with regulatory tasks if necessary.

The Housing Enforcement Team – are a team of qualified Environmental Health Officers who respond to complaints about disrepair in private rented accommodation (excluding exempt accommodation). They receive complaints from tenants and try to work with landlords to ensure that necessary repairs are carried out. They work predominantly but not exclusively with the Housing Health and Safety Rating System and the Housing Act 2004. If repairs are not carried out or a Category 1 hazard is present, enforcement action may become necessary. This can include a legal Notice to carry out works, or in extreme cases the closure of a property. In 2022/23 the team secured improvement to 358 private rented properties because of our intervention.

The Section 82 Environmental Health Team – comprise 3 qualified Environmental Health Officers who inspect council properties to provide an expert report for City Housing when they are challenged by tenants who make a formal complaint through Section 80 of the Environmental Protection Act 1990. They determine if a Statutory nuisance is present and draft a schedule for abatement. If there is a legal challenge, they are the independent expert professional witness for the Council. The officer's currently visit and formally inspect more than 50 properties per month.

The High-Rise Fires Safety work – is covered by a Project Manager who is co-ordinating the enforcement policies and processes required to remediate private residential high-rise blocks across the city. Working with the Joint Inspection Team (the JIT, funded by Department of Levelling Up and hosted by the Local Government Association) we will be developing a response to ensure that the appropriate resources and partnerships are in place to carry out remediation of the high-rise blocks post Grenfell.

The Housing in Multiple Occupation (HMO) Mandatory Licensing Team - The HMO Mandatory Licensing Team, licenses all HMOs which consists of five or more

unrelated people who form more than one household and share amenities such as bathroom, kitchen and at least one tenant pays rent.

The team has the power to take enforcement action against landlords who operate unlicensed HMOs and those who do not adhere to the conditions of their licence and HMO management regulations. In 2022/23, 192 HMOs were inspected, due to increased resources in the team the target for this year is significantly increased.

The Empty Properties Team - Residential empty properties can be dangerous and affect the aesthetic of an area. In addition, it is a valuable resource given the demand for housing in the City. The Empty Property Team uses a variety of powers available to encourage owners of such properties to bring them back into use. Where owners will not engage, the Council has power to deal with the issue including compulsory purchasing properties. In 2022/23 the team brought 196 private sector empty properties back into use.

BIRMINGHAM CITY COUNCIL

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

28 JUNE 2023
ALL WARDS

FOOD LAW ENFORCEMENT PLAN 2023/2024

1. Summary

- 1.1 The Framework Agreement on Official Feed and Food Controls by Local Authorities requires each Food Authority to identify its strategy and the resources required to fulfil its Food Safety function each year in the form of a Food Law Enforcement Plan.
- 1.2 The Food Law Enforcement Plan for 2023/2024 which is attached to this covering report includes a review of the food safety activity carried out in 2022/2023.

2. Recommendation

- 2.1 That the Food Law Enforcement Plan be agreed.

Contact Officer: Mark Croxford
Head of Environmental Health
Telephone: 0121 303 6350
Email: mark.croxford@birmingham.gov.uk

Originating Officer: Nick Lowe, Operations Manager Food
Telephone: 0121 303 2491
Email: nick.lowe@birmingham.gov.uk

3. Background

- 3.1 The Food Law Enforcement Plan sets out the City's commitment to Food Safety Enforcement for the year ahead.
- 3.2 The plan shows the number of food hygiene and food standards interventions which will be required and identifies those areas of work which are considered essential to protecting food safety in Birmingham.
- 3.3 The plan includes the targets that were set for last year (2022/2023) and reviews performance against them.
- 3.4 The activities in this plan are a statutory requirement under Retained EU Regulation 2017/625 Article 1, and the requirements of the food authority are defined in Article 5. This includes carrying out effective and appropriate official controls, such as inspections, enforcement activities & sampling as well as having sufficient numbers of suitably qualified and experienced staff, who also receive regular additional training to maintain competency.

4. Consultation

- 4.1 The work outlined in this report involves consultation with interested parties such as the Food Standards Agency, DEFRA, and UKHSA.

5. Implications for Resources

- 5.1 Whilst the exact costs are difficult to forecast, we estimate that the plan will be able to be delivered within the resources available to your Committee.
- 5.2 The plan does not include the inspection of newly registered businesses within 28 days as required by the Statutory Code of Practice, this is due to the increased numbers of new registrations.
- 5.3 Due to a national shortage of Environmental Health Officers we are not getting interest from suitably experienced officers wishing to work here. As a direct result we are only likely to attract newly qualified officers as Birmingham is second to none for gaining experience. This does however put a greater strain on existing staff.
- 5.4 Currently the Environmental Health team is actively seeking to recruit 8 qualified EHO's. In addition, we have 6 apprenticeship trainees who will qualify between 2025 and 2028 as it is a 4-year course). We are also actively looking to recruit student Environmental Health Officers who have completed their training but need practical experience to gain the full qualification.
- 5.5 There are 24.4 FTE Environmental Health Officers within the service. All of these officers are being tasked with prioritising the delivery of the FLEP and as such this, impacts on the capacity of the service to deliver other statutory work such as Health and Safety and Nuisance work.

6. Implications for Policy Priorities

- 6.1 Safe food is not only crucial to the health and safety of citizens and visitors to the City but the work which is referred to in the Food Law Enforcement Plan is also consistent with other policy priorities including economic success, staying safe and being healthy. The reduction in food safety activity will have a direct impact on these priorities.
- 6.2 It is important that all groups within Birmingham, as well as visitors to the city, are offered suitable standards of food quality and hygiene to allow them the healthy lifestyle opportunities to which they are entitled. The targeting of food safety interventions according to business risk ratings means that every effort is made to ensure safe food in the most efficient and effective way. Inevitably though there are a large number of businesses, and therefore consumers, who are not being protected. This is particularly critical for those consumers with an allergy as the consequences can potentially be fatal.
- 6.3 It is a statutory requirement to carry out effective and appropriate inspections, enforcement activities, food complaint investigations and sampling. It is also a statutory requirement to have sufficient suitably qualified and experienced staff to deliver this work. The Food Standards Agency, monitor the performance of all local authorities and can instigate interventions where the programme is failing. For this reason all qualified food inspecting officers are prioritising the food law enforcement plan as identified in paragraph 5.5 above.

7. Public Sector Equality Duty

- 7.1 Equality issues are accounted for during food safety activities carried out by officers.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers:

Local Authority Framework Agreement - Food Standards Agency 2001

FOOD LAW ENFORCEMENT PLAN 2023-2024

1. Background

- 1.1 All local authorities are required to produce a Food Law Enforcement Plan which sets out the measures the authority will take to safeguard food safety during the forthcoming financial year and reviews the targets set for the previous year.
- 1.2 Birmingham has approximately 11,131 food premises including manufacturers, wholesalers, retailers and caterers, ranging from small and medium sized businesses to major concerns and this includes 92 food businesses which need specific approval. In addition, many other businesses change hands throughout the course of a twelve month period. A concerted effort was made to reduce the number of unrated premises in the city with a total of 828 unrated inspections being carried out in 2022/23. Despite this work there are currently 2101 unrated food businesses requiring inspection and rating, this is a decrease of 347 from 2448 last year and shows that despite the targeting of new businesses, the problem continues to remain. It has been determined that in excess of 18.87% of known food businesses in Birmingham are now unrated and therefore have not been inspected, this does not therefore include those premises trading that we do not know about. This provides a constant challenge to ensure that all food businesses are included in the regular food inspection programme.
- 1.3 As well as carrying out food hygiene and food standards inspections, high risk food complaints relating to adulteration, composition, labelling, fitness and quality are investigated. An annual food and water sampling programme is carried out to ensure that microbiological, chemical and compositional standards are met, including nationally co-ordinated surveys. All reported outbreaks and sporadic cases of suspected food poisoning are also investigated.
- 1.4 Food safety activities are undertaken in line with the 'Better Regulation Agenda' brought in by the Regulatory Enforcement and Sanctions Act 2008, i.e. being proportionate, accountable, consistent, transparent and targeted. The Act, therefore, places greater emphasis on providing advice and guidance to food businesses in addition to firm but fair enforcement.

2. Demands on the Food Service

- 2.1 Each Local Authority has different demands which impact on the delivery of the food safety service and within Birmingham these include:
 - Ensuring that the statutory inspection targets are met in respect of such a large number of food premises in the largest local authority in England and Wales.

- Ensuring that an equitable service is delivered in a multi-cultural City so that information on food hygiene and technical advice is accessible to all food traders.
 - Dealing with a high turnover of food businesses and proprietors within the City and maintaining an accurate database to ensure that all food premises are inspected.
- 2.2 The recruitment issues in officer numbers within Environmental Health will impact on the service, particularly in respect of planned activities. In 2023/24 the service will have 6 enforcement officers undertaking training to become EHO's. However, this is a 4-year course meaning 2 are scheduled to qualify in the summer of 2025, 1 in 2026 and 3 in 2027. This unfortunately is insufficient to tackle organic staff churn but is all of our current enforcement officers who have shown an interest in this career development. It does not a panacea addressing the loss of highly experienced officers, nor the national shortage of qualified officers to undertake this work.

3. **Introduction to The Food Law Enforcement Plan for 2023/2024**

- 3.1 The priorities for ensuring food safety in Birmingham for 2023/2024 are to:
- Carry out a programme of food hygiene interventions for the year. This will potentially fall short of the actual programme of inspections required due to the large number of D risk rated inspections outstanding.
 - Will investigate high risk requests for assistance in relation to food hygiene, food standards and food complaints, including sporadic cases and outbreaks of infectious disease.
 - Carry out a food and water sampling programme, including private water supplies, subject to available resources.
- 3.2 The work plan to safeguard food in Birmingham during the forthcoming year is detailed in Appendix 1.
- 3.3 The aim is to achieve a level of food safety in Birmingham that is consistent with the City Councils vision of a safer and healthier city.

4. **Food Premises Interventions**

- 4.1 Under the Statutory Food Law Code of Practice, all food premises are categorised according to an intervention rating score. This determines the frequency of primary food hygiene interventions, from 6 months to 3 years, and depends on the type of food business, the type of food processing or handling undertaken, hygiene and structure of the premises and how well risks are controlled.

4.2 Currently, 88.5% of rated food businesses in Birmingham are classed as 'broadly compliant', which leaves approximately 11.5% which are not, this figure includes 558 0-1 rated premises. Officers will be concentrating on those worst premises i.e. those in the 0-1 range by carrying out additional interventions and taking enforcement action where necessary in order to raise standards to 'broadly compliant'

4.3 The Intervention Programme will be as indicated below.

The higher risk category A to C premises will be subjected to full inspections. This includes inspections of premises requiring approval, manufacturers and larger more complex food businesses, these types of businesses add an additional 30 officer days per month demand on resources.

In relation to Category D and E rated premises, we will critically review the nature of the businesses and base our interventions as follows:

- full inspections of category D 0-2 rated premises;
- full inspections of category D 3-5 rated premises as resources permit starting with the latest overdue, this does not meet the full requirements of the statutory code of practice. The target for this year has been set at a realistic level with a long term target of bringing this category into full compliance with the code within 3 years.
- Full inspections of category D (3-5 rated) and category E premises subject to a food hygiene complaint where investigated;
- full inspections of 5% of category E premises where open food is handled.
- the remaining Category E premises will be subject to a self-assessment questionnaire by correspondence.

In relation to the 2101 unrated food businesses – these are new registration businesses and those discovered operating that have not yet been inspected. These will be subject to a database check, further assessment and a prioritisation exercise and undertaken in accordance with the risk posed. It is anticipated that this number includes duplicate premises and businesses that have either closed or did not start up, we therefore expect this number to reduce significantly.

Approx. 1200 to 1400 new registrations are expected this year, these will be completed as resources permit on a risk basis following a prioritisation exercise.

4.4 Food standards inspections will be carried out at the same time as food hygiene inspections. Emphasis will be placed on food standards during inspections of manufacturers. Officers will also check on the traceability of products and their authenticity during inspections, to detect and reduce food fraud.

- 4.5 The food hygiene and food standards interventions which are required during 2023/2024 are given in Appendix 1.

5. Food Related Complaints and Requests for Assistance

- 5.1 Investigations are carried out into complaints about poor hygiene in food premises and in response to requests for assistance from food proprietors who need additional advice about their business. The number of complaints dropped considerably from pre pandemic levels to 1414. An increasing number of these complaints are held until the next scheduled inspection following a risk assessment, rather than being investigated when received.
- 5.2 In addition, 165 complaints were received each year from members of the public who are concerned about the food they have bought or eaten. These are investigated on health risk basis and are often complex investigations involving other Local Authorities, national companies and importers where food has originated from outside Birmingham or the UK. Where the issue is low risk, investigations will be delayed until the next programmed inspection.
- 5.3 The FSA operates a system to alert the public and food authorities to problems concerning food which does not meet food safety requirements or which is inadequately labelled and where a product recall has been issued. The alert system now includes a category of 'Allergy Alert' highlighting the importance placed on allergen control, the number of alerts has therefore remained high this year and is expected to maintain this trend. With such a large number of caterers and retailers in the City, this can prove a challenging and time consuming exercise. Where a large scale response is required this will impact on other demands of this plan.

6. Primary Authority Principle

- 6.1 Regulatory Services has formal partnerships for food safety and food standards matters with:
- Mondelez - Chocolate and confectionery manufacturer
 - Wing Yip - Chinese importer and wholesaler
 - Avanti Trains - Catering outlets on train services
 - Marks & Spencer - Food retailer
- 6.2 This is a resource intensive exercise as additional meetings and inspections are required in order to properly advise both the business and other local authorities. Where Primary Authority Partnerships have been agreed, we operate a cost recovery system from the company, with approximately £76,000 recovered this year. We are not able to make a profit on these arrangements, they are purely cost recovery. A decision has been made to not sign up to any further Primary Authority Partnerships due to not being able to effectively resource them.

- 6.4 In addition, Birmingham is the originating authority for approximately 150 food manufacturers, whereby the Home Authority principles are applied, although formal partnerships have not been established with these companies. We have a statutory duty to deal with referrals from other Local Authorities where products manufactured in Birmingham are sold in other areas, and problems are identified. This takes a large resource to support and respond to these enquiries. There is no requirement for these businesses to enter a formal partnership arrangement and therefore we cannot undertake any cost recovery for this work.

7. Food Sampling

- 7.1 A food and water sampling programme will be developed during the year in conjunction with UK Health Security Agency (UKHSA) and the Public Analyst.
- 7.2 The sampling programme will be restricted to national and regional surveys co-ordinated by UKHSA and CENTSA, the surveys planned and numbers of samples proposed have yet to be agreed due to funding restrictions. There had been a year on year reduction in sampling, with only 16 samples taken in 22/23. The number planned for this year is not known at this stage.

8. Control of Infectious Diseases

- 8.1 Serious outbreaks and sporadic cases of food poisoning and suspected food poisoning are investigated, including potentially serious infections such as typhoid, paratyphoid, dysentery and E. coli 0157. Officers work in close liaison with the Consultants in Communicable Disease Control, Public Health doctors and nurses of the UK Health Security Agency to protect the public health of people who live and work in or visit the City. Joint guidelines have been produced to ensure that all cases of infectious disease are investigated thoroughly. Reciprocal training is carried out to train professionals for both Regulation and Enforcement and UKHSA.

9. Food Premises Database

- 9.1 It is important that the food premises database is kept as up to date as possible so that all food premises are inspected regularly. Currently the action carried out to achieve this is through new registrations and officers identifying new businesses when carrying out visits. We are therefore undertaking a specific proactive exercise to maintain and improve the database.

10. Advice to Businesses

- 10.1 In accordance with the Enforcement Policy, advice is offered wherever possible to food businesses, to assist them in complying with relevant law and the principles of good practice. This advice may be given during inspections or when requests for assistance are received directly from established food traders or from those considering setting up new food businesses.

10.4 Officers also work closely with the Events Division to ensure that food and health and safety at large outdoor events in Birmingham are assured. An Events Food Safety Manual has been developed for traders to receive in advance and on-the-day inspections will be carried out at events such as Vasaikhi, Eid Mela, Frankfurt Christmas Market and Colmore Food Festival. The demand in this area of work has increased and the trend continues this year with very high-profile events in the city. Additional resources have not been identified to cover this demand and will therefore impact on other parts of this plan. As a result we have had to balance our activities in this area due to a lack of resources and ensure we target where the risk is felt to be greatest.

11. Food Safety and Standards Promotion

11.1 Queries from the public will be responded to on food safety matters as part of the overall request for assistance service, subject to available resources.

11.2 As part of our partnership with Public Health the authority will continue to explore ways to encourage food outlets to provide healthier choices on their menus.

11.3 Due to changes in labelling regulations all food business are required to provide greater information to consumers about allergenic ingredients. However, the number of unrated and therefore uninspected food businesses presents a considerable risk to allergen sufferers, who will expect that all businesses are checked to ensure allergen information is accurate and up to date.

11.4 In addition the level of enforcement action in relation to allergens remains low, and further urgent action is required to provide assurances to allergen sufferers in the city. Increased resources should be directed towards this, particularly in monitoring businesses offering allergen free alternatives. Recent high profile allergen deaths have largely been associated with cross contamination where such allergen free menu items have been found to be heavily contaminated due to poor practices. There has also been a dramatic rise in allergy alerts highlighting the importance of this area of food safety.

12. Review of work undertaken in 2022/2023

Inspections and legal action

12.1 Appendices 1 and 2 give detailed information on the food safety work carried out during 2022/2023.

12.2 Some 3316 food hygiene inspections were carried out in between Oct 2021 and March 2023 and 3316 food standards inspections; this was the Food Recovery Programme agreed with the FSA following the Covid pandemic.

This represents 99.51% of the programmed inspection target and also included a number of low-risk inspections to premises not included in the programme but where complaints had been received.

- 12.3 Officers concentrated on ensuring that the genuine low scoring premises were improved, by carrying out additional inspections and taking enforcement action where necessary.
- 12.4 Birmingham has 92 food businesses which require specific EC approval. These are premises which produce or store high risk meat, fish or dairy products on a wholesale basis. This approval process usually involves a number of inspections, a review of the company's food safety management system and an assessment of other conditions before approval can be granted and requires a more in-depth knowledge of assessing food safety systems. These types of premises have a higher risk of E.Coli and Listeria and represent the highest risk to food safety
- 12.5 During 2022/2023, 81 premises were found to present an imminent risk to health and were closed immediately until all necessary works were carried out. This is a considerable increase on the last full years activity and is above the average number of closures which are normally carried out in Birmingham. Although this could be considered a large number, compared to the total number of inspections carried out, (3316) it only represents 2.4% of premises which seriously failed to meet basic hygiene requirements and put their customers at risk.
- 12.6 26 premises were prosecuted for food hygiene and food labelling related offences, with total fines amounting to £287,000 and costs recovered of over £43,700. In addition 3 businesses received a simple caution. This is a slight decrease in the number of prosecutions compared to the previous full year and is lower than the 6 year average.

Food and water sampling

- 12.7 A range of sampling has been carried out to investigate the microbiological safety of food products as well as composition and labelling. A sampling programme was not undertaken this year due to the demands on the service, whilst this is not a mandated requirement it has been referenced by the Food Standards Agency as a gap in Food Authority functions.
- 12.8 All sampling this year was in relation to the investigation of complaints and outbreaks, comprising 16 samples in total. Of these 14 were unsatisfactory i.e. 87.5% due to contamination or adulteration. This is a higher failure rate than in previous years, this is due to the sampling being targeted at complaints where intelligence suggests there is a problem. All the issues identified were raised with the companies concerned and their home authorities and follow up action taken to ensure that problems were rectified and where necessary food products removed from sale.

Food Hygiene Rating Scheme

- 12.9 The ratings website where hygiene scores for businesses are displayed features over 10,000 food businesses. As part of the scheme officers issued window stickers for all businesses in the scheme. We continue to support the introduction of legislation requiring the mandatory display of ratings stickers, however Government have yet to bring forward the necessary legislation to make England the same as Wales.

Training

- 12.10 All officers who carry out food inspections have received training in food safety, to meet the 10 hours required.

Project Work

- 12.11 Officers have worked in partnership with the Council's events division, two officers were appointed to offer specialist advice concerning food safety at the major outdoor events. Safety advisory groups were attended for 10 events and 4 events were subjected to actual inspections. Over 150 actual inspections were carried out of food businesses at those events to ensure they were a success. As indicated it is expected that the service will continue to be unable to provide the required level of support to events in this coming year.
- 12.12 A significant piece of work during the year was the preparation for the Commonwealth Games. This included a specific business support project, alongside a programme of consultation, advice and inspection of Games Venues, including athlete accommodation.
- 12.13 Having applied for and been successful in obtaining a grant of £228,000 the business support project achieved significant outcomes.
The project included the following:
- Updating the BCC food website
 - Production of postcards for distribution to food businesses
 - Advertising food business support on Google and Facebook
 - Advertising food business support on digital display screens in the city
 - Coordination of a team of officers to undertake targeted business support visits
 - Distribution of SFBB packs, including in different languages and different premises types
 - Distribution of thermometers and torches
 - Allergen sampling
 - Micro sampling using new ATP monitors obtained using the funding



The above is an example of the media that was developed, the service was successful in obtaining use of the 'Get set for the games' logo. As a result of this the BCC food website received unprecedented traffic, up to 2000 views per week which may not sound much but it was in the tens before. The team worked with the Food Standards Agency, UKHSA, BCC Media, and business groups in planning and developing this programme.

13. Trends

- 13.1 It is not statistically relevant to show trends over the past few years due to the impact of the covid pandemic. In the early stages of the lockdown all inspections and food safety activities ceased, with a gradual return over the following year to a range of food safety activities. It was not until the recovery programme that started in October 2021 that planned inspections commenced in certain premises, any visits up to that point were as a result of complaints or requests.
- 13.1 Appendix 3 therefore gives some statistical information showing the trends in some areas of food safety since 2017, subject to the above qualification. The number of food premises in Birmingham has shown a large increase while interventions required has been fairly steady. The number of interventions carried out in 2022-2023, was 99.51% of the actual target.
- 13.2 The number of Emergency Prohibition Notices served has fluctuated but with a decrease from a highest of 116 in 2015/16, the average has slightly increased to 70 served per year. The number served in 2018-2019 was significantly below this average, see appendix 3.
- 13.3 The number of Food Hygiene requests for assistance has dropped significantly during the pandemic period. The numbers are about a third less than in 2019, which may be a reflection on the reduced use of restaurants and eateries during this time period.

13.4 The number of sporadic cases of infectious disease has remained high last year. This highlights the need to continue to direct resources at poor performing food businesses and the importance of food safety in the Service Plan in reducing foodborne infection. The number of reported outbreaks of infectious disease has increased this year.

14. Resources

14.1 The food safety work during 2022/2023 was carried out within existing budgets, except where indicated.

Essential food related work carried out in 2022/2023 and planned for 2023/2024

APPENDIX 1

Activity	No. required Oct 2021 to Mar 2023	No. achieved Oct 2021 to Mar 2023	Comments	No. required in 2023/2024	No. planned in 2023/2024
Food hygiene primary inspections, category			The interventions required in 2023/2024 are shown in the next column. The interventions planned for 2023/2024 include all of the category A-C premises. The category D and E premises are subject to interventions as detailed in the report.		
A (High risk)	148	148	The programme will also include the overdue A-D premises, unrated premises and new registrations as resources permit.	168	168
B	479	479		581	581
C (Medium risk)	1702	1694		744	744
D (0-2)	167	167		39	39
D (3-5)				390	0
E (Low risk)	0			33	33
		0			
Overdue A-C	0	0		8	8
Overdue D	0	0		1892	900
Overdue E	0	0		2655	2655
Unrated	2448	828		2101	600
New Registrations	1798	1317		1200	320
Food standards primary inspections	N/A	3316	Food standards inspections are carried out at the same time as food hygiene inspections. The number of food standards inspections is considerably lower than expected. All premises classed as high risk for food standards such as food manufacturers were inspected.	2200	2200

Activity	No. planned/ expected 2022/2023	No. achieved 2022/2023	Comments	No. planned or expected in 2023/2024 (based on preceding year)
Requests for assistance: Food hygiene/ Food standards/ complaints TOTAL	Unknown (Due to Covid)	1414 165	These are not targets but expected figures – the numbers depend on the demand made by consumers and traders	1414 165
Infection control: Sporadic cases Outbreaks	Unknown (Due to Covid)	1056 4	Most outbreaks of gastro-intestinal disease are caused by person-to-person spread of viruses which may not be food borne. However, the initial symptoms are the same as for food borne bacterial causes and so all outbreaks are investigated.	1056 4
National food alerts: Food Alerts Allergy Alerts TOTAL	Unknown (Due to Covid)	61 78	The numbers depend on alerts issued by the Food Standards Agency	61 78
Food and water sampling	Samples for complaints or outbreaks.	16	More details are given in section 12.	The programme will be developed during the year in consultation with the UKHSA and PA
Food related training for EHP's	10 hours for each officer	10 hours	All officers involved in food safety enforcement are required by the Code of Practice to complete 10 hours relevant training per year	10 hours per officer

Additional food related work carried out in 2022/2023 and planned for 2023/2024

APPENDIX 2

Topic	Activity in 2022/2023	Planned for 2023/2024 including resources implication (officers days per month)
Hygiene scores on the web	There are now 6994 food premises featured on the website, and officers are giving out stickers to all food premises following a programmed inspection	Charging for revisits was launched in April 2017 as agreed by Committee. The charge has increased to £250.
Practical food inspection course	Two courses were provided on the identification and inspection of primary food	2 courses (depending on demand) in conjunction with B'ham and Wolverhampton Universities. (8 days)
Outdoor events	A lead officer has been assigned to liaise with Leisure Services on events such as Vaisakhi, the German Market and the Lord Mayor's show, Taste of Birmingham and to provide advice to mobile traders attending.	As for 2022/2023, it is hoped that additional resources are to be directed at ensuring compliance during the German Market. (14 days)
Home/Primary Authorities	Additional work required – liaison with the company, advice given on policy matters and liaison with other local authorities.	No further development of Primary Authority partnerships with additional companies. (50 days)
Meetings at national level and consultation documents: FSA, LGA	Meetings have been attended as required, and consultation documents commented on.	As for 2022/2023 (5 days) subject to available resources.
Liaison meetings: Water Authorities & CCDC's	Meetings have been attended as required.	As for 2022/2023 (2 days)
Food Fraud	Investigation of complaints referred from the FSA.	As necessary. (10 days) subject to available resources.
Private Water Supplies	Monitoring and sampling of private water supplies.	To carry out risk assessments of private water supplies and private distribution networks. (5 days)

Food Safety related statistics 2017/2023

Activity	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	3 year average
Total number of food premises in Birmingham	7114	8842				11131	9029
Programmed/ Primary Food hygiene inspections carried out	3584	3809				3316	3570
Food Standards inspections carried out	2233	1296				3316	2281
Emergency Prohibition Notices served	81	47				81	70
Food safety prosecutions completed at court	51	29	OMITTED	DUE TO	COVID	26	35
Food hygiene RFA's dealt with	3232	3106				1414	2584
Food complaints RFA's dealt with	737	700				165	534
Sporadic infectious disease cases investigated	1169	1344				1057	1190
Outbreaks investigated	4	1				4	3
Food alerts received	133	177				139	150

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

**28 JUNE 2023
ALL WARDS**

**HEALTH AND SAFETY LAW ENFORCEMENT
PLAN (HSLEP) 2023/2024**

1. Summary

- 1.1 Local authorities are required, by the Health and Safety Executive's National Local Authority Enforcement Code introduced in May 2013, to produce an annual Health and Safety Law Enforcement Plan (HSLEP).
- 1.2 This requirement is part of section 18(4) of the Health and Safety at Work etc. Act 1974 (HASWA) and there is a statutory duty on all enforcing authorities to comply with requirements in the Code.
- 1.3 This document which is Birmingham's HSLEP sets out the Health and Safety work programme for 2023 – 2024 to comply with the above duty.

2. Recommendation

- 2.1 That the report is noted and the Health and Safety Law Enforcement Plan for 2023/24 be approved.

Contact Officer: Gary James
Telephone: 0121 303 9826
Email: gary.g.james@birmingham.gov.uk

3. Background

- 3.1 Although the Health and Safety Executive (HSE) is the national strategic lead for Health and Safety, the legislation is enforced by both the HSE and Local Authorities (LAs). The Health and Safety (Enforcing Authority) Regulations 1998, details whether the HSE or the LA is the lead enforcing agency and this is determined by the nature of premises.
- 3.2 To meet the Health & Safety Executive's *National Local Authority Enforcement Code*, Birmingham City Council as a Local Authority enforcing health and safety law is required to:
- make a commitment to improving health and safety outcomes;
 - set out our priorities and plan of interventions for the current year taking into account local and national priorities; and
 - target our interventions to maximise their impact.
- 3.3 To meet these requirements of the current *National Local Authority Enforcement Code*, the City Council has a duty to:
- make a formal corporate commitment to improving health and safety outcomes;
 - implement a written intervention plan which is agreed by senior management including Members, and:
 - a. ensure adequate arrangements are provided for the enforcement of health and safety within the City, including the investigation of health and safety incidents (accidents).
 - b. include a range of risk-based interventions such as planned inspections, planned enforcement initiatives, investigation of accidents and complaints,
 - c. link health and safety interventions with national, regional and local objectives such as national campaigns, and
 - d. include planning and delivering objectives with other partners and stakeholders.
- 3.4 The Council is legally required to investigate work related deaths that occur in premises for which they are the enforcing authority. The Council must have competent staff to undertake such investigations and report their findings to the Coroner at an inquest.
- 3.5 This Health and Safety Law Enforcement Plan (HSLEP) includes proactive inspections of premises categorised as posing the highest risk identified through either national or local priorities. This enables resources to be directed to those areas where we believe we can have a positive impact in improving health and safety standards.

4. Consultation

- 4.1 The work outlined in this report is in response to the requirements of the HSE who direct local authorities on health and safety interventions nationally. The work has also been chosen to target high risk incidents that have been reported to the City Council in the previous financial year or are of an on-going concern.
- 4.2 Health and Safety activity by the City Council is also considered in consultation with other Local Authorities through the West Midlands Health and Safety Liaison Group

5. Implications for Resources

- 5.1 The HSLEP identifies the minimum statutory programme that is required to be delivered. Whilst the existing budget should allow for this work to be delivered the high levels of vacancies, (8 FTEs) due to difficulty in recruiting qualified EHOs means that this work is unlikely to be completed. Serious Cat 1 accidents will be prioritised.
- 5.2 Due to a national shortage of Environmental Health Officers we are not getting interest from suitably experienced officers wishing to work here. As a direct result we are only likely to attract newly qualified officers as Birmingham is second to none for gaining experience. This does however put a greater strain on existing staff.
- 5.2 Currently the Environmental Health team is actively seeking to recruit 8 qualified EHO's. In addition, we have 6 apprenticeship trainees who will qualify between 2025 and 2028 as it is a 4-year course). We are also actively looking to recruit student Environmental Health Officers who have completed their training but need practical experience to gain the full qualification.

6. Implications for Policy Priorities

- 6.1 The promotion of health and safety in the workplace, and where required effective enforcement interventions make an essential contribution to the health and well-being of residents and visitors to the City.
- 6.2 There are also direct economic benefits to businesses that are able to manage health and safety to a high standard. These are borne out through reduced absenteeism, insurance premiums, equipment repairs, etc.
- 6.3 The activities undertaken by Environmental Health in relation to health and safety support the City Councils Corporate Plan 2022 -2026 and the Delivering a Bold Legacy for Birmingham Plan through improving the health of the citizens working in and visiting Birmingham.
- 6.4 The HSLEP identifies how the council will meet the statutory requirement to deliver this work.

7. Implications for Equality and Diversity

- 7.1 The inspection and control of workplaces is essential to protect the health, safety and welfare of all people employed in or who are visitors to Birmingham. There have been no specific implications for equality and diversity identified.

DIRECTOR REGULATION AND ENFORCEMENT

Background Papers: Nil

HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2023/2024

1.0 Overall aim of the service

1.1 The Health & Safety Law Enforcement Plan (HSLEP) represents our commitment to improving health and safety outcomes for employers, employees and visitors to Birmingham. The HSLEP also represents our continued commitment to the Health and Safety Executive's (HSE) Strategy, *Helping Great Britain work well 2016*¹. It also continues to support the recommendations of the Löfstedt review *Reclaiming health and safety for all: An independent review of health and safety regulation*².

1.2 Through a range of different interventions we will:

- Work in partnership with businesses to enable them to succeed economically;
- Secure justice for the victims of poor health and safety provision / management;
- Help prevent work-related death, injury and ill-health;
- Deal with serious risks (i.e. those likely to cause serious injury, ill-health, or death);
- Use risk-based and intelligence-led interventions to target our activities appropriately and proportionately. In accordance with the *National Local Authority Enforcement Code*, we will take a common-sense approach and only target the higher-risk activities and be proportionate and consistent in our enforcement.

2.0 Introduction

2.1 Section 18(4) of the *Health and Safety at Work etc. Act 1974* (HASWA) places a statutory duty on enforcing authorities to perform their duties in accordance with guidance from the HSE. This guidance is known as the *National Local Authority Enforcement Code* (the Code).

2.2 We will, in line with the Code, continue to reduce the burdens on business, which disproportionate enforcement of health and safety enforcement imposes. Where resource allows we will achieve this by employing a range of different ways of dealing with businesses. This may include proactive inspections, reactive visits in response to accidents and complaints, mailshots, etc. collectively, these are referred to as "interventions".

2.3 One of the key elements of the Code is that local authorities must, annually, publish their HSLEP. This HSLEP sets out the arrangements to demonstrate how we will comply with Section 18 of HASWA, and outlines the work programme for the forthcoming financial year.

¹ <http://www.hse.gov.uk/strategy/assets/docs/hse-helping-great-britain-work-well-strategy-2016.pdf>

² <http://www.dwp.gov.uk/docs/lofstedt-report.pdf>

- 2.4 Our work programme incorporates the requirements of the Code; covers a number of the national priorities listed by the HSE within Local Authority Circular 67/2 (revision 12) and takes into account local health and safety priorities which are based on local intelligence mainly generated through incidents / accidents received.

3.0 Primary Authority Partnership (PAP)

- 3.1 These continue both nationally and in the City Council, to grow. PAPs enable businesses to nominate a single local authority from whom they can receive assured professional advice. All other local authorities are required to adhere to this assured advice when considering taking action against the partner company. Please see section 6.0 for a list of our current “health, safety and welfare” PAPs.

4.0 The Scope of the Health and Safety Service

- 4.1 Health and safety regulation within the UK is predominately undertaken by the HSE and local authorities. The *Health and Safety (Enforcing Authority) Regulations 1998* states the sectors the HSE and local authorities regulate, this is largely dependent on the work activity being carried out in the premises. The Environmental Health Section is responsible for enforcing health and safety legislation in a wide range of premises in Birmingham, these include:



- 4.2 There are over 21,000 business premises in Birmingham which come under our jurisdiction for health and safety regulation. Taking a risk based approach to proactive inspections as per HSE guidance, these individual business or specific types of businesses are only inspected where national or local

intelligence indicates that there may be an increased risk to the health and safety of employees and or the public. By targeting our resource in this way it ensures that we reduce the burden on compliant and low risk businesses, and focus support on those businesses that need it most.

4.3 Our approach to regulation is in line with the HSE³ and our Enforcement Policy⁴, as well as taking into consideration the principles of Better Regulation:

- Targeted (to take a risk-based approach);
- Proportionate (such as only intervening where necessary);
- Accountable (to explain and justify service levels and decisions to the public and to stakeholders);
- Consistent (to apply regulations consistently to all parties); and
- Transparent (being open and user-friendly).

5.0 Priorities for 2023/24

5.1 Whilst reduced resources are likely to affect the amount of health and safety work our officers will be able to deliver and result in the national code not being fully complied with. Whilst the work targeted does not include all national priorities, our key delivery priorities are listed below:

³ <http://www.hse.gov.uk/pubns/hse41.pdf>

⁴ <http://www.birmingham.gov.uk/regulatoryenforcementpolicy>

6.0 Primary Authority Partnerships

We are continuing to support and develop our PAPs covering England and Wales.

Primary Authority Partnerships allow us to:

- Work closely with the business helping them to apply health and safety regulations to their specific circumstances.
- Provide robust and reliable advice which must be recognised by all local regulators.
- Introduce, where required, a national inspection plan to improve the effectiveness of inspection, avoid repeated checks, and enable better sharing of information.
- Monitor enforcement action to ensure that the business is treated consistently and that responses are proportionate to the issue.
- Recover the costs incurred through working in the partnership including officer time and travelling expenses.

The City Council cannot profit financially from PAPs. However, the Partnerships do promote the positive work of Birmingham City Council nationally.

We have four “Health, Safety and Welfare” Primary Authority Partnerships with

Marks and Spencer PLC

- Concentrating on its retail premises, support centres and distribution hubs

Whilst not actively looking for further partnerships we will consider approaches from companies who would like to join into a partnership with us.

HEALTH AND SAFETY INTERVENTION PLAN FOR 2023/2024

Topic	Rationale	Number (‘Expected’ figures are as for 2023/24)	Target
Health and safety related requests for assistance (RFA)	To respond to requests for assistance in line with Regulation and Enforcement’s target of responding to all RFAs within 5 working days	Approximately 350 expected	100% response
Category 1 accidents (Fatalities and Serious injuries)	To investigate serious cases where health and safety management may have broken down and to prevent further injuries or ill health	8 expected	100% investigated
Category 2 accidents (Serious injuries and Occupational Disease Notifications)	To investigate cases where health and safety management may have broken down and to prevent further injuries or ill health	Approximately 100 expected	50% investigated
Category 3 accidents (Less serious but reportable accidents)	To investigate cases where health and safety management may have broken down and to prevent further injuries or ill health	Approximately 250 expected	All will be assessed but not investigated unless specific reason determined (e.g. the accident occurred where we are targeting project work in that sector).
Reduce the risk of legionella	To ensure that the risk of legionella is appropriately controlled at source at premises housing Cooling Towers	8 interventions	100% inspected
Reduce the risk of serious injuries from workers /others being struck by moving vehicles or falling from height. Machinery guarding and Occupational Health	Carry out proactive inspections of higher risk premises such as builders merchants / other such premises to check on safety measures in place to prevent workers from being at risk of injury or ill health within these business sectors.	10 visits	100% inspected
Reduce the risk of ill health to employees and members of the public from release of asbestos during removal	Carry out assessment and necessary inspection of notified works for the removal of asbestos material from LA enforced premises to ensure suitable controls are in place to prevent exposure to harmful fibres.	20 notifications (expected)	50% inspected

Topic	Rationale	Number (‘Expected’ figures are as for 2023/24)	Target
Reduce the risk of injury through the unsafe operation of inflatable amusement rides following a number of incidents nationally	Carry out proactive inspection during visits to premises to assess the safe operation ie anchoring the castle to the ground, annual inspection etc of inflatable amusement rides in the hospitality sector	10 visits (expected)	100% inspected
Reduce the risk of serious injury through the safety management at Trampoline Parks	Carry out proactive inspection of trampoline parks within the city to assess safety systems and management of those premises to reduce the risks to members of the public.	4 visits (expected)	100% inspected
Reduce the risk of ill health to employees in Shisha bars and unsatisfactory workplace conditions	Carry out proactive inspections of Shisha Bars to check on health control measures and workplace conditions	10 visits	100% inspected
Reduce the risk of ill health to users of shooting ranges and unsatisfactory workplace conditions	Carry out proactive inspections of shooting ranges to check on systems to reduce the inhalation of lead dust and health control measures	6 visits (expected)	100% inspected
Reduce the risk of personal injury and work-related stress in connection with violent incidents.	Investigate all notifiable accidents and RFAs where work-related violence is the causal factor.	10 expected	100% investigated
Reduce the risk of, amputations, crush injuries, as a result of coming into contact with unguarded dangerous parts of work equipment.	Inspect work equipment known to have caused serious injury (e.g. mixers, dough rollers, chippers, etc.) in catering establishments to ensure workers are not exposed to risks to their safety.	100 inspections	100% inspected
Reduce the risk of, serious injury from use of lifting equipment, e.g. fork lift truck, passenger lift, window cleaning cradle(s) where defects have been found during thorough examinations.	Contact the duty holder (email/letter) or visit where serious defects have been reported to make sure the equipment has been taken out of use or the repairs carried out.	75 notifications expected, but anticipate <10% will require contact / visit	100% of those requiring visits will be investigated
Training	Provide up to 10hrs training for all staff authorised under Health and Safety at Work etc. Act 1974. Where appropriate provide and facilitate training to external organisations and local authorities and / or to generate an income.	All health and safety authorised staff	100% of identified training

BIRMINGHAM CITY COUNCIL

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

28 JUNE 2023
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 15 March 2023.
2. Recommendations
 - 2.1 That the report is noted.

Contact Officer: Mark Croxford, Head of Environmental Health
Telephone: 0121 303 6350
E-mail: mark.croxford@birmingham.gov.uk

3. Background

- 3.1 This report is an update on activities since the last report to your Committee on 15 March 2023.
- 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.
- 3.4 A transit site is an authorized site where members of the travelling community can be directed when in the city area. A transit site typically provides a hard standing for holding caravans, a secure boundary and basic sanitary provision including potable water, often at a communal level. Most sites will have some measure of lighting and some will have provision for electricity.
- 3.5 Birmingham City Council presently has one functional site at Proctor Street affording space for 15 caravans, planning consent granted for a second site at Aston Brook Street East affording space for 4 caravans, and a further site at Tameside Drive which has space for around 11 caravans.
- 3.6 It has been clarified that the identification and approval for the allocation of transit sites lies with colleagues within Planning Policy. The details of the GRT need for both settled and transit site provision is contained within the Birmingham Development Plan and the GRT needs assessment within that. The operational provision of site(s) and the day-to-day services/operations is a housing function and is to be delivered by the Housing Department. This will leave your officers from with Environmental Health to focus on recovery of land.

4. Site Provision Update

- 4.1. As previously stated, 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.
- 4.2. The existing GTAA (2019) identified the need for 19 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

- 4.3. 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 smaller sites for smaller groups.
- 4.4. A coordinated site search is continuing as part of the new Local Plan for Birmingham to identify and allocate potential sites. The latest search has considered a shortlist of 18 possible sites which are currently vacant from an original longer list of 37 sites. Following consultation with Birmingham Property Services, only 4 of the 18 sites shortlisted were not already earmarked, and / or in the process of disposal, for other uses. Further detailed work is now being carried out to establish the suitability of these four sites and an update will be given once this detailed assessment has been concluded.
- 4.5. As well as the site search, an updated GTAA is also being carried out during 2023 as part of the evidence for the new Local Plan. Work on the new GTAA is already underway by RRR Consultancy, who are experienced and respected consultants amongst local authorities and GRT communities alike. The new GTAA will assess current need (2023-2028) and future need (2028-2042) and is due to be completed in September 2023. It will therefore give us a fully up-to-date picture of what the Council will need to provide over the coming years in both transit and permanent GRT provision.

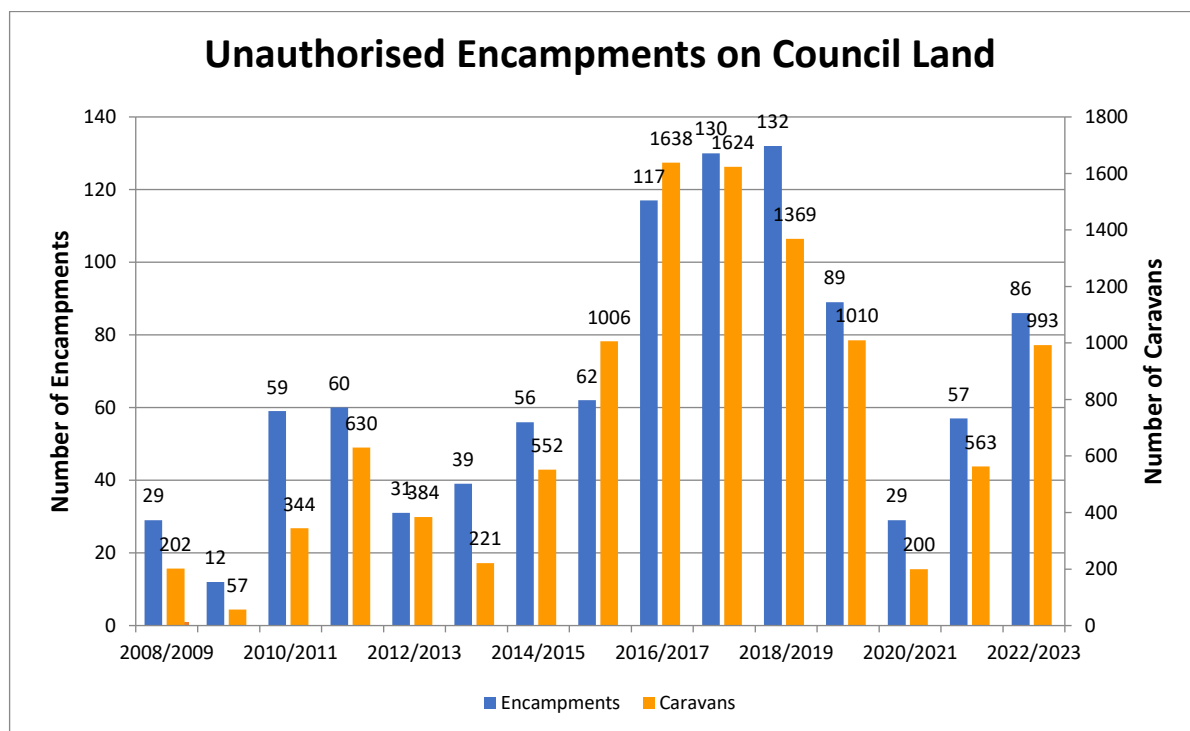
5. Transit Site Update

- 5.1. As previously reported, colleagues in Housing and the Place, Prosperity and Sustainability Directorate have applied for capital funding to develop the two transit sites identified in the Birmingham Development Plan (BDP). The funding applications to Homes England and DLUHC were both rejected.
- 5.2. Proctor Street transit site has been operational since 1st November 2020 and has seen almost constant use, excepting when closed pending repairs. The report taken to your Committee last November explained how that use had evolved from normalised use pre-lockdowns through to the challenges brought about by the lockdowns and persisting through to the date of the report. There has been no change in the behaviour of the travelling community in Birmingham since November ultimately leading to the site having been repossessed and closed pending repairs since mid-January. A full report has been compiled detailing the repairs required, however, significant damage to the main electrical intake and sub-distribution box will delay any works taking place. A site meeting is due to take place in the next couple of weeks to move this forward.
- 5.3. The site at Aston Brook Street is presently vacant awaiting development. The recent funding bid to Homes England was rejected due to the welfare facilities being deemed inadequate. A decision needs to be made with Planning colleagues as to whether this site is deemed viable given the size and structure of the site.

- 5.4. Legal advice on Tameside Drive site has been requested but cannot be reported as the matter remains with Legal Services. All I am able to report is that your officers are continuing to work with colleagues in Legal Services to bring the site back into use.
- 5.5. The incidents around maintaining the sites in a usable condition have clearly shown the need for better day to day management of the sites. As well as the regulatory aspect, colleagues in Housing are leading on devising a mechanism for management of occupancy on the transit site. An agreement is currently being approved which will implement a rental payment system that removes the need to exchange of cash on access and the occupancy agreement is being reviewed by Legal to ensure the fulfil any legal requirement. An overarching strategy in this area is being developed with contributions from all areas to ensure a cross Directorate co-design approach.

6. Unauthorised Encampments

- 6.1. The number of incursions and associated caravans on council land is displayed in the graph below. This shows the trend data for total encampments per financial year since 2008/2009.



- 6.2. Although the number of encampments on Council land has dropped in the years after 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'.
- 6.3. The numbers of unauthorised encampments in 2022/23 is now almost level with the numbers seen in the pre-Covid year of 2019/20 up to when the first lockdown commenced. During 2022/23 the transit site was occupied in seven instances.

6.4. In 2023/24 in April there have been 6 unauthorised encampments on Council land and 8 on Private land. In May, there have been a further 3 unauthorised encampments on Council land and 4 on Private land.

6.5. This unauthorised use of the Proctor Street Transit Site has led to increased pressure in that neighbourhood and both EH and WM Police have come under pressure to deal with the behaviour of occupants of the site. Having additional Transit sites with effective management would alleviate some of the pressures being experienced in and around Proctor Street.

7. Strategic Management of Unauthorised Encampments

7.1. 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 of 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'.

7.2. The current version of the protocol is edition 9 and incorporates the use of transit sites. Discussions are ongoing between BCC and WMP on effective management of the transit site in the event of a UE being established and the outcome from those meetings will likely give rise to an update to the protocol.

7.3. An action plan is also in development covering the management of the transit site with contribution from relevant stakeholders.

8. Consultation

8.1. The report is for information and, therefore, no consultation has been undertaken.

8.2. 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.

9. Implications for Resources

9.1. 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.

9.2. The resources required for identifying and gaining strategic approval for the allocation of transit sites lies with colleagues within Planning Policy

9.3. The resources required for developing and managing transit site operations is the responsibility of the Housing Department.

10. Implications for Policy Priorities

- 10.1. The work to provide a good quality transit site provision meets with the statutory duties the council has for all residents of Birmingham, which includes the travelling community. This supports the inclusive Birmingham priority.
- 10.2. This work also 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'.

11. Public Sector Equality Duty

- 11.1. 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.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

BIRMINGHAM CITY COUNCIL

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

28 JUNE 2023
ALL WARDS

ENFORCEMENT POLICY REVIEW
REGULATION AND ENFORCEMENT

1. Summary

- 1.1 This report refers to a review of Regulation and Enforcement's Enforcement Policy (the Policy). This Policy is reviewed regularly to ensure appropriate services fall within its remit, any legislative changes are considered and to ensure a proportionate, fair and equitable approach to enforcement is undertaken by the Council.
- 1.2 On 6 April 2014 the Regulators Code came into force which had implications for all Local Authority Enforcement Policies. On 17th June 2015, a revised enforcement policy was agreed by this committee following consultation and an equality impact assessment. Further reviews, of the Policy, have been conducted in November 2017, June 2020, November 2020 and July 2022.
- 1.3 Minor amendments have been made to the Policy to include the Community Safety and Private Rented Sector Licensing services in respect of their enforcement activity. These services will report their enforcement activity to the Licensing and Public Protection Committee. They will have regard to the principles of the Regulators Code and will utilise the Enforcement Policy as a guiding document.

2. Recommendations

- 2.1 That Committee adopts the Enforcement Policy which is attached at appendix A.

Contact Officer: Sajeela Naseer, Director of Regulation and Enforcement
Telephone: 0121 675 2495
Email: sajeela.naseer@birmingham.gov.uk

3. Background

- 3.1 The Regulation and Enforcement Division's Enforcement Policy is a document that provides officers with guidance in the application of enforcement decisions. It is as important for officers as it is for those against whom enforcement action might be taken, as it helps to provide clarity and encourages consistency in the decision-making process. As a Local Authority regulator, we are obligated to publish a policy by the Regulator's Compliance Code of 2014. It requires us to have regard to certain principles when constructing our own policy, which are repeated for convenience below.
- 3.2 The Regulators' Code attempts to improve the way regulation is delivered at the front line. It sets out a clear framework for transparent and accountable regulatory delivery and establishes clear principles for how local authorities should interact with those they are regulating. The Code is underpinned by the statutory principles of good regulation, which provide that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.
- 3.3 The Enforcement Policy is a live document that is amended subject to legislative changes, service changes and recognition of priorities regarding service delivery. Since its introduction, the Enforcement Policy has returned to the Licensing and Public Protection Committee to be reviewed and updated under the duty on the Local Authority to have regard to the Regulator's Code. This is a further review of the Policy to ensure the information contained within remains up to date.

4. Regulators' Code

- 4.1 The Code places certain specific obligations upon regulators. Those obligations are set out below.
- 4.2 **Regulators should carry out their activities in a way that supports those they regulate to comply and grow.** Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.
- 4.3 **Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.** Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.

- 4.4 **Regulators should base their regulatory activities on risk.** Regulators should take an evidence based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks.
- 4.5 **Regulators should share information about compliance and risk.** Regulators should collectively follow the principle of “collect once, use many times” when requesting information from those they regulate. When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.
- 4.6 **Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.** Regulators should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.
- 4.7 **Regulators should ensure that their approach to their regulatory activities is transparent.** Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.

5. Consultation

- 5.1 Regulation and Enforcement has carried out a process to ensure that this code is fully implemented within its Enforcement Policy. This process included a full period of consultation both through this Committee and on the Councils website to enable anyone with an interest to make comment. The consultation ran from 13 March to 24 April 2015. Unfortunately, there were no responses to the consultation.
- 5.2 In view of the minor changes that are proposed to the Policy, and the fact that since its adoption no formal complaints or concerns about the interpretation or application of the policy have been received, no external consultation has taken place on this review.

6. Implications for Resources

- 6.1 No specific implications have been identified. The Policy guides the decision making process and there are no additional associated costs linked to it.

7. Implications for Policy Priorities

- 7.1 The issues addressed in this report support the City Council Vision: *We will help make Birmingham a city where all citizens share in the creation and benefits of sustainable economic growth and can live longer, healthier, and happier lives..*
- 7.2 Further, Regulation and Enforcement will be a key service in ensuring Birmingham residents gain the maximum benefits by supporting legitimate business and tackling rogue traders looking to take advantage of vulnerable individuals and opportunities that arise within the ghost market.
- 7.3 They also support the Regulation and Enforcement Mission Statement: Locally accountable and responsive fair regulation for all – achieving a safe, clean, green and fair trading city for residents, business and visitors.

8. Public Sector Equality Duty

- 8.1 The proposed revised policy applies to all businesses residents and staff and will not have a significant impact on any with different protected characteristics.
- 8.2 An initial Equality Impact Analysis was completed in 2014 when the Policy was first drafted. A further Equality Assessment has been conducted as part of this review and found in appendix 3. No issues have been identified.
- 8.3 One of the benefits of an enforcement policy is to ensure consistency and fairness of enforcement throughout all communities and the commercial sector in Birmingham. The purpose of this Policy is to ensure that decisions are made transparently and to eliminate unfair or inequitable decisions. By its nature, it should not have an adverse impact on anyone with protected characteristics.

DIRECTOR REGULATION AND ENFORCEMENT

Appendix A – Enforcement Policy
Appendix 1 – Enforcement Policy Risk Matrix
Appendix 2 – Civil Penalties Charging Policy
Appendix 3 – Enforcement Policy Equality Assessment

BIRMINGHAM CITY COUNCIL
REGULATION AND ENFORCEMENT
ENFORCEMENT POLICY

1. INTRODUCTION

- 1.1 The Regulatory Enforcement and Sanctions Act 2008 established The Local Better Regulation Office (LBRO). Over time this has evolved into Office for Product Safety and Standards (OPSS) and works with local authorities and others to take forward its responsibilities, including Primary Authority and Better Business for All. It is part of the Department for Business and Trade. The Act also imposed upon Regulation and Enforcement a duty to:
- (a) have regard to any guidance given to a Local Authority by OPSS,
 - (b) a duty to comply with guidance where we are directed to do so by OPSS, and
 - (c) a duty to have regard to any list of enforcement priorities published by OPSS. We are committed to doing so.
- 1.2 The Regulators Code (RC) provides a set of principles for Regulators to consider.
- (a) Regulators should carry out their activities in a way that supports those they regulate to comply and grow.
 - (b) Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.
 - (c) Regulators should base their regulatory activities on risk.
 - (d) Regulators should share information about compliance and risk.
 - (e) Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
 - (f) Regulators should ensure that their approach to their regulatory activities is transparent.
- 1.3 Section 6 of the Regulators' Code sets out an expectation that local authorities will ensure that their approach to their regulatory activities is transparent. This means we will publish our policy on how we intend to deliver regulation and what those affected can expect. We believe that our enforcement policy is clear, concise, transparent and fit for purpose. Included in our enforcement policy is the way we will deal with issues and what those regulated can expect.
- 1.4 The RC indicates that it is for each local authority to determine an approach to service standards that will work best for those it regulates and itself.
- 1.5 This policy commits Birmingham City Council's Regulation and Enforcement Division to good enforcement practice with effective procedures and clear policies. Regulation and Enforcement Division includes the Licensing Service, Environmental Health, Private Rented Sector (including licensing), Trading

Standards, the hosted England Illegal Money Lending Team, the Regional Investigation Team and incorporates the enforcement actions of the Waste Enforcement Unit and Community Safety Team.

1.6 Regulation and Enforcement's Enforcement Policy has been prepared with regard to the current principal legislation and statutory guidance including:

- The Regulatory Enforcement and Sanctions Act 2008 (The RES Act).
- Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009 SI665/2009 (The CRE Enforcement Order).
- Co-ordination of Regulatory Enforcement (Procedure for References to RD) Order 2009 SI670/2009 (The CRE BRDO Order).
- Legislative and Regulatory Reform Act 2006 (LRRRA).
- Legislative and Regulatory Reform (Regulatory Functions) Order 2007 Regulators' Code (RC).

1.7 This Policy has also been prepared having regard to:

- The Enforcement Concordat: Good Practice Guide for England and Wales and the Principles of Good Enforcement: Standards; Openness; Helpfulness; Complaints; Proportionality and Consistency; the Human Rights Act 1988 and the Code for Crown Prosecutors.
- The LRRRA Part 2 requires us also to have regard to the Principles of Good Regulation. We recognise that our regulatory activities should be carried out in a way which is:
 - (a) proportionate;
 - (b) accountable;
 - (c) consistent;
 - (d) transparent; and
 - (e) targeted (to situations which need action) when we exercise a regulatory function which for local authorities includes: environmental health, trading standards (including the Regional Investigations Team and the England Illegal Money Lending Team), private rented sector, licensing and waste enforcement. We have had regard to the RC in the preparation of this policy.

2. WHAT THIS POLICY IS FOR

2.1 Regulation and Enforcement's primary function is to achieve regulatory compliance in order to protect the public, legitimate business, the environment and groups such as consumers, workers and tenants. However, we reserve the right to take enforcement action in some cases after compliance has been achieved if it is in the public interest to do so.

- 2.2 We recognise that prevention is better than cure, but where it becomes necessary to take formal enforcement action against a business, or member of the public, we will do so. There are a wide range of tools available to us as an enforcement agency. The actions we may take include:
- (a) No action.
 - (b) Informal Action and Advice.
 - (c) Fixed Penalty Notices.
 - (d) Penalty Charge Notices.
 - (e) Formal Notice
 - (f) Formal Order.
 - (g) Forfeiture Proceedings.
 - (h) Seizure of goods/equipment.
 - (i) Injunctive Actions and other Civil Sanctions.
 - (j) Refusal/Suspension/Revocation of a licence.
 - (k) Simple Caution.
 - (l) Civil Penalty
 - (m) Prosecution.
 - (n) Proceeds of Crime Applications.
- 2.3 When considering enforcement action, Regulation and Enforcement will, where appropriate and where reasonably practicable, discuss the circumstances with those suspected of a breach and take these into account when deciding on the best approach. However, it must also be noted that legal processes dictated by statute will be applied in many instances where contraventions of legislation have been detected. Further this paragraph does not apply where immediate action is required to prevent or respond to a potential breach/contravention or where to do so is likely to defeat the purpose of the proposed enforcement action.
- 2.4 If you are a business operating in more than one local authority and you have chosen to have a registered Primary Authority Partnership under the RES Act we will, where required, comply with the agreement provisions for enforcement and notify your Primary Authority of the enforcement action we propose to take. We may under that Act also refer the matter to RD if appropriate.
- 2.5 This policy is intended to provide guidance for enforcement officers, businesses, consumers and the public.

3. SCOPE OF THE POLICY

- 3.1 This Policy, where appropriate, applies to the legislation delegated to Regulation and Enforcement and enforced by authorised officers with delegated enforcement powers. These delegated powers are listed and reproduced within the Council's constitution. These can be found at:
https://www.birmingham.gov.uk/info/50068/how_the_council_works/283/the_councils_constitution

- 3.2 'Enforcement' includes any criminal or civil action taken by enforcement officers aimed at ensuring that individuals or businesses comply with the law.
- 3.3 For the purposes of the RES Act the term 'enforcement action' has been given a general statutory definition, which is:
- (a) Action to source compliance with a restriction, requirement or condition in relation to a breach or supposed breach
 - (b) Action taken in connection with imposing a sanction for an act or omission; and
 - (c) Action taken in connection with a statutory remedy for an act or omission.
- 3.4 A list of specific 'enforcement actions' is provided in Section 2 of this Policy. These actions also apply to businesses or organisations registered with a Primary Authority. In these cases if we are proposing to take action against you and that action is one of those listed then, unless one of the permitted exceptions applies, we will be required to contact your Primary Authority and give notice of the enforcement action we propose to take against you.
- 3.5 By this document Regulation and Enforcement intends to enable enforcement officers to interpret and apply relevant legal requirements and enforcement policies fairly and consistently between like-regulated entities in similar situations. Regulation and enforcement also aims to ensure that its own enforcement officers interpret and apply their legal requirements and enforcement policies consistently and fairly.
- 3.6 In certain circumstances we will seek to raise awareness and increase compliance levels by publicising unlawful trade practices or criminal activity. Where appropriate the results of specific court cases may also be published. Court results are placed on our website on the Traders Prosecuted page, which can be found at: <https://www.birmingham.gov.uk/traders>

4. HOW TO OBTAIN A COPY OF THE POLICY OR MAKE COMMENTS

- 4.1 This Policy is available on the Birmingham City Council website at:
- <http://www.birmingham.gov.uk/regulatoryenforcementpolicy>
- If you would like a paper copy of the Policy and/or you would like to comment on the Policy, please contact us through one of the following means:
- (a) E-mailing EH@birmingham.gov.uk
 - (b) Emailing tradingstandards@birmingham.gov.uk
 - (c) Emailing licensing@birmingham.gov.uk
 - (d) Emailing PRS@birmingham.gov.uk
 - (e) Writing to the Director Regulation and Enforcement, Units 1-3 Ashted Lock Way, Birmingham. B7 4AZ
 - (f) Telephoning 0121 303 6121.
- 4.2 On request, this Policy will be made available on tape, in Braille or large type.

5. OUR APPROACH

- 5.1 Our principles are informed by a number of codes of practice and statute as well as the Regulators' Code (the Code), Enforcement Concordat and the Guidance of OPSS as to how to apply these documents.
- 5.2 We recognise that prevention is better than cure and our role, therefore, involves actively working with businesses to advise on and assist with compliance. However, where it becomes necessary to take formal enforcement action against a business, or individual, we will do so.
- 5.3 Where we consider that formal enforcement action is necessary, each case will be considered on its own merits.
- 5.4 However, there are general principles that apply to the way each case must be approached. These are set out in this Policy.
- 5.5 The approach of Regulation and Enforcement to the sanctions and penalties available to it will aim to:
 - (a) Change the behaviour of the offender;
 - (b) Change attitudes in society to offences which may not be serious in themselves, but which are widespread;
 - (c) Eliminate any financial gain or benefit from non-compliance;
 - (d) Be responsive and consider what is appropriate for the offender and regulatory issue which can include punishment and the public stigma that should be associated with a criminal conviction;
 - (e) Be proportionate to the nature of the offence and the harm caused;
 - (f) Restore the harm caused by regulatory non-compliance, where appropriate; and
 - (g) Deter future non-compliance;
 - (h) Comply with statutory requirements.
- 5.6 All enforcement decisions will be fair, independent and objective. They will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Such decisions will not be affected by improper or undue pressure from any source.
- 5.7 Where possible, we will take into account the views of any victim, injured party or relevant person to establish the nature and extent of any harm or loss and its significance in making the decision to take formal action. This may include

actual or potential harm or loss or the impact on the well-being of individuals or potential or actual harm to communities or the environment.

- 5.8 Where possible, we will endeavour to ensure that those regulated can seek advice from the service about potential non-compliance without automatically triggering enforcement action. Each matter will be considered on its own merits and will determine the action by the service.
- 5.9 Birmingham City Council is a public authority for the purposes of the Human Rights Act 1998. We will, therefore, apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- 5.10 All enforcement activities, including investigations and formal actions, will always be conducted in compliance with the statutory powers of the officer and all other relevant legislation, including but not limited to the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 and the Criminal Justice and Police Act 2001, and in accordance with any formal procedures and codes of practice made under this legislation in so far as they relate to enforcement powers and responsibilities.
- 5.11 This Policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Code. In certain instances, we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

6. NOTIFYING ALLEGED OFFENDERS

- 6.1 If we receive information (for example from a complainant) that may lead to formal enforcement action against a business or individual we will notify that business or individual as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to those concerned or the general public.
- 6.2 During the progression of enforcement investigations/actions, business proprietors or individuals and witnesses will be kept informed of progress. Confidentiality will be maintained and personal information about individuals will only be released to a Court when required and/or in accordance with the Data Protection Act 2018.

7. ENFORCEMENT ACTION

7.1 An Overview of the enforcement actions available

- 7.1.1 There are a large number of potential enforcement options. The level of the action taken varies from no action through to proceedings in Court. Examples of the main types of action that may be considered are shown below:

- (a) No action.
- (b) Informal Action and Advice.
- (c) Fixed Penalty Notices.
- (d) Penalty Charge Notices.
- (e) Formal Notice
- (f) Formal Order.
- (g) Forfeiture Proceedings.
- (h) Seizure of goods/equipment.
- (i) Injunctive Actions and other Civil Sanctions.
- (j) Public Space Protection Order
- (k) Refusal/Suspension/Revocation of a licence (including with immediate effect).
- (l) Simple Caution.
- (m) Civil Penalty
- (n) Prosecution.
- (o) Proceeds of Crime Applications.

7.1.2 The order in which the enforcement actions are listed above is not necessarily in absolute order of escalating seriousness relative to each other. Regulation and Enforcement reserves the right to escalate its level of enforcement action, having regard to the criteria in paragraph 7.2 of this policy.

7.2 Deciding what level of action is appropriate

7.2.1 In assessing what enforcement action is necessary and proportionate, consideration will be given to, amongst other things:

- (a) The seriousness of the compliance failure.
- (b) The past and current performance of any business and/or individual concerned.
- (c) Any obstruction on the part of the offender.
- (d) The risks being controlled.
- (e) Statutory guidance.
- (f) Codes of Practice.
- (g) Any legal advice.
- (h) Policies and priorities of Government, Birmingham City Council and Birmingham City Council's Licensing and Public Protection Committee.
- (i) A person's age in relation to young people (termed 'juveniles') aged under 18.
- (j) The existence of a Primary Authority agreement.
- (k) Any duty of a local authority or statutory provisions

7.2.2 Certain enforcement action, such as the decision to Caution or pursue a civil penalty or to prosecute, is further and specifically informed by those matters set out below at paragraphs 7.14, 7.15 and 7.16.

7.2.3 The Risk Matrix in appendix 1 to this policy will be used as a framework to support transparency and consistency of approach and decision making. For workplace health and safety, the Enforcement Management Model (EMM) is used to ensure that enforcement decisions are consistent.

7.2.4 Action is more likely to be taken if the following are of relevance

- a. Situations where it is evident that a vulnerable individual or vulnerable group has been exploited
- b. Obstruction of authorised officers of the service in the lawful execution of their duties.
- c. Offences involving deceptions, fraud or negligence.
- d. Wilful disregard for the law.
- e. Risk to public health /safety
- f. Public nuisance
- g. Categories of offences which create significant financial burden to the taxpayer or impact at a community-wide level or that undermine public/business confidence in the City.

7.3 An explanation of the enforcement action options

7.3.1 No Action

7.3.2 In certain circumstances, we may consider that no action is appropriate in the circumstances, such as where the offender is elderly and frail or is suffering from mental health issues or serious ill health, and formal action would seriously damage their wellbeing. In such cases we will advise the offender of the reasons for taking no action.

7.4 Informal Action and Advice

7.4.1 For minor breaches of the law we may give verbal or written advice. We will clearly identify any contraventions of the law and give advice on how to put them right, including a deadline by which this must be done. The time allowed will be reasonable and take into account the seriousness of the contravention and the implications of the non-compliance.

7.4.2 Sometimes we will advise offenders about 'good practice' but we will clearly distinguish between what they must do to comply with the law and what is advice only.

7.4.3 Failure to comply could result in an escalation of enforcement action.

7.5 Fixed Penalty Notices

- 7.5.1 Certain offences are subject to fixed penalty notices where prescribed by legislation. Where legislation permits an offence to be dealt with by way of a Fixed Penalty Notice (FPN), we may choose to administer a FPN on a first occasion, without issuing a warning. Failure to pay the FPN may lead to a prosecution.

7.6 Penalty Charge Notices

- 7.6.1 Penalty Charge Notices (PCN) are prescribed by certain legislation as a method of enforcement by which the offender pays an amount of money to the enforcer in recognition of the breach. Failure to pay the PCN will result in the offender being pursued in the County Court for non-payment of the debt. A PCN does not create a criminal record and we may choose to issue a PCN without first issuing a warning.

7.7 Failure to discharge a FPN and/ or a PCN

- 7.7.1 A failure to pay a FPN or PCN is a material consideration for the purposes of deciding whether a prosecution will be taken or civil debt recovery commenced.
- 7.7.2 In order to maintain the integrity of this legislative regime and adherence to relevant statutory Codes of Practice, Regulation and Enforcement will consider an escalation of enforcement action. This will include consideration of a prosecution for the original offence under the primary legislation or consideration of civil action to recover the debt.

7.8 Formal Notice

- 7.8.1 Certain legislation allows notices to be served requiring offenders/relevant persons to take specific actions or cease certain activities. Notices may require activities to cease immediately where the circumstances relating to health, safety, environmental damage or nuisance demand. In other circumstances, the time allowed will be reasonable, take into account the seriousness of the contravention, the implications of the non-compliance and the appeal period for that notice.
- 7.8.2 All notices issued will include details of any applicable appeals procedures.
- 7.8.3 Certain types of notice allow works to be carried out in default. This means that if a notice is not complied with [a breach of the notice] we may carry out any necessary works to satisfy the requirements of the notice ourselves. Where the law allows, we may then commence recovery action, through the courts, if necessary, against the person/business served with the notice, for any costs we incur in carrying out the work. Notwithstanding the default power, non-compliance with notices may lead to a prosecution.

7.9 Formal Order (Housing)

- 7.9.1 The Housing Acts 1985 and 2004 and regulations made beneath them allows orders to be served in respect of private rented sector properties and in some cases, owner occupied premises (Housing Act 1985, Section 17).
- 7.9.2 Orders are made on the relevant person/s and may require them to either take specific actions, cease specific actions or give the local authority management control of the property.
- 7.9.3 All orders issued will include details of any applicable appeal rights and procedures.
- 7.9.4 Certain types of order allow the local authority or it's appointed agent to collect rents and/or recover the costs of management of the property (including repair, maintenance and other incurred costs).

7.10 Forfeiture Proceedings

- 7.10.1 This procedure may be used in conjunction with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them re-entering the market place or being used to cause a further problem. In appropriate circumstances, we will make an application for forfeiture to the Magistrates Courts.

7.11 Seizure

- 7.11.1 Certain legislation enables authorised enforcement officers to seize goods, equipment or documents, for example, unsafe food, sound equipment that is being used to cause a statutory noise nuisance, unsafe products or any goods that may be required as evidence for possible future court proceedings. When we seize goods we will give the person from whom the goods are taken an appropriate receipt and details of any applicable appeals and/or property return procedures.

7.12 Injunctive Actions and Other Civil Sanctions

- 7.12.1 In certain circumstances, for example, where offenders are repeatedly found guilty of similar offences or where it is considered that injunctive action is the most appropriate course of enforcement, then such actions may be used to deal with offenders, dangerous circumstances, or consumer/environmental/public health detriment.
- 7.12.2 Action under the Enterprise Act 2002- proceedings may be brought where an individual or organisation has acted in breach of community or domestic legislation with the effect of harming the collective interests of consumers. In most circumstances action will be considered where there have been persistent breaches or where there is significant consumer detriment. Action can range from:

- (a) Informal undertakings.
- (b) Formal undertakings.
- (c) Interim Orders.
- (d) Court Orders.
- (e) Contempt Proceedings.

7.12.3 In certain circumstances Community Protection Notices (CPN's) or Criminal Behaviour Orders (CBO's) can be issued and obtained in respect of anti-social behaviour.

Where the non-compliance under investigation amounts to anti-social behaviour such as persistent targeting of an individual or a group of individuals in a particular area, or activity that is deemed detrimental to quality of life, a CPN or CBO may be sought or issued to stop the activity.

7.13 Public Space Protection Orders

7.13.1 Public Space Protection Orders are used, following consultation, to prohibit certain activities within identified public places or requires specified things to be done by persons carrying on specified activities in that area. These orders are introduced if:

- (i) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality; and
- (ii) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

A PSPO provides for restrictions to be placed on behaviour that apply to everyone in that locality (with the possible use of exemptions). Breach of a PSPO without a reasonable excuse is an offence.

7.14 Suspension and Revocation of a Licence

7.14.1 **Hackney Carriage and Private Hire Drivers** – the grounds for refusing to renew a licence, or for suspending or revoking a licence, are based on whether the driver has:

- (i) Been convicted of an offence involving dishonesty, indecency, drugs or violence;
- (ii) Been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976;
- (iii) Failed to comply with a requirement of the Local Government (Miscellaneous Provisions) Act 1976; or
- (iv) Any other reasonable cause.

7.14.2 A Hackney Carriage or Private Hire Drivers' licence may also be suspended or revoked with immediate effect if such a decision is deemed necessary in the interests of public safety. No conviction is required for this action to be taken. Matters will be considered on the Civil Standard of proof – on the balance of probability.

7.14.3 **Premises Licences (Licensing Act 2003)** – where a review of a Premises Licence is sought under Section 51 of the Act the options available to the Licensing and Public Protection Committee are:

- (i) Modification of the conditions of the Licence.
- (ii) Exclusion of licensable activity from the scope of the Licence.
- (iii) Removal of the Designated Premises Supervisor.
- (iv) Suspension of the Licence for a period not exceeding three months.
- (v) Revocation of the Licence.
- (vi) Issue of a Warning Letter.
- (vii) No action.

7.14.4 **Premises Licences (Gambling Act 2005)** – where a review of a Premises Licence is sought under Section 202 of the Act, the options available to the Licensing and Public Protection Committee are:

- (i) Revocation of the Licence.
- (ii) Suspension of the Licence for a specified period not exceeding three months.
- (iii) Exclusion of a condition attached to the Licence, under Section 168, or removal or amendment of an exclusion.
- (iv) Additions, removal or amendment of a condition under Section 169.

7.14.5 **General Licensing** – where there is a breach of condition of Licence or Permit, upon hearing evidence, the Licensing Committee has the power to suspend, revoke or refuse to renew the Licence/Permit subject to the provisions of the legislation.

7.14.6 **Correctional Training Courses** – where a driver of a hackney carriage or a private hire vehicle has committed an offence that would be considered suitable for disposal by way of administering a Simple Caution or a FPN, we may in appropriate circumstances offer the driver the opportunity of attending a correctional training course at the driver's expense as an alternative to receiving the Simple Caution or FPN. The acceptance of a training course will not be cited as a formal sanction by the Council in the event of future legal proceedings against the individual, but the circumstances of the offence would remain relevant in terms of the individual's fitness to hold a licence.

7.14.7 Licence in respect of private rented sector property

A licence may be varied where it is considered that there has been a change of circumstances since the licence was granted. A licence will be revoked following a change in ownership, death of the licence holder or by agreement with the licence holder if the property is no longer licensable.

A licence may be revoked if the licence holder or manager is no longer deemed to be a fit and proper person or there have been other serious breaches, or repeated breaches of licence conditions

7.15 Simple Caution

7.15.1 In appropriate circumstances, where a prosecution would otherwise be justified, a Simple Caution may be administered. Simple Cautions will be used in accordance with current Guidelines, including the Director's Guidance on Charging issued by the Director of Public Prosecutions under section 37A of the Police and Criminal Evidence Act 1984.

7.15.2 A Simple Caution is an admission of guilt, but is not a form of sentence, nor is it a criminal conviction.

7.15.3 For a Simple Caution to be issued a number of criteria must be satisfied:

- (a) Sufficient evidence must be available to prove the case.
- (b) The offender must admit the offence.
- (c) It must be in the public interest to use a Simple Caution.
- (d) The offender must be 18 years or over.

7.15.4 We will also take into account whether the offender has received a simple caution within the last 2 years when determining whether a simple caution is appropriate for any subsequent offending.

7.15.5 If during the time the Simple Caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the Caution may be cited in court, and this may influence the severity of the sentence that the court imposes.

7.15.6 The refusal of an offender to be cautioned does not preclude the matter being passed for prosecution. In fact, any such failure will be a material consideration when deciding whether the offender should then be prosecuted for that offence.

7.15.7 We take the view that offences of selling age restricted products to minors and other vulnerable persons have such a serious and adverse impact on the safety and wellbeing of the community that our presumption will always be to deal with them by way of formal action, meaning simple caution or prosecution and/or licence reviews. Where a sale of alcohol is made by someone who is not a personal licence holder, consideration will be given to administering a simple caution for a first offence.

Where a sale of alcohol is made by someone who is a personal licence holder, consideration will be given to dealing with the case by way of prosecution for a first offence. In every case we will consider the individual circumstances before making our decision.

7.16 Civil Penalty

7.16.1 The Housing and Planning Act 2016 section 126 and Schedule 9 amended the Housing Act 2004 and introduced the ability for Local Housing Authorities to allow financial penalties (civil penalties) of up to £30,000 per offence to be imposed as an alternative to prosecution for the following offences under the Housing Act 2004

- section 30 (failure to comply with an improvement notice);
- section 72 (offences in relation to licensing of Houses in Multiple Occupation);
- section 95 (offences in relation to licensing of houses under Part 3 of the Act);
- section 139 (failure to comply with an overcrowding notice); or
- section 234 (failure to comply with management regulations in respect of a House in Multiple Occupation)

Only one financial penalty may be imposed on a person in respect of the same offence, however, a civil penalty can be issued for each separate breach of the HMO Management Regulations.

In deciding to issue a civil penalty, the Council must satisfy itself that there would be a realistic prospect of a conviction, and that an offence has been committed beyond reasonable doubt. The Council will consult the evidential and public interest tests in the Crown Prosecution Service Code for Crown Prosecutors in making this decision.

<https://www.cps.gov.uk/publication/code-crown-prosecutors>

The amount of the civil penalty will be determined according to the Council's Civil Penalty Charging Policy (appendix 2). This charging policy was agreed by Cabinet on 22 January 2019 as an amendment of the "Enforcement Policy for the Regulation of Housing Standards in the Private Rented Sector and for the Licensing of Houses in Multiple Occupation".

7.16.2 The provisions of the Tenants Fees Act 2019 are applicable to landlords and property agents concerning displaying fees, prohibited fees, being members of a redress scheme and belonging to designated Client. The Act permits the imposition of financial penalties as an alternative to prosecution and requires the enforcing authority to have in place a policy to determine the level of such a penalty.

On the 7 September 2021 Cabinet agreed that Birmingham City Council would adopt the Bristol City Council's enforcement policy on deciding financial penalty amounts as instigated by the National Trading Standards Estate and Letting Agency Team. This policy can be found at

<https://www.bristol.gov.uk/documents/3368713/3492947/Tenant+Fees+Act+Penalty+Notice+Policy.pdf/789145a2-0b15-5542-2851-63d3bc47d57b>

7.16.3 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (“the Regulations”) impose duties upon private sector landlords (as defined in the Regulations) in relation to the installation and maintenance in proper working order of smoke and carbon monoxide alarms in premises which are occupied under a tenancy.

The Regulations also impose duties on the local housing authority to take action where it is satisfied that a landlord has failed to comply with one or more of those duties.

The Regulations permit the imposition of financial penalties if the landlord has not taken remedial action after the service of a notice and requires the enforcing authority to have in place a statement of principles to determine the level of such a penalty.

In June 2022 the Licensing and Public Protection Committee approved the Statement of Principles for determining financial penalties under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015. This statement can be found at:

<http://birmingham.gov.uk/regulatoryenforcementpolicy>

7.17 Prosecution

7.17.1 In circumstances where none of the other forms of enforcement action are considered appropriate or a defendant failed to comply with a notice issued or failed to pay a fixed penalty notice issued to them, a prosecution will be considered and may ensue.

7.17.2 When deciding whether to prosecute, Regulation and Enforcement applies the Code for Crown Prosecutors as issued by the Crown Prosecution Service and Director of Public Prosecutions.

7.17.3 The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. For a copy of the Code for Crown Prosecutors visit:

7.17.4 The Code for Crown Prosecutors has two stages: (i) the evidential stage; followed by (ii) the public interest stage. Regulation and Enforcement will only consider whether a prosecution is in the public interest after considering whether there is sufficient evidence to prosecute and being satisfied that there is a realistic prospect of conviction. However, there will be cases where it is clear, prior to reviewing all the evidence, that the public interest does not require a prosecution. In these instances, we may decide that the case should not proceed further.

7.17.5 The results of prosecution cases are a matter of public court record. Summaries of court case outcomes will be published on our website for a limited period of time. (visit <http://www.birmingham.gov.uk/traders-prosecuted>

7.18 Proceeds of Crime Act Applications

7.18.1 Regulation and Enforcement either through its own Officers or in co-operation with the Police may make application under the Proceeds of Crime Act 2002 to restrain and/or confiscate the assets of an offender. The purpose of any such proceedings is to recover the financial benefit that the offender has obtained from his criminal conduct. Proceedings are conducted according to the civil standard of proof.

8. DECISIONS ON ENFORCEMENT ACTION

8.1 Decisions about the most appropriate enforcement action to be taken are based upon those matters set out in Section 7 above.

8.2 Where appropriate, decisions about what enforcement action to take may involve consultation between:

- (a) Investigating Officer(s).
- (b) Senior managers from Regulation and Enforcement.
- (c) Birmingham City Council Solicitors.

8.3 The decision to prosecute a case will be taken by those with authority to do so in accordance with the Birmingham City Council Scheme of Delegations.

8.4 Enforcement Policy – Appeals and Complaints

8.4.1 **Appeals through the Council's Corporate Complaints Procedure.** The Council has a corporate comments, compliments and complaints procedure. (https://www.birmingham.gov.uk/info/50172/comments_compliments_and_complaints).

The Council encourages any person who has a problem with a service they receive, due to a failure in the service, to report it. However, where a report is received from a person who is the subject of a law enforcement investigation or current/pending statutory action then the Corporate Policy will not normally be used. The reasons for this and examples of relevant circumstances include:

- Ongoing law enforcement investigation or legal process has commenced. In most situations law enforcement investigations fall under the requirements of the Police and Criminal Evidence Act 1984 (PACE). This imposes requirements on the circumstances in which the council can engage with a person who is suspected of committing an offence or who is the subject of current/pending law enforcement action. The Corporate Procedure cannot be used to attempt to override or circumvent PACE, for example to challenge elements of an investigation; the necessity for enforcement action; or an enforcement decision. If this is attempted, then the council's Corporate Procedure will normally be staid. The suspension would apply until law enforcement / legal proceedings stages are completed. The outcome of an investigation, including legal proceedings may render the basis of a

complaint/report nullified, but a person's rights are not affected as the criminal justice system has processes to ensure fairness and equity, including appeals procedures. [The Council cannot provide advice on these and the aggrieved person would be required to explore these independently].

- A complaint that has already been settled in another way. This includes a determination by a Court or Tribunal service or other statutory regulator/arbitration/ombudsman service.

8.4.2 Who will investigate if a complaint or challenge is made?

- If a complaint is made through a criminal justice system route, such as an appeal or contested trial this will be dealt with by the relevant statutory process at court.
- If a complaint is made through the Council's Corporate Procedure, in the first instance the relevant Investigating Officer from Regulation and Enforcement, potentially with their line manager will consider and make a determination. (The exception to this is where a complaint is made about a specific Investigating Officer. If this applies the Investigating Officers line manager or other manager within Regulation and Enforcement will make a determination. (This process will be applied for complaints about alleged officer misconduct or where a request is made for an officer to be removed from an investigation). Following investigation, the complainant/requestor will be advised on any proposed course of action. Complaints/challenges will not ordinarily lead to cessation of a criminal investigation or legal proceedings. If a complaint is made about the manager who is overseeing an investigation this will be considered by a manager within Regulation and Enforcement of equivalent or more senior grade who has not had direct involvement in the relevant investigation or enforcement decision.

8.5 Enforcement of Waste Crime

- 8.5.1 The mission statement for the Regulation and Enforcement Division is "Fair Regulation for All – achieving a safe, healthy, clean, green and fair trading city for residents, businesses and visitors". This reflects the Council's priority of "Birmingham is a great city to live in".
- 8.5.2 Amongst many steps to achieve a cleaner city a team exists to specifically tackle aspects of waste crime. In order to ensure the activities of this team are as effective as possible, the legislation around illegally dumped waste must be strictly enforced. Not all waste crime offending will directly trigger the usual threshold guide for legal proceedings to be commenced, as set out in the Matrix (appendix 1). However, given the community-wide impact of the problem (outlined at Paragraph 7.2.4) waste offences may be prosecuted, in appropriate circumstances where the threshold is not met, in order to secure deterrent or punitive action which is, considered to be, in the public interest.

Any matters which are dealt with in this manner will still have the usual legal protections afforded and will still be subject to the code for crown prosecutors.

9. PRIMARY AUTHORITY PARTNERSHIP SCHEME AND ITS ENFORCEMENT PROVISIONS

9.1 When we have come to the decision to take enforcement action against you and:

1. You are a business operating in more than one Local Authority and you have chosen to have a registered Primary Authority Partnership under the RES Act; and
2. The enforcement action we propose to take is covered by the definition of enforcement action for the purposes of Part 2 of the RES Act.

We will, where required to do so by that Act, comply with the agreement provisions for enforcement and notify your Primary Authority of the action we propose to take.

9.2 Your Primary Authority has the right to object to our proposed action in which circumstances either they or we may refer the matter to BRDO.

10. LIAISON WITH OTHER REGULATORY BODIES AND ENFORCEMENT AGENCIES

10.1 In addition to the duties imposed upon us by the RES Act in respect of co-operating and working with Primary Authorities and RD, we will, where appropriate, co-operate and co-ordinate with any relevant regulatory body and/or enforcement agency to maximise the effectiveness of any enforcement.

10.2 Where an enforcement matter affects a wide geographical area beyond the City boundaries or involves enforcement by one or more other local authorities or organisations, where appropriate all relevant authorities and organisations will be informed of the matter as soon as possible and all enforcement activity co-ordinated with them.

10.3 Regulation and enforcement will share intelligence relating to wider regulatory matters with other regulatory bodies and enforcement agencies, including:

- (a) Government Agencies.
- (b) Police Forces.
- (c) Fire Authorities.
- (d) Statutory Undertakers.
- (e) Other Local Authorities.
- (f) Other internal Council Departments

11. CONSIDERING THE VIEWS OF THOSE AFFECTED BY OFFENCES

- 11.1 Regulation and Enforcement undertakes enforcement on behalf of the public at large and not just in the interests of any particular individual or group. However, when considering the public interest test, the consequences for those affected by the offence, and any views expressed by those affected will, where appropriate, be taken into account when making enforcement decisions.

12. PROTECTION OF HUMAN RIGHTS

- 12.1 This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

13. REVIEW OF THE ENFORCEMENT POLICY

- 13.1 This Policy will be reviewed within a three year period or sooner if amendments are necessary. A copy of this Policy is available at:
<http://birmingham.gov.uk/regulatoryenforcementpolicy>

Appendices

Appendix 1 – Enforcement Policy Risk Matrix

Appendix 2 – Civil Penalties Charging Policy

Appendix 3 – Equality Assessment

END OF DOCUMENT

RISK MATRIX FOR REGULATION AND ENFORCEMENT - ENFORCEMENT POLICY

<u>REGULATION AND ENFORCEMENT ACTIVITY</u>	<u>ACTIVITY</u>	<u>SCORE</u>
Does the activity involve breaches of criminal legislation?	YES – continue to matrix.	
	NO – then this matrix is not an appropriate method for decision making in relation to the matter.	
People are safe and their wellbeing and safety are assured	No safety or health and wellbeing implications.	0
	Limited possibility of risk to safety and wellbeing.	1
	A high probability that illness or injury will occur or has occurred. Any injuries or illness should be restricted in nature (i.e. not require hospital treatment).	2
	Death, illness, injury (requiring hospital treatment for more than three days sickness absence from work) or has occurred or is likely to occur.	3
Direct or indirect economic implications to legitimate businesses	No implications for legitimate businesses.	0
	Limited consequences to a very small number of legitimate businesses.	1
	A large part of the legitimate business sector will be affected, for example all of those in a particular geographic area or businesses supplying a particular market.	2
	All of the legitimate business sector will be affected.	3
Direct or indirect economic implications to consumers or the wider public	No economic loss to consumers or the wider public.	0
	The economic loss was very small (or was likely to be very small) or to a small group of individuals and the amount of economic loss was very small (or was likely to be very small).	1
	The economic loss was restricted (or was likely to be restricted) to a group of individuals and the amount of economic loss was limited (or was likely to be limited).	2
	Higher level of economic loss to an individual or the economic loss or the probability of such or the amount of economic loss could have potentially affected a higher number of consumers or the wider public.	3
Reputation (risk to the local authorities'	No reputational risk.	0

reputation) in taking no action		
	Low reputational risk.	1
	Medium reputational risk.	2
	High reputational risk.	3
Likelihood that the infringing activity could have been easily ascertained (for example: the size of the business may be a factor when making this assessment or using a reasonable test; the persons should have known it was wrong or information could be readily discovered online.	Very difficult to ascertain.	0
	Difficult to ascertain.	1
	Could be ascertained with a limited amount of activity on behalf of the business.	2
	Easy to ascertain even with limited knowledge of the subject area.	3
Has the defendant taken reasonable precautions and due diligence in the circumstances to prevent the activity from occurring?	Not applicable.	0
	High level of precautions, training and systems in place and followed the systems.	1
	Some precautions and systems in place and followed but not comprehensive.	2
	No training and systems in place or followed.	3
What is the history of the defendant in relation to regulatory compliance? (The local or national position of a defendant can be taken if appropriate. Considerations of ‘culpability’ and ‘harm’ may be necessary where there has been or would not likely be any local authority history of compliance assessment)	Not applicable.	0
	The defendant has a good history of proactive work with the Local Authority to achieve compliance in its sector. Previous engagement has found no issues. (Considerations where culpability and/or harm are ‘low’).	1

	Previous engagement has found issues, however, these have been rectified within a reasonable time frame. (Considerations where culpability and/or harm are 'medium').	2
	The defendant has a poor history of Local Authority engagement and/or previous instructions have been disregarded and/or a high level of non-compliance has been found on previous engagement. (Considerations where culpability and/or harm are 'high').	3
Aggravating features (i.e. length of time activity has been happening for; was the activity purposely covert etc.; was the victim vulnerable; was an attempt made to obstruct an investigation)	Not applicable.	0
	Low level of aggravating features.	1
	Some level of aggravating features, however, limited by time or amount of aggravation.	2
	Higher level of aggravation.	3

<u>KEY</u>	<u>ASSESSMENT</u>	<u>SCORE RATING</u>
3 – high risk	If an activity results in three or more level HIGH RISK scores then formal action should be considered.	Score 12 and above.
2 – medium risk	Consider informal / lower tier action.	Score 2 to 11.
1 – low risk	No action.	Score 1.

The Risk Matrix will be used as a framework to support transparency and consistency of approach and decision making. (For workplace health and safety the Enforcement Management Model (EMM) is used to ensure that enforcement decisions are consistent).

Where the score falls between 2 and 11 and the investigating officer believes the matter should be referred for formal proceedings the case must be reviewed by the operations manager and/or Heads of Service and a record of the decision will be retained.

Where the score is 12 and above and the investigating officer believes the matter should not be referred for formal proceedings the case must be reviewed by the operations manager and/or Heads of Service and a record of the decision will be retained.

Institution of criminal proceedings will only be formally recommended to the relevant Council Director where the Council's Legal Services or Head of Service within Regulation and Enforcement have authorised progression.

Civil Penalty Charging Policy

Civil Penalties under the Housing Act 2004 (as amended by the Housing and Planning Act 2016)

The Housing and Planning Act 2016 section 126 and Schedule 9 amended the Housing Act 2004 and introduced the ability for Local Housing Authorities to allow financial penalties (civil penalties) of up to £30,000 per offence to be imposed as an alternative to prosecution for the following offences under the Housing Act 2004:

- failure to comply with an Improvement Notice (Section 30);
- offences in relation to Licensing of Houses in Multiple Occupation (Section 72);
- offences in relation to Licensing of houses under Housing Act 2004 Part 3, (Section 95);
- offences of contravention of an Overcrowding Notice, (Section 139(7));
- failure to comply with management regulations in respect of HMOs. (Section 234).

The Council will seek to impose Civil Penalties in accordance with this Enforcement Policy for the Regulation of Housing Standards and the Licensing of Houses in Multiple Occupation.

The decision to issue a civil penalty comprises two stages:

- to determine whether a civil penalty is an appropriate sanction in accordance with this Enforcement Policy, and, if appropriate
- to determine the level of the proposed civil penalty.

If the decision is to impose a civil penalty, a notice of intent must be served stating the amount of the proposed penalty, the reasons for its imposition and information about the right to make representations.

After the expiry of the period for representations the matter must be reviewed and a decision taken whether to impose a civil penalty and if so the amount of the penalty.

Statutory guidance issued by the Ministry of Housing Communities and Local Government in April 2017 sets out the following factors which must be taken into account when deciding on the appropriate level of penalty:

- a) Severity of the offence.** The more serious the offence, the higher the penalty should be.
- b) Culpability and track record of the offender.** A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.
- c) The harm caused to the tenant.** This is an important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.

- d) **Punishment of the offender.** A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.
- e) **Deter the offender from repeating the offence.** The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
- f) **Deter others from committing similar offences.** While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that:
 - (a) the local housing authority is proactive in levying civil penalties where the need to do so exists, and
 - (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.
- g) **Remove any financial benefit the offender may have obtained as a result of committing the offence.** The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

The Council will determine the level of civil penalty from a review of the case and having regard to the statutory guidance will apply the following five step approach:

Step 1 – Determining the offence category

To determine the financial starting point, consider the culpability and harm factors in the lists below. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting to make an overall assessment.

Culpability

Very High

Deliberate failure to comply with legal obligations

High

Knew or ought to have known that they were in breach of their legal responsibilities, wilful blindness to the risk of offending. Non-compliance over a long period or ignoring concerns raised by regulators, tenants or others.

Medium

Offence committed through an act or omission which a person exercising reasonable care would not commit

Low

Offence committed with little fault, for example, because:

- Significant efforts were made to address the risk although they were inadequate on this occasion
- Failings were minor and occurred as an isolated incident.

Harm

High

The property conditions pose a high risk of serious adverse effects to the occupants and/or visitors.

Vulnerable individuals were put at risk.

Medium

The property conditions pose medium risk of serious adverse effects to the occupants and/or visitors.

Low

The property conditions pose a low risk of serious adverse effect to the occupants and/or visitors.

Step 2 – Starting point

Having determined the culpability and harm levels, the appropriate offence matrix should be referred to in order to calculate the starting point for the civil penalty.

		HARM		
		LOW	MEDIUM	HIGH
CU LPA BILI TY	LOW	£500	£1000	£2000
	MEDIUM	£1000	£2000	£4,000
	HIGH	£2,000	£4,000	£10,000
	VERY HIGH	£4,000	£10,000	£20,000

Step 3 – Consider factors to increase or reduce fine

The Council should then consider further adjustment from the starting point to take into account aggravating and mitigating features. Set out below is a non-exhaustive list of factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these or other relevant factors should result in an upward or downward adjustment from the starting point.

Factors increasing seriousness:

Aggravating factors include:

- History of failing to comply with obligations
- Motivated by financial gain
- Deliberate concealment of illegal nature of activity
- Established evidence of wider/community impact
- Obstruction of justice
- Landlord or agent of multiple properties which may include licensed HMOs

Factors reducing seriousness or reflecting personal mitigation:

- Steps taken to remedy the problem
- High level of co-operation with the investigation, beyond that which will always be expected
- A history of good communication and compliance regarding work as a landlord

- Co-operation and acceptance of responsibility
- Mental disorder or learning disability, where linked to the commission of the offence
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender

Step 4 – Case and penalty review

The level of the penalty should reflect the extent to which the offender fell below the required standard. The penalty should meet, in a fair and proportionate way, the objectives of punishment, deterrence and the removal of gain derived through the commission of the offence; **it should not be cheaper to offend than to take the appropriate precautions.**

The Council may increase or reduce the proposed penalty reached at the end of step three

Step 5 - Review offender's financial means – prior to any Final Notice

The level of civil penalty must be proportionate to the seriousness of the offence and the financial circumstances of the offender.

The council may conclude that the offender is able to pay any penalty imposed unless the offender has supplied financial information to the contrary. It is for the offender to disclose to the council such data relevant to his/her financial position on the representations form attached to the "Notice of Intention".

Banning Orders

The Council will in all instances consider applying for a Banning Order where a landlord or property agent has been convicted of one or more Banning Order offences as defined by regulations made under the Housing and Planning Act 2016. This will exclude him/her from letting or engaging in letting agency or property management work. When considering applying for a Banning Order, the Council will have regard of Government Guidance and evidence (if any) of housing offence(s) committed by the landlord in other Local Authority areas.

Rogue Landlord Database

The Council will make an entry on the Rogue Landlord database where a landlord or property agent has received a banning order.

The Council will have discretion to make an entry on the database where a person has:

- been convicted of a banning order offence that was committed at a time when the person was a residential landlord or property agent; and/or
- received two or more financial penalties in respect of a banning order offence within a period of 12 months committed at a time

when the person was a residential landlord or a property agent .
In making this decision the Council will have regard to Government Guidance.

Prior to making an entry on the database, the Council will issue the person with a decision notice, specifying the period for which the entry will be maintained.

APPENDIX 3 – Equality Assessment

Title of proposed EIA	Regulation & Enforcement - Enforcement Policy
Reference No	EQUA1122
EA is in support of	Amended Policy
Review Frequency	Annually
Date of first review	27/06/2022
Directorate	City Operations
Division	Regulation and Enforcement
Service Area	Regulation and Enforcement
Responsible Officer(s)	Tony Quigley
Quality Control Officer(s)	Rehana Kosar
Accountable Officer(s)	Sajeela Naseer
Purpose of proposal	Regulation and Enforcement Division enforcement policy
Data sources	Other (please specify)
Please include any other sources of data	legal requirement. legislative code
ASSESS THE IMPACT AGAINST THE PROTECTED CHARACTERISTICS	
Protected characteristic: Age	Not Applicable
Age details:	The policy is used to identify how the Regulation and Enforcement Division will apply a proportionate approach to its enforcement activities. The

	policy applies to all residents and businesses and ensures fairness in its approach.
Protected characteristic: Disability	Not Applicable
Disability details:	The policy is used to identify how the Regulation and Enforcement Division will apply a proportionate approach to its enforcement activities. The policy applies to all residents and businesses and ensures fairness in its approach.
Protected characteristic: Sex	Not Applicable
Gender details:	The policy is used to identify how the Regulation and Enforcement Division will apply a proportionate approach to its enforcement activities. The policy applies to all residents and businesses and ensures fairness in its approach.
Protected characteristics: Gender Reassignment	Not Applicable
Gender reassignment details:	The policy is used to identify how the Regulation and Enforcement Division will apply a proportionate approach to its enforcement

	activities. The policy applies to all residents and businesses and ensures fairness in its approach.
Protected characteristics: Marriage and Civil Partnership	Not Applicable
Marriage and civil partnership details:	The policy is used to identify how the Regulation and Enforcement Division will apply a proportionate approach to its enforcement activities. The policy applies to all residents and businesses and ensures fairness in its approach.
Protected characteristics: Pregnancy and Maternity	Not Applicable
Pregnancy and maternity details:	The policy is used to identify how the Regulation and Enforcement Division will apply a proportionate approach to its enforcement activities. The policy applies to all residents and businesses and ensures fairness in its approach.
Protected characteristics: Race	Not Applicable
Race details:	The policy is used to identify how the Regulation and Enforcement Division will apply a proportionate approach to its

	enforcement activities. The policy applies to all residents and businesses and ensures fairness in its approach.
Protected characteristics: Religion or Beliefs	Not Applicable
Religion or beliefs details:	The policy is used to identify how the Regulation and Enforcement Division will apply a proportionate approach to its enforcement activities. The policy applies to all residents and businesses and ensures fairness in its approach.
Protected characteristics: Sexual Orientation	Not Applicable
Sexual orientation details:	The policy is used to identify how the Regulation and Enforcement Division will apply a proportionate approach to its enforcement activities. The policy applies to all residents and businesses and ensures fairness in its approach.
Socio-economic impacts	none
Please indicate any actions arising from completing this screening exercise.	none
Please indicate whether a full impact assessment is recommended	NO
What data has been collected to facilitate the assessment of this policy/proposal?	The enforcement policy is a legal

	requirement that is influenced by legislation and codes of practice.
Consultation analysis	n/a
Adverse impact on any people with protected characteristics.	none
Could the policy/proposal be modified to reduce or eliminate any adverse impact?	n/a
How will the effect(s) of this policy/proposal on equality be monitored?	The policy provides an insight in to how the Service will undertake its statutory duties and powers. It provides a proportionate approach to enforcement and provides for consistency and fairness in its approach. All formal enforcement is subject to rigorous scrutiny/monitoring at 4 points: the line manager, the Head of Service, Legal Services, and finally the Director. These points of scrutiny ensures action is taken in line with the enforcement policy.
What data is required in the future?	None
Are there any adverse impacts on any particular group(s)	No
If yes, please explain your reasons for going ahead.	
Initial equality impact assessment of your proposal	The review of the

	policy is to ensure the document is updated with any changes applied to the legislation and is timely and complies with legal requirements
Consulted People or Groups	
Informed People or Groups	
Summary and evidence of findings from your EIA	The review of the policy is to ensure the document is updated with any changes applied to the legislation and is timely and complies with legal requirements. No adverse impact has been identified in relation to people with a protected characteristic or in a particular socio economic group.
QUALITY CONTORL SECTION	
Submit to the Quality Control Officer for reviewing?	No
Quality Control Officer comments	No adverse impact to those with protected characteristics identified. I am happy to pass this EIA to the Accountable Officer for final approval.
Decision by Quality Control Officer	Proceed for final approval
Submit draft to Accountable Officer?	No

Decision by Accountable Officer

Approve

Date approved / rejected by the Accountable Officer

23/05/2023

Reasons for approval or rejection

No impact on protected characteristics, no complaints and only minor amendments have been made to the policy.

Please print and save a PDF copy for your records

Yes

Content Type: Item

Version: 55.0

Created at 27/04/2023 01:14 PM by [Tony Quigley](#)

Last modified at 12/06/2023 04:30 PM by Workflow on behalf of [Tony Quigley](#)

BIRMINGHAM CITY COUNCIL

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

28 JUNE 2023
ALL WARDS

PROSECUTIONS & CAUTIONS – JANUARY, FEBRUARY & MARCH 2023

1. Summary
 - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the months of January, February and March 2023.
2. Recommendation
 - 2.1 That the report be noted.

Contact Officer: Sajeela Naseer
Director of Regulation and Enforcement
City Operations Directorate
Telephone: 0121 675 2495
E-Mail: **sajeela.naseer@birmingham.gov.uk**

3. Results

3.1 During the months of January, February and March 2023, the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- 240 Environmental Health cases were finalised resulting in fines of £210,612. Prosecution costs of £48,947 were awarded
- Four Licensing cases were finalised resulting in fines of £569 together with a 12 month community order, 60 hours unpaid work, 32 penalty points and a 6 month driving disqualification. Prosecution costs of £1,788 were awarded
- Two Trading Standards cases were finalised resulting in a 26 week prison sentence (suspended for 12 months), a 26 week curfew, 15 rehabilitation days and 80 hours unpaid work. Prosecution costs of £2,841 were awarded
- Five Waste Enforcement cases were finalised resulting in a sentence of 40 hours community service and fines of £7,024. Prosecution costs of £6,193 were awarded
- Appendix 1 details all prosecutions finalised during January 2023 by ward
- Appendix 2 details all prosecutions finalised during February 2023 by ward
- Appendix 3 details all prosecutions finalised during March 2023 by ward
- Appendix 4 details all cautions administered during January, February and March 2023
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team from April 2022 to March 2023
- Appendix 6 lists Penalty Charge Notices issued by Parking Enforcement specifically for individuals parking on Taxi Ranks across the City from April 2022 to March 2023. 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 2022 to March 2023 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)

£282,996 has been requested with £211,187 awarded (74%)

Licensing

£11,799 has been requested with £7,256 being awarded (61%)

Trading Standards

£11,541 has been requested with £5,669 awarded (49%)

- 5.3 For the months of January, February and March 2023 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)

£71,277 has been requested with £55,140 awarded (77%)

Licensing

£3,998 has been requested with £1,788 awarded (53%).

Trading Standards

£3,938 has been requested with £2,841 awarded (48%).

- 5.4 The following income has been received so far from the courts in 2022/23.

Licensing (HCPH)

£8,126.75 has been received.

Environmental Health

£95,634.33 has been received (including Waste Enforcement cases).

Trading Standards

£218.82 has been received.

(Total £103,979.90).

- 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

APPENDIX 1

#	Department	Date Case Heard	Name & Address	Ward of defendant	Offence details (including Legislation)	Fine issued	Costs awarded	Costs requested	Penalty Total	Penalty Details	Ward - Offence committed
1	Environmental Health	19/01/2023	Bubble CiTea Ltd 4 Curzon Howe Road Portsmouth PO1 3BZ	Out of area	Food Information Regulations 2014 and The Food Safety Act 1990 Pleaded guilty to two offences following two visits to Bubble CiTea Birmingham, LSK 1, Linkstreet Bullring, Birmingham. One offence of failing to comply with a Hygiene Improvement Notice requiring up to date and accurate information to be available for all foods and drink with regards to the 14 prescribed allergens, no information was available which identified which allergens were present in the foods/drinks served and no system was in place to ensure that accurate allergen information was available. One offence of failing to make available information regarding the relevant ingredients or processing aids derived from substances listed in the regulations, the allergen matrix incorrectly identified wheat, barley, rye and oats present in four dishes. The allergen matrix did not identify milk present in the matcha milk tea dish or soy present in the egg flavoured pudding.	£24,000.00	£1,582.00	£1,582.00	£25,582.00	Fine for offence 1 No separate penalty for offence 2	Ladywood
2	Environmental Health	19/01/2023	Samuel Meles Birmingham	Birchfield	Food Safety and Hygiene (England) Regulations 2013 Pleaded guilty to two offences relating to conditions at Stella Bar and Restaurant, 85-87 Villa Road, Birmingham. Rat droppings were found at the premises, several possible rat ingress points along the wall and floor junctions were noted inside the premises and there were inadequate measures in place to control the rat activity, such as effective baiting, traps or professional assistance. There was an accumulation of rat droppings, grease, dirt and food debris throughout the premises on floors, walls and surfaces close to where food was being prepared.	£200.00	£300.00	£1,393.00	£500.00		Birchfield

3	Environmental Health	20/01/2023	Zimfoods Limited 59 Wyndham Crescent Burnham Slough SL1 8HJ	Out of area	Food Safety & Hygiene (England) Regulations 2013 Found guilty in their absence of four offences relating to Zimfoods Ltd, 178 Argyle Street, Birmingham on four separate dates. Two offences where the Company failed to make available to Birmingham City Council, following repeated requests, the identity of the businesses from which they had been supplied a number of products. Two offences of failing to put in place, implement and maintain permanent procedures based on HACCP principles.	£10,000.00	£1,369.00	£1,369.00	£11,369.00	£2,500 x 4	Nechells
4	Environmental Health	10/01/2023	Adam Ali Birmingham	Birchfield	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
5	Environmental Health	10/01/2023	Lindsay Ballard Birmingham	Bournbrook & Selly Park	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Kings Heath Birmingham.	£220.00	£175.00	£175.00	£395.00		Brandwood & Kings Heath
6	Environmental Health	10/01/2023	Anisa Bi Birmingham	Ward End	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
7	Environmental Health	10/01/2023	Maurice Bokoe Wolverhampton	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Hockley Hill, Birmingham.	£220.00	£175.00	£175.00	£395.00		Soho & Jewellery Quarter
8	Environmental Health	10/01/2023	Nikki Buffery Birmingham	Stockland Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Gravelly Lane, Erdington, Birmingham.	£220.00	£175.00	£175.00	£395.00		Erdington
9	Environmental Health	10/01/2023	Andrew Chesters Birmingham	Small Heath	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
10	Environmental Health	10/01/2023	Gabriel Feraru Birmingham	Ward End	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
11	Environmental Health	10/01/2023	Rohan Gordon Marston Green	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of spitting at Cornwall Street and Newhall Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
12	Environmental Health	10/01/2023	Grzegorz Grzegorzczuk Birmingham	Erdington	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
13	Environmental Health	10/01/2023	Gary Healy Birmingham	Stockland Green	Environmental Protection Act 1990 Section 87 Pleaded guilty in absence of one offence of dropping litter in Kingsbury Road, Erdington, Birmingham.	£133.00	£175.00	£175.00	£308.00		Erdington
14	Environmental Health	10/01/2023	Marius Ionut Birmingham	Soho & Jewellery Quarter	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Temple Row, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood

15	Environmental Health	10/01/2023	Antionette Jeffs Birmingham	Castle Vale	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Wilton Road, Erdington, Birmingham.	£220.00	£175.00	£175.00	£395.00		Erdington
16	Environmental Health	10/01/2023	Raymond Kallon Birmingham	Ladywood	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Corporation Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
17	Environmental Health	10/01/2023	Darron Keatley Birmingham	Kingstanding	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Warren Farm Road, Kingstanding, Birmingham.	£220.00	£175.00	£175.00	£395.00		Kingstanding
18	Environmental Health	10/01/2023	Carculea Emil Levente Birmingham	Bordesley & Highgate	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Place, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
19	Environmental Health	10/01/2023	Jonas McBride Crook	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Broad Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
20	Environmental Health	10/01/2023	Suhail Mohammed Birmingham	Aston	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Warren Farm Road, Kingstanding, Birmingham.	£220.00	£175.00	£175.00	£395.00		Kingstanding
21	Environmental Health	10/01/2023	Joel Cleveland Morris Malvern	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Colmore Square, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
22	Environmental Health	10/01/2023	Emiljano Muja Birmingham	Sheldon	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Parker Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		North Edgbaston
23	Environmental Health	10/01/2023	Wajid Nazar Stockport	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Victoria Square, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
24	Environmental Health	10/01/2023	Audrius Olubas Wolverhampton	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Dalton Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
25	Environmental Health	10/01/2023	Jonathan Parsons Oldbury	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Cherry Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
26	Environmental Health	10/01/2023	Helen Perks Birmingham	North Edgbaston	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Dalton Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
27	Environmental Health	10/01/2023	Roy Price Birmingham	Kingstanding	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Warren Farm Road, Kingstanding, Birmingham.	£220.00	£175.00	£175.00	£395.00		Kingstanding
28	Environmental Health	10/01/2023	Roslyn Reilly Oldbury	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Colmore Circus, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood

29	Environmental Health	10/01/2023	Michelle Robertson Birmingham	Harborne	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
30	Environmental Health	10/01/2023	Paula Rudzinska Birmingham	Sutton Roughley	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Temple Row, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
31	Environmental Health	10/01/2023	Dominic Sandford Smethwick	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Dartmouth Middleway, Birmingham.	£220.00	£175.00	£175.00	£395.00		Nechells
32	Environmental Health	10/01/2023	Melvida Sejdic Birmingham	Sparkbrook & Balsall Heath East	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
33	Environmental Health	10/01/2023	Cristian Spiridon Wednesbury	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Erdington, Birmingham.	£220.00	£175.00	£175.00	£395.00		Erdington
34	Environmental Health	10/01/2023	Tim Tsang Newton Abbey	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
35	Environmental Health	10/01/2023	Criana Oana Untaru Birmingham	Stockland Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Gravelly Hill North, Birmingham.	£220.00	£175.00	£175.00	£395.00		Gravelly Hill
36	Environmental Health	10/01/2023	Lee Wilson Liverpool	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
37	Environmental Health	10/01/2023	Jing Wu Kingston	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
38	Environmental Health	24/01/2023	Dyari Ahmed Oldbury	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Bullring, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
39	Environmental Health	24/01/2023	Silham Ahmed Birmingham	Soho & Jewellery Quarter	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Hill Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
40	Environmental Health	24/01/2023	Ropafdz Ashleigh Birmingham	Bordesley & Highgate	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Victoria Square, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
41	Environmental Health	24/01/2023	Angela Bellingham Birmingham	Gravelly Hill	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in George Road, Erdington, Birmingham.	£220.00	£85.00	£175.00	£305.00		Stockland Green
42	Environmental Health	24/01/2023	Jade Carolan Birmingham	Gravelly Hill	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood

43	Environmental Health	24/01/2023	Johny Cash Belfast	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
44	Environmental Health	24/01/2023	Sarah Cushing Birmingham	Stirchley	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in New Street, Birmingham.	£40.00	£50.00	£175.00	£90.00		Ladywood
45	Environmental Health	24/01/2023	James Dodds Halesowen	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Dale End, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
46	Environmental Health	24/01/2023	Roxana Feraru Birmingham	Hall Green North	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in St Martins Queensway, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
47	Environmental Health	24/01/2023	Christian Florin Birmingham	Bordesley Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
48	Environmental Health	24/01/2023	Waran Gueste Dudley	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Temple Row, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
49	Environmental Health	24/01/2023	Francisco Hernandet Chelmsley Wood	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Ethel Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
50	Environmental Health	24/01/2023	Haley Hughes Oldbury	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Moor Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bordesley & Highgate
51	Environmental Health	24/01/2023	Vasile Ion Birmingham	Bordesley & Highgate	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Barnabas Road, Birmingham.	£220.00	£85.00	£175.00	£305.00		Erdington
52	Environmental Health	24/01/2023	A Lin Lin Birmingham	Pype Hayes	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Hurst Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bordesley & Highgate
53	Environmental Health	24/01/2023	Mohamad Lotfolahi Solihull	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stratford Road, Sparkbrook, Birmingham.	£220.00	£85.00	£175.00	£305.00		Sparbrook & Balsall Heath East
54	Environmental Health	24/01/2023	Hannah McDonagh Birmingham	Harborne	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Thorp Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bordesley & Highgate
55	Environmental Health	24/01/2023	Sipon Miah Birmingham	Lozells	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
56	Environmental Health	24/01/2023	Mohammed Faiyzan Pathan Coventry	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood

57	Environmental Health	24/01/2023	Steve Philips Birmingham	Stockland Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Six Ways, Erdington, Birmingham.	£220.00	£85.00	£175.00	£305.00		Erdington
58	Environmental Health	24/01/2023	Slawomir Plaskocinska Oldbury	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Cornwall Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
59	Environmental Health	24/01/2023	Alexandru Pop Birmingham	Erdington	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Martineau Way, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
60	Environmental Health	24/01/2023	John Rankin Birmingham	Ladywood	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Edgbaston Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
61	Environmental Health	24/01/2023	Muaiad Said Solihull	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Martins Walk, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
62	Environmental Health	24/01/2023	Anastazie Sarisska Derby	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Piccadilly Arcade Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
63	Environmental Health	24/01/2023	Leanne Smith Birmingham	Glebe Farm & Tile Cross	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Priory Queensway, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
64	Environmental Health	24/01/2023	Robert Sweine Liverpool	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Theatre Approach, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
65	Environmental Health	24/01/2023	Ali Waled Manchester	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Moor Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bordesley & Highgate
66	Environmental Health	24/01/2023	Gary Williams Birmingham	Quinton	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Temple Row, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
67	Environmental Health	24/01/2023	Anita Yamikova Solihull	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stratford Road, Sparkbrook, Birmingham.	£220.00	£85.00	£175.00	£305.00		Sparkbrook & Balsall Heath East
68	Environmental Health	24/01/2023	Tomas Zajac Crewe	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Mervyn Road, Handsworth, Birmingham.	£220.00	£85.00	£175.00	£305.00		Holyhead

69	Licensing	13/01/2023	MD Shakawat Hossain Sikdar Birmingham	Lozells	Town Police Clauses Act 1847 and Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire on Holliday Street, Birmingham and one of consequently invalidating his insurance.	£311.00	£300.00	£1,186.00	£611.00	8 penalty points. No separate financial penalty for plying	Ladywood
70	Trading Standards	19/01/2023	Derbas Khalid Omar Birmingham	Shard End	Tobacco and Related Products Regulations 2016 and Trade Marks Act 1994 Pleaded guilty to five offences: one of having 1400 packets of cigarettes of various brands, in possession for supply, at Bucuresti Magazin, 629 Washwood Heath Road, Birmingham which did not carry the health warnings as required and four offences of having goods, namely packets of cigarettes of various brands, in possession for supply which bore registered trademarks without the consent of the trademark holders	£0.00	£1,841.00	£1,841.00	£1,841.00	80 hours unpaid work	Ward End
71	Waste Enforcement	27/01/2023 Crown court	Khizar Hussain Birmingham	Lozells	Environmental Protection Act 1990 Pleaded guilty to two offences: one of knowingly causing controlled waste, namely a small fridge-freezer, a mattress, a broken bed base, numerous cardboard boxes containing packaging and black bags containing waste, to be deposited from a motor vehicle onto land off Icknield Street, Birmingham, and one of failing to provide details of the person in control of the vehicle on the date of offence.	£400.00	£350.00	£2,966.05	£750.00	£125 x 1st offence £275 x 2nd offence	Soho & Jewellery Quarter

APPENDIX 2

#	Department	Date Case Heard	Name & Address	Ward of defendant	Offence details (including Legislation)	Fine issued	Costs awarded	Costs requested	Penalty Total	penalty details	Ward - Offence committed
1	Environmental Health	02/02/2023	Aprex Limited 122-123 Livery Street Birmingham B3 1RS	Soho & Jewellery Quarter	The Food Information Regulations 2014 Pleaded guilty to two offences of providing incorrect information in relation to the 14 prescribed ingredients likely to cause food allergens and intolerances present in the food provided at Kinder Day Nursery, 122-123 Livery Street, Birmingham.	£300.00	£500.00	£1,020.00	£800.00	£100 - offence 1 £200 - offence 2	Soho & Jewellery Quarter
2	Environmental Health	02/02/2023	Classic Restaurant (Aston) Food Services Limited 281-283 Witton Road Aston Birmingham B6 6NT	Aston	Food Safety and Hygiene (England) Regulations 2013. Pleaded guilty to five offences relating to conditions found at Classic Restaurant, 281 Witton Road, Birmingham on three separates dates. There was an active cockroach infestation throughout the premises. The premises was not kept clean, floors, walls, ceiling and shelving in the walk-in chiller were dirty. The three ventilation/extraction canopies in the premises were excessively greasy and dirty. Walls and ceilings of the premises were unclean with food debris, dirt and cockroach frass. Food was stored in dirty containers. There were no permanent procedures based on HACCP.	£6,000.00	£1,000.00	£1,259.00	£7,000.00	£2,000 x 3	Aston

3	Environmental Health	02/02/2023	Popeyes Fried Chicken Ltd 465 Bordesley Green Birmingham B9 5XF	Bordesley Green	Food Safety and Hygiene (England) Regulations 2013 The Food Information Regulations 2014 Food Safety Act 1990. Pleaded guilty to 29 offences relating to conditions found at Popeyes Fried Chicken, 465 Bordesley Green, Birmingham on four separate dates. The standard of cleaning throughout the premises was poor. They failed to label, advertise and present food in a manner that did not mislead consumers, the terms "ham", "salami" and "pepperoni" were used to describe pizza on the menu without any explanation that the products were not made of pork. A colander of uncovered cooked meat was stored on a dirty shelf, directly on top of meat in a second colander and next to boxes of raw chicken in the walk-in cold room. There was no hot water to the wash hand basins and no adequate procedures in place based on HACCP. The product item/ingredient matrix did not include all dishes offered for sale. There was no hand wash basin in the rear sink area where raw chicken and dough were prepared and handled. The company failed to comply with three Hygiene Improvement Notices requiring them to provide accurate information regarding the 14 prescribed ingredients that could cause food allergies and intolerances in the food produced and sold at the premises, requiring them to attach labels directly to packaging of pre-packaged food items detailing ingredients and requiring them to ensure that the premises were kept clean and in good repair and condition.	£8,000.00	£2,000.00	£3,050.00	£10,000.00	£2,000 x 4	Bordesley Green
4	Environmental Health	02/02/2023	Kishore Kumar Rajah Birmingham	Nechells	Food Safety and Hygiene (England) Regulations 2013. Pleaded guilty to three offences relating to conditions at Abims Food & Wine, 302 Green Lane, Birmingham. There was evidence of mouse activity throughout the premises and significant amounts of mouse droppings throughout the shop. There were large amounts of dirt and debris underneath shelves, down the side of shelf units and on the floor of the shop. There was a gnawed hole found in the rear stock room.	£184.00	£300.00	£1,469.00	£484.00	£184 x 1st offence No separate penalty on remaining offences	Bordesley Green

5	Waste Enforcement	02/02/2023	Kishore Kumar Rajah Birmingham	Nechells	Environmental Protection Act 1990. Pleaded guilty to one offence of failing to supply written information as to how the business at Kings of Bullring, 25B Moat Lane, Nechells, Birmingham disposes of its waste.	£184.00	£300.00	£621.00	£484.00		Bordesley & Highgate
6	Environmental Health	16/02/2023	Greek Tavern Limited 188 School Road Birmingham B28 8PA	Acocks Green	Food Information Regulations 2014 and The Food Safety Act 1990 Pleaded guilty to two offences of failing to comply with two Improvement Notices, one requiring up to date and accurate information available for all foods and drink with regards to the 14 prescribed allergens and one in relation to the labelling of products pre-packed for direct sale at Greek Tavern, 188 School Road, Birmingham.	£4,000.00	£1,372.00	£1,372.00	£5,372.00	£2,000 x 2	Acocks Green
7	Environmental Health	14/02/2023	Haleema Alasow Coventry	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
8	Environmental Health	14/02/2023	Anna Bridges Birmingham	Longbridge & West Heath	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Woodlands Park Road, Bournville, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bournville & Cotteridge
9	Environmental Health	14/02/2023	Thawwathai Butduang Birmingham	Ladywood	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Hill Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
10	Environmental Health	14/02/2023	Danillio Correla Birmingham	Sparkbrook & Balsall Heath East	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
11	Environmental Health	14/02/2023	Neil Evans Leeds	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Hill Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
12	Environmental Health	14/02/2023	Robert Fiter Shrewsbury	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
13	Environmental Health	14/02/2023	David Anthony Hewitt London	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Navigation Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
14	Environmental Health	14/02/2023	Iskren Ivanov Birmingham	Weoley & Selly Oak	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Webb Boulevard, Selly Oak, Birmingham.	£220.00	£85.00	£175.00	£305.00		Weoley & Selly Oak
15	Environmental Health	14/02/2023	Matthew Joseph Birmingham	Highters Heath	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Station Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood

16	Environmental Health	14/02/2023	Jessica Kiernan Birmingham	Longbridge & West Heath	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Station Road, Longbridge, Birmingham.	£220.00	£85.00	£175.00	£305.00		Longbridge & West Heath
17	Environmental Health	14/02/2023	Paula Jane Knight Exeter	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
18	Environmental Health	14/02/2023	Richard Lloyd Burntwood	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Navigation Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
19	Environmental Health	14/02/2023	Rhys Michael Morgan Birmingham	Harborne	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter at the junction of Stephenson Street and Navigation Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
20	Environmental Health	14/02/2023	Agnus McCauley Melton Mowbray	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Hill Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
21	Environmental Health	14/02/2023	Joanne Elizabeth Nixon Telford	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Oakengates, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
22	Environmental Health	14/02/2023	Wayne Perry Birmingham	Druids Heath & Monyhull	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Hill Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
23	Environmental Health	14/02/2023	Nan Phan Liverpool	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Inge Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bordesley & Highgate
24	Environmental Health	14/02/2023	Sajed Ramadam Leicester	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
25	Environmental Health	14/02/2023	Peter Ritson Birmingham	Gravelly Hill	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in George Road, Erdington, Birmingham.	£220.00	£85.00	£175.00	£305.00		Stockland Green
26	Environmental Health	14/02/2023	Teresa Sioska Birmingham	Handsworth Wood	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in Church Green, Handsworth, Birmingham.	£110.00	£85.00	£175.00	£305.00		Handsworth Wood
27	Environmental Health	14/02/2023	Mirela Melinda Szekely Birmingham	Erdington	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Navigation Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
28	Environmental Health	14/02/2023	Ryan Tipton Cannock	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Station Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood

29	Environmental Health	28/02/2023	Sumon Ahmed Birmingham	Bordesley Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Holliday Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
30	Environmental Health	28/02/2023	Mohammed Ali Walsall	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Corporation Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
31	Environmental Health	28/02/2023	Mutaza Ali Coventry	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Colmore Row, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
32	Environmental Health	28/02/2023	Mohammed Alsam Birmingham	Sparkhill	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
33	Environmental Health	28/02/2023	Ion Avram Birmingham	Gravelly Hill	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Erdington, Birmingham.	£220.00	£85.00	£175.00	£305.00		Erdington
34	Environmental Health	28/02/2023	Sophia Brown Oxford	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Navigation Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
35	Environmental Health	28/02/2023	Antonio Carluccio Birmingham	Edgbaston	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Needless Alley, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
36	Environmental Health	28/02/2023	Michael Coomber Birmingham	Edgbaston	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Moor Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bordesley & Highgate
37	Environmental Health	28/02/2023	Alexandra Grozea Birmingham	Shard End	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Place, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
38	Environmental Health	28/02/2023	Liane Hampton Bromsgrove	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
39	Environmental Health	28/02/2023	Calin Hatanu London	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
40	Environmental Health	28/02/2023	Hugh Huxley Basingstoke	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
41	Environmental Health	28/02/2023	Zahir Khan Birmingham	Handsworth	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Bennetts Hill, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
42	Environmental Health	28/02/2023	Nicholas Lea Birmingham	Balsall Heath West	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Bristol Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bordesley & Highgate

43	Environmental Health	28/02/2023	Marin Matei Birmingham	Stockland Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
44	Environmental Health	28/02/2023	Thomas Maughan Birmingham	Holyhead	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
45	Environmental Health	28/02/2023	Tina McGrath Birmingham	Weoley & Selly Oak	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Chapel Lane, Selly Oak, Birmingham.	£220.00	£85.00	£175.00	£305.00		Weoley & Selly Oak
46	Environmental Health	28/02/2023	Stephen McLuaghlin Glasgow	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Piccadilly Arcade, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
47	Environmental Health	28/02/2023	Luke Meah Birmingham	Sheldon	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Piccadilly Arcade, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
48	Environmental Health	28/02/2023	Kyle Mee Northampton	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Navigation Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
49	Environmental Health	28/02/2023	Kay Morley Birmingham	Handsworth Wood	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
50	Environmental Health	28/02/2023	Nigel Patty Birmingham	Gravelly Hill	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
51	Environmental Health	28/02/2023	Jake Reece Birmingham	Castle Vale	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Bull Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
52	Environmental Health	28/02/2023	Sidhant Sabharwal Birmingham	Acocks Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Selly Oak Retail Park, Birmingham.	£220.00	£85.00	£175.00	£305.00		Weoley & Selly Oak
53	Environmental Health	28/02/2023	Wenhao Shen Manchester	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
54	Environmental Health	28/02/2023	Manjindrit Singh Birmingham	Lozells	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in St Philips Cathedral, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
55	Environmental Health	28/02/2023	Mrrinascu Tudor Birmingham	Stockland Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in York Road, Erdington, Birmingham.	£220.00	£85.00	£175.00	£305.00		Erdington
56	Environmental Health	28/02/2023	Alan William Walsall	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood

57	Environmental Health	28/02/2023	Peter Wright Birmingham	Kingstanding	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in High Street, Birmingham.	£40.00	£40.00	£175.00	£80.00		Ladywood
58	Environmental Health	28/02/2023	Guanriu Xu Manchester	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Piccadilly Arcade, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
59	Waste Enforcement	16/02/2023	Syed Kube Ali Moshin Shah Birmingham	Perry Common	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to provide written information regarding the transfer of controlled waste produced at HQ Signs & Print Ltd, 15 Andover Street, Birmingham.	£440.00	£500.00	£1,109.00	£940.00		Bordesley & Highgate
60	Waste Enforcement	24/02/2023	Gurdit Singh Sharma Birmingham	Brandwood & Kings Heath	Environmental Protection Act 1990. Found guilty in his absence of two offences; one offence of knowingly causing or permitting controlled waste, namely timber, plastic, clothing and general household waste, to be deposited from a vehicle on land at Cameronian Croft, Birmingham and one offence of failing to provide written information regarding the transfer of controlled waste produced at Gloves Removals & Clearance, 334 Alcester Road, Birmingham.	£6,000.00	£4,143.00	£4,143.00	£10,143.00	£5,000 x offence 1 £1,000 x offence 2	Bromford & Hodge Hill

APPENDIX 3

#	Department	Date Case Heard	Name & Address	Ward of defendant	Offence details (including Legislation)	Fine issued	Costs awarded	Costs requested	Penalty Total	penalty details	Ward - Offence committed
1	Licensing	02/03/2023	Asim Shabir Birmingham	Birchfield	Local Government (Miscellaneous Provisions) Act 1976 & Road Traffic Act 1988 Pleaded guilty to two offences: one offence of acting as a driver of a private hire vehicle on Temple Street/New Street, Birmingham, without having a current driver licence and one offence of driving without insurance.	£208.00	£888.45	£888.45	£1,168.45	+ 6 penalty points No separate penalty for unlicensed driver offence	Ladywood
2	Environmental Health	02/03/2023	Caribbean Flavaz Ltd 32-34 Holloway Circus Queensway Birmingham B1 1EG	Bordesley & Highgate	Food Safety and Hygiene (England) Regulations 2013. Pleaded guilty to four offences relating to conditions at Caribbean Flavaz Ltd, 32-34 Holloway Circus Queensway, Birmingham. There were no permanent procedures based on HACCP principles. There was mouse activity at the premises and gaps in the structure that could permit the ingress of mice. Floors, freezers, shelving, a wall, a staircase, pipework and a work surface were dirty. Flooring was damaged, a kitchen sink was leaking and metal work beneath the staircase was rusting.	£2,500.00	£1,373.00	£1,373.00	£3,873.00		Bordesley & Highgate
3	Waste Enforcement	02/03/2023	Javeed Ahmadzai Birmingham	Bordesley Green	Environmental Protection Act 1990. Pleaded guilty to three offences of knowingly permitting controlled waste to be deposited from a vehicle on Lowe Street, Birmingham on three separate dates. The waste on each occasion consisted of rotten herbs, vegetables, fruit trays, cardboard boxes and pallets.	£0.00	£900.00	£735.00	£900.00	40 hours community service. Costs awarded includes £540 clean-up costs	Bordesley & Highgate
4	Environmental Health	14/03/2023	Gemma Adnitt Gateshead	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Colmore Row, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
5	Environmental Health	14/03/2023	Mohsen Ahmed Oldbury	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood

6	Environmental Health	14/03/2023	Nasir Ali Rossendale	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
7	Environmental Health	14/03/2023	Elizabeth Allen Birmingham	Kings Norton North	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Station Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
8	Environmental Health	14/03/2023	Loxley Samuel Brown Birmingham	Weoley & Selly Oak	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Priory Queensway, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
9	Environmental Health	14/03/2023	Kelly Carr Birmingham	Billesley	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Hill Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
10	Environmental Health	14/03/2023	David Carroll Stourbridge	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Station Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
11	Environmental Health	14/03/2023	Joni Dedolli Birmingham	South Yardley	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Station Road, Acocks Green, Birmingham.	£220.00	£175.00	£175.00	£395.00		Acocks Green
12	Environmental Health	14/03/2023	Victor Dresovac Birmingham	Balsall Heath West	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
13	Environmental Health	14/03/2023	Lee Evans Gloucester	Out of area	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in Navigation Street, Birmingham.	£113.00	£100.00	£175.00	£213.00		Ladywood
14	Environmental Health	14/03/2023	Joshua Fairfield Birmingham	Hall Green North	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
15	Environmental Health	14/03/2023	Ahsan Farooq Nottingham	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in St Martins Queensway, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
16	Environmental Health	14/03/2023	Tiago Fernandes Walsall	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Temple Row, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
17	Environmental Health	14/03/2023	Charlie Anne Field Birmingham	Stockland Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
18	Environmental Health	14/03/2023	Gary Forrest Aberdeen	Out of area	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in Stephenson Street, Birmingham.	£138.00	£100.00	£175.00	£238.00		Ladywood
19	Environmental Health	14/03/2023	Arkadiusz Goluch Birmingham	Stockland Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood

20	Environmental Health	14/03/2023	Asyraf Abdul Hadi Birmingham	Perry Barr	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Ladywell Walk, Birmingham.	£220.00	£175.00	£175.00	£395.00		Bordesley & Highgate
21	Environmental Health	14/03/2023	Max Hamlon Birmingham	Acocks Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Navigation Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
22	Environmental Health	14/03/2023	Morgan Harris Birmingham	Lozells	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter at Grand Central, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
23	Environmental Health	14/03/2023	Jocelyn Hipwell Leicester	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
24	Environmental Health	14/03/2023	Tilly Isaacs Birmingham	Acocks Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
25	Environmental Health	14/03/2023	David Jones Milton Keynes	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
26	Environmental Health	14/03/2023	Mary Kelly Birmingham	Stockland Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
27	Environmental Health	14/03/2023	Wayne Kelly Birmingham	Yardley East	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Temple Row, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
28	Environmental Health	14/03/2023	Marek Lacko Derby	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
29	Environmental Health	14/03/2023	Yuyu Lin Cradley Heath	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
30	Environmental Health	14/03/2023	Humza Malik Leicester	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
31	Environmental Health	14/03/2023	Ragen McDonald Birmingham	Kingstanding	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Corporation Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
32	Environmental Health	14/03/2023	Shannon McGuinness Birmingham	Tyseley & Hay Mills	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Warwick Road, Acocks Green, Birmingham.	£220.00	£175.00	£175.00	£395.00		Acocks Green
33	Environmental Health	14/03/2023	Zhang Mingyin Glasgow	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Station Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood

34	Environmental Health	14/03/2023	Jacob Minks Leeds	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
35	Environmental Health	14/03/2023	Haytham Mudawi Edinburgh	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
36	Environmental Health	14/03/2023	Adam Phelps Chelmsley Wood	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Bennetts Hill, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
37	Environmental Health	14/03/2023	Sarah Pickavance Liverpool	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
38	Environmental Health	14/03/2023	Ho Qurn Birmingham	Bordesley & Highgate	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Navigation Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
39	Environmental Health	14/03/2023	Carly Rice Birmingham	Shard End	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
40	Environmental Health	14/03/2023	Geoff Riley Wolverhampton	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
41	Environmental Health	14/03/2023	David Simpson Smethwick	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
42	Environmental Health	14/03/2023	Robert Smetana Doncaster	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
43	Environmental Health	14/03/2023	Pete Smith Birmingham	Stirchley	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Hurst Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Bordesley & Highgate
44	Environmental Health	14/03/2023	Jamiel Spence Smethwick	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
45	Environmental Health	14/03/2023	Luke Sudlow Manchester	Out of area	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in Lower Temple Street, Birmingham.	£108.00	£0.00	£175.00	£108.00		Ladywood
46	Environmental Health	14/03/2023	Joshua Suzuki Nottingham	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter at Grand Central, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
47	Environmental Health	14/03/2023	Connor Thomas Manchester	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Place, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood

48	Environmental Health	14/03/2023	Helen Timmis Swindon	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Station Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
49	Environmental Health	14/03/2023	Daniel Troman Dudley	Out of area	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in Temple Street, Birmingham.	£108.00	£100.00	£175.00	£208.00		Ladywood
50	Environmental Health	14/03/2023	Daniel Walkinshaw Liverpool	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
51	Environmental Health	14/03/2023	Jeoff Wareham Hatfield	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
52	Environmental Health	14/03/2023	Ben Williams Liverpool	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Moor Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Bordesley & Highgate
53	Licensing	16/03/2023	Mubashar Hussain Solihull	Out of area	Local Government (Miscellaneous Provisions) Act 1976. Pleaded guilty to one offence of causing a vehicle, not being a Hackney Carriage, to wait on a Hackney Carriage stand in Navigation Street, Birmingham.	£50.00	£100.00	£224.00	£150.00		Ladywood
54	Environmental Health	16/03/2023	JinLi Birmingham Limited Unit B201 The Arcadian 70 Hurst Street Birmingham B5 4TD	Bordesley & Highgate	Food Safety and Hygiene (England) Regulations 2013. Pleaded guilty to five offences relating to conditions at Jin Li, Unit B201 The Arcadian, 70 Hurst Street, Birmingham on two separate dates. Mouse droppings were found throughout the kitchen, on shelves in the kitchen and work tops. There was a build-up of grease underneath the wok range and the floor was greasy. A white chopping board was dirty and badly scored.	£14,000.00	£993.00	£993.00	£14,993.00	£7,000 on 1st and 4th offences. No separate penalty for others.	Bordesley & Highgate

55	Environmental Health	16/03/2023	Desi Cookery Limited 144 Ladypool Road Birmingham B12 8JA	Sparkbrook & Balsall Heath East	Food Safety and Hygiene (England) Regulations 2013. Pleaded guilty to five offences relating to conditions found at Chaska and Chaii, 142-144 Ladypool Road, Birmingham on two separate dates. There was evidence of mouse activity in the ground floor kitchens. The premises was not kept clean and there was a build-up of grease and dirt on gas hobs/stoves. There was an accumulation of food debris and grease to lower levels of food equipment, fixtures and fittings in the front service kitchen. The kitchen floor, behind, beneath and between equipment was littered with mouse droppings and there was an accumulation of dirt and food debris. Wall surfaces and door frames in the back kitchen were dirty. Plastic food containers were greasy.	£14,000.00	£2,211.40	£2,211.40	£16,211.40	£7,000 on 1st and 4th offences. No separate penalty for others.	Sparkbrook & Balsall Heath East
56	Environmental Health	16/03/2023 & Appeal against sentence on 28/03/2023 Crown Court	Khyber Foods Limited Unit C Doris Road Birmingham B9 4SJ	Bordesley & Highgate	Food Safety and Hygiene (England) Regulations 2013. Pleaded guilty to six offences relating to conditions at Khyber Foods, Unit C, Doris Road, Birmingham B9 4SJ. Rat and mouse droppings were found throughout the warehouse and there was extensive rodent damage to the packaging of several food items. There was a lack of understanding of the food safety risks associated with allowing rodents to damage stock and allowing customers to purchase these items. The only sink which was available was in the staff welfare section. This sink was only supplied with cold water, there was no wash hand basin for use by food handlers once they had used the toilet. The staff toilet was not connected to an effective drainage system and therefore could not be flushed. The toilet opened directly into a room in which food is handled. There were excessive accumulations of waste which were not stored hygienically and there was no suitable procedure based on the HACCP principles.	£35,000.00	£2,403.00	£2,403.00	£37,403.00	Fine reduced from £52,000 following appeal against sentence on 28.4.23 Fine for 1st offence, no separate penalty for others.	Bordesley & Highgate

57	Trading Standards	20/03/2023	Sajid Hussain Birmingham	Perry Common	Fraud Act 2006 Pleaded guilty to one offence of being a home carer to an elderly gentleman who lived on his on with eyesight problems. Mr Hussain dishonestly abused that position by acquiring bank statements, possessing unauthorised photographs of bankcards and bank statements belonging to the gentleman and using them without his consent in order to make purchases through the unauthorised use of his bank details.	£0.00	£1,000.00	£2,097.00	£1,000.00	26 weeks custody (suspended for 12 months) Curfew for 26 weeks (5pm till 5am to remain inside his home address) To attend 15 rehabilitation days	Perry Barr
58	Licensing	20/03/2023	Asem Fekri Birmingham	Allens Cross	Town Police Clauses Act 1847, Road Traffic Act 1988, Local Government (Miscellaneous Provisions) Act 1976 and Fraud Act 2006 Pleaded guilty to 12 offences; three of plying for hire in Rea Street on three separate occasions without being authorised to do so, three of consequently having invalid insurance, three of knowingly acting as a private hire driver without being licensed and three of displaying door signage and identity plates on the vehicle and operating as an unlicensed private hire driver .	£0.00	£500.00	£1,700.00	£500.00	12 month community order for 3 fraud offences 60 hrs unpaid work 24 points for insurance offences 6 month disqualification No separate penalty for remaining offences	Bordesley & Highgate
59	Environmental Health	28/03/2023	Umar Abbas Walsall	Out of area	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter at the junction of Navigation Street and Hill Street, Birmingham.	£146.00	£85.00	£175.00	£231.00		Ladywood
60	Environmental Health	28/03/2023	Yusif Ahmed Birmingham	Birchfield	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in St Martins Walk, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
61	Environmental Health	28/03/2023	Suleman Albargan Birmingham	Ladywood	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
62	Environmental Health	28/03/2023	Mohammed Alim West Bromwich	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
63	Environmental Health	28/03/2023	Mohammed Asghar Birmingham	Alum Rock	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Washwood Heath Road, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ward End

64	Environmental Health	28/03/2023	Nicholae Bahica Birmingham	Alum Rock	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Brunel Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
65	Environmental Health	28/03/2023	Sali Berisha Leicester	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
66	Environmental Health	28/03/2023	James Bilson Birmingham	Yardley East	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Station Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
67	Environmental Health	28/03/2023	Akesio Bodo Birmingham	Soho & Jewellery Quarter	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Smallbrook Queensway, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
68	Environmental Health	28/03/2023	Charlie Brown Chelmsley Wood	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Navigation Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
69	Environmental Health	28/03/2023	Tracey Diane Burrows Birmingham	Erdington	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
70	Environmental Health	28/03/2023	Tom Craddock Birmingham	Acocks Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Cannon Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
71	Environmental Health	28/03/2023	Gary Ellis Birmingham	Garretts Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in The Lea, Garretts Green, Birmingham.	£220.00	£175.00	£175.00	£395.00		Garretts Green
72	Environmental Health	28/03/2023	Cagdas Findik Waltham Cross	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
73	Environmental Health	28/03/2023	Gelumrian Floricel Birmingham	Aston	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Corporation Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
74	Environmental Health	28/03/2023	Coloman Gergely West Bromwich	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Temple Row, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
75	Environmental Health	28/03/2023	Bethany Joy Godfrey Smethwick	Out of area	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in Navigation Street, Birmingham.	£40.00	£100.00	£175.00	£140.00		Ladywood
76	Environmental Health	28/03/2023	Liam Goodwin Leicester	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
77	Environmental Health	28/03/2023	Marvin Green Birmingham	Birchfield	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood

78	Environmental Health	28/03/2023	Robert Greenwood London	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Station Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
79	Environmental Health	28/03/2023	Amal Harischandra Worcester	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Station Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
80	Environmental Health	28/03/2023	Mahfuj Hasan Birmingham	Bordesley & Highgate	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Moor Street Queensway, Birmingham.	£220.00	£175.00	£175.00	£395.00		Bordesley & Highgate
81	Environmental Health	28/03/2023	Lesley Hayes Clitheroe	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
82	Environmental Health	28/03/2023	Arif Hussain Birmingham	Hall Green North	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Moor Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Bordesley & Highgate
83	Environmental Health	28/03/2023	Danyal Hussain Birmingham	Tyseley & Hay Mills	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Dartmouth Middleway, Birmingham.	£220.00	£175.00	£175.00	£395.00		Nechells
84	Environmental Health	28/03/2023	Usman Hussain Birmingham	Balsall Heath West	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Edgbaston Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
85	Environmental Health	28/03/2023	Haken Iden Birmingham	Tyseley & Hay Mills	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Aston Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Nechells
86	Environmental Health	28/03/2023	Cezerica Ion Birmingham	Newtown	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
87	Environmental Health	28/03/2023	Jipa Ionut Great Barr	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Priory Queensway, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
88	Environmental Health	28/03/2023	Gary Jarvis London	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Victoria Square, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
89	Environmental Health	28/03/2023	Emma Kenning Coventry	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
90	Environmental Health	28/03/2023	Robert Knight Redditch	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Moor Street Queensway, Birmingham.	£220.00	£175.00	£175.00	£395.00		Bordesley & Highgate
91	Environmental Health	28/03/2023	Chao Li London	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Navigation Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood

92	Environmental Health	28/03/2023	Brett Marshall Sheffield	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Piccadilly Arcade, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
93	Environmental Health	28/03/2023	Gentian Mihas Birmingham	Soho & Jewellery Quarter	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Smallbrook Queensway, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
94	Environmental Health	28/03/2023	Scott Milner Oswestry	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in St Martins Queensway, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
95	Environmental Health	28/03/2023	Michelle Louise Nicholls Blackwood	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Navigation Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
96	Environmental Health	28/03/2023	Michael O'Connor Accrington	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Lower Trinity Street and Adderley Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Bordesley & Highgate
97	Environmental Health	28/03/2023	Josh Patel Walsall	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Bennetts Hill, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
98	Environmental Health	28/03/2023	Natasha Pawson Manchester	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Albert Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Nechells
99	Environmental Health	28/03/2023	Lloyd Anthony Perkins Rubery	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Hill Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
100	Environmental Health	28/03/2023	Michael Perry Chesham	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
101	Environmental Health	28/03/2023	Joseph Pirrie London	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Navigation Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
102	Environmental Health	28/03/2023	Mitchell Shaun Purnell Wolverhampton	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Snowhill Queensway, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
103	Environmental Health	28/03/2023	Mohammed Rahman Birmingham	Nechells	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
104	Environmental Health	28/03/2023	Lisa Roberts Birmingham	Bordesley & Highgate	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Venetia Road, Small Heath, Birmingham.	£220.00	£175.00	£175.00	£395.00		Bordesley & Highgate

105	Environmental Health	28/03/2023	Sintija Roma Oldbury	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
106	Environmental Health	28/03/2023	Donald Sheriff Birmingham	Nechells	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Verbena Gardens, Nechells, Birmingham.	£220.00	£175.00	£175.00	£395.00		Nechells
107	Environmental Health	28/03/2023	John Simmonds Paisley	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Albany Way, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
108	Environmental Health	28/03/2023	Austin Smith Solihull	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Flaxley Parkway, Tile Cross, Birmingham.	£220.00	£175.00	£175.00	£395.00		Glebe Farm & Tile Cross
109	Environmental Health	28/03/2023	Bailey Smith Heanor	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
110	Environmental Health	28/03/2023	Bruce Smith London	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Temple Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
111	Environmental Health	28/03/2023	Tyler Smith Birmingham	Gravelly Hill	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Corporation Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
112	Environmental Health	28/03/2023	Antony Taylor Birmingham	Aston	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Carrs Lane, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
113	Environmental Health	28/03/2023	Christopher Taylor Nuneaton	Out of area	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in Stephenson Street, Birmingham.	£40.00	£0.00	£175.00	£40.00		Ladywood
114	Environmental Health	28/03/2023	Liam Tegg Birmingham	Soho & Jewellery Quarter	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Dale End, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
115	Environmental Health	28/03/2023	Mahai Gabriel Turca Birmingham	Sparkhill	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in New Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
116	Environmental Health	28/03/2023	Algirdus Valius Bilston	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Corporation Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
117	Environmental Health	28/03/2023	Ashley Williams Birmingham	Nechells	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stephenson Street, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood
118	Environmental Health	28/03/2023	Michael Yemane Birmingham	Ladywood	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Temple Row, Birmingham.	£220.00	£175.00	£175.00	£395.00		Ladywood

119	Environmental Health	30/03/2023	Caspian Pizza City Limited 23 Smallbrook Queensway Birmingham B5 4HE	Bordesley & Highgate	Food Safety and Hygiene (England) Regulations 2013. Pleaded guilty to six offences relating to conditions at Caspian Pizza, 23 Smallbrook Queensway, Birmingham, there were mouse droppings throughout the premises. The premises was not kept clean, there was dirt and food debris on the floor beneath shelving used to store pizza pans and internal surfaces of the walk-in chiller were rusty, mouldy and dirty. The floor beneath shelving for sauce pots and food packaging in the servery was dirty. There was significant accumulations of grease, dirt and debris on the floor beneath the deep fat fryer. The rear of the customer servery counter was dirty. Several chopping boards were heavily worn and had ingrained dirt. Raw burgers were being stored adjacent to grated ready to eat cheese in the servery undercounter fridge. There was no procedure based on the principles of HACCP.	£14,000.00	£1,357.70	£1,357.70	£15,357.70	Fine for 1st offence, no separate penalty for others.	Bordesley & Highgate
120	Environmental Health	30/03/2023	Antep Lokantasi Limited 368-370 Ladypool Road Birmingham B12 8LB	Sparkbrook & Balsall Heath East	Food Safety and Hygiene (England) Regulations 2013. Pleaded guilty to three offences relating to conditions found at Antep Turkish Cuisine, 368-370 Ladypool Road, Birmingham. There was evidence of cockroach and mouse activity. There were dead cockroaches in the kitchen and mouse droppings throughout the premises. Equipment in the front kitchen was dirty. There was grease and food debris on an element of the freezer in the kitchen and food debris and grease on the floor in the front kitchen.	£30,000.00	£851.75	£851.75	£30,851.75		Sparkbrook & Balsall Heath East

SIMPLE CAUTIONS ADMINISTERED DURING JANUARY, FEBRUARY AND MARCH 2023

ENVIRONMENTAL HEALTH

One simple caution was administered.

Food Safety and Hygiene (England) Regulations 2013

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

LICENSING

22 simple cautions were administered.

Local Government (Miscellaneous Provisions) Act 1976

Section 48(6) 12 cautions were issued for failing to display a private hire vehicle licence plate.

Local Government (Miscellaneous Provisions) Act 1976

Sections 48(6) & 64(3) One caution was issued for failing to display a private hire vehicle licence plate and for waiting on a Hackney Carriage stand when not a Hackney Carriage.

Local Government (Miscellaneous Provisions) Act 1976

Section 57 Four cautions were issued for knowingly failing to disclose previous motoring endorsement convictions on a vehicle application form

Local Government (Miscellaneous Provisions) Act 1976

Section 64(3) Five cautions were issued for waiting on a Hackney Carriage stand when not a Hackney Carriage.

TRADING STANDARDS

No simple cautions were administered

WASTE ENFORCEMENT

No simple cautions were administered.

APPENDIX 5

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY

	Waste Investigation Outcomes												
	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23	Total
Duty of care inspections into the waste disposal arrangements of commercial premises	192	47	56	39	30	48	29	96	45	77	93	95	847
Section 34 Environmental Protection Act demand notices issued:(trade waste statutory information demands)	147	43	35	31	24	39	25	78	37	44	70	90	663
Section 34 Environmental Protection Act Fixed Penalty Notices issued to businesses (£300)	6	17	11	11	17	16	20	17	6	16	15	24	176
Section 87 Environmental Protection Act Fixed Penalty notices issued for commercial and residential litter offences (£80)		0	0	0	0	0	0	0	0	0	1	0	1
Section 33 Environmental Protection Act Fixed penalty notices issued for fly tipping (£400)	14	12	7	11	9	2	6	10	1	18	5	6	101
Prosecutions													
Number of prosecution files submitted to legal services, (number produced quarterly.	2	2	0	4	3	2	3	3	5	1	3	4	32

APPENDIX 6

Monthly Parking Pcms Issued in Taxi Ranks	Processing
April 2022	198
May 2022	243
June 2022	264
July 2022	330
August 2022	249
September 2022	307
October 2022	364
November 2022	381
December 2022	419
January 2023	338
February 2023	332
March 2023	322
TOTAL	3747

BIRMINGHAM CITY COUNCIL

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

28 JUNE 2023

ALL WARDS

**ACTION TAKEN BY THE CHAIR OF THE LICENSING
& PUBLIC PROTECTION COMMITTEE: FEBRUARY/MARCH/APRIL 2023**

1. Summary
 - 1.1 This report advises your committee of action taken by the Chair between meetings, under authority delegated by the Licensing & Public Protection Committee, with an explanation as to why in each case, this authority was used.
2. Recommendation
 - 2.1 The report to be noted.

Contact Officer: Nick Lowe, Head of Licensing, Markets and Private Rented Sector

Telephone: 0121 303 2491

E-mail: Nick.Lowe@birmingham.gov.uk

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 February 2023

- 4.1 On 27 February 2023 officers contacted the Chair with respect to driver G, who had been discovered by police officers, asleep at the wheel of his private hire vehicle in the car park of a fast-food restaurant. The engine of his vehicle was still running.
- 4.2 Having been subject to a roadside breath test, driver G was reported to have recorded a result more than twice the legal limit. He was taken into custody and tested again at the police station, where the lowest reading provided was still significantly higher than the legal limit for driving of 35 microgrammes of alcohol, per 100 millilitres of breath. Driver G was detained pending charge.
- 4.3 Having considered the circumstances and the seriousness of the allegation, the Chair authorised immediate revocation of driver G's private hire driver's licence in accordance with Section 52 of the Road Safety Act 2006 and Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

5. Summary of Action Taken for March 2023

- 5.1 On 29 March 2023 officers contacted the Chair in connection with an allegation passed to Birmingham City Council by Colleagues at City of Wolverhampton Council.
- 5.2 Driver H, who at the time was licensed by Birmingham and Wolverhampton is alleged to have dropped a vulnerable lone female, the last drop of four passengers, at her home and then followed her into the house. He is further alleged to have kissed her and exposed himself. The allegation was reported to the police.
- 5.3 Having considered the circumstances and the seriousness of the allegation, the Chair authorised immediate suspension of driver H's private hire driver's licence in accordance with Section 52 of the Road Safety Act 2006 and Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

6. Summary of Action Taken for April 2023

- 6.1 On 20 April 2023 officers contacted the Chair in connection with a renewal application submitted by driver I. On his application form, driver I advised he had been charged with assault. As this had not previously been declared, further enquiries were made by the Police Taxi Liaison Officer.
- 6.2 Those investigations revealed the offence had occurred in August 2022 and was in fact a sexual assault against a pupil he was teaching to drive. Driver I, had not reported his arrest neither had he reported when he was charged, both required by his conditions of licence. In fact, driver I made no report until applying to renew his licence, when he described the charge simply as assault.
- 6.3 Having considered the circumstances and the seriousness of the allegation, the Chair authorised immediate revocation of driver I's private hire driver's licence in accordance with Section 52 of the Road Safety Act 2006 and Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

7. Implications for Resources

- 7.1 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 for or against the City Council.

8. Implications for Policy Priorities

- 8.1 This work contributes to the council's priority of A Safe Birmingham by helping to safeguard vulnerable citizens.
- 8.2 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.

9. Implications for Equality and Diversity

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

DIRECTOR OF REGULATION AND ENFORCEMENT

