

BIRMINGHAM CITY COUNCIL

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

15 January 2020
ALL WARDS

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
November 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 November 2019

	Magistrates'	Crown
Total	4	
Allowed	1	
Dismissed	3	
Appeal lodged at Crown		
Upheld in part		
Withdrawn pre-Court		
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 November 2019 costs have been requested to the sum of £750.00 so far with reimbursement of £250.00 so far (33.33%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2019 to November 2019, costs associated to appeal hearings have been requested to the sum of £13,247.45 so far with reimbursement of £11,301.45 so far (85.31%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2019 to November 2019, costs contra Birmingham City Council associated to appeal hearings have been requested and awarded in excess of £60.00.

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 ASSISTANT 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	Adam Ali Ahmed	15.11.2019	Dismissed	£250.00	£250.00	The appeal was against the decision of the Sub Committee to revoke Mr Ahmed's private hire driver licence on 01.05.2019 following convictions for plying for hire and no insurance. Mr Ahmed was not in attendance, Birmingham Magistrates Court dismissed the appeal.
2	Mohammed Azeem	21.11.2019	Dismissed	£250.00	£0.00	The appeal was against the decision of the Sub Committee on 02.09.2019 to refuse to grant a private hire driver licence to Mr Azeem, owing to convictions recorded against him. Mr Azeem failed to attend so an application was made and granted for the appeal to be dismissed. No order was made as to costs.
3	Shabaz Ali	21.11.2019	Dismissed	£250.00	£0.00	The appeal was against the decisions of the Sub Committee on 17.09.2019 to refuse to grant a private hire driver licence to Mr Ali owing to convictions recorded against him. Mr Ali attended unrepresented however did call a Martin Humphries an old family acquaintance to give character evidence. On hearing submissions the magistrates determined to uphold the decision of the Sub Committee in view of the serious drug related convictions. They were not satisfied that the decision of the Sub Committee was wrong and dismissed the appeal. Costs were applied for in the sum of £250.00 however no order was made.

4	Abdul Shahen	21.11.2019	Allowed	£60.00 (Contra BCC)	£60.00 (Contra BCC)	<p>The appeal was against the decision of the Sub Committee to on 02.09.2019 to refuse to grant a private hire driver licence to Mr Shahen, owing to convictions recorded against him for plying for hire and no insurance. Mr Shahen attended unrepresented although had written a letter to the court in support of his appeal. The Magistrates on hearing submissions did however adjudicate that the Committees decision was wrong to refuse to grant a private hire licence .This was on the basis that the conviction was from January 2016 and four years nearly had lapsed since the commission of the plying for hire offence when the drivers licence had been revoked. Given that there were no other offences or convictions before or since they upheld the appeal. Mr Shahen applied for the cost of lodging the appeal to the court which was in the sum of £60.00 which the magistrates did not deem unreasonable and ordered that this be reimbursed to Mr Shahen.</p>
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