

BIRMINGHAM CITY COUNCIL

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

17th JULY 2019
ALL WARDS

PROSECUTIONS AND CAUTIONS – MAY 2019

1. Summary
 - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of May 2019.
2. Recommendation
 - 2.1 That the report be noted.

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3. Results

3.1 During the month of May 2019 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- Two Licensing cases were finalised resulting in fines of £483 and prosecution costs of £1,325. One simple caution was administered as set out in Appendix 1.
- 50 Environmental Health cases resulted in fines of £23,115. Prosecution costs of £15,642 were awarded. No simple cautions were administered as set out in Appendix 2.
- One Trading Standards case was finalised resulting in a fine of £2,873 and prosecution costs in the sum of £2,127. No simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in May 2019 and cases finalized by district April 2019 – May 2019.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team in April and May 2019.

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 2019 to May 2019 the following costs have been requested and awarded:

Licensing

£1,618 has been requested with £1,325 being awarded (82%)

Environmental Health

£44,878 has been requested with £39,860 being awarded (89%).

Trading Standards

£2,127 had been requested with £2,127 being awarded (100%).

- 5.3 For the month of May 2019 the following costs have been requested and awarded:

Licensing

£1,618 has been requested with £1,325 being awarded (82%)

Environmental Health

£17,588 has been requested with £15,642 being awarded (89%).

Trading Standards

£2,127 had been requested with £2,127 being awarded (100%).

- 5.4 Since the start of the financial year until the end of May 2019 the following income has been received from the courts:-

Licensing

£828 has been received (please note slight reduction after an adjustment received from HM Courts in May).

Environmental Health

£12,052 has been received including Waste Enforcement cases.

Trading Standards

£757 has been received.

(Total £13,637).

- 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.

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

LICENSING CASES**APPENDIX 1**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	20/5/19	Mohammed Fiaz Birmingham	Local Government (Miscellaneous Provisions) Act 1976 Pleaded <u>not guilty</u> to one offence of using a private hire vehicle on Hagley Road, Birmingham without the vehicle identity plate being exhibited externally on the rear of the vehicle as prescribed by the licence conditions. Found guilty after trial.	£250 £1,075 costs (£1,125 requested)	North Edgbaston	Edgbaston
2	30/05/19	Said Ahmed Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire on Bennetts Hill, Birmingham and one of consequently having invalid insurance.	£233 – no insurance + 6 penalty points No separate penalty for plying offence £250 costs (£493 requested)	Sparkbrook & Balsall Heath	Ladywood

LICENSING SIMPLE CAUTIONS

During the period of May 2019 one simple caution was administered.

Local Government (Miscellaneous Provisions) Act 1976

Section 64 One caution was issued for waiting on a Hackney Carriage stand when not a Hackney Carriage.

ENVIRONMENTAL HEALTH CASES**WASTE OFFENCES**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	2/5/19	Hardish Kaur Tiwana West Bromwich	Environmental Protection Act 1990 Pleaded guilty to two offences; one of failing to take all reasonable measures to prevent a contravention under Section 33 in that there was a policy to place waste out on the pavement for a period of time and one offence of failing to comply with a notice requiring written information of how waste from Pura Vida, 5a High Street, Sutton Coldfield was disposed of within 7 days.	£800 – 1 st offence No separate penalty on 2 nd offence £711 costs (£711 requested)	Out of area	Sutton Trinity
2	2/5/19	Anthony Nwankwo Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Apex Food and Wine, 476 Witton Road, Aston, Birmingham was disposed of within 7 days.	£120 £250 costs (£437 requested)	Aston	Aston
3	2/5/19	Awan Real Estate Ltd 818 Chester Road Erdington Birmingham B24 0BY	Environmental Protection Act 1990 Pleaded guilty to three offences of causing or permitting controlled waste, namely black bags of waste, to be deposited on land in Great Hampton Street, Birmingham on 3 separate occasions	£1,500 – 3 rd offence No separate penalty on remaining offences £876 costs (£876 requested)	Erdington	Newtown

4	16/5/19	Bike Pro Racing Ltd 50 High Street Kings Heath Birmingham B14 7JZ	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Bike Pro Racing Ltd, 50 High Street, Kings Heath, Birmingham was disposed of within 7 days.	£300 £300 costs (£533 requested)	Brandwood & Kings Heath	Brandwood & Kings Heath
5	16/5/19	Amber Collections Ltd 416 Stratford Road Birmingham B11 4AD	Environmental Protection Act 1990 Pleaded guilty to two offences; one of failing to take all reasonable measures to prevent a contravention under Section 33 by failing to instruct employees of how to dispose of trade waste in that black sacks and loose cardboard packaging were found in Stratford Road, Birmingham and one of failing to comply with a notice requiring written information of how waste from Amber Collection, 416 Stratford Road, Birmingham was disposed of within 7 days.	£1,000 – 1 st offence No separate penalty on remaining offence £974 costs (£974 requested)	Sparkhill	Sparkhill
6	16/5/19	Shades (UK) Collection Ltd 203 Ilford Lane Ilford IB1 2RU	Environmental Protection Act 1990 Found guilty in absence of one offence of knowingly causing or permitting controlled waste, namely refuse sacks containing general waste and till receipts, along with cardboard packaging, to be deposited by metal railings outside 421 Stratford Road, Birmingham.	£5,000 £1,220 costs (£1,220 requested)	Out of area	Sparkbrook & Balsall Heath East
7	16/5/19	The Waxing Hub Ltd 3 Spencer Street Hockley Birmingham B18 6DD	Environmental Protection Act 1990 Pleaded guilty to one offence of knowingly causing or permitting controlled waste, namely 6 bags containing used tissues, paper roll, wooden spatulas and documents, to be deposited on Spencer Street, Birmingham.	£1,000 £540 costs (£540 requested)	Soho & Jewellery Quarter	Soho & Jewellery Quarter

8	16/5/19	Isa Halal Ltd 511 Stratford Road Springfield Birmingham B11 4LP	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Isa Halal, 511 Stratford Road, Springfield, Birmingham was disposed of within 7 days.	£300 £380 costs (£380 requested)	Sparkhill	Sparkhill
9	16/5/19	Mama Mia Pizza Ltd 610-612 Bristol Road Selly Oak Birmingham B29 6BQ	Environmental Protection Act 1990 Found guilty in absence of one offence of failing to comply with a notice requiring written information of how waste from Mama Mia Pizza 612 Bristol Road, Selly Oak, Birmingham was disposed of within 7 days.	£500 £372 costs (£372 requested)	Bournbrook & Selly Park	Bournbrook & Selly Park
10	16/5/19	Arran Caldicott Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from AC's Barber, 369 Stockfield Road, South Yardley, Birmingham was disposed of within 7 days.	£300 £349 costs (£349 requested)	Moseley	South Yardley
11	30/5/19	Ionel Claudiu Raduca Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of knowingly causing or permitting controlled waste, namely 20 black bags of general waste, to be deposited on land adjacent to Woodend, Handsworth Wood, Birmingham.	£320 £400 costs (£612 requested)	Holyhead	Handsworth Wood

12	30/5/19	Garnett Simpson Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Little Jamaica Food Shop, 221 Holyhead Road, Birmingham was disposed of within 7 days.	£160 £200 costs (£470 requested)	Ladywood	Holyhead
13	30/5/19	Sunrise MTM Ltd 304 Green Lane Small Heath Birmingham B9 5DN	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Sunrise Travel & Money, 304 Green Lane, Small Heath, Birmingham was disposed of within 7 days.	£80 £470 costs (£470 requested)	Bordesley Green	Bordesley Green
14	30/5/19	Abdul Saleh Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Chilli Peppers, 179 Weoley Castle Road, Birmingham was disposed of within 7 days.	£440 £350 costs (£503 requested)	Gravelly Hill	Weoley & Selly Oak
15	30/5/19	Daniel Augustus Reid Walsall	Environmental Protection Act 1990 Pleaded guilty to three offences; two offences of failing to comply with notices requiring written information of how waste from Paradise Barbers, 69 Villa Road, Birmingham was disposed of within 7 days and one offence of failing to provide information reasonably required by an authorised officer in the execution of his duties or powers.	£256 – offence 1 No separate penalty for remaining offences £400 costs (£660 requested)	Out of area	Birchfield

PEST OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	2/5/19	Jordan Needham Birmingham Toyah Michelle Hayward Birmingham	Prevention of Damage by Pests Act 1949 Both defendants found guilty in their absence of one offence of failing to comply with a notice requiring the removal of all accumulations and items from the rear garden of 406 West Boulevard, Quinton, Birmingham which may provide sustenance or harbourage to rodents within 21 days.	Total fine £400 (£200 each) Total costs £600 (£300 each) (£615 requested)	Harborne	Harborne

FOOD HYGIENE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	30/5/19	Daud Khan Birmingham Imran Raja Khan Birmingham	Food Safety and Hygiene (England) Regulations 2013 Both defendants pleaded guilty to two offences relating to conditions at Mushys Fish Bar, 181 Birchfield Road, Birmingham. Procedures were not in place to control pests and mouse droppings were found on the floor close to the frying range and in the potato chip area, under the grill, on the front counter, on a vegetable slicer and on shelves. The premises were not kept clean and there was an accumulation of dirt and grease on the preparation board and on kitchen equipment.	Total fine £1,466 (£733 each) Total costs £1,000 (£500 each) (£1,616 requested)	Aston	Aston

FLY POSTING OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	30/5/19	Hanif Abdul Isleworth	Town and Country Planning Act 1990 Pleaded guilty to five offences of displaying advertisements for an event at the O2 Institute in Birmingham on New Year's Eve 2017 on utility boxes and street furniture in Pershore Street, Masshouse Circus, at the junction of Bristol Road and Belgrave Middleway, on Sutton New Road and on High Street, Deritend, Birmingham without the consent of the City Council.	£2,133 – offence 1 No separate penalty for remaining offences £1,000 costs (£1,000 requested)	Out of area	Ladywood

ANIMAL HEALTH OFFENCES – SINGLE JUSTICE PROCEDURE

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	24/5/19	Dean Knightley Birmingham	Microchipping of Dogs (England) Regulations 2015 Found guilty in absence of one offence of being the keeper of a Staffordshire Bull Terrier dog and failing to comply with a notice requiring the microchip details recorded on the database to be updated with a full name, address and contact telephone number	£220 £175 costs (£175 requested)	Heartlands	Heartlands

LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
24/5/19	31	£6,820	£5,075	£5,075

DETAILS OF LITTERING OFFENCES

	Date Case Heard	Name	Fine/Penalty & Costs	Ward of defendant
1	24/5/19	Zachery Andel Birmingham Proved in absence	£220 £175 costs (£175 requested)	Brandwood & Kings Heath
2	24/5/19	Kashif Auangzeb Birmingham Proved in absence	£220 £175 costs (£175 requested)	Alum Rock
3	24/5/19	Samuel Booth Bristol Proved in absence	£220 £175 costs (£175 requested)	Out of area
4	24/5/19	Wojciech Borowski Birmingham Proved in absence	£220 £175 costs (£175 requested)	Moseley
5	24/5/19	Sophie Bunn London Proved in absence	£220 £175 costs (£175 requested)	Out of area
6	24/5/19	Florentina Ciuriuc Birmingham Proved in absence	£220 £175 costs (£175 requested)	Sparkbrook & Balsall Heath East

7	24/5/19	Nathaniel Clarke Canterbury Proved in absence	£220 £175 costs (£175 requested)	Out of area
8	24/5/19	Razvan Constantin Birmingham Proved in absence	£220 £175 costs (£175 requested)	Newtown
9	24/5/19	Earl Tyrone Davis Birmingham Proved in absence	£220 175 costs (£175 requested)	Bartley Green
10	24/5/19	Daneil Derricott Chelmsley Wood Proved in absence	£220 £175 costs (£175 requested)	Out of area
11	24/5/19	Karen Dyson Birmingham Proved in absence	£220 £175 costs (£175 requested)	Yardley West & Stechford
12	24/5/19	Sorin Fieraru Birmingham Proved in absence	£220 £175 costs (£175 requested)	Sparkbrook & Balsall Heath East
13	24/5/19	Stacey Gallagher Birmingham Proved in absence	£220 £175 costs (£175 requested)	Bartley Green
14	24/5/19	Claire Haywood Swadlincote Proved in absence	£220 £175 costs (£175 requested)	Out of area
15	24/5/19	Anh Tuan Hoang Liverpool Proved in absence	£220 £175 costs (£175 requested)	Out of area

16	24/5/19	Brendan John Hughes Birmingham	£220 £175 costs (£175 requested)	Sparkbrook & Balsall Heath East
17	24/5/19	Wesley Hurckmans Curdworth	£220 £175 costs (£175 requested)	Out of area
18	24/5/19	Ali Mahmodi Birmingham	£220 £175 costs (£175 requested)	Sparkbrook & Balsall Heath East
19	24/5/19	Florin Marin Birmingham	£220 £175 costs (£175 requested)	Bordesley & Highgate
20	24/5/19	Stephanie McColl Stourbridge	£220 £175 costs (£175 requested)	Out of area
21	24/5/19	Sher Mohammed Edgware	£220 £175 costs (£175 requested)	Out of area
22	24/5/19	Davin Dennis Mooney Birmingham	£220 £175 costs (£175 requested)	Handsworth Wood
23	24/5/19	Peter O'Toole Liverpool	£220 £175 costs (£175 requested)	Out of area
24	24/5/19	Robert Peters Birmingham	£220 £175 costs (£175 requested)	Handsworth Wood

25	24/5/19	Rozana Pop Smethwick	£220 £175 costs (£175 requested)	Out of area
26	24/5/19	Nicola Rankin Rubery	£220 £175 costs (£175 requested)	Rubbery & Rednal
27	24/5/19	Joel Smith Streetly	£220 £175 costs (£175 requested)	Out of area
28	24/5/19	Matt Smith Birmingham	£220 £175 costs (£175 requested)	South Yardley
29	24/5/19	Sarah Tenney Wellingborough	£220 £175 costs (£175 requested)	Out of area
30	24/5/19	Maria Zaharia Birmingham	£220 £175 costs (£175 requested)	Ward End
31	24/5/19	Qi Chi Zheng London	£220 £175 costs (£175 requested)	Out of area

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

No simple cautions were administered during May 2019.

TRADING STANDARDS CASES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	16/5/19	Mohammed Ashraf Birmingham	Cosmetic Products Enforcement Regulations 2013 Pleaded guilty to 13 offences of being a distributor and making cosmetic products, including hair colour and beauty creams, available on the market at Watan Supermarket, 336-338 Coventry Road, Birmingham, which failed to comply with labelling requirements in that the packaging failed to display the required information and four of the products were found to contain mercury.	£2,873 – offence 1 No separate penalty on remaining offences £2,127 costs (£2,127 requested)	Bordesley Green	Bordesley Green

TRADING STANDARDS SIMPLE CAUTIONS

No simple cautions were administered during May 2019.

APPENDIX 4**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – MAY 2019**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	0	0	1	0	0	0	0	0	0	2
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	31	0	0	0	0	0	0	31
Environmental Health (non FPNs)	1	0	4	1	7	1	2	1	1	1	0	19
Trading Standards	0	0	0	0	1	0	0	0	0	0	0	1

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – MAY 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	1	0	0	0	0	1	0	2
Environmental Health (FPNs) Not paid and prosecuted	2	0	3	2	2	1	2	0	0	5	14	31
Environmental Health (non FPNs)	1	2	4	1	5	0	1	1	0	0	4	19
Trading Standards	0	0	0	0	1	0	0	0	0	0	0	1

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL-MAY 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	0	0	1	0	0	0	0	0	0	2
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	96	0	0	0	0	0	0	96
Environmental Health (non FPNs)	1	2	5	3	14	1	3	2	1	1	0	33
Trading Standards	0	0	0	0	1	0	0	0	0	0	0	1

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL-MAY 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	1	0	0	0	0	1	0	2
Environmental Health (FPNs) Not paid and prosecuted	6	1	7	4	15	2	10	4	0	9	38	96
Environmental Health (non FPNs)	1	5	5	3	11	0	2	2	0	0	4	33
Trading Standards	0	0	0	0	1	0	0	0	0	0	0	1

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2019 – MARCH 2020

Waste Investigation Outcomes														
	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Total	
Duty of care inspections into the waste disposal arrangements of commercial premises	55	32											87	
Section 34 Environmental Protection Act demand notices issued:(trade waste statutory information demands)	26	17											43	
Section 34 Environmental Protection Act Fixed Penalty Notices issued to businesses (£300)	10	9											19	
Section 87 Environmental Protection Act Fixed Penalty notices issued for commercial and residential litter offences(£80)	0	0											0	
Section 33 Environmental Protection Act Fixed penalty notices issued for fly tipping (£400)	0	6											6	
Prosecutions														
Number of prosecution files submitted to legal services, (number produced quarterly.	13	0											13	