

BIRMINGHAM CITY COUNCIL

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

18 December 2019
ALL WARDS

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
September & October 2019

1. Summary
 - 1.1 This report advises the Committee of the outcomes of appeals against the Sub Committee's decisions which are made to the Magistrates' Court, and any subsequent appeals made to the Crown Court, and finalised in the period mentioned above.

2. Recommendation
 - 2.1 That the report be noted.

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3. Summary of Appeal Hearings for September and October 2019

	Magistrates'	Crown
Total	6	1
Allowed	1	
Dismissed	4	1
Appeal lodged at Crown		
Upheld in part		
Withdrawn pre-Court	1	
Consent Order		

4. Implications for Resources

- 4.1 The details of costs requested and ordered in each case are set out in the appendix below.
- 4.2 In September 2019 costs have been requested to the sum of £4393.20 so far with reimbursement of £4143.20 so far (94.31%) ordered by the Courts.
- 4.3 In October 2019 costs have been requested to the sum of £750.00 so far with reimbursement of £750.00 so far (100.00%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2019 to October 2019, costs associated to appeal hearings have been requested to the sum of £12,497.45 so far with reimbursement of £11,051.45 so far (88.42%) ordered by the Courts.
- 4.5 For the fiscal year thus far, April 2019 to October 2019, costs contra Birmingham City Council associated to appeal hearings is not currently known.

5. Implications for Policy Priorities

- 5.1 The contents of this report contribute to the priority action of providing an efficient and effective Licensing service to ensure the comfort and safety of those using licensed premises and vehicles.

6. Public Sector Equality Duty

- 6.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Regulation and Enforcement Division, which ensures that equality issues have been addressed.

7. Consultation

- 7.1 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 the business community in terms of the regulatory duties of the Council. Any enforcement action taken as a result of the contents of this report is subject to that Enforcement Policy.

INTERIM DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Prosecution files and computer records in Legal Proceedings team.

MAGISTRATES' COURT – PRIVATE HIRE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Masood Sadiq	02.09.2019	Dismissed	£350.00	£100.00	The appeal was against the decision of the Sub Committee to refuse to grant a private hire driver licence to Mr Sadiq on the 10.06.2019, due to driving endorsements and a conviction recorded against him. The matter came before Deputy District Judge Gascoyne. Having heard evidence from Mr Sadiq, he said that he was not satisfied that Mr Sadiq was a fit and proper person to hold a private hire driver's licence and dismissed the appeal. He added that, in his view, the Sub Committee had looked at the matter very carefully and made the correct decision. The Deputy District judge ordered him to pay a contribution of £100 towards the requested costs of £350.
2	Muhammad Hussain	25.09.2019	Allowed	Not Known (Contra BCC)	Not Known (Contra BCC)	The appeal was against the decision of the Sub Committee to refuse to grant a private hire driver licence to Mr Hussain on 30.01.2019 due to a conviction recorded against him. Upon hearing the representations made, which included his licence from another authority and the lack of any further offences, the Judge was minded to allow the appeal, with the effect that the licence should be granted. The judge was satisfied that the Sub Committee were wrong, and that Mr Hussain is a fit and proper person. An application for costs was allowed (although no figure was given).
3	Ranjit Singh	09.10.2019	Dismissed	£250.00	£250.00	The appeal was against the decision of the Sub Committee to revoke Mr Singh's private hire driver licence on 02.07.2019 due to a conviction recorded against him. The magistrates upheld the decision and therefore dismissed the appeal. Full costs of £250 were awarded.

4	Rub Nawaz	09.10.2019	Dismissed	£250.00	£250.00	The appeal was against the decision of the Sub Committee to revoke Mr Nawaz's private hire driver licence on 20.03.2019, due to convictions for plying for hire and no insurance recorded against him. The Magistrates upheld the decision of the licensing committee and therefore dismissed the appeal. Full costs were awarded in the sum of £250.
5	Babar Rasul	24.10.2019	Dismissed	£250.00	£250.00	The appeal was against the decision of the Sub Committee to refuse to grant a private hire driver licence to Mr Rasul due to a conviction recorded against him. Having heard submissions and evidence from Mr Rasul the magistrates determined to dismiss the Appeal, being of the view that they were not satisfied that the Councils decision to refuse to grant a licence was wrong in view of his conviction for drink driving which was serious as it related to the potential safety of the fare paying public. They were not satisfied that Mr Rasul was a "fit and proper" person and upheld the committee's decision. An award of £250 costs was made.

MAGISTRATES' COURT – LICENSING ACT 2003

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Gurdev Singh Khakh In respect of Drinks R Us 3 Little Bromwich Road Birmingham B9 5JU	05.09.2019	Withdrawn pre-Court	£3500.00	£3500.00	The appeal was against the Sub Committee decision to revoke the premises licence on 22.02.2019 following an application for review submitted by the Trading Standards Department of Birmingham City Council. Bottles of suspected illicit non-duty paid alcohol were found on the premises. The appeal was withdrawn formally on 05.09.2019, costs of £3500.00 were awarded to Birmingham City Council.

CROWN COURT – PRIVATE HIRE OPERATOR’S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Muniba Khan	06.09.2019	Dismissed	£543.20	£543.20	<p>The appeal was against the Sub Committee decision to refuse to renew the private hire operator’s licence issued to Mrs Khan on 08.01.2019, due to a conviction recorded against her and an investigation carried out by Licensing Enforcement Officers which identified a number of matters. Mrs Khan’s appeal against the decision was dismissed by Birmingham Magistrates Court on 10.04.2019. There was no attendance by or on behalf of Mrs Khan. After some enquiries were made it transpired that her previous solicitor was no longer instructed.</p> <p>After hearing submissions, the Court were satisfied that she had knowledge of the hearing and therefore dismissed her appeal. Costs were awarded in full. (in addition to the full costs of £410 having been previously awarded at the Magistrate’s Appeal)</p>