

**BIRMINGHAM CITY COUNCIL**

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

**10 MARCH 2021**  
**ALL WARDS**

**PROSECUTIONS AND CAUTIONS – NOVEMBER & DECEMBER 2020**

1. Summary
  - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the months of November and December 2020.
2. Recommendation
  - 2.1 That the report be noted.

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### 3. Results

3.1 During the months of November and December 2020, the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- 14 Environmental Health cases were finalised resulting in fines of £450,210. Prosecution costs of £18,343 were awarded. One simple caution was administered as set out in Appendix 1.
- 10 Licensing cases were finalised resulting in fines of £2,290 and sixty penalty points were issued. Prosecution costs of £4,201 were awarded. No simple cautions were administered as set out in Appendix 2.
- One Trading Standards case was finalised resulting in a fine of £240. Prosecution costs of £1,000 were awarded. Two simple cautions were administered as set out in Appendix 3.
- Seven Waste Enforcement cases were finalised resulting in fines of £4,520. Prosecution costs of £3,770 were awarded. No simple cautions were administered as set out in Appendix 4.
- Appendix 5 lists cases finalised by district from April to December 2020.
- Appendix 6 lists the enforcement activity undertaken by the Waste Enforcement Team from April to December 2020.
- Appendix 7 lists Penalty Charge Notices issued by Parking Enforcement specifically for individuals parking on Taxi Ranks across the City April to December 2020. 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 2020 to December 2020 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)  
£89,681 has been requested with £76,661 being awarded (85%)

Licensing  
£15,921 has been requested with £5,691 being awarded (36%)

Trading Standards  
£6,268 has been requested with £2,650 being awarded (42%)

5.3 For the months of November and December 2020 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)  
£25,885 has been requested with £22,113 being awarded (86%)

Licensing  
£10,213 has been requested with £4,201 being awarded (41%)

Trading Standards  
£3,529 has been requested with £1,000 being awarded (28%)

5.4 Since the start of the financial year until the end of January 2021 the following income has been received from the courts:-

Licensing  
£2,078 has been received.

Environmental Heath  
£36,198 has been received including Waste Enforcement cases.

Trading Standards  
£1,894 has been received.

(Total £40,170).

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 Plan & Budget (as updated 2018 to 2022).

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

**ENVIRONMENTAL HEALTH CASES**

**FOOD HYGIENE OFFENCES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
1	11/11/20	Mohammed Hassan Birmingham	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to three offences relating to the conditions found at Hajees Fish & Chips, 604 Coventry Road, Birmingham there was evidence of cockroach activity throughout the premises, there was a build-up of grease around the kebab rotisserie area and a lack of pest proofing at the entrance to the potato preparation room and the in the kitchen.	£320  £500 costs awarded (£1,831 requested)	Sparkhill	Small Heath
2	26/11/20	Ali Tarin Birmingham	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to six offences: four of failing to comply with improvement notices served following an inspection at Murad Supermarket, 349 Ladypool Road, Birmingham requiring an adequate procedure to be put in place to control pests, a permanent procedure based on HACCP to be put in place, the premises to be cleaned and an adequate number of washbasins for cleaning hands to be provided with hot and cold running water and materials for hygienic cleaning and drying and two offences of having bottles of apple juice and tubs of olives with cheese and herbs on display for sale passed their use-by dates.	Total fine £1,605  £535 x 2 (food hygiene offences)  £535 x 1 (use by date)  No separate penalty for remaining offences  £1,185 costs awarded (£1,185 requested)	Sparkhill	Sparkbrook & Balsall Heath East

3	26/11/20	Chillies Birmingham Ltd 827 Stratford Road Birmingham B11 4DA	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Pleaded guilty to nine offences: six relating to conditions found at Chillies, 827 Stratford Road, Birmingham, there were no procedures based on HACCP, food handlers were not supervised or instructed in food hygiene matters, lettuce were on shelves beneath raw meat and uncovered cooked meat was hanging on skewers next to a walkway. Disinfectant/sanitiser was not used at the premises and cleaning cloths and a hand towel were dirty. Three offences of failing to comply with Hygiene Improvement Notices requiring chillers to be provided for high risk food, to put in place and maintain a permanent procedure based on the HACCP principles and to have up to date and accurate information available for all foods and drink with regards to the 14 prescribed allergens</p>	<p>Total fine £14,500</p> <p>£13,200 (food hygiene offences) £1,300 (Improvement notice offences)</p> <p>£1,993 costs awarded (£1,993 requested)</p>	Sparkhill	Sparkhill
4	27/11/20	Azad's Foods Ltd 69 South Road Birmingham B11 1EX	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Found guilty in absence of eight offences: three of failing to comply with improvement notices following an inspection at Azad's Appetizers &amp; Desserts, 69 South Road, Birmingham requiring information to be provided re prescribed allergens used in foods, a procedure based on HACCP to be implemented and food handlers to be adequately trained. One offence of being unable to provide the identity of the supplier of raw milk and four further offences relating to food hygiene breaches found at the premises on two separate occasions. There were no procedures based on HACCP, no evidence that food handlers had received adequate training and supervision, the premises were not kept clean and there was uncovered food in the fridge and open packs of flour and sugar at the premises.</p>	<p>£15,000 (HACCP offence)</p> <p>No separate penalty x remaining offences</p> <p>£1,283 costs awarded (£1,283 requested)</p>	Sparkbrook & Balsall Heath East	Sparkbrook & Balsall Heath East

5	27/11/20	Kebrom Gebrmarim Birmingham	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Pleaded guilty to 17 offences: 14 relating to the conditions found at Channel Restaurant, 145A Stratford Road, Birmingham on 3 separate occasions, the standard of cleaning was poor, there was no wash hand basin designated for cleaning hands in the kitchen, cooked injura was stored in contact with non-food grade plastic and there were no procedures based on HACCP. There was sewage on the floor in the cellar, rat droppings on the stairs to the cellar and a hole in the cellar. Chopping boards were not kept clean and were heavily scored. Three offences of failing to comply with improvement notice requiring information to be provided re prescribed allergens used in foods, a procedure based on HACCP to be implemented and materials for cleaning and drying hands to be provided</p>	<p>£833 (offence 1)</p> <p>No separate penalty x remaining offences</p> <p>£1,887 costs awarded (£1,887 requested)</p>	Sparkbrook & Balsall Heath East	Sparkbrook & Balsall Heath East
6	27/11/20	KTI Frozen Foods Ltd Unit 17 Northside Business Centre Wellington Street Birmingham B18 4NR	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Pleaded guilty to 8 offences relating to the conditions found at KTI Frozen Foods, Unit 17-19 Northside Business Centre, Wellington Street, Birmingham. Mouse droppings were found throughout the premises and there were holes at floor/wall junctions allowing the ingress of pests. Onions were stored directly on the floor and they had flies on them, food was stored uncovered in the fridge and there was no soap provided at the wash hand basins. Chopping boards were dirty and heavily scored and preparation tables were damaged and heavily scored. Mouse droppings were found on packaging material and there were no procedures based on HACCP.</p>	<p>£16,666</p> <p>Costs awarded £1,903 (£1,903 requested)</p>	Soho & Jewellery Quarter	Soho & Jewellery Quarter

## HEALTH & SAFETY OFFENCES

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
7	16/11/20	The National Exhibition Centre Ltd Bicknell Lane Birmingham B40 1NT	Health & Safety at Work etc. Act 1974  Pleaded guilty to two offences of failing to ensure the health and safety of employees and persons not in their employment at Hall 1 of the International Convention Centre, Broad Street, Birmingham, in connection with the use and storage of scenery weights on the fly platform and the risk of them falling onto persons below. A scenery weight fell from the fly platform striking a part-time employee on the head.	£400,000  £8,864 costs awarded (£8,864 requested)	Out of area	Ladywood

## LITTER OFFENCES (NON SJP)

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
8	9/12/20	Faye Carter Birmingham	Environmental Protection Act 1990  Found guilty in absence of one offence of dropping a cigarette on the pavement outside Poundland on Corporation Street, Birmingham.  Originally listed for trial.	£220  No costs awarded (£175 requested)	Sheldon	Ladywood
9	9/12/20	Tracy Thompson Birmingham	Environmental Protection Act 1990  Found guilty in absence of one offence of dropping a cigarette on the pavement outside Poundland on Corporation Street, Birmingham  Originally listed for trial.	£220  No costs awarded (£175 requested)	Sheldon	Ladywood



10	11/12/20	Bethany Conway Coventry	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette on the pavement opposite Caffè Nero on Stephenson Street, Birmingham.	£40  £28 costs awarded (£175 requested)	Out of area	Ladywood
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### **LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE**

<b>Date Cases Heard</b>	<b>Total Number of Cases</b>	<b>Total Fines imposed</b>	<b>Total Costs awarded</b>	<b>Total Costs requested</b>
8/12/20	4	£806	£700	£700

	<b>Date Case Heard</b>	<b>Name</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>
11	8/12/20	Samantha Baxter Telford  Proved in absence	£220  £175 costs (£175 requested)	Out of area
12	8/12/20	Joseph Begley Manchester  Proved in absence	£220  £85 costs (£175 requested)	Out of area
13	8/12/20	Eamon Malin Birmingham  Guilty plea	£146  £175 costs (£175 requested)	Moseley
14	8/12/20	Claudia Patricia Matos Bedford  Proved in absence	£220  £175 costs (£175 requested)	Out of area

### **ENVIRONMENTAL HEALTH SIMPLE CAUTIONS**

During November and December one simple caution was administered:-

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

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

**APPENDIX 2****LICENSING CASES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
15	11/11/20	Foyez Ahmed Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded guilty to two offences; one of plying for hire on High Street, Digbeth, Birmingham and one of consequently having invalid insurance.	£140 – no insurance + 8 penalty points  No separate penalty for plying.  £200 costs awarded (£815 requested)	Soho & Jewellery Quarter	Ladywood
16	11/11/20	Baldev Raj Smethwick	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded guilty to two offences; one of plying for hire on High Street, Harborne, Birmingham and one of consequently having invalid insurance.	£140 – no insurance + 8 penalty points  No separate penalty for plying.  £200 costs awarded (£805 requested)	Out of area	Harborne
17	11/11/20	Assane Abdul Aziz Adamu Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded guilty to two offences; one of plying for hire on Aston Street, Birmingham and one of consequently having invalid insurance.	£140 – no insurance + 8 penalty points  No separate penalty for plying.  £300 costs awarded (£815 requested)	Lozells	Ladywood

18	12/11/20	Aqib Mahmood Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded guilty to two offences; one of plying for hire on Alcester Road, Moseley, Birmingham and one of consequently having invalid insurance.	£445 – no insurance + 8 penalty points  No separate penalty for plying.  £400 costs awarded (£994 requested)	Hall Green South	Moseley
19	12/11/20	Hayat Ullah Zazay Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded guilty to two offences; one of plying for hire on Constitution Hill, Birmingham and one of consequently having invalid insurance.	£305 – no insurance + 8 penalty points  No separate penalty for plying.  £450 costs awarded (£1,004 requested)	Small Heath	Ladywood
20	25/11/20	Raja Rashad Majeed Khan Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded guilty to two offences; one of plying for hire on Hurst Street, Birmingham and one of consequently having invalid insurance.	£140 – no insurance + 8 penalty points  No separate penalty for plying.  £500 costs awarded (£624 requested)  Magistrates found exceptional hardship and therefore did not disqualify him from driving.	Lozells	Ladywood
21	26/11/20	Jamil Ahmed Smethwick	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded guilty to two offences; one of plying for hire on Smallbrook Queensway, Birmingham and one of consequently having invalid insurance.	£350 – no insurance + 6 penalty points  No separate penalty for plying.  £544 costs awarded (£544 requested)	Out of area	Ladywood

22	10/12/20	Teklebrhan Hadgu Birmingham	Licensing Act 2003  Pleaded guilty to one offence of being the holder of the premises licence in respect of premises at Selam East African Restaurant, Unit 3, 136-150 Soho Hill, Hockley, Birmingham, which was being used for a licensable activity, and failing to ensure that a summary of the current premises licence or a certified copy of that summary was prominently displayed at the premises.	£300  £900 costs awarded (£1,935 requested)	Ladywood	Lozells
23	11/12/20	Muhammed Bilal Mir Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded <u>not guilty</u> to two offences; one of plying for hire on High Street, Digbeth, Birmingham and one of consequently having invalid insurance.  Found guilty following trial.	£180 – no insurance  + 6 penalty points  No separate penalty for plying offence  £207 costs awarded (£1,207 requested)	Sparkhill	Ladywood
24	18/12/20	Decebal Stefan Urse Birmingham	Licensing Act 2003  Pleaded <u>not guilty</u> to one offence of exposing alcohol, namely Budweiser, Stella Artois and Corona, for sale at 610 Washwood Heath Road, Ward End, Birmingham where the sale by retail of that alcohol on those premises amounted to an unauthorised licensable activity  Found guilty following trial.	£150  £500 costs awarded (£1,470 requested)	Ward End	Ward End

### **LICENSING SIMPLE CAUTIONS**

No simple cautions were administered during November and December 2020.

**TRADING STANDARDS CASES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
25	26/11/20	Imran Khan Birmingham	Road Traffic Act 1988  Pleaded guilty to one offence relating to the sale of a Vauxhall Astra GTC from Platinum Motor Company Ltd, 1-6 Pickford Street, Birmingham which was in an unroadworthy condition	£240  £1,000 costs awarded (£3,529 requested)	Sparkbrook & Balsall Heath East	Bordesley & Highgate

**TRADING STANDARDS SIMPLE CAUTIONS**

Two simple cautions were administered during November and December 2020.

**Tobacco and Related Products Regulations 2016**

One caution was issued for having boxes of Shisha containing nicotine on display which failed to contain the required health warnings on the packaging

**Licensing Act 2003**

One caution was issued for selling alcohol to a person under the age of 18.

**WASTE ENFORCEMENT CASES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
26	12/11/20	Devante Howell Birmingham	Environmental Protection Act 1990  Pleaded guilty to three offences; two of failing to take all reasonable measures to prevent a contravention of Section 33 in that business waste from GRUBZ, 993 Tyburn Road, Birmingham was found on the roadside on Wishaw Lane, Sutton Coldfield and one of failing to provide written information as to how waste from the business was being disposed of within 7 days.	£300 x 1 <sup>st</sup> offence  No separate penalty x remaining offences  £500 costs awarded (£1,145 requested)	Erdington	Sutton Walmley & Minworth
27	3/12/20	Bahar Supermarket Ltd Unit 24 Newtown Shopping Centre Birmingham B19 2SS	Environmental Protection Act 1990  Found proved in absence of failing to provide written information as to how the business at Bahar Supermarket, Unit 24 Newtown Shopping Centre, Birmingham disposes of its waste.	£700  £540 costs awarded (£540 costs requested)	Newtown	Newtown
28	3/12/20	Food and Booze Midlands Ltd 161 Hagley Road Birmingham B16 8UQ	Environmental Protection Act 1990  Found proved in absence of failing to provide written information as to how the business at Food & Booze 24, 161 Hagley Road, Birmingham disposes of its waste.	£700  £548 costs awarded (£548 requested)	Ladywood	Ladywood
29	10/12/20	Dennis Gerald Byrne Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of knowingly causing controlled waste, namely tyres and bags of waste, to be deposited from a vehicle on Scribers Lane, Hall Green, Birmingham.	£300  £700 costs awarded (£1,196 requested)	Billesley	Hall Green South

30	11/12/20	David Bird Birmingham	Environmental Protection Act 1990  Pleaded guilty to two offences: one of knowingly causing or permitting controlled waste, namely tree stumps, cuttings, broken wood and a builder's sack containing debris, to be deposited on land behind 16 Parkdale Road, Sheldon, Birmingham and one of failing to provide written information as to how the business at Gardening Services disposes of its waste.	£320  No costs awarded (£907 requested)	Druids Heath & Monyhull	Sheldon
31	11/12/20	Mohammed Harmuji Ali Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to provide written information as to how the business at Balti Hut Tandoori Restaurant, 1544-1546 Pershore Road, Birmingham disposes of its waste.	£200  £300 costs awarded (£546 requested)	Balsall Heath West	Stirchley
32	14/12/20	7aat Rang Ltd 399 Statford Road Sparkhill Birmingham B11 4JZ	Environmental Protection Act 1990  Found guilty in absence of two offences; one of knowingly causing or permitting controlled waste, namely black bags of waste, to be deposited on land on Stratford Road, Birmingham and one of failing to provide written information as to how the business at 7aat Rang, 417 Stratford Road, Sparkhill, Birmingham disposes of its waste.  Originally listed for trial.	£2,000 (£1,000 x 2)  £1,182 costs awarded (£1,182 requested)	Sparkbrook & Balsall Heath East	Sparkbrook & Balsall Heath East

### **WASTE ENFORCEMENT SIMPLE CAUTIONS**

No simple cautions were administered during November and December 2020.



**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL- DECEMBER 2020**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	2	0	1	1	12	0	1	1	0	0	0	<b>18</b>
Environmental Health (FPNs) Not paid and prosecuted	0	1	0	1	239	0	0	0	0	0	0	<b>241</b>
Environmental Health (including WEU)	0	0	6	6	10	1	1	1	2	6	0	<b>33</b>
Trading Standards	0	0	0	0	1	1	2	0	0	0	0	<b>4</b>

**CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) APRIL- DECEMBER 2020**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	2	3	5	0	2	0	0	2	4	<b>18</b>
Environmental Health (FPNs) Not paid and prosecuted	11	8	18	14	33	3	5	5	1	10	133	<b>241</b>
Environmental Health (including WEU)	0	2	7	2	10	3	1	2	1	2	3	<b>33</b>
Trading Standards	0	0	1	1	0	0	1	1	0	0	0	<b>4</b>

**WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY**  
**APRIL 2020 – MARCH 2021**

	Waste Investigation Outcomes												
	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Total
Duty of care inspections into the waste disposal arrangements of commercial premises	1	6	4	58	7	56	68	44	399				643
Section 34 Environmental Protection Act demand notices issued:(trade waste statutory information demands)	1	4	2	52	5	52	68	44	395				623
Section 34 Environmental Protection Act Fixed Penalty Notices issued to businesses (£300)	32	2	2	2	1	3	0	0	2				44
Section 87 Environmental Protection Act Fixed Penalty notices issued for commercial and residential litter offences (£80)	1	0	0	1	1	0	0	0	0				3
Section 33 Environmental Protection Act Fixed penalty notices issued for fly tipping (£400)	1	7	2	11	8	2	3	5	5				44
Prosecutions													
Number of prosecution files submitted to legal services, (number produced quarterly)	4	1	11	10	4	0	0	0	1				31

**PENALTY CHARGE NOTICES ISSUED FOR PARKING ON TAXI RANKS**  
**APRIL 2020 – MARCH 2021**

Monthly Parking Pcns Issue for  
Current Financial Year in Hackney Processing  
carriage ranks (excludes voids)

April 2020	42
May 2020	62
June 2020	111
July 2020	185
August 2020	253
September 2020	227
October 2020	247
November 2020	148
December 2020	130
January 2021	
February 2021	
March 2021	
TOTAL	1,405