

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

WEDNESDAY, 26 JUNE 2024 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 2024/2025 as follows: -

Labour Group (11)

Councillor Jilly Bermingham
Councillor Diane Donaldson
Councillor Barbara Dring
Councillor Sam Forsyth **(Chair)**
Councillor Ray Goodwin
Councillor Katherine Iroh
Councillor Ziaul Islam
Councillor Basharat Mahmood
Councillor Saddak Miah
Councillor Miranda Perks
Councillor Sybil Spence

Conservative Group (2)

Councillor Maureen Cornish
Councillor Adam Higgs

Liberal Democrat Group (1)

Councillor Penny Wagg

Green Party (1)

Councillor Julien Pritchard

5 **ELECTION OF DEPUTY CHAIR**

To elect a Deputy Chair for the municipal year 2024/25.

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.

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: -

2024

26 June 24

24 July 24

11 September 24

16 October 24

13 November 24

11 December 24

15 January 25

12 Feb 25

12 March 25

9 LICENSING SUB-COMMITTEE 2024/2025

(i) To note the membership of Sub-Committees A, B and C appointed by the City Council for the Municipal Year 2024/2025 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	Sam Forsyth	Lab	Quinton Ward
	Chair		
	Ziaul Islam	Lab	Newtown Ward
	Maureen	Con	Sutton Four
	Cornish		Oaks Ward

Licensing Sub-Committee B – Tuesdays (1000 hours)

Cllrs	Saddak Miah Chair	Lab	Garretts Green
	Sybil Spence	Lab	Soho & Jewellery Quarter
	Adam Higgs	Con	Highters Heath

Licensing Sub-Committee C – Wednesdays (1000 hours)

Cllrs	Diane Donaldson Chair	Lab	Bromford & Hodg Ward
	Jilly Birmingham	Lab	Perry Common Ward
	Penny Wagg	L/D	Acocks Green Ward

- 23 - 28** 10 **MINUTES - LPPC**
To confirm and sign the Minutes of the meeting held on 14 May, 2024.
- 29 - 102** 11 **REGULATION & ENFORCEMENT ANNUAL REPORT 2023-24**
Report of the Director of Regulation & Enforcement (Presenting Officer: Sajeela Naseer)
- 103 - 124** 12 **FOOD LAW ENFORCEMENT PLAN 2024-25**
Report of the Director of Regulation & Enforcement (Presenting Officer: Mark Croxford)
- 125 - 138** 13 **HEALTH AND SAFETY LAW ENFORCEMENT PLAN (HSLEP) 2024-2025**
Report of Director of Regulation & Enforcement (Presenting Officer: Mark Croxford)
- 139 - 150** 14 **UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS**
Report of the Director of Regulation & Enforcement (Presenting Officer: Mark Croxford)
- 151 - 162** 15 **INCREASE IN STATUTORY CIVIL REGISTRATION FEES EFFECTIVE 28 MAY 2024**
Report of Director of Regulation & Enforcement (Presenting Officer: Bev Nash)

- 163 - 228**
- 16 **ENFORCEMENT POLICY REVIEW - REGULATION & ENFORCEMENT**
- Report of the Director of Regulation & Enforcement (Presenting Officer: Sajeela Naseer)
- 229 - 242**
- 17 **PROSECUTIONS AND CAUTIONS REPORT - MARCH 2024**
- Report of 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.

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

- 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 sub-committee 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

- i. 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.
- ii. 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.
- iii. 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 Sub-Committee concerned.
- iv. 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.
- v. The Licensing Committee Code of Practice for Councillors and Officers can be found in Part C9 of the Constitution.

13.4 Procedure Rules

- i. Committee meetings will be called in accordance with Part C2 of the Constitution: *Access to Information*.
- ii. 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.

- iii. 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;
 - 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-

- (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
 - (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.

- viii. The City Council's Head of Paid Service, the Monitoring Officer and the Section 151 Officer have been consulted over this Licensing Code.
- ix. 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

**LICENSING AND
PUBLIC PROTECTION
COMMITTEE
14 MAY, 2024**

**MINUTES OF A MEETING OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE HELD
ON TUESDAY, 14 MAY, 2024 AT 1030 HOURS
AT THE COUNCIL HOUSE, BIRMINGHAM B1
1BB**

PRESENT: - Councillor Phil Davis in the Chair;

Councillors Jilly Bermingham, Diane Donaldson, Sam Forsyth, Adam Higgs, Ziaul Islam, Narinder Kooner, Izzy Knowles, Mary Locke, Saddak Miah. Julien Pritchard, Sybil Spence and Penny Wagg.

.....
NOTICE OF RECORDING/WEBCAST

1597 The Chair advised that this meeting would 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 could record and take photographs except where there were 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

1598 Members were 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.

No declarations of interest were made.

APOLOGIES

1599 An apology was received from Councillor Barbara Dring for non-attendance.

MINUTES

1600 The minutes of the last formal meeting held on 13 March, 2024, having been previously circulated, were confirmed and signed by the Chair.

The Chair stated that this was the last Licensing and Public Protection Committee that he would be attending as Chair of the Committee. He thanked everyone for their support over the last 5 years. Everything had been dealt with in an effective manner and it had been a positive experience working with a team of excellent officers.

REGULATION AND ENFORCEMENT BUSINESS PLAN 2024-25

The following report of the Director of Regulation & Enforcement was submitted.

(See document attached)

Sajeela Naseer presented the report outlining the business planning process for the Regulation and Enforcement Division in terms of the Coroner and Mortuary, Environmental Health, Licensing, Private Rented Sector, Property Licensing, Markets Service, Bereavement Services, Registrars and Trading Standards services giving a brief summary of the report and informing that the service was on an improvement journey. Reference was made to Section 9.0 of the report showing the planned work for 2024/2025.

In response to questions the following comments were made:-

- With regard to monies spent on non-statutory services such as vaping, Shisha and allergens, the Chairman informed that Licensing would work with Public Health to maintain the service. Tony Quigley added that they were looking at vapes from the perspective of education rather than enforcement. The final date from government regarding rules relating to vapes had not yet been finalised.
- In response to a query whether there was any scope to increase waste enforcement officers through self-financing, Mark Croxford informed that the Duty Care Inspectors covered the whole City and the money raised could be reinvested back into the team.

Licensing and Public Protection Committee – 14 May, 2024

- In response to comments about fly tipping and the cost implications of installing cameras, there was legislation related to installing cameras. They were not allowed to use dummy cameras. The CCTV monitoring centre referred cases to the team. They were aware of and would review the area where fly tipping had been reported. All Members were welcomed to take part in the review. Members were asked to give details of fly tipping hotspots to Mark Croxford. The Committee was informed that the date of the introduction of the Tobacco and Vapes Bill was 2027.

It was requested that the various schemes and grants within the Plan be made clear in order for Councillors to share the information with local residents.

1601

RESOLVED:-

That the Committee note the Regulation and Enforcement' Business Plan for 2024/25.

UPDATE REPORT ON THE CITY CENTRE NOISE PUBLIC SPACE PROTECTION ORDERS

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

(See document attached)

Russell Davey, Operations Manager, Environmental Health presented the report informing the Committee that the City Council had a statutory duty to investigate and, where necessary, take enforcement action with regards to complaints of alleged statutory noise nuisance under the Environmental Protection Act 1990. On 15th August 2022, the City Council declared two city centre noise PSPOs to control excessive noise levels from the street in two distinct areas. Copies of the PSPO's were attached at appendix 1 of the report. Russell Davey gave an update on the progress of the PSPOs since their introduction. The PSPO was for a period of 3 years and was due to be reviewed as this was the last year.

In response to questions the following points were made:-

- The Land at the front and back of New Street Station was in multiple land ownership. The PSPO included Stephenson Street. It was stated that the land was a major transport route and gave a bad impression to visitors to the City.

- In looking to renew the PSPO, the evidence would be reviewed and discussions held with other organisations and residents. It was noted that a growing number of areas of the City Centre had become residential areas and the PSPO areas would need to be extended. Officers would come back with timescales. The use of any equipment for the purpose of music was covered. There was no licensing related to busking. There were signs for the PSPO area on the street.
- Permission was sometimes given by BCC for demonstrations however it was expected that the demonstration took place in the relevant area.

1602

RESOLVED:-

That the report be noted.

PARTNERSHIP APPROACH TO ILLEGAL STREET TRADING ON THE COVENTRY ROAD DURING RAMADAN

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

(See document attached)

Tony Quigley, Head of IMLT and Trading Standards, together with Sobia Akhtar, Operations Manager, Trading Standards, presented the report and presentation with the use of slides providing an update on the work of the Regulation and Enforcement Division and City Operations Directorate, in partnership with West Midlands Police, to tackle illegal street trading and other related offences on Coventry Road, Birmingham during the month of Ramadan. The report provided an update on Operation Belfray which was carried out within existing service budgets.

In response to questions the following points were made:-

- The Councillors thanked officers for the collaborative work they had carried out for the safety and protection of residents during Ramadan to bring order to the streets.
- The huge demand for Traders to trade during Ramadan was discussed and it was queried whether a suitable site could be considered for Traders to operate from during Ramadan. The Committee was informed that in previous years there had been discussions with Traders about taking responsibility for an event during Ramadan however no progress had been made.

Licensing and Public Protection Committee – 14 May, 2024

- There had been talk this year about the potential of setting up an organised street trading market on a piece of private land working together with BCC the community and traders for next year. The feedback from Businesses was that they would be pleased with the intervention as they had been impacted by a lot of the stalls being set up in front of their shops. BCC would work with businesses and the community however would not be the event planners.

1603

RESOLVED:-

That the report be noted.

REGISTER OFFICE – UPDATE ON STATUTORY FEES FOR CITIZENSHIP CEREMONIES

The following report of the Director of Regulation & Enforcement was submitted-

(See document attached)

Bev Nash, Head of Bereavement & Registration Services presented the report providing an update to the Review of Licensing and Public Protection Fees and Charges 2024/25 report dated 17 January 2024. In reply to a question the increased fee would mean an increase in income for BCC.

1604

RESOLVED:-

That the report be noted.

PROSECUTIONS AND CAUTIONS – JANUARY AND FEBRUARY 2024

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

(See document attached)

Sajeela Naseer presented the report summarising the outcome of legal proceedings taken by Regulation and Enforcement during the months of January and February 2024. The report outlined the amount of costs requested and awarded. Following a brief discussion it was:-

1605 **RESOLVED:-**

That the report be noted.

SENIOR OFFICER ACTIONS UNDER DELEGATED AUTHORITY

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

(See document attached)

1606 **RESOLVED:-**

That the report be noted.

DATE AND TIME OF NEXT MEETING

1607 The date and time of the next formal meeting on Tuesday 26 June, 2024 at 1030 hours in Committee Rooms 3 & 4 was noted.

OTHER URGENT BUSINESS

1608 There was no other urgent business.

The meeting ended at 1230 hours.

CHAIR

Birmingham City Council

Report to Licensing and Public Protection Committee

26 June 2024



Title:	REGULATION AND ENFORCEMENT ANNUAL REPORT FOR WORK DELIVERED IN 2023/24
Lead Cabinet Portfolio:	N/A
Relevant Overview and Scrutiny Committee:	N/A
Report Author:	Nick Lowe, Head of Licensing, Markets and Private Rented Service 0121 303 7251 Nick.lowe@birmingham.gov.uk
Authorised by:	Sajeela Naseer, Director of Regulation and Enforcement Regulation and Enforcement
Is this a Key Decision?	No.
If this is a Key Decision, is this decision listed on the Forward Plan?	No
Reason(s) why not included on the Forward Plan:	Not Applicable.
Is this a Late Report? Reason(s) why Late:	No
	Not Applicable.
Is this decision eligible for 'call in?'	No

If not eligible, please provide reason(s): Not Applicable.

Wards: All

Does this report contain exempt or confidential information? No

Exempt Information Not Applicable.

Confidential Information Not Applicable.

Has this decision been included on the Notification of Intention to consider Matters in Private? No

Reasons why not included on the Notification: Not Applicable.

1.0. EXECUTIVE SUMMARY

- 1.1. The report advises on the work undertaken during the year April 2023 to March 2024 by the Regulation and Enforcement Sections: Environmental Health, Trading Standards, Private Rented Sector, Property Licensing, the Register Office, Licensing, the Coroners and Mortuary service and the England Illegal Money Lending Team which report to your Committee.

2.0. COMMISSIONERS' REVIEW

- 2.1. This section, as confirmed by the Lead Commissioner, is not required for reports submitted to Licensing and Public Protection Committee.

3.0. RECOMMENDATIONS

- 3.1. That the Committee:

Note the contents of this report which is for information only.

4.0. KEY INFORMATION

- 4.1 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
- ix.Private Rented Sector Property Licensing

- 4.2 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 June 2023.

- 4.3 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.

- 4.4 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.

- 4.5 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, citizenship ceremonies, the issuing of certified copies of register entries and the legal preliminaries to and registration of civil partnerships.
- 4.6 The Licensing Service consists of the General Licensing, Hackney Carriage and Private Hire Licensing, Street Trading and Licensing Enforcement teams.
- 4.7 The Coroners Service and the Public Mortuary provide support staff to the Senior Coroner for Birmingham and Solihull.
- 4.8 Birmingham City Council Regulation and Enforcement continue to host the England Illegal Money Lending Team for England and the Regional Investigations Team.
- 4.9 The Private Rented Sector service is responsible for Houses 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.
- 4.10 Property licensing is responsible for ensuring that all private landlords in the Selective Licensing area (25 designated wards within Birmingham) and all private landlords of smaller House in Multiple Occupation (known as Additional HMOs) citywide are licensed and that the licence conditions are met. When non-compliance is found this is raised with the responsible party and where necessary, enforcement action taken.
- 4.11 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.
- 4.12 Officers continue to work closely with the Director of Public Health and his staff to deliver public health outcomes in Birmingham.

5.0. Proposal and Reasons for Recommendations

- 5.1 The purpose of the report is to publicly inform and record centrally the activities undertaken by the Regulation & Enforcement Division in 2023/24.

6.0. Other Options Considered

- 6.1 No alternative options are applicable

7.0. IMPACT AND IMPLICATIONS

7.1. Finance

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

7.1.2 Funding for 24/25 is detailed below.

Service Area Name	Expenditure	Income	Net Budget 2024/25
	£	£	£
Private Sector Housing	3,391,341	(2,322,840)	1,068,501
Environmental Health	6,319,980	(1,491,332)	4,828,648
Waste Enforcement	1,466,162	(130,000)	1,336,162
Pest Control	1,179,711	(1,010,060)	169,651
Registration Services	3,557,400	(2,520,110)	1,037,290
Trading Standards	1,951,776	(147,896)	1,803,880
Licensing	5,510,389	(5,510,389)	0
IMLT and RIT (grant funded)	5,692,511	(5,692,511)	0
Property Licensing	7,267,000	(10,099,000)	0*
Grand Total			10,344,132

*Surplus income generated in 2024/25 will be taken into reserves, to be used in future year(s). This is a ring-fenced licensing budget.

7.2 Legal

7.2.1 Regulation and Enforcement Division operates within the legal framework of the legislation that is enforced. There is a strong partnership with legal services to ensure compliance. Both divisions work to the publicly published Enforcement Policy on the council's web pages.

7.3 Equalities

7.3.1 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.

7.4 Procurement

7.4.1 There are no specific procurement implications in this report.

7.5 People Services

7.5.1 There are no staffing implications arising from the recommendations in this report.

7.6 Corporate Parenting

7.6.1 There are no implications or opportunities in relation to the Corporate Parenting responsibility arising from the recommendations in this report.

7.7 Other

7.7.1. No other implications have been identified.

8.0 APPENDICES

8.1 The Regulation & Enforcement Annual Report 23/24 is attached as an appendix to this report.

9.0 BACKGROUND PAPERS

9.1 None

REGULATION AND ENFORCEMENT
ANNUAL REPORT FOR WORK DELIVERED IN 2023/24

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, Air Quality monitoring and Unauthorised encampment evictions.

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		42,369
	Env Health RFAs total	19,951
	Pest Control RFAs total	14,209
	All Inspection Total	7,585
	Other Jobs not RFAs	624

Environmental Health Breakdown		
Waste related enquiries	RFAs & Waste Incidents not subject to complaint	214
Statutory nuisance	Noise	7,896
	All others	616
Animal Welfare	Dog Wardens	3,541
	Animal Welfare (not dogs)	261
Food Enquiries		3,522
Infectious diseases		1,243
Licensing enquiries		274
Health and Safety	Enquiries	276
	Incidents (Accidents)	431
Unauthorised encampments	On council land	644
Other		1,033
Source of RFAs	Cllr, MP, CX & SD	225
	Public	15,433

Pest Control Breakdown		
Rats	Rat in Garden	7311
	Rat in House	5,436
	Mice reported as Rat in House	72
Pests other		1,390
Source of RFAs	Cllr, MP, CX & SD	31
	Public	14,178

Environmental Health Inspections Breakdown		
Inspections	Food Inspections	5,058
	Food Standards Inspections	1,546
	Health and Safety	733
	Environmental Protection	107
	No Smoking Compliance	15
	Duty of Care	11
	Animal Welfare	115

Number of Criminal Prosecutions undertaken by Environmental Health:

CASES FINALISED BY LEGISLATION 2023/2024

LEGISLATION	CASES	OFFENCES	FINES	COSTS AWARDED
Environmental Protection Act 1990, Section 80	1	4	£300	£200
Food Hygiene (England) Regs 2006 ***				
	40	377	£378,975	£73,066
Food Information Regs 2014				
	1	3	£3,000	£2,020
Health Act 2006				
	2	3	£1020	£985
Environmental Protection Act 1990 Sec 87 Litter	1388	1388	£294,685	£214,384
TOTALS				
	1432	1775	£676,960	£290,655

Total Submitted Prosecutions 59 EH and 1388 Littering offenders

Total Submitted Cautions 18

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 6,683 Fixed Penalty Notices were issued which is an increase of 143 over last year. During the year 1,388 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 £212.30 plus costs of an average £154.45.

Over the course of the year 56 consents and 4 replacement 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 2023/2024 a total of 7,896 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.

40 noise abatement notices were served for noise offences affecting residents and 6 seizures of sound equipment took place following breaches of notices. In some 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 occur 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:

- 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.
- Reducing the availability of tobacco products to young people under the age of 18 contributes to reducing the uptake and subsequent addiction to tobacco.
- 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.
- 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 2023/24 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 (West Midlands Fire Authority and West Midlands Police).
- 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.

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

City Centre Project

Environmental Health continued in 2023/2024 to provide assistance with reducing impacts from noise levels and antisocial behaviour within the City Centre through enforcement of the two City Centre Noise PSPOs. The Orders restrict 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 up to 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 2023/2024, the Pest Control Section continued to offer a range of services to both domestic and commercial customers in the city. We treated rats in gardens and houses for free. 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.

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 2023/2024 include:

- The section has dealt with a total of 14,209 requests for assistance (RFA) from residents of Birmingham. Of these 12,747 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 5,000 food hygiene inspections including over 2,600 programmed inspection and 1,500 revisit inspections to ensure improvements were being made. In addition to these food hygiene inspections over 1,500 food standards inspections were carried out during 2023/2024. 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 250 made such an application in 2023/2024.

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 1,800 new registrations and struggle to meet this demand. There is no commensurate requirement to de-register a business.

Food Enforcement Action

During 2023/2024, 84 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 premises inspected, 4,521, it only represents about 2% of premises which seriously failed to meet basic hygiene requirements and put their customers at risk.

Throughout 2023/2024, 41 prosecutions were finalised for food hygiene and food labelling related offences, with total fines amounting to over £381k and costs awarded of over £75k.

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
- Asana Leisure Ltd 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 full cost recovery system from the company.

Infectious Diseases and Food Poisoning

All sporadic cases and outbreaks of gastro-enteritis are investigated. During 2023/2024, 1,236 sporadic cases and 7 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 to reduce the spread of infection as quickly as possible. On several occasions in the year officers assisted Birmingham TB services and UKHSA, using powers to request cooperation with TB cases choosing not to undertake treatment and giving rise to risk of spread of TB to others. Here Officers work with the Health Protection Unit to ensure a joined-up approach to controlling the spread of gastro-enteritis and food poisoning.

Health and Safety Regulation

The City Council has the responsibility for enforcing health and safety law in approximately 21,000 commercial premises. During 2023/2024 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

Due to staffing shortages and other work priorities, we were unable to deliver all of the proposed proactive inspections during the 2023/2024 that were hoped to be undertaken. We undertook 36 inspections in accordance with the National Local Authority Enforcement Code ('the Code'). These comprised of premises such as warehousing and storage facilities, leisure and entertainment venues and retail and hospitality sector. Our inspections have looked at risks within businesses such as workplace transport, work at height, carbon monoxide and gas safety controls and high risk practices in the beauty industry.

Requests for Health & Safety Assistance

During 2023/2024 officers responded to 276 requests for assistance concerning working conditions or practices. These included concerns regarding staff welfare and dangerous work practices.

Incident Investigations

There were 431 notifications of accidents, dangerous occurrences and cases of occupational disease reported during 2023/2024. Whilst not all of these required investigation, a number of investigations into serious incidents were either begun or continued during the year including fatal incidents. Some of these investigations take a considerable investment of time and have included working with expert witnesses, the Coroners Court and other regulators.

Enforcement Action

As a result of enforcement activities, 28 Prohibition Notices were served requiring the cessation of dangerous activities. These related to areas such as dangerous electrical systems and gas appliances, unguarded catering equipment, employees working at height without edge protection. In addition, 8 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 2023/2024 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 the year. 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 83 requests for noise monitoring to support noise nuisance complaint investigations and installing equipment at 29 residential properties across the city. Both numbers are a drop (around 50%) on the previous year. The drop in such requests is believed to be in part a reflection of the changing demand for the service coupled with staffing challenges faced within the service. It is anticipated that this will be rectified with a round of new recruitment in the summer following the confirmation of the medium term financial plan.

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 2023/2024 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 the team are now focussing on the 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 CAZ specific sites, 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. This includes phase two of our tranche monitoring programme looking at air quality on key arterial routes outside the city centre.
- 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 57 formal requests for environmental information to support conveyancing reports. This work is income generating and resulted in revenue of over £6,140, a drop of 40% from the previous year.

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 2023/2024 included:

The emissions produced by 211 industrial and commercial processes were regulated, ranging from petrol stations to the Jaguar car manufacturing plant. During the year we aimed to conduct 131 inspections, but due to resources only completed 107. The remaining processes are all reduced risk and will be inspected in the next financial year (2024/2025) through a new recruit joining the team to replace officers who have left the team.

The prevention of future environmental problems is also an important element of work. During 2023/2024 Planning Management consulted us in relation to the environmental consequences of proposed developments relating to 2,704 requests for comment on specific planning applications. 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

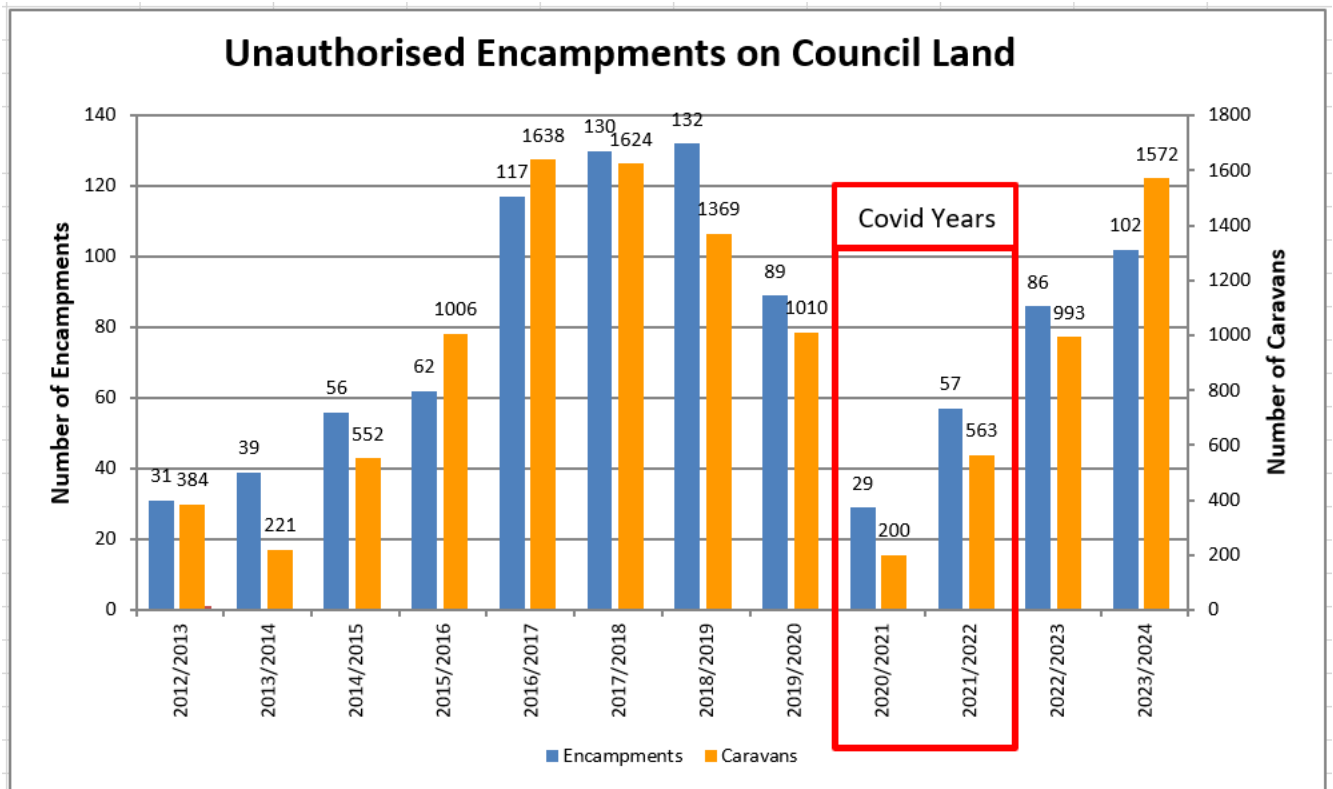
developments being proposed close to existing entertainment uses (pubs, bars, clubs) or due to air quality concerns from residential developments adjacent to major traffic routes. In both cases officers have raised objections but the issue of planning balance is the deciding factor having regards to 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 146 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 4 occasions and representations withdrawn on 6 instances. This further assists in preventing future noise problems.

Officers were also involved in the investigation of nuisances arising from industrial premises and from licensed entertainment premises within the city centre. This year the team have had to deal with a number of more complex cases mostly from licensed entertainment premises. In three instances noise abatement notices were served, two were appealed and then subsequently withdrawn as the operators pursued alternate routes to compliance, whilst in the third case the premises remains non-compliant despite a seizure of equipment and assurances of further action.

Unauthorised Encampments

Environmental Health leads on the response to notifications of illegal or unauthorised encampments (UE), principally due to travelling families. In 2023/2024 officers dealt with 102 such encampments on Council land and increase of almost 20% on the previous year. By the end of the financial year, the transit site at Proctor Street is almost at the stage of reopening which is hoped will relieve pressure on the wider city by allowing for better overall management of unauthorised encampments.



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. Due to staffing numbers and additional demands of the Dog Warden Service, the team have had to prioritise work and have not undertaken any proactive work. Significant achievements in 2023/2024 included:

Dog Warden Service

- The Dog Warden service responded to 3,136 requests for assistance and advice, regarding stray and lost dogs, dog fouling and dog welfare issues. This is an increase from 2,734 for the previous year.
- A total of 797 stray dogs were seized a significant increase from 538 stray dogs seized the previous year. Of these dogs, 729 were impounded at kennels and 68 returned directly to their owners. 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. A total of 185 of the dogs impounded were claimed by owners, which resulted in additional income of £5,075 in respect of claim charges.

- A further challenge for the team is dealing with the repercussions of amendments to the Dangerous Dogs Act, to include restrictions on the ownership of XL bully type dogs. As a result, some 90 XL bully dogs have been collected as strays, almost all of which have been abandoned as only 13 of these dogs being claimed by their owners. In most circumstances, due to health and safety concerns, these dogs must be handled by 2 officers.
- Problems with outbreaks of an infectious canine disease at our contracted stray dog kennels has resulted in a trawl of all local kennels for alternative kennelling arrangements. This has been time consuming not only to find kennels that can support our requirements, but also travel time for our officers, who have regularly needed to take stray dogs as far as Stoke on Trent as there have been no other options available.
- The Dog Warden/Enforcement Officers (DWEO) continues to provide the stray dog collection service for Solihull Metropolitan Council and seized 67 dogs on their behalf, this resulted in additional income of £6,743.31
- Concerns over the fouling of public areas by dogs resulted in 591 complaints. Some 62 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 10,000 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 263 warning letters sent in respect of dogs reported to be either dangerous and/or being allowed to stray onto public or private land. This is a significant increase to the 134 letters sent out last year and indicates the heightened concerns members of the public have regarding large and powerful breeds of dogs.
- DWEO continue to promote the legal requirements for compulsory dog microchipping, through discussions with and visits to dog owners.
- Dog cruelty and neglect is an emotive and high-profile issue and officers received a total of 476 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, with 7 new licence applications being processed and approved.
- Complaints regarding illegal trading of non-licenced premises have been undertaken. The 16 complaints related to persons breeding and selling puppies without a dog breeders' licence, breeding and selling kittens without a licence to sell animals as pets and individuals boarding dogs within their home, without a boarding licence. These investigations have resulted in 2 written warnings, 5 people obtaining the relevant licences and the remainder having verbal warnings.
- Fulfilling the service level agreement with the Children, Young People and Families Directorate to effect an assessment of animals (usually dogs) kept by a prospective adoptive or foster parent, resulted in 36 assessments being carried out and reports being submitted. This resulted in additional income of £7,305.16.
- 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 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 39 referrals were dealt with, involving a variety of animals. This resulted in additional income of approximately £5,606.03.

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 except for littering. In 2023/4 it was managed by Waste Management but as of 1st April 2024, it will be managed by the Head of Environmental Health. All of its enforcement work has always been reported to LPPC.

Flytipping

The WEU conducts investigations into dumped waste across the City. The Unit carried out 2438 investigations into alleged tipped waste during 23/24. This resulted in 115 fixed penalty notices being issued and prosecuting 17 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 (6 in 23/24), 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. Currently early reports, subject to change, indicate that 39 Community Protection Warning Letters were sent in relation to waste on private land, 7 of these letters escalated to the service of a Community Protection Notice, non-compliance with ongoing requirements included within Community Protection Notices resulted in 18 Fixed Penalty Notices being issued.

Waste in accessways

This waste has proved a difficult issue to resolve. Many access ways are not clearly defined as to their ownership and as a result it has been difficult to identify owners and clear them of waste. Much of the interventions around these parcels of land has come from the Waste Prevention Team under the Love Your Streets days and working closely with colleagues in the Waste Prevention Team. These services ceased at the end of March 2024.

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 (743 in 23/24) and issue fixed penalty notices 97 in 23/24) or report companies for prosecution (10 in 23/24) 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

Over the course of 23/24 there have been significant changes within the Neighbourhood Enforcement Programme. The statistics for 23/24 are as follows:

- Over 500 commercial waste inspections resulting in 55 Fixed Penalty Notices
- Over 500 resident's complaints investigated
- 35 Fixed Penalty Notices for flytipping
- 39 notices for commercial bins out of control resulting in 4 Fixed Penalty Notices
- Over 50 Community Protection Warning letters for waste on private land
- 5 Community Protection Notices for the same
- 4 Love Your Streets days supported
- 340 referrals to street cleansing

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. Community Protection Powers being previously explored have been found to be inappropriate. The Unit 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. Outside of Public Space Protection Order processes the engagement with residents around residential bins on streets was a Waste Prevention activity, recent budget decisions to cease the Waste Prevention functions at BCC have removed the ability for the team to engage with residents outside of the Public Space Protection Order Process. Where the bins are commercial the Unit utilises s47 Environmental Protection Act 1990 notices with high levels of compliance.

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. For information, In November 2023 Nitrous Oxide was classed as a controlled drug under the Misuse of Drugs Act 1971. Therefore, the responsibility of enforcing Nitrous Oxide now falls within the remit of Police.

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. Furthermore, 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.

This report will outline Trading Standards data between 1st April 2023 – 31st March 2024,

Trading Standards received 180 requests for assistance concerning alleged underage sales of regulated products. This includes:

- 107 related to alleged sales of Ecigs/vapes
- 34 related to alleged sale of cigarettes
- 16 related to alleged sale of alcohol.
- 1 related to Asian Tobacco product
- 5 related to the sale of Knives to underage
- 12 related to solvents
- 2 related to sunbeds
- 1 related to imitation firearms
- 2 related to piercings and tattoos.

A number of test purchase attempts were made for vapes, alcohol and cigarettes. In August 2023, 12 test purchase attempts were made for cigarettes, vapes and alcohol. Results are as follows:

- 3 businesses failed the test and supplied to the young volunteer, namely 1 e-cig and 2 packs of cigarettes.
- 6 businesses refused sale of e-cigs/vapes and 3 businesses refused to sell alcohol to young volunteer.

In a further test purchase exercise conducted in February 2024, targeting vapes, cigarettes and alcohol, 15 premises were visited and 5 businesses failed the test and supplied to the young volunteer, namely 3 e-cig and 2 packs of cigarettes. The remaining premises refused.

Underage Prosecutions

Below are examples of underage prosecutions trading standards conducted:

- **MehranRazakdost:** On 19th October 2023, Mehran Razakdost pleaded guilty to one offence at Birmingham Magistrates Court for the sale of vape to underage person. The court fined him £480.
- **Zaki Supermarket Ltd T/A Zaman Supermarket and Khaystagul Zamankhel:** On 1st June 2023, Mr Zamankhel pleaded guilty to one offence at Birmingham Magistrates Court for the sale of vape to underage person. The court fined Mr Zamankhel £150 and ordered him to pay full prosecution costs in the sum of £708.50 and a victim surcharge of £48. A Collection Order was made. The Company was also fined £1000 and ordered to pay full prosecution costs of £708.50 and a victim surcharge of £400. Total Penalty £2567.
- **Ayub Ahmadi and Sarwar Ahmadi T/A MK General Store:** On 15th December 2023, Ayub Ahmadi and Sarwar Ahmadi was found guilty of selling counterfeit cigarettes and illegal vape to an underage person. Ayub Ahmadi was fined £80 with costs of £300. Sarwar Ahmadi was fined a total of £1,000 with costs £2000 for the sale of vape/cigarettes to underage person.

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 aswell as joint enforcement visits with local police teams to some retail premises. During November 2023, following intelligence Trading Standards and local police conducted joint operation around the supply of Nitrous Oxide for illegitimate use. As a result 828 large cannisters of Nitrous oxide was seized from a trade premise in Small Heath, Birmingham. The total approximate value of £24,840.

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.

The following are some of the cases Trading Standards have undertaken.

- **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.

Mohammed Sajad pleaded guilty to conspiracy to defraud, conspiracy to launder the Proceeds of Crime and entering into a money laundering arrangement. He was sentenced on 28th June 2023, to two years and 11 months imprisonment. Birmingham Trading Standards also applied for and obtained a Criminal Behaviour Order from the Court – which means that Mohammed SAJAD cannot sell/buy vehicles from any residential premises, (only business premises) for a period of 10 years. Breaching the Order could lead to further prison time.

He has since appealed his sentence which was denied by the Courts.

- **IH Lifestyle Trading Company Ltd - Sufyaan Ghumra:** Guilty plea entered. Vehicles were sold by this car trader which were in poor condition. Purchasers were led to believe they were in good condition. Some vehicles were sold with false service history which had been created by the trader. One was sold with a hole in the fuel tank leading to fuel leaking on a petrol forecourt. In total 14 offences; 2 of making false representations to customers as to the service history of a Volvo C30 and Ford Fiesta which were being sold by IH Lifestyle Trading Company Ltd, 10 offences of providing misleading information when advertising and supplying the vehicles, 1 relating to supplying the Ford Fiesta which was found to be unsafe and 1 of carrying on a business for a fraudulent purpose.

He is due to be sentenced on 20th May 2024.

Civil Redress – Trading Standards, based on circumstances ie vulnerability of complainant support on civil matter. On this occasion, Trading Standards received a complaint from a consumer who purchased a vehicle from a dealer after two days of taking delivery the vehicle broke down. Trading Standards sent an advisory letter to the business. The business has refunded the consumer the full amount paid £15,256.

Clean Neighbourhoods and Environment Act

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.

There were 125 requests for assistance were received in relation to Clean Neighbourhoods and Environment Act. The complaints involve persons who have started a car sales /repair business trading from their home. 67 of these were allegations relating to cars displayed for sale on the road/highway. 58 of these allegations were in relation to vehicles being repaired on the road/highway. 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 traders due to misleading claims, overcharging for the work carried out, poor or unfinished work, unnecessary work or dangerous repairs. In total 203 calls to service were made to Trading Standards in relation to Doorstep Crime and household repair enquiries including roofers/tarmacers and builders.

Example of some Trading Standards successful prosecutions include:

- **Hickman and Rose builders:** A pair of cowboy builders from Birmingham ripped off customers charging more than £8,000 for shoddy work valued at less than £1,000. Gavin Hickman, who ran the now defunct 24/7 Roofing business, along with employee Matthew Rose 'targeted elderly and vulnerable' people during the Covid-19 pandemic.

They over-charged, recommended unnecessary work, failed to complete jobs, or even turn up on some days. While customers were left with thousands of pounds worth of repair bills from the substandard work that was carried out. But both rogue traders, who are seasoned criminals, avoided being sent to prison. Hickman admitted three offences under the Consumer Protection from Unfair Trading Regulations. He received a 15-month prison sentence suspended for 18 months at Birmingham Crown Court on 17 August 2023. Rose admitted two similar offences and received a 13-month term suspended for 18 months at Birmingham Crown Court on 17 August 2023.

- **Scott Murray Building:** This case concerns a builder known as Scott MURRAY who contracted with a member of the public to do certain building work at their residential dwelling. Scott MURRAY provided a quote and a written contract in March 2020 but used a false name of Chris MURRAY and a false address on the contract. He took a large

amount of money from the householders between March and April 2020 but never completed the work, walked off site without trace and left the building site in a poor state. A subsequent inspection report conducted by chartered building surveyors reported that the work done was of an extremely poor state and was worthless. In addition, there were six further complainants identified as victims of Scott MURRAY and in most cases he used a different false name to avoid detection. In total 7 witnesses gave evidence in court and the total amount of money he took from customers was just under £50,000. Results: On 22 December 2023 in Birmingham Crown Court Scott Murray was sentenced to 3 years 6 months and additional 3 months for the breach of suspended sentence making a total of 3 years and nine months imprisonment. Proceeds Of Crimes Act is being pursued.

- **Silveroak Driveways Ltd:** In January trading standards prevented a resident paying £200k from a loan he had taken out. He was having a driveway put down and the trader persuaded him to have an extension for which he was charging £264k. Trading Standards intervened and visited the complainant. Complainant was advised and notices were stuck on the home address informing trader to stop trading at complainant's house. Complainant had paid £54K through a bank transfer. The bank reimbursed him £50k.

Other Intervention and Outcomes/Redress obtained

- **June 2023:** On 28 June 2023, a consumer contacted TS on behalf of some friends who were concerned about who were going to become the victims of a scammer. A man had come to their house, offered to clear their gutters (£60), and then told them their roof needed repair which he could do for £9,000. They were an older vulnerable couple and the husband agreed to the work. TS contacted the victims and while TS were on the phone to them the business asked them to whom they were talking. On being told Trading Standards, he said he would 'be off then.' The transaction did not go through.
- **October 2023:** A business based in London had taken £27,000 from a complainant for a driveway and landscaping of their garden. The business did not finish the job, walked away and never came back. The complainant based on Trading Standards advice went to the bank and managed to get the full £27,000 back.
- **December 2023:** The business was contracted to do work on the complainant's driveway and side of the house. The business then persuaded the householder to have their roofing done and an extension. In total they priced the job at £12-14,000. They eventually started billing them for £263,000. The Consumers paid the business a total of £65,000. Due to TS intervention TS went and put a notice on the house stating that the

trader is not to come back or harass the householder. TS advised the householder not to allow the business back and to contact the bank and see if they can get any payment back. The bank has refunded the consumers £55,300. The consumers had taken a mortgage out for the building work. The consumers were so happy with TS assistance that they sent a letter of appreciation to the Officer.

- **December 2023:** The business carried out roofing work and fitted a window in the loft for a consumer. The elderly, vulnerable consumer was charged £10,500. The work was incomplete and there were a number of faults: – the window was leaking, tiles incorrectly placed, roof still leaking. The trader then demanded an extra £2000 and started harassing the consumer. TS Officers put a notice on the house stating that the trader is not to harass the householder. Due to Trading Standards intervention the trader has left them alone and the consumer has saved £2000.

SCAMS

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

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. Trading Standards staff 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.

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. Trading Standards are updating the National Trading Standards Scams Team on the outcome of the referrals. Trading Standards continue to provide scam awareness advice to those who have entered bogus prize draws and other scams. Trading Standards are working on many projects with NTS Scams team these include Call blockers project, Doorstep project, bank referrals project, No blame no Shame Coercive control, Scam Champion training, Scam Marshall project.
- **Scam Alerts:** Trading Standards 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 Week:** Trading Standards supported Scam Awareness week in May 2023 and July 2023; the theme was scams around the cost-of-living crisis. The aim was what to do if you have been scammed making consumers more Scam Aware. TS promoted the campaign on their Twitter account. The social media campaign was well received.

Examples of successful cases include:

- **Zak Plastics Fraud Case:** The background to the case is a referral was made to TS by WMP relating to fraudulent manufacture and supply of bin bags. It was alleged that these bin bags were a lesser quantity than stated on the labels. Test purchases of bin bags labelled as having 50 bags per roll and 20 bags per roll, were conducted by officers from various retail outlets across the City. The bags were counted and were found to be of a lesser quantity than stated on the label. Those labelled as having 50 bags had 38 or 40 bags per roll and those labelled as having 20 bags only had 16 or 18 bags per roll. On 14 July 2021, Trading Standards executed a warrant, at the trade premises of Zak Plastics Ltd. Samples of bin bags were taken from different pallets and counted. 8 pallets were seized suspected to contain bin bags that were of a lesser quantity than stated on the label. The sum of £19,175 was seized from the safe in the office by an accredited financial investigator. On 24 February 2022 Mr Zakir Husain, the director of Zak Plastics attended a voluntary interview under caution. During the interview under caution Mr Husain advised the rolls of the bin bags seized from his business were for another customer not his own product. He stated it was his customers who were asking for them to be 17 bags per roll. He further stated when he made his own refuse sacks and attached his own Zak plastic's label on them, they would not be short. A prosecution report was submitted to legal services. Subsequently offences of Fraud were laid against Mr Husain. Further counting of the bin bags from the seized pallets revealed that the rolls of bin bags were short by 20% - 25% per roll.

On 13 March 2024 in Birmingham Crown Court Mr Zakir Husain pleaded guilty to 4 offences of Fraud. The sentencing has been adjourned until June 2024.

There is also a further similar case currently awaiting trial.

- **Phone Recycler Case - Asif Mahmood- (Sellanyfone.com/Phone Giant).** Sellanyfone.com owned by Phone Giant were operating as phone recyclers. Consumers were sending their phones to the business given a price for the phone and promised on the website 'same day' payment. Payments were either being made weeks/months later and often not at all. The Director was invited into a meeting at TS Offices in June 2022 regarding his business activities. He promised to amend misleading claims on the website and pay outstanding customers. This never happened hence a prosecution file was compiled. A plea was agreed of 5 Consumer Protection from Unfair Trading regulations 2008 offences-knowingly or recklessly engage in commercial practices which contravened the requirements of professional diligence contrary to regulations 3 and 8 and dropping the s.2 Fraud Act 2006 offence on the basis that he paid all the witnesses monies owed to them and pay all of TS costs. All witnesses were paid on 19 January 2024 Therefore, The Fraud charge was dropped. Asif was fined £4804.75.
- **Paul Merrell:** On 2 February 2024 in Birmingham Crown Court Paul Merrell received a 12-month custodial sentence for advertising and selling illegal IPTV services. The court has issued a confiscation order against Mr. Merrell, seeking the recovery of £91,243. Over a four-year period, from 2017 to 2021, Mr Merrell derived a substantial income from the illegal provision of access to subscription-only streams through his business under the banner of 'Media Maverick'. He would source customers online who, for a fee, were provided with online access enabling them to stream premium television content, including Premier League matches, without the permission of legitimate providers such as BT Sport (now TNT Sports) and Sky TV. The investigation began in July 2019 with intelligence from FACT that pointed to Mr. Merrell's illegitimate supply of access to premium television services. Following further investigation by FACT and a thorough financial investigation conducted by Birmingham Trading Standards, a warrant was executed in January 2021 at Mr. Merrell's home. Several digital devices were seized, and a subsequent forensic examination by FACT provided crucial evidence for the prosecution.

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.

Examples of successful estate agency cases include:

- **Mr Jayantilal Chouhan:** The defendant was trading as Jay Bee's (Property Management Letting Maintenance) a property management and letting business. Mr Chouhan was charging tenants for complaints they made in relation to repairing the property they were residing in. Mr Chouhan was found guilty of 3 offences under the Consumer Protection from Unfair Trading Regulations 2008, one of them was considered as an aggressive commercial practice including attending the property unannounced, issuing invoices for inspecting the property after the tenant complained about the damp and shouting at the tenant, blaming them for the presence of damp and mould in the property. He also failed to pay the tenants deposit into a recognised government backed tenants deposit scheme and failed to return he deposit when the tenant vacated the property. On 11 January 2024 at Birmingham Magistrates court, Mr Chouhan was ordered to pay: - £6,000 fine, £1385 compensation to one victim the main tenant, £210 compensation to another witness who paid a holding fee to the landlord which was prohibited. Costs of £2,405 were also awarded.
- **Blackstone Properties Group Ltd:** The company was advised they need to display Energy Performance indicators in their advertisements of property. The company failed to do this, therefore a Penalty Charge Notice under The Energy Performance of Buildings (England and Wales) Regulations 2012 (Regulation 41) was issued. Company ignored to pay the penalty imposed therefore this matter has now been sent to Civil litigation team to issue civil proceedings for recovery of debt.
- **Other Letting/Estate agent Enforcement work – currently in court :** Birmingham Trading Standards received a referral from National Trading Standards Estate & Lettings Team as the Property Redress Scheme (PRS) had informed a letting agent in Erdington had been expelled from the redress scheme. As the website for the Lettings and Management company was still active, the matter was referred to Trading Standards for further investigation. For lettings and property management agents in England, redress membership is required under The Redress Schemes for Letting Agency work and Property Management Work (Requirement to belong to a scheme) (England) Order 2014. A letter was sent the (director) advising about the Redress Scheme, Client Money Protection Membership (CMP) and them displaying an unauthorised logo on their website. The director failed to remove the logo within 7 days and also failed to provide evidence of being members of a redress scheme and the CMP membership by the deadline date. Subsequently, complaints were received by landlords against the Lettings agent in connection to the management of their properties. Witness statements were obtained from three landlords and two tenants. It was alleged that payments were being made by the tenants to the Property Lettings & Management company but these were not being forwarded to onto the landlords. The director has been charged with Fraud Offences. Currently still in Court, awaiting trial.

- **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.

During the period of 2023/2024, 29 agents were checked to see if they were complying with legislation regulating estate agents and letting agent. Out of 29, only 5 were fully complaint. There were a further 2 that were complaint but required advice on placement of things including fees and CMP certificate. This highlighted that there is a very high level on non-compliance in Birmingham. This work will be continued into the next financial year, whereby penalty charge notices will be issued.

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 4477 requests for assistance were received by the service last year. In addition to these, many complaints are received directly from Councillors and other elected members including other internal and external service areas.

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 210 safety related enquiries over the year. These related to various product types, but the highest numbers of complaints were about cosmetics chemicals and electrical goods.

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.

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. Majority of these referrals relate to counterfeit items and unsafe goods.

Operation Miasma Vapes / E cigarettes

Following on from the work funded 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.

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. Some of the enforcement action taken had led to successful prosecution, including:

- **HS Impex Ltd, 83-84 Great Hampton Street, Birmingham B16 6EW**

Trading Standards Officers seized 8128 illegal vapes after an inspection.. Defendant pleaded guilty to the following - 3 offences under the Tobacco and Related Products Regulations 2016 which failed to comply with product requirements in that the capacity of the tanks exceeded 2 millilitres and the nicotine containing liquid exceeded 20 milligrams per millitre. This matter is still ongoing.

- **Mohammed Ali**

Pleaded guilty to two offences under Consumer Protection from Unfair Trading Regulations 2008, one of possessing for supply disposable electronic cigarettes and one for failing to ensure that the products complied with the Tobacco & Related Products Regulations and one offence of engaging in an unfair commercial practice by creating the impression that the goods could be sold legally when they could not. He was given a community order for 12 months and 75 hours of unpaid work.

Acquisitional Crime

Acquisitional crime relates to 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. 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 Illicit alcohol, cigarettes and counterfeit items.

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

- **Devinder Singh & Mobile Fone Ltd counterfeit case.**

A complaint was received that counterfeit mobile accessories were being sold at the business premise. TS carried out an inspection of the premises and items including phone backs, branded batteries, USB leads, ear pods were taken away for further analysis. A proportionate sample of these items were sent for further examination to respective trademark holders. The trademark holders returned the examined items, stating that they were counterfeit and produced statements to this effect. On 24 August 2023 in Birmingham Crown Court Mr Singh was sentenced to an 18-month community order with a 25 days activity requirement and 150 unpaid work hours. The limited company

was not sentenced. Costs and forfeiture was adjourned to the conclusion of confiscation.

- **Saqlian Nawaz**

Defendant pleaded not guilty under the Trade Marks Act 1994 namely two offences of having goods, including clothing, footwear and accessories, in possession for sale which bore registered trademarks without the consent of the trademark holders. The offences relate to seizures made by Trading Standards at two commercial premises, 751B, Stratford Road, Sparkhill, Birmingham and Unit 10, The Souk Shopping Centre, 846-848 Stratford Road, Sparkhill, Birmingham and a white Citroen van. Defendant found guilty following trial. He was sentenced to 27 months immediate custody and costs and forfeiture adjourned until conclusion of confiscation proceedings.

- **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. Following on from this, the individual trader has also been found guilty of offences under the Trade Marks Act 1994. Sentence is due in May 2024.

- **Scott Sutton**

On 1 December 2023 at Birmingham Crown Court Scott SUTTON was sentenced to 9 months suspended for 18 months with the requirement of 20 rehabilitation activity requirement days, a forfeiture order was granted for 4378 items for the supply and possession of counterfeit goods. Proceeds of Crimes Act hearing will follow.

- **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 were fined £2000 and cost awarded £8,499.00. Including a substantial sanction under Proceeds Of Crime Act.

Birmingham Op Georgi visits.

From October 2023 to March 2024 officers from Birmingham Trading Standards participated in an HMRC funded operation to visit off- licenced premises across the city to look for illicit alcohol. HMRC had not done any retail visits for a number of years and were keen to use local knowledge of Trading Standards to target premises where intel had been received.

This was co-ordinated through CENTSA and was a valuable chance to work with regional agencies as well as an opportunity to make pick up on contacts with HMRC in order to better co-ordinate alcohol related matters.

In total 34 premises were visited In all cases shop owners were advised and warned about stocking of illicit alcohol/tobacco/vapes etc. and it was a good opportunity to meet members of the trade and discuss and gain intel on current issues specific to off-licence premises.

In some of the visits Trading Standards were also accompanied by other partner agencies such as Licencing and local police teams where their presence was beneficial to the task

Enforcement activity that followed on from this was further criminal investigation is ongoing for 4 premises where illicit alcohol and vapes were found including one shop in Kings Heath where 46 bottles of illicit spirits and 249 illicit vapes were found. Another in Handsworth where illicit spirits and vapes were found and 3 further for illicit vapes and alcohol.

As well as ongoing criminal investigation a licence review application for each of these premises was also made to Licencing.

Officers also found many examples of suspect illicit customs stamps that was passed the onto HMRC.

On more than one visit bottles of alcohol with supermarket security devices still attached were found and these were passed on to police partners to deal with, in one of these cases a major police investigation is ongoing.

Op Joseph

Op Joseph is a government funded initiative to tackle issues around vaping. The work is targeted at addressing the issues around illegal supply of vapes and in particular to build data and intelligence. This helps form, government policy and development in this area including possible new legislation. Birmingham City Council Trading Standards contribute to the wider landscape by visiting traders offering advice to importers, wholesalers and retailers on their legal obligations surrounding the selling of vapes. Additional work included enforcing the legislation, between year 2023/2024 Birmingham Trading Standards seized approximately 13,000 vapes that were non-compliant with UK legislation. The work also includes targeting the sale of vapes to underage persons.

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 5 such enforcement exercises, visiting 15 retail premises, 15 of which were found to be non-compliant and removing/seizing more than 29,160 sticks of illicit cigarettes and 82kg of counterfeit hand rolling tobacco. Where appropriate, Licensing Reviews and prosecution of offenders are being taken forward.

A few prosecutions of note include:

- **Shirkou Jaf Illegal tobacco case**

Following intel that the shop was selling illicit cigarettes and tobacco. Sam Mini Market 898 Bristol Road South, Northfield, Birmingham, B31 2NS was selected as one of the shops to visit with the tobacco detection dog on 24 September 2020. The shop had already been visited by Trading Standards on 5 April 2019 where officers found 6 pouches of illicit tobacco and 32 packs of illicit cigarettes hidden under a tray below the gantry containing genuine tobacco products. Further to that, officers visited the premise again on 24 September 2020 and found illicit tobacco and cigarettes hidden underneath the tobacco gantry again. There were also illicit tobacco products found in the back room of the shop underneath a shelf and in a box in this room. A total of 900 packs of illicit cigarettes and 218 pouches of illicit tobacco were found on the premises on this occasion. Most of the tobacco was counterfeit with a small amount of non-duty smuggled cigarettes included.

On 27 July 2023, Mr Jaf the owner of the business was sentenced to 32 weeks custodial sentence. A Confiscation Order of £6,228 was made and forfeiture order made for the seized tobacco.

- **Nabaz Jalal Hassani**

Defendant pleaded not guilty for offences under Trade Marks Act, namely 12 pouches of tobacco and 18 packets of cigarettes, in possession for supply at Maxi Food, 6 Wood End Road, Erdington, Birmingham, which bore registered trademarks without the consent of the trademark holders and one of having criminal property in possession and also 514 packs of smuggled illicit cigarettes which were not compliant with packaging requirements and 32 bottles of illicit vodka which did not bear UK paid duty stamps. Defendant was found guilty following trial. Hassani was given 4 months custody suspended for 18 months and 120 hours unpaid work (concurrent on all 3 offences).

- **Mohammed Yaqub Selly Oak Superstore Illegal Vapes case**

The background to the case is on 26 January 2023 TS Officers conducted a full inspection of the premises of Selly Oak Superstore 624 Bristol Road Birmingham B29 6BQ. The visit was due to a complaint that illegal cigarettes, tobacco, shisha, and electronic cigarettes were being sold from the premise. TS Officers recovered 418 vapes, 9 packets of cigarettes and 2 packets of rolling tobacco these were taken away for further examination.

On 21 March 2024 in Birmingham Magistrates Court Mr Yaqub entered guilty pleas to both offences under regulation 36 of the Tobacco & Related Products Regulations 2016. The Court ordered a fine of £288 (offence 1, no separate

penalty for other offence). A victim surcharge of £115, Costs of £1,350 (full costs awarded) and a Forfeiture Order granted. Total fine was £1753.

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. This is along with several other agencies including Licencing, planning, local police teams, public health etc. One of the main purposes of this scheme is to ensure that all stakeholder agencies play an active role in ensuring that all licenced premises in their operating area are acting responsibly and have fit and appropriate control and operators.

Applicants for new or varied Premises Licences must serve a copy of their application on each responsible body including Trading Standards to enable them to raise objections or suggest measures for improvements. Applications are received and processed throughout the year to include both off-licence premises as well as on-licence venues such as pubs, clubs and restaurants; these included new applications, and variation for requests and reviews submitted by other agencies where issues had been found by other agencies.

Trading Standards works closely with these other agencies and often engages in joint visits to premises such as in operation Georgi this year as well as participating in responsible bodies meetings throughout the year to discuss issues and premises that may need intervention. This may not be about alcohol issues but could concern other matters about the running of the premises or in the case of Trading Standards the presence of other illicit products such as illicit tobacco and or vapes or the sale of any of the controlled age restricted products to minors.

This year, Trading Standards submitted seven licence reviews to be heard before the Licensing Sub-Committee where Birmingham City councillors sit on the panel. The officers who make the applications must then present their case at the hearing. Several hearings have already been heard for actions this year including resulting in one licence being revoked for the presence of illicit vapes at S&B Stores 1/3 College Rd. Handsworth Wood, Birmingham. Three other premises have had their licences modified to reflect the fact that they must not stock illicit items and several other are in the process of being heard. Appeals of licencing review decisions are heard in the Magistrates court and this year two appeals for previous licence revocations were heard where officers had to give evidence. One has been adjourned but another resulted in the appeal being dismissed for a case going back to November 2020 where Trading Standards received a complaint from two members of the public concerning counterfeit Yellow Tail Wine purchased from KVK Supermarket, 241/3 Eachelhurst Road, Walmley, Birmingham. Officers found a further 42 bottles of counterfeit wine in the shop.

Primary Authority

Primary Authority gives UK based businesses the right to form a statutory partnership with a single local authority regarding areas of regulation. This means they can source assured advice and expertise from Trading Standards officers to ensure their businesses comply with all legislation relevant to their operation.

Birmingham Trading Standards has four such arrangements with the Royal British Legion, Marks & Spencer's, Cadburys and Wing Yip. This also means businesses operating nationwide can have a single source of advice and assistance with just one local authority rather than many up and down the country as well as single points of contact for all other local authority queries and complaints. This works well with businesses viewing it as much more efficient and cost effective for them as issues around legislation and trading will apply to all their outlets irrespective of which part of the UK they trade in. However there have been recent exceptions that have raised more complex issues such as the deposit return scheme for glass bottles and metal can that was due to be implemented in Scotland this year before the rest of the UK and some Brexit issues concerning Northern Ireland.

Operation Beorma – NTS lead by Regional Investigation Team –

Assorted **Operation Beorma** cases have continued, although only some have been heard as we have continued to have cases postponed and re-scheduled.

In one matter, Mohammed Shafiq pleaded guilty to involvement in supplying counterfeit goods and the matter was listed for a Newton Hearing, due to have been heard in late 2023. The Newton Hearing was re-listed on multiple occasions and is now scheduled to be heard in December 2024.

Other Beorma matters are listed for trial or currently sit with Legal.

- **Operation Horizon**

Four defendants have been summonsed for their role in an alarm selling and maintenance company. The matter has been listed to be heard at Crown Court in February 2025.

Allegations involve pressure selling to elderly and vulnerable consumers across the wider Midlands area and beyond.

- **Operation Guava**

Two people have been summonsed for their role in a property maintenance and construction business operating from the Midlands. In total, statements have been taken from consumers across 40 households in 9 of the 14 CEnTSA authorities. The amount of money known to have been obtained by the business in relation to these consumers is in excess of £1.5m, with allegations being made of work simply being left unfinished despite the majority of the payments being made.

The matter has been sent to Crown Court, with a trial anticipated at some point in 2025/26.

- **Operation Momento**

An investigation into a glazing and construction company that is alleged to fail to complete work, or even in some cases do any work for the payments made. In one incident, it is alleged that work done on a property compromised the structural integrity of the property, resulting in a danger of the property collapsing. Statements are being taken from consumers across 26 households covering 11 local authority areas (of which, 9 are within CEnTSA).

Weights and Measures

There were 64 enquires, notifications and requests for assistance about weights and measures issues received by Birmingham Trading Standards this year.

The authority is always notified when third party verifiers calibrate petrol pumps and weighbridges in Birmingham and the test results are vetted accordingly.

Members of the public made fewer complaints about short measure fuel and other products this year. However this is often due to customers being unable to determine if they have actually been undersold and also because of greater control due to better average quantity systems; that is all prepacked items sold in shops have their quantities controlled very accurately by the average quantity legislation under The Weights and Measures Act 1985. This means that in general any short weight product is identified and isolated at the point of production well before it gets to the supermarket shelves. Much advice and expertise in this area is controlled through primary authority,(PAP) systems to ensure adequate compliance. Birmingham Trading Standards still maintains accurate measuring equipment capable of checking if trader's weighing and measuring is accurate and products they sell are the correct weight and measure. This includes petrol pump measures, weighing scales and weights, length measures and beer, wine and spirit measures for use in public houses and the like.

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

Frankfurt Christmas Market

As well as testing all weighing and measuring equipment at the German market officers also continue to support the event by inspecting the market for compliance across the range of consumer protection legislation to make sure products they bring to sell from overseas are compliant with UK legislation

Prior to the event opening Trading Standards takes part in many of the multi- agency safety advisory and forward planning group meetings, (SAGS) that are held and assistance and information compiled by Trading Standards is provided to the event organisers for the stall holders. This covers a variety of consumer protection legislation. Officers attend and undertake a presentation to all of the market traders the evening before opening at the council house on all matters of Trading Standards legislation. This also involves question and answer sessions.

Other Trading Standards Work

- **Chand Raath**

On 27 & 28 June 2023 TS Officers with Licensing & EH Officers visited Ladypool Road, Coventry Road and Alum Rock Road to ensure there was no illegal trading. Officers engaged with businesses, residents, community leaders regarding the Chand Raath celebrations and reminded them of their trading obligations to ensure a safe event and raised awareness around illegal street trading.

- **TS Award**

- On 30 June 2023 TS received a City's Operations Award 2023 for outstanding work around Chand raath.

- Following on from National Apprenticeship week in February 2023, A trading Standards apprentice won an award in recognition of their feedback to the apprenticeship programme.

- **Op Elevate**

Op Elevate is a multi agency partnership working designed and part-funded by the Home office to support and regenerate areas most affected by serious and organised crime. The aim is to crack down on criminal activity. This Operation was launched in February 2023 and was focusing on three main areas Clear, Hold and Build.

Clear, Hold, Build is a three-step plan which sees organised criminals and their associates cleared from an area through relentless pursuit activity. The area is then held and stabilised through high visibility police patrols, assistance from partner agencies and community support. As part of Operation Elevate, Birmingham Trading Standards has led a number of operation together with West Midlands Police which resulted in a number of seizures for illicit vapes and counterfeit/illicit cigarettes. These matters are still being investigated by Trading Standards.

- **Op Belfray**

Op Belfray was a joint Operation with Birmingham City Council and West Midlands Police during the month of Ramadan (March 2024). Trading Standards worked with partners inc WM Police, Licensing, Community Safety and Environmental Health patrolling the streets to keep them safe for the community to come together and enjoy the holy month of Ramadan safely.

Results are as follows:

- 1 arrest for illegal street trading & obstruction of Highway
- 1412 fixed penalty notices issued
- 1238 vehicles moved on,
- 6 vehicles seized by police
- 1 trailer seized by Trading Standards under the Highways Act.
- 2 trailers towed off the Highway
- 2 Street Trading Licence applications granted
- Counterfeit items seized by Trading Standards
- Other items seized in breach of food/labelling legislation including abandoned food (public health concern)
- Number of illegal traders stopped and moved on for failing to have the requisite authority or permits to trade.
- Hot food sellers stopped from trading due to obstructing the Highway, Health and Safety grounds and poor food management and hygiene issues.
- A number of traders stopped from trading due to contravening licensing legislation by serving hot food/drinks after 11pm without appropriate consent.
- Charity Collectors challenged and moved on.

Other Enforcement Work – still ongoing

- **24 hour shops**

Following previous intelligence regarding a retailer linked to suspected organised crime groups. On 31 January 2024 TS Officers together with partner agencies carried out inspections of 12 retail premises in Birmingham. TS officers with the assistance of specialist tobacco sniffer dogs seized 1000's of illicit vapes and counterfeit tobacco products estimated to be worth more than £100,000. The inspections were due to concerns from the community regarding anti-social behaviour and illicit items being sold around 24-hour shops. TS are still investigating the matter with a view of prosecuting.

- **Street Sellers**

Birmingham Trading Standards have seized items from illegal street traders operating in the City Centre, largely around New Street and High Street. Items seized from 18 traders over a period of a year including 181 counterfeit perfumes/aftershave, 14 counterfeit Apple watches and 17 counterfeit Apple AirPods. This area of work is being developed.

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 22,899 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 3,085 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., Summer safety, Christmas safety, Gas safety week, NTS No Blame No shame, Home Office Stop Think Fraud, Scam awareness week, Loan sharks, Child safety week, Kids online safety, Road safety week, NTS call blockers, 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, Cost of Living, Council tax support, International Women's Day, Rough sleepers, Birmingham Pride, Elections.

Between 2023/2024 It attracted 242,362 views.

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, 25 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, 19 applications were made for 56 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. In addition, Statutory powers were used on 80 occasions to obtain financial information to assist investigations. Disclosure Order were obtained in relation to 2 investigations with 36 related Notices issues, again to obtain financial information.

One cash seizure of £32,790.00 was made during the year. This related to a tobacco seizure.

Restraint Orders were made against 2 separate defendants restraining property valued at over £287,000.00. Both cases have not yet been concluded. During the period 2023/2024 there were 9 Proceeds of Crime Act confiscation hearings at the Crown Court, involving 10 defendants. All hearings were found in favour of Birmingham City Council resulting in 10 Confiscation Orders being made, totalling £383,736.92.

Eco Vapours Ltd and its Director were ordered to pay £20,467.83 following their conviction for trading in illegal vapes. This followed a large seizure of 4000 illegal vapes by trading standards officers.

A school headmaster was ordered to pay £91,254.00 following his conviction for re-selling the capability to illegally stream content including sports, films and TV shows.

A mobile phone accessories retailer was ordered to pay £63,854.55 following his conviction regarding trading in unsafe and counterfeit accessories, including headphones and batteries.

During 2023/24, over £280,000.00 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'.

Trading Standards Outputs 2022/23

The work of Trading Standards positively impacts the entire Birmingham residents, businesses and visitors to the City each year.

A total of 4477 requests for assistance were received by the Service last year. 56 of these were requests for advice from businesses. 17 prosecution files were submitted encompassing 47 offences. As a result, 17 successful prosecutions, leading to fines

totally £11,385 and cost awarded £29,869 and including in total of over 13 years imprisonment and 4 years 11 months in total suspended sentence.

The below table outlines finalised Trading Standards prosecutions for year 2023/2024:

LEGISLATION	Cases	Offences	Fines	Costs Awarded	Other Penalty
Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 and The Children and Families Act 2014	4	6	£2305	£3447	
Trade Marks Act 1994	5	23	£2000	£17,217	27 months, 32 Weeks custody, 31 months suspended, 18 community Order Plus 25 Rehabilitation Activity Requirement (RAR) days, plus 270 hours unpaid work
Common Law	1	3	£0	£0	35 months imprisonment plus Criminal Behaviour Order
Consumer Protection from Unfair Trading Regulations 2008	3	10	£6000	£6905	28 months suspended sentence, 45 RAR days, 425 unpaid work, plus 12 months Community order
Tobacco and Related Products Regs 2016	1	2	£1000	£2000	
Children and Young Persons Act 1933	1	2	£80	£300	
Fraud Act 2006	1	2	£0	£0	3 years 9 months custodial sentence
Copyright Design and Patents Act 1988	1	2	£0	£0	12 months custody
TOTALS	17	47	£11,385	£29,869	

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 29 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	2023/24
Birth registrations	23335	21628	20446	20228	20093	21673
Still –birth registrations	133	109	111	113	116	129
Death registrations	9099	10372	13418	10960	11702	11152
Birth re-registrations	667	563	76	230	357	530
Marriage Ceremonies	1499	2351	639	2376	2344	1958
Civil Partnership Ceremonies	8	31	42	66	53	65
New British Citizens	2809	2874	1973	4872	4638	5493
Notice of Marriage	7058	6838	4108	4062	6982	6478
Notice of Civil Partnership	22	119	119	116	142	171

Total Primary Customers	53217	54224	45840	49643	55948	60632
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In 2023-2024, 2023 marriage and civil partnership ceremonies took place, 219 of which were at the City's approved venues. There have been 20 ceremonies under the Registrar General's Licence Act which allows a person who is terminally ill and cannot be moved to a place where marriages/civil partnerships take place, to get married wherever they are. There were also 3 housebound marriages.

Registration staff made 205 s24 reports of possible offences relating to sham marriages during the year, an increase of 38 from the previous year.

65 civil partnership ceremonies took place in the city over the year.

Certificates Issued by Section	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Births and Deaths	96823	72263	34152	41984	69253	73740
Certificates Section	19487	18833	54166	40052	21874	18592

73,740 certificates of birth, marriage, death and civil partnership were issued to the public at first time registrations. The overall volume of certificates issued for 2023/24 against registrations was in line with the previous year. The figures for 2020/21 and 2021/2 were impacted by the Covid 19 pandemic in that a higher proportion of certificates than usual were issued via the certificates section. Prior to the pandemic there was a declining trend in issued certificates due to an increase in the number of organisations utilising the UK Government's Tell Us Once service and death notification service, this trend has been compounded by organisations accepting scanned copies of certificates rather than an original following measures put in place during the Covid 19 pandemic. The Service processed 4842 priority applications for certificates, for which customers pay a higher statutory fee to receive a premium service.

The Service does not recoup the costs of service delivery but is set an annual income target. During 2023/24, the Service received £2.75m income generated from statutory and non-statutory fees. The majority of fees are statutory, and these had not been increased for several years. The General Register Office fees and funding panel had been reviewing fees for some time with a view to increasing a range of fees to support the cost of service delivery. Subsequently statutory fees are to on 28th May 2024.

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

- supporting the MacMillan Nurses which is 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 2023/24, 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 whilst continuing to register a higher than average number of deaths. The Service is continuing to deal with a significant backlog of birth registrations and certificate applications, although the backlogs have significantly reduced.

Reducing backlogs was achieved against a backdrop of staff continuing to leave the Service. The Service continued with its recruitment campaign with officers attending job fairs to raise awareness of job roles, however its success has been marred by several factors including: attracting potential employees into office-based roles, neighbouring authorities offering more attractive salaries for similar roles, protracted recruitment processes and training requirements for new or promoted staff. The carrying of vacancies impacted on the ability of the Service to operate effectively. Appointing to remaining vacancies is ongoing.

The impact of vacancies on the Service has also been compounded by the continued impact on resources and therefore capacity to register following legislative changes which permitted documentation required for a death to be registered to be transmitted electronically. The Service has continued to experience delays with the receipt of documentation due to NHS resourcing issues and the Medical Examiner Scheme, in addition to poor quality documentation which has impacted on the timeliness of death registrations. In September 2024 the Medical Examiner Scheme will become statutory which means that pre- registration documentation in respect of all deaths will be pre-screened by the Medical Examiner Service. This will reduce the need for the Registration Service to triage and check documentation and will therefore increase capacity to register within the Service.

The Service continued to experience higher than average levels of sickness, particularly long- term sickness following 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, limited employee resource and delays due to poor quality and tardy forwarding of pre death registration documentation to the Service have continued to impact on the ability of the Service to deliver civil registration in a timely manner. Service Managers have worked with the Regional Compliance Officer for the General Register Office to introduce and monitor measures to improve against these KPIs. Partnership working with Solihull to help reduce birth registration volumes have continued. Following the introduction of the Statutory Medical Examiner Scheme in September 2024 the KPI for death registration will change and it is expected that Birmingham Register Office will be meet this KPI once the new system is imbedded, and staffing levels are stable.

Service Improvements

Improvements to the ceremony suite have continued with the main general waiting areas in the Ceremony Suite being refreshed and the refurbishment of the courtyard completed. The addition of a ceremonial arch has proved to be a popular photographic focal point.



Service leads have been raising the profile of the Service on its new social media accounts and several couples have happily agreed photos of their big day to be posted.

Income Generation

The ability of the Service to generate additional income is limited as the majority of the fees are of a statutory nature and do not recoup sufficient income for the cost of Service delivery to be met. It is anticipated that the increase in Statutory fees effective 28th May 2024 and the increase in the fee for the delivery of a citizenship ceremony which came into effect in April 2024 will go some way to help the Service in meeting the costs of civil registration service provision.

The non-statutory fees and charges are reviewed annually with a number of non-statutory fees having been revised to help improve the Services' financial position.

Service leads worked on holding an open day at the beginning of 2024 with the event being held in April 2024. The plan is for wedding fairs and open days to be held regularly to promote the range and options available for ceremonies.

A wider range of citizenship keepsakes was made available towards the end of the year and are proving popular.

As key vacancies are filled the Service will be in a stronger position to grow its business for 2024/25 and beyond.

CORONERS AND 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 was a year on year increase in death referrals since the benchmark figure was set in 2014 up to and including 2022(see below tables), however 2023 saw a reduction of referrals from 6000 to 5152 and a small increase in the number of post mortems undertaken. Currently we have access to four pathologists to undertake Coroner non forensic post mortems which has resulted in the time to post mortem taking longer than usual at some times during the year e.g during times of winter pressures. Generally, straightforward cases are normally processed within 1-3 days and cases requiring post mortem are normally processed within 5-10 working days.

The Coroner's service has a process in place to allow urgency requests to be considered and a system to ensure families are advised of expected time frames

Following the pandemic the working practices of doctors have changed and many patients in the community are receiving treatment and consultations by telephone appointments. This has created a significant challenge regarding completing Medical Certificates of Cause of Death (MCCD) when a patient dies as only a doctor who has treated the deceased in their last illness and seen them (face to face or on video not via the telephone) within 28 days can legally issue the certificate, resulting in an increase in referrals to the Coroner. Modernisation of the death certification rules is needed to allow doctors to issue certificates more readily.

This increase in complex 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 /decrease	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%
2023	5152	14.1%	20.2%

From this table the number of deaths notified to the Coroner had shown an increase year on year from 2014 to end 2022 and not reduced last year after the Covid pandemic. However in 2023 we saw a reduction of 14.1% in referrals, although it must be noted that the Chief Coroner and the Senior Coroner for Birmingham & Solihull have commented on the increase in complexity of cases during 2023 in their annual reports. Birmingham and Solihull have a higher than national average rate of jury cases which are held on a regular basis.

Since the baseline of 2014 there has been an increase of 20% in the number of deaths referred to the Coroner during 2023.

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
2023	865

Inquests were halted for a period during the covid pandemic/ then limited prior to moving to the new court building in November 2021 resulting in a heavy backlog, which has been dealt with. In 2023 the average time for an Inquest to be concluded in Birmingham & Solihull was 17 weeks compared to the national figure of 31.5 weeks. 39% of Inquests are dealt with in less than a month, with 24% in less than 6 months (81% less than the target of 6 months). During the calendar year 2023 there were 900 inquests closed. 45 of which had been open for more than 12 months. As of 31 December 2023 there were 258 open Inquests of which 82 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
2023	240

In 2023, 240 cases resulted in Out of England forms being issued, representing 5% of all deaths reported to the Coroner, higher than the national average of 1%.

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
2023	17	19

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 Coroner's Investigators, 3 Coroner's Support Officers and 11. 33 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 post mortem work. During winter pressures, post mortem examinations took longer than the services normal time frames. The national lack of pathologists has been raised with both the Ministry of Justice and Department of Health and Social care. There is currently no clear identifiable solution to this problem.

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 court is very busy with all 3 courts in use on occasion and the 2 larger courts in regular use concurrently. There are ongoing issues with regards to the building infrastructure, which include leaks from the roof and issues with the heating and ventilation systems which are currently being worked on

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	“	
2023	1872	“	“

The number of Post Mortems being carried out increased again in 2023 reflecting the increase in complicated referrals and the percentage of referrals that required a post-mortem to establish the cause of death. 51% (1002) of post mortems were standard, 49% were non standard requiring special skills such as 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. This pilot was extended further during covid and subsequently extended to the 30th September 2023 for an increased number of 500 cases. A Single negotiated agreement with the provider was reached to send up to 300 cases to the end of September 24 and we currently have a live Tender in process for the contract going forward for 2 years from October 24.

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, which increased to 213 in the calendar year 2022 and increased further to 241 during 2023.

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 summer 2024.

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.

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 was 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) was completed in 2023.

Phase two - will involve the ability to make online applications and payments – enabling customers to track the progress of their application online. Phase two was anticipated to go live by Autumn but has hit difficulties in ensuring the system works for all application types. However, online payments for Licensing Act 2003 and Gambling Act 2005 annual fees did successfully go live at the end of 2023.

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 2023 until 31st March 2024 can be broken down as follows:

FUNCTION	LICENCE TYPE	NUMBER ISSUED
Licensing Act	Premises New	154
	Variation	40
	Variation DPS	400
	Transfer	170
	Provisional	0
	TENs	867
	Personals	396
	Minor Variation	77
	Club Premises New	1
	Club Premises Variation	0
Gambling Act	Club Premises Minor Variation	0
	Premises New	1
	Premises Transfer	3
	Premises Re-Instatement	0
	Premises Variation	2
	Premises Change Notification	5
	Gaming Machines Alcohol New	1
	Gaming Machines Alcohol Transfer	2
	Gaming Machines Alcohol Variation	11
	Gaming Machines Alcohol Notification	11
	Prize Gaming Permit	0
	Gaming Machines Club Fast Track Conv.	0
	Gaming Machines Club New	0
	Unlicensed Family Entertainment Centre New	1
	Provisional Licence	0
	TUNs	0
	OUNs	1
Societies Lotteries New	27	

Sex Establishments		
Sex Shop/Cinema	Grant	0
	Renewal	4
	Transfer	0
	Variation	0
Sexual Entertainment Venue	Grant	0
	Renewal	7
	Transfer	0
	Variation	0
	Minor Variation	0
Massage & Special Treatments	Grant	36
	Renewal	56
	Variation (Additional Treatments)	0
	Transfer	0
Street Collections	Grant	78
House to House Collections	Grant	33
Skin Piercers	Grant	240
Scrap Metal - Collectors	Grant	4
	Renewal	5
Scrap Metal – Sites	Grant	10
	New Site Manager	0
	Renewal	12
	Minor Variation	0
Total for year		2655

A further 345 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 2023 until 31st March 2024.

Hackney Carriage and Private Hire Licensing

The Hackney Carriage and Private Hire Licensing Team issued 9,142 licences during 2023/2024, and conducted a further 809 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 2024 the number was 147 (compared to 110 on 31 March 2023).

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 2023/2024:

- A driver was prosecuted for having no insurance following a report of a road traffic accident he was involved in.
- Seven cases of illegal street trading were finalised with fines totalling £8,200 and costs awarded of £7,575.

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 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 2023 to 31 March 2024, the team dealt with 3,114 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, 418 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 2023/24 by type:

- Complaint Inspection – 2
- GA05 Inspection – 36
- LA03 Inspection – 8
- Licensing Compliance – 200
- Licensing Enforcement Inspection – 129
- Licensing Initial Inspection – 3
- Private Hire Operator Inspection – 2
- Scrap Metal Collector – 10
- Scrap Metal Inspection – 8
- Scrap Metal Site – 15
- Sex Establishment Inspection – 7
- Vehicle Inspection – 259
- Total – 679

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 our dedicated police officer.

Prosecutions

Numbers of Cases

In 2022/2023 Licensing Officers submitted prosecution reports against 20 defendants and administered 100 simple cautions. During the same period 17 prosecution cases were finalised at Court.

Costs and Fines

Fines totalling £12,493 were imposed and costs of £14,847 were awarded to the City Council.

LEGISLATION	CASES	OFFENCES	FINES	COSTS AWARDED	OTHER
Equality Act 2010	2	2	£650	£2,448	
Local Government (Miscellaneous Provisions) Act 1982 Schedule 10(1)(b)	7	29	£8,200	£7,575	

Town Police Clauses Act 1847/Road Traffic Act 1988/LGMP76	5	11	£2,434	£3,889	21 penalty points, 6 month disqualification and £50 compensation.
Local Government (Miscellaneous Provisions) Act 1976 S50	1	1	£166	£185	
Road Traffic Act 1988	1	3	£513	£500	12 penalty points + 6 month disqualification
Fraud Act 2006 Sections 1 & 2 (includes 1 x LGMP s50 & 3 x LGMP Sec 46)	1	6	£530	£250	
TOTALS	17	52	£12,49	£14,847	

Work of the Licensing Sub-Committees

Sub Committees considered 80 applications:

Grant of Licence	26
Variation	3
Temporary Event Notice (TEN)	5
Personal	2
Expedited Review	12
Interim steps	19
Review	8
Transfer	1
DPS Variation	1
Simultaneous Transfer & DPS	1
SEV renewal	2

Hackney carriage and private hire matters have been delegated to a senior officer since 2020. In 2023/24 331 matters were determined.

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 2023/24 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 2023-March 2024

Outcome	Magistrates' Court	Crown Court	Total
Dismissed	1		1
Allowed	0		0
Allowed in part	0		0

Withdrawn pre- or at Court	2		2
Other	3 x Consent Order 2 x adjourned 5x not yet heard		10
TOTAL	13		13

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 2023/2024 we had 46 successful street trading applications, the location breakdown of the approved traders is

7 City Centre locations
13 Football Stadia
26 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. A total of seven prosecutions were finalised in court this year and these prosecution numbers and fines awarded are included with the Licensing enforcement figures above. In addition, a further four files have been submitted to our legal team for consideration and two appeals against conviction were found in our favour at Crown Court.

Birmingham City Council hosted England Illegal Money Lending Team

37 warrants were executed in 33 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 £95,100 and legal proceedings have been initiated against 18 individuals.

There were 867 victims provided with support in 2023-24, the majority for emotional support and safety advice. There were also referrals to credit unions, housing, debt advice and mental health services. The team dealt with £1,076,977 of new victim debt during the year.

The team have trained over 23,500 frontline staff, with significantly more being face to face than in previous years since the pandemic. Bespoke training for the debt advice sector has resulted in a 650% increase in intelligence from that sector in 2023-4. The focus of the training is now shifting to utility companies.

LIAISE delivered a round table event with the West Midlands Police and Crime Commissioner. Representatives from organisations across the region came together to hear about the work of the team, and credit unions, and work on developing an action plan to tackle illegal lending in the area. This is being rolled out with the Police and Crime Commissioner.

A Birmingham-based bus company AJF have put Stop Loan Sharks vinyls on the sides of their buses in Birmingham and Manchester and did a flyer drop in the local area. They have undertaken staff training as well, to help identify victims who may use their services.

LIAISE have been working with West Midlands Police Economic crime unit and their training department to run training sessions for new recruits - around 200+ at present.

Research into IMLT's credit union incentives (where people receive £25 from proceeds of crime funding when they save £25 or more with a credit union) has shown the scheme to be very effective. Over 1200 joined the credit union under the scheme, saving an average of £200 each after 12 months which would give them a level of financial resilience. Around 1 in 5 went on to take out loans, with over 95% of these being paid off in full or on track.

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 tenants 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 2023/24 the team dealt with circa 1328 enquiries from tenants seeking advice following issues with their landlord. They were able to assist by providing information and support without creating cases.

In addition, officers investigated 467 complaints of harassment, threats of illegal eviction, and unfair rent increase challenges.

The majority of the cases were for threatened evictions with over 200 cases managed to conclusion with the evictions being prevented. There were nearly as many cases giving possession advice at 176.

The changes in interest rates and the cost of living crisis led to the team supporting more than 70 tenants to challenge excessive and unjust rent increases through the Property Tribunal; this included where landlords were trying to raise the rent with each interest rate rise (which is illegal) or by excessive amounts (higher than the local market rent). Unfortunately, the team have dealt with instances whereby landlords have attempted to evict tenants in order to rent out their properties at higher rents than the increases allow for.

The team have investigated over 50 claims of harassment; typically responding to claims that the landlord/agent has disconnected utilities to force tenants to leave. Usually, a call to the landlord from an officer with the threat of a potential criminal conviction for harassment is enough to see services quickly reconnected. On one occasion the landlord did not reinstate the electricity and gas supply, so the officer arranged for a 3-day temporary accommodation stay for the tenant and her family, and the Enforcement Team carried out Emergency Remedial Action for force entry and reinstate the supply. The Environmental Health Officer then carried out a Housing Health and Safety Rating Scheme assessment and issued the landlord with an Improvement Notice along with the bill for the work to reconnect the services and test for their safety.

The team were unsuccessful in preventing all threats of eviction, with 23 evictions taking place during the year.

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. In 2023/24 the team dealt with circa 14,000 mailbox enquiries and 18,000 telephone calls from tenants seeking help for disrepair, threats from their landlord and enquiries around property licensing.

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 2023/24 the team exceeded their KPI resulting in 501 cases being allocated to officers to ensure that properties were improved, and hazards removed.

The aim is to secure compliance through informal means if possible, however of the cases the officers dealt with, 61 were not resolved through advice, guidance and information action. As well as serving Housing Act 2004 Section 239 Notices to inspect on every case and re-visit, officers served 39 Improvement Notices for Category 1 Hazards present, 32 Improvement Notices for Category 2 Hazards, 5 Statutory Nuisance Abatement Notices under Section 80 of the Environmental Protection Act 1990, and 7 Section 16 Requests for Information. A further 4 properties were served with an Emergency Prohibition Order, which comes into force immediately that it is served because of an imminent risk to the health, safety and wellbeing of the occupants. These are extreme and emergency powers and can only be used in extenuating circumstances to prevent serious harm.

We also issued a Civil Penalty Notice for £8,000 for the offence of failure to comply with an Improvement Notice. The penalty was not appealed.

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 claiming their homes are prejudicial to their health. The Officers 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. In 2023/24 the officer's inspected 276 properties resulting in the same number of draft nuisance orders, and they continue to provide City Housing and the council's Criminal Litigation team with detailed technical reports to defend the claims and to redress issues that they find.

The High-Risk High-Rise Fire Safety work – the Private Rented Sector (PRS) Fire Safety Team are actively involved in remediating life critical fire safety defects (cladding etc.) in private high-rise buildings. Successful outcomes are dependent on joint working and close collaboration with our key partners who include West Midlands Fire Service, DLUHC Local Regulator team, the Building Safety Regulator and Homes England. Self-remediation (by freeholders and/or developers) or forced remediation (BCC Housing Authority - PRS) is only achievable when intelligence is gathered on each building. Remediation is brought about by the Fire Safety team

using a graduated approach to enforcement which starts with informal negotiation, then finally formal action to ensure compliance.

The team also work with the national Joint Inspection Team (the JIT, funded by DLUHC and hosted by the Local Government Association) to ensure a robust and consistent approach to carry out remediation of the high-rise blocks post Grenfell. In 2023/24 the team inspected 3 blocks with the JIT which involved issuing 6 notices formally requesting information (more than 50 documents per notice), 924 notices of entry to inspect, property under the Housing Act 2004, 3 Improvement Notices, and circa 726 copies to interested persons (leasehold/freehold/mortgage company etc). Work is underway to ensure compliance and a programme of inspections has been set for 24/25.

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 202/24, the team issued 597 licences and conducted 364 compliance visits. The team had two KPIs and the table below shows how the team has met those KPIs for 2023/2024.

No.	KPI	2023/2024 Target	2023/2024 Actual
1	Percentage of HMO licences issued within adopted standard (56 days of receiving valid application)	86%	91%
2	Number of completed inspections for licensable Mandatory Houses in Multiple Occupation (HMO)	350	364

2023/2024 KPIs for HMO Licensing Team

When inspecting HMOs, officers ensure that landlords and or managing agents are complying with their responsibility under HMO management regulations. They also check for disrepair issues under the Housing Health and Safety Rating System (HHSRS). Any disrepair that is classed as a category one hazard under the rating

scheme the landlords are issued with an improvement notice requiring them to complete the repairs. Failure to comply with the licence will lead to enforcement action being taken. Of the 364 HMOs inspected last year 41 were found to have at least one category 1 hazard. All landlords complied with the notices to bring their properties up to standard.

The team collaborates with the police and fire service to ensure the safety of residents in HMOs and help tackle rogue landlords.

The Empty Properties Team works to achieve the objectives set out in the current Empty Property Strategy 2019 – 2024. One of the objectives is to bring 350 properties back into use. The table below show the number of properties that the Team has brought back into use.

Year	Target	Actual
2019/2020	350	352
2020/2021	263	306
2021/2022	263	267
2022/2023	300	196
2023/2024	350	369

Number of Properties Brought Back in to Use

During the five-year period, the Team engaged with owners' of 1998 properties. The five-year target was to bring 1,750 properties back into use. However, in 2020/21 to 2021/2022 the targets were reduced due to Covid-19. In 2022/2023 due to a vacancy in the team it wasn't possible to meet the target. Once back to full capacity the Team exceeded the target for 2023/2024.

In bringing empty homes back into use the team works with a variety of agencies.

Witton Lodge Community Housing Association is a social enterprise organisation to provide housing in the locality. We refer owners of empty properties located in the area to them. They will negotiate with the owners to buy their property and after refurbishment it will be rented to someone in housing need.

The team works interdepartmentally, has and continues to refer owners of empty properties to the Council's Accommodation Finding Team, which has resulted in the leasing of 20 properties that have been used as temporary accommodation for homeless households. Where owners want to dispose of their empty property, with their agreement a referral is made to the Council's Property Acquisition Team.

Each year the Team takes part in National Homes Week which promotes their work and further encourages members of the public to report empty properties to them.

In May 2023, the annual National Home Conference was held in Birmingham. Councillor Francis, Cabinet Member for Housing and Homelessness opened the conference. She emphasised the importance of the work on empty properties to help meet the Council's vision for Birmingham as a great city to live in and also to help with additional supply of much needed family accommodation.

She recognised that empty properties are a challenge for every local authority and confirmed the Council's commitment to enhancing our approach in this area by continuing to work and share experiences with other local authorities.

Bringing an empty property back into use is time consuming. Often cases can take more than five years to reach an outcome. Below are photos of properties that completion of the work to bring the empty property back into use happened in 2023/2024. They were subsequently submitted for the two awards at the National Empty Homes Conference. Both entries achieved highly commended in each category. Below are pictures of the entries.

Best Before and After Photograph Award

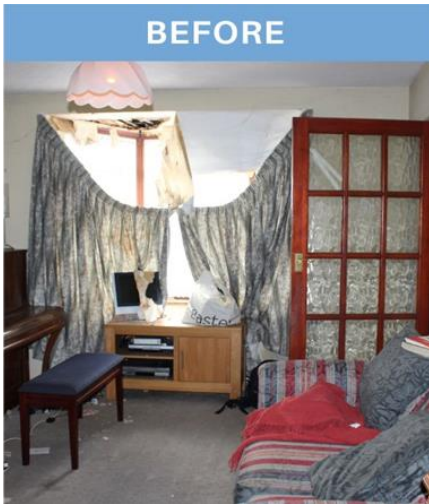


Before Picture



After Picture

Meeting the Challenge Award



Before Picture



After Picture

Private Rented Property Licensing

Property Licensing are responsible for delivering and regulating the 'Selective' and 'Additional' Property Licensing Schemes which became a legal requirement in Birmingham on the 5 June 2023.

The Selective Licensing Scheme is applicable to privately rented single household properties located in 25 wards of the City. The Wards were selected based on the percentage of rental properties, together with levels of crime and or deprivation. It is estimated that there are 54 000 licensable properties in these areas.

The Additional Licensing Scheme is active city wide and is applicable to private rented properties which house 3 or 4 residents from 2 or more households who share one or more amenity. These properties are often termed 'Small' Houses in Multiple Occupation (HMO's) and amount to approximately 8 000 properties city wide.

Both these schemes compliment the Mandatory HMO Licensing Scheme which has been a legal requirement nationwide since 2006 and which is managed by the Private Rented Sector Team in Birmingham.

Whilst all the schemes have similar outcomes, 'Selective' was set up to tackle crime and deprivation and the Additional Scheme to deal with anti-social behaviour (ASB) and waste / rubbish issues. However, the overall aim and role of the section is to improve the living conditions of tenants and reduce any impacts on the surrounding communities.

Between the start of the schemes and the 31 March 24 the section have received over 26 500 applications and have issued 20 194 draft and final licences.

Licence type	Applications	Draft / Final
Additional HMO Licenses	2337	1201
Selective Licenses	24 166	18 993
Total	26 503	20 194

During the extensive development and approval process of the schemes which started in 2020, including a public consultation, we have continued to promote the need for landlords to license their properties where required to do so. Prior to 31 March 24, there has been many articles in local newspapers and on associated webpages, together with several social media campaigns. In November, 450 000+ leaflets about the schemes were delivered to all residential and commercial properties in Birmingham.

In January 2024, compliance inspections began to those properties which have been issued with a licence. By March 2024, 21 of the 25 wards which are part of the 'Selective' scheme had been visited. Throughout the 5 years of the schemes wards will be repeatedly visited with the aim of inspecting a large proportion of the licensable properties in all wards. So far over 800 inspections have been completed, of these over 600 were found to be compliant. The remaining properties required additional interventions to bring them into compliance, many related to missing or defective smoke detection systems.

There has been a staged approach to the launch and delivery of the schemes, starting with the educational and promotion, this progressed to compliance activity at the start of the year and from March 2024 the team are starting to identify and take action against landlords who are operating unlicensed properties.

Landlords who are operating unlicensed properties risk being prosecuted or being fined up to £30 000. In addition, their tenant could apply to the court for a Rent Repayment Order, which would involve up to 12 months of rent being paid back to the tenant. Plus a landlord is unable to instigate Section 21 eviction proceedings unless their property is licensed.

As a result of these restrictions the team have been working closely with the Housing Options Team and have been able to prevent 260 illegal evictions. This has given the housing team more time to work with the landlord to keep the tenant in the property or find them more suitable alternative accommodation.

Edgbaston Reservoir Project

Following complaints from a local councillor regarding unlicensed rented properties in the Edgbaston Reservoir area, SMs, TLs, COs and TLs door knocked all the properties in the roads where tenure had not already been predetermined. This exercise determined that there were number of unlicensed properties. These landlords were written to and resulted in them applying for a license. Follow up action is being taken regarding those landlords who have not yet applied.

Birmingham City Council

Report to Licensing and Public Protection Committee

26 June 2024



Title:	FOOD LAW ENFORCEMENT PLAN 2024/2025
Lead Cabinet Portfolio:	Not applicable
Relevant Overview and Scrutiny Committee:	Not applicable
Report Author:	Mark Croxford, Head of Environmental Health City Operations, Environmental Health 0121 303 6350 mark.croxford@birmingham.gov.uk
Authorised by:	Sajeela Naseer, Director of Regulation and Enforcement City Operations Directorate
Is this a Key Decision?	Not applicable
If this is a Key Decision, is this decision listed on the Forward Plan?	Not applicable
Reason(s) why not included on the Forward Plan:	Not Applicable.
Is this a Late Report?	No
Reason(s) why Late:	Not Applicable.
Is this decision eligible for 'call in?'	No
If not eligible, please provide reason(s):	Not Applicable.
Wards:	All

Does this report contain exempt or confidential information?

No

Exempt Information

Not Applicable.

Confidential Information

Not Applicable.

Has this decision been included on the Notification of Intention to consider Matters in Private?

No

Reasons why not included on the notification:

Not Applicable.

1 EXECUTIVE 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 2024/2025 which is attached to this covering report includes a review of the food safety activity carried out in 2023/2024. This section is mandatory for all reports.

2 COMMISSIONERS' REVIEW

- 2.1 This section, as confirmed by the Lead Commissioner, is not required for reports submitted to Licensing and Public Protection Committee.

3 RECOMMENDATIONS

That the Committee:

- 3.1 Approve the Food Law Enforcement Plan.

4 KEY INFORMATION

Context

- 4.1 The Food Law Enforcement Plan sets out the City's commitment to Food Safety Enforcement for the year ahead.
- 4.2 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.
- 4.3 The plan includes the targets that were set for last year (2023/2024) and reviews performance against them.
- 4.4 The activities in this plan are a statutory requirement under Assimilated 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.
- 4.5 The plan detailed below is derived from the Statutory Codes of Practice. As a result, the details therein are what is legally required. There is therefore no alternative option that can be proposed to committee to consider. This statement is to demonstrate compliance with the Local Government Act 2000 to record all available options and the reasons for their acceptance/ rejection.

- 4.6 The plan identifies that we anticipate there being approx. 2,000 new registrations in 2024/25 and these should be inspected within 28 days, as required by the Statutory Code of Practice. This is putting an increased demand on the available inspectors. In response we are using agency inspectors and looking for other alternative solutions as a priority.

Proposal and Reasons for Recommendations

- 4.7 The purpose of the report is to publicly define the duty on the local authority to deliver our part of the food safety strategy for Birmingham. This is why the full programme is defined despite there being resourcing challenges. It is also the reason for there being no alternative proposals being put forward as it is a defined statutory work stream.

Other Options Considered

- 4.8 No alternative options are available.

5 RISK MANAGEMENT

- 5.1 The resourcing challenges have been identified. Extra funding has been made available for this work however recruitment is proving difficult. Outsourcing low risk inspections is actively being considered.

6 CONSULTATION

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

7 IMPACT AND IMPLICATIONS

Finance

- 7.1 Whilst the exact costs are difficult to forecast, these will not exceed the budget for the Environmental Health Service which is £4.8m. This is due to the significant number of vacancies in the service (20 posts).
- 7.2 Additional resources of £1.2m has been provided through the medium term financial plan to the service specifically to tackle the increased demand and to meet statutory minimum services within Environmental Health. However there is a national shortage of qualified officers.

Legal

- 7.3 Article 5 of EU Regulation 2017/625 provides that competent authorities shall have procedures and/or arrangements in place to ensure the effectiveness and appropriateness of official controls and other official activities.

- 7.4 The guidance issued by the Food Standards Agency (FSA) provides information on how service plans for official feed and food law controls should be structured and on what they should contain. Service plans will provide the basis on which local authorities will be monitored and audited by the FSA. Powers enabling the FSA to monitor and audit local authorities are contained in the Food Standards Act 1999 and in the Official Feed and Food Control Regulations.

Equalities

- 7.5 Equality issues are considered when carrying out food safety activities carried out by officers. All enforcement action is compliant with Regulation and Enforcement's Enforcement Policy which has been subjected to an Equality Impact Assessment.

Procurement

- 7.6 There is a procured contract for agency inspections.

People Services

- 7.7 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 the service is 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.

- 7.7.1 Environmental Health have taken on six new Environmental Health Officers in the last year and had two internal members of staff complete the Chartered Institute of Environmental Health's Pathway to Registration. Four of these officers are all at various stages of working through the Food Standards Agency Competency Framework to enable them to carry out food hygiene and standards related work. At this stage they cannot inspect higher risk premises but should be able to as the year progresses.

- 7.7.2 Currently the Environmental Health team is actively seeking to recruit 20 qualified EHO's. In addition, the service has 5 apprenticeship trainees who will qualify between 2025 and 2027 as it is a 4-year course). Environmental Health are also actively looking to recruit student Environmental Health Officers who have completed their training but need practical experience to gain the full qualification. The service has two members of staff expected to gain full qualification in 2024/2025.

7.7.3 There are 26.17 FTE Environmental Health Officers within the service, but this includes 1.8 FTE currently or due to be on Maternity Leave. 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.

7.7.4 Despite recruitment taking place in 2023/2024 the number of FTE has remained stagnant. However, under the medium-term financial plan Environmental Health has had an increase in budget of £1.6 million, from this money, we are looking to recruit a growth 16 officers plus fill 4 vacancies from organic changes, that being a total of 20 officers.

Corporate Parenting

7.8 There are no implications or opportunities in relation to the Corporate Parenting responsibility arising from the recommendations in this report.

Other

7.9 'There are no other implications arising from the recommendations in this report.

8 APPENDICES

8.1 The Food Law Enforcement Plan, is attached as an appendices to this report.

9 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 10,435 food premises including manufacturers, wholesalers, retailers, and caterers, ranging from small and medium sized businesses to major concerns and this includes 100 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 562 unrated inspections being carried out in 2023/2024. In addition, there has been, despite this work there are currently 2226 unrated food businesses requiring inspection and rating, this is an increase of 125 from 2101 last year and shows that despite the targeting of new businesses, the problem continues to remain. It has been determined that in excess of 21.33% 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. All 'near misses' and incidences of persons with food allergies and intolerances becoming ill after consuming food 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 six enforcement officers undertaking training to become EHO's. However, this is a 4-year course meaning two are scheduled to qualify in the summer of 2025, one in 2026 and three 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 2024/2025**

- 3.1 The priorities for ensuring food safety in Birmingham for 2024/2025 are to:
- Carry out a programme of food hygiene interventions for the year. Due to staffing levels, we are unlikely to achieve the overall number of 7791 inspections. This is due to the large number of overdue D rated inspections and the large number of overdue and expected new registrations.
 - 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, allergen incidents and pest complaints.
 - 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, 90.3% of rated food businesses in Birmingham are classed as 'broadly compliant', which leaves approximately 9.7% which are not, this figure includes 532 0-1 rated premises. It is worth noting, that at the time of the initial inspection, prior to paid FHRS rescore visits, these figures were 88.6% "broadly compliant" and 11.4% non-compliant with 609 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 and non-compliant D 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.

The remainder of the D and unrated premises: and application has been made to the Section 151 officer which has been approved to enable us to recruit and take on temporary contractors and agency works to undertake these inspections. It is anticipated that a number of these premises will include duplicate premises and businesses that have either closed or did not start up, we therefore expect the number of unrated and overdue D's to reduce significantly.

Category E premises will be subject to a self-assessment questionnaire by correspondence.

4.4 "New" Food standards inspections:

In July 2024 the Local Authority is expected to implement the Food Standards Delivery Model (FSDM). This may be delayed as the current Management Information System (MAPSS) being no longer supported and not capable of transferring to the new model, we are waiting on guidance from the Food Standards Agency.

The Food Standards Agency is increasing the priority of Food Standards inspections and introducing a new risk rating scheme which will mean a food premises will be expected to be inspected, for Food Standards alone, at intervals between one month and 10 years depending on the "Inherent Risk" and "Compliance Assessment". The longer time scales between inspections will likely be for those businesses that only handle pre-packed items that are manufactured within the UK. All businesses that handle open foods, importers, manufacturers, and distributors are likely to have intervals of between six months and 24 months, with one, three or six months being more likely inspection frequencies for non-compliant businesses.

Guidance from the Food Standards Agency on the implementation of the FSDM allows for Food Hygiene Inspections and Food Standards inspections to be carried out together even if one is not 'due' as per the inspection

programme. This will allow, in the majority of premises, for a continuation of how we have operated previously where Food Standards inspections have taken place during Food Hygiene inspections.

There will be a small number of premises that are deemed high risk for Food Standards that may require an inspection independently of their Food Hygiene inspections. The number will not be known until the data is transferred to the new risk rating and the impact will need to be assessed when this occurs.

Premises, that get rated the highest priority requiring a one- or three-month intervention. If these premises are the same as ones, we would do a revisit for serious non-compliance, then this may not cause an increased demand. However, until it is implemented it does appear that we could have a B rated premises for hygiene (yearly inspection required) and a Food Standards rating of 3 months and this would increase the inspection frequency to 4 times in the 12 months. We will have to monitor to see if this ever manifests itself in this way.

We will continue to focus on the highest risk areas of Food Standards whilst inspecting including labelling in manufacturing premises, imported food, provision of information likely to cause food allergies and intolerances and unauthorised claims.

The impact of the Food Standards Delivery Model will be monitored following the implementation.

4.5 The food hygiene and food standards interventions which are required during 2024/2025 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, 217 complaints were received each year from members of the public who are concerned about the food they have bought or eaten, this includes 43 incidences where a person with a food allergy or intolerance has reporting an incident or near miss with regards to the food they ordered. 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
- Asana Leisure Ltd - Restaurant Chain

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 £100,000 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 / importers / distributors, 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 serious complaints/outbreaks and 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. In 2023/2024 there have been 45 compositional samples and 62 microbiological food samples including 6 that covered participation in national survey. This is an increase in the number of samples carried out in previous years. The number planned for this year is not known at this stage and will be determined by capacity, outbreaks and complaints received.

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.

8.2 In the past year there has been active investigation into six outbreaks/potential outbreaks. There has, in addition, been active investigation in to two lead poisoning cases, two Tuberculosis cases, one infant Botulinum and one Cronobacter sakazakii case. These often involve a more in-depth level of officer investigation including where appropriate sampling of food, water or the home environment. It is not possible to predict in advance the impact of outbreak / infectious disease investigations and resources are required to be diverted as necessary which can impact on the delivery of this plan.

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 which, along with intelligence obtained by officers during their general duties, has resulted in 1845 premises removed from the food programmed in 2023/2024, however in the same period there were 1732 new businesses entered onto the database meaning a reduction of only 113 premises.

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 Frankfurt Christmas Market and Colmore Food Festival. In addition, officers work with the events team in advance of both these events and other smaller events to ensure that the food businesses are compliant. The demand in this area of work fluctuates depending on high-profile events occurring in the city within the year, however two large scale events have stopped providing food/relocated to another Local Authority, reducing some pressure on resources. Additional resources have not been identified to cover demand for events 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 2023/2024

Inspections and legal action

- 12.1 Appendices 1 and 2 give detailed information on the food safety work carried out during 2023/2024.
- 12.2 Some 2829 food hygiene inspections were carried out in between 1st April 2023 and 31st March 2024 and 1212 food standards inspections. In addition, 1845 premises were identified as ceased trading and removed from the programme. This represents 99.7% of the planned 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 100 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 2023/2024, 84 premises were found to present an imminent risk to health and were closed immediately until all necessary works were carried out. This is a small increase on last 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 (2829) it only represents 2.9% of premises which seriously failed to meet basic hygiene requirements and put their customers at risk.
- 12.6 38 premises were prosecuted for food hygiene and food labelling related offences with total fines amounting to £402,456.15 and costs recovered of over £71,589.06. Of particular note are: one business receiving a fine of £72,000, one business receiving a fine of £32,000 and an additional five businesses receiving fines of £20,000 or more. In addition 18 businesses received a simple caution. These are both increases on previous years and above the three 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 full sampling programme was not undertaken in 2023/2024 due to the demands on the service, whilst this is not a mandated requirement it has been referenced by the Food Standards Agency previously as a gap in Food Authority functions.
- 12.8 All sampling this year was in relation to the investigation of complaints and outbreaks, comprising 107 samples in total. Of the 62 microbiological samples, 10 (16%) were unsatisfactory and 5 (8%) were borderline. This is a lower failure rate than in previous years, this is due to the sampling this year widening to also include national surveys. A summary of results is not available for compositional sampling. All borderline/unsatisfactory 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 3 events and 2 largescale events were subjected to actual inspections. Over 55 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.

13. Trends

- 13.1 Although the trends over the last three years are shown in Appendix 3 they are still impacted by 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.
- 13.2 Appendix 3 therefore gives some statistical information showing the trends in some areas of food safety since 2018, subject to the above qualification. The number of food premises in Birmingham has shown a large increase (18% more than pre-covid levels) while interventions required has been fairly steady. The number of interventions carried out in 2023-2024, was 99.7% of the planned target.
- 13.3 The number of Emergency Prohibition Notices served has fluctuated but has increased in the last two years and is currently 78% higher than the 2018/2019 figure. The average has slightly increased to 71 served per year. The number served in 2018-2019 was significantly below this average, see appendix 3.
- 13.4 The number of Food Hygiene requests for assistance has continued to fall and is currently less than half of the 2018/2019 number.
- 13.5 The number of sporadic cases of infectious disease has remained high and increased from 2022/2023. 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 2023/2024 was carried out within existing budgets, except where indicated.

Essential food related work carried out in 2023/2024 and planned for 2024/2025

APPENDIX 1

Activity	No. required Apr 23 to Mar 2024	No. achieved Apr 23 to Mar 2024	Comments	No. required in 2024/2025														
<p>Food hygiene primary inspections, category</p> <p>A (High risk)</p> <p>B</p> <p>C (Medium risk)</p> <p>D (0-2)</p> <p>D (3-5)</p> <p>E (Low risk)</p> <p>Overdue A-C</p> <p>Overdue D</p> <p>Overdue E</p> <p>Unrated</p> <p>New Registrations</p> <p>Total</p>	<p>168*</p> <p>581</p> <p>744</p> <p>39</p> <p>0</p> <p>33</p> <p>8</p> <p>900</p> <p>2655</p> <p>600</p> <p>320</p> <p>6048</p>	<p>151</p> <p>523</p> <p>614</p> <p>39</p> <p>57</p> <p>8</p> <p>883</p> <p>562 (all unrated)</p> <p>2837 (plus 1845 removed from program)</p>	<p>Discrepancy in required and achieved for 2023/2024 is caused by those removed from the food program as they are no longer trading – 1845 in total:</p> <table border="1" data-bbox="974 510 1388 790"> <thead> <tr> <th>Risk Rating</th> <th>Number removed</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>10</td> </tr> <tr> <td>B</td> <td>90</td> </tr> <tr> <td>C</td> <td>257</td> </tr> <tr> <td>D</td> <td>439</td> </tr> <tr> <td>E</td> <td>150</td> </tr> <tr> <td>Unrated</td> <td>899</td> </tr> </tbody> </table> <p>The interventions required in 2024/2025 are shown in the next column. Unlike 2023/2024 the interventions planned for 2024/2025 include all of the due and overdue inspections in the food programme. The category E premises are subject to interventions as detailed in the report.</p> <p>*A's are due every six months so the figure for October to March is estimated. Any A's inspected in the first 6 months that become a B or lower will no longer require an inspection in the second 6 months of the year.</p> <p>New registrations is an estimated figure based on 2023/2024</p>	Risk Rating	Number removed	A	10	B	90	C	257	D	439	E	150	Unrated	899	<p>187*</p> <p>511</p> <p>1128</p> <p>85</p> <p>620</p> <p>240</p> <p>8</p> <p>1053</p> <p>21</p> <p>2226</p> <p>1719*</p> <p>7798</p>
Risk Rating	Number removed																	
A	10																	
B	90																	
C	257																	
D	439																	
E	150																	
Unrated	899																	

Activity	No. required Apr 23 to Mar 2024	No. achieved Apr 23 to Mar 2024	Comments	No. required in 2024/2025
Food standards primary inspections	N/A	1212	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. Priority will be allergen information, date coding, labelling and manufacturing premises as these contribute to the highest risk. From July 2024 the Local Authority needs to implement the Food Standards Delivery Model previously discussed.	4616

Activity	No. planned/ expected 2023/2024	No. achieved 2023/2024	Comments	No. planned or expected in 2024/2025 (based on preceding year)
Requests for assistance: Food hygiene/ Food standards/ complaints TOTAL	1294 (FH) 217 (FS)	1191 (FH) 274 (FS)	These are not targets but expected figures – the numbers depend on the demand made by consumers and traders	1200 (FH) 250 (FS)
Infection control: Sporadic cases Outbreaks	1234 (sporadic) 6 (outbreak)	1236 (sporadic) 7 (outbreaks)	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.	1230 (sporadic) 6 (outbreaks)
National food alerts: Food Alerts Allergy Alerts TOTAL	60 (FA) 80 (AA)	65 (FA) 62 (AA)	The numbers depend on alerts issued by the Food Standards Agency	65 (FA) 62 (AA)
Food and water sampling	Not set	107 Food Samples. 114 Water Samples	More details are given in section 12.	100 Food Samples 100 Water Samples
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 2023/2024 and planned for 2024/2025

APPENDIX 2

Topic	Activity in 2023/2024	Planned for 2024/2025 including resources implication (officers days)
Hygiene scores on the web	There are now 10148 food premises featured on the website, and stickers are issued to all food premises following a programmed inspection or paid rescore visit. 289 Premises applied for a paid rescore visit following their primary inspection.	Charging for revisits was launched in April 2017 as agreed by Committee. The charge has increased to £275. The number of paid food hygiene rescore visits impacts on the resources available to carry out this plan. It is not inspected that the number would decrease in 2024/2025 (96 days per year).
Outdoor events	Two officers has been assigned to liaise with Leisure Services on events such as the German Market and the Colmore Food Festival and to provide advice to mobile traders attending these and other events.	As for 2024/2025, it is hoped that this resource will be sufficient for administrative assistance, with additional resource deployed for inspecting at events as required. (14 days a year)
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. (225 days a year)
Meetings at national level and consultation documents: FSA, LGA	Meetings have been attended as required, and consultation documents commented on.	As necessary subject to available resources
Liaison meetings: Water Authorities & CCDC's	Meetings have been attended as required.	As necessary subject to available resources
Food Fraud	Investigation of complaints referred from the FSA.	As necessary 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. (8 days a year). Time increases if/when a problem occurs.

Food Safety related statistics 2017/2023

Activity	2018/19	2019/20	2020/21	2021/22	2022/23	2023/2024	3 year average
Total number of food premises in Birmingham	8842		OMITTED DUE TO COVID		11131	10,435	10,136
Programmed/ Primary Food hygiene inspections carried out	3809				3316	2829	3317
Food Standards inspections carried out	1296				3316	1212	1941
Emergency Prohibition Notices served	47				81	84	71
Food safety prosecutions completed at court	29				26	38	34
Food hygiene RFA's dealt with	3106				1414	1294	1938
Food complaints RFA's dealt with	700				165	217	360
Sporadic infectious disease cases investigated	1344				1057	1234	1212
Outbreaks investigated	1				4	6	4
Food alerts received	177				139	127	148

Birmingham City Council

Report to Licensing and Public Protection Committee

26 June 2024



Title:	HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2024/2025 (HSLEP)
Lead Cabinet Portfolio:	Not Applicable
Relevant Overview and Scrutiny Committee:	Not Applicable
Report Author:	Gary James, Operations Manager, Health & Safety Lead City Operations Directorate 07766 924996 gary.g.james@birmingham.gov.uk
Authorised by:	Sajeela Naseer, Director Regulation & Enforcement City Operations Directorate
Is this a Key Decision?	Not Applicable
If this is a Key Decision, is this decision listed on the Forward Plan?	Not Applicable
Reason(s) why not included on the Forward Plan:	Not Applicable
Is this a Late Report?	No
Reason(s) why Late:	Not Applicable
Is this decision eligible for 'call in?'	Not Applicable
If not eligible, please provide reason(s):	Not Applicable
Wards:	All

Does this report contain exempt or confidential information?	No
Has this decision been included on the Notification of Intention to consider Matters in Private?	Not Applicable
Reasons why not included on the Notification:	Not Applicable

1 EXECUTIVE SUMMARY

The Health and Safety Executive's National Local Authority Enforcement Code introduced in May 2013, provides direction to local authorities on meeting requirements in respect of health and safety inspections and enforcement activity. The Code recommends that Local Authority's should have a clear and easily accessible enforcement policy hence an annual Health and Safety Law Enforcement Plan (HSLEP).

This requirement is part of section 18(4) of the Health and Safety at Work etc. Act 1974 (HASWA)

This report sets out Birmingham's HSLEP to detail the Health and Safety work programme for 2024 – 2025 to comply with the above.

2 COMMISSIONERS' REVIEW

This section, as confirmed by the Lead Commissioner, is not required for reports submitted to Licensing and Public Protection Committee

3 RECOMMENDATIONS

That the Committee:

Note the report and approve the Health and Safety Law Enforcement Plan for 2024/25.

4 KEY INFORMATION

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.

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 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.

To meet these requirements of the current *National Local Authority Enforcement Code*, the City Council has a duty to:

- 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.

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.

The 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.

The implementation of the HSLEP identifies the minimum statutory programme that is required and the existing budget allows for this work to be delivered. There is however, a high level of vacancies within the Environmental Health team, (20 FTEs) and due to difficulty in recruiting qualified EHOs this work is unlikely to be completed. Category 1 accidents and serious Category 2 will be prioritised. These posts are funded.

Due to a national shortage of Environmental Health Officers, there is not sufficient interest from suitably experienced officers wishing to work in Birmingham. As a direct result it is likely that only newly qualified officers are attracted as Birmingham is second to none for gaining experience. This does however put a greater strain on existing staff as experience is required before tackling the serious Cat 2 or Cat 1 accidents and we are not undertaking a wider programme to give that experience.

Currently the Environmental Health team is actively seeking to recruit 20 qualified EHO's. In addition, the service has 6 apprenticeship trainees who will qualify between 2025 and 2028 (as it is a 4-year course). The service is also actively seeking to recruit student Environmental Health Officers who have completed their training but need practical experience to gain the full qualification, two of which joined in November 2023.

Proposal and Reasons for Recommendations

It is proposed that the Health and Safety Law Enforcement Plan for 2024/25 is approved as it meets the statutory duty placed on the City Council under Section 18 of the Health and Safety at Work etc Act 1974 and the National Local Authority Enforcement Code.

5 RISK MANAGEMENT

Failure to approve a HSLEP could be considered that the City Council was not meeting its statutory duty under Section 18 of the Health and Safety at Work etc. Act 1974.

6 CONSULTATION

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.

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

7 IMPACT AND IMPLICATIONS

Finance

7.1 Whilst the exact costs are difficult to forecast, these will not exceed the budget for the Environmental Health Service which is £4.8m. This is due to the significant number of vacancies in the service (20 posts).

7.2 Legal

7.2.1 The Health and Safety at Work etc. Act 1974 provides that it shall be the duty of every local authority to make adequate arrangements for the enforcement within their area of relevant statutory provisions in respect of which they are made responsible for enforcement and to perform the duties imposed on them in accordance with guidance from the HSE (Section 18 (4))

7.2.2 The National Local Authority Enforcement Code Health and Safety at Work provides direction to local authorities on meeting relevant requirements and reporting on compliance. The Code is given legal effect as guidance to Local Authorities under section 18 (4) of HASWA .

7.2.3 The Code provides that local authorities should have risk-based intervention plans focussed on tackling specific risks and that a clear and easily accessible enforcement policy will achieve transparency.

7.2.4 To provide assurance that the requirements of the Code are met HSE will put in place arrangements to monitor local authority performance.

7.3 Equalities

7.3.1 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.

7.4 **Procurement**
Not applicable

7.5 People Services

There are no implications or opportunities in relation to the Corporate Parenting responsibility arising from the recommendations in this report.

7.6 Corporate Parenting

There are no implications or opportunities in relation to the Corporate Parenting responsibility arising from the recommendations in this report.

7.7 Other

There are no other implications arising from the recommendations in this report

8 APPENDICES

Appendix 1 HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2024/2025

9. BACKGROUND PAPERS

Below are a list of documents which provides reference for this report

- Health and Safety at Work etc. Act 1974
- National Local Authority Enforcement Code
- Health and Safety Executive's (HSE) Strategy, Helping Great Britain work well 2016
- Löfstedt review Reclaiming health and safety for all: An independent review of health and safety regulation.
- Local Authority Circular 67/2 (revision 13)
- The Health and Safety (Enforcing Authority) Regulations 1998

HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2024/2025

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 Introduction

2.0 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).

2.1 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".

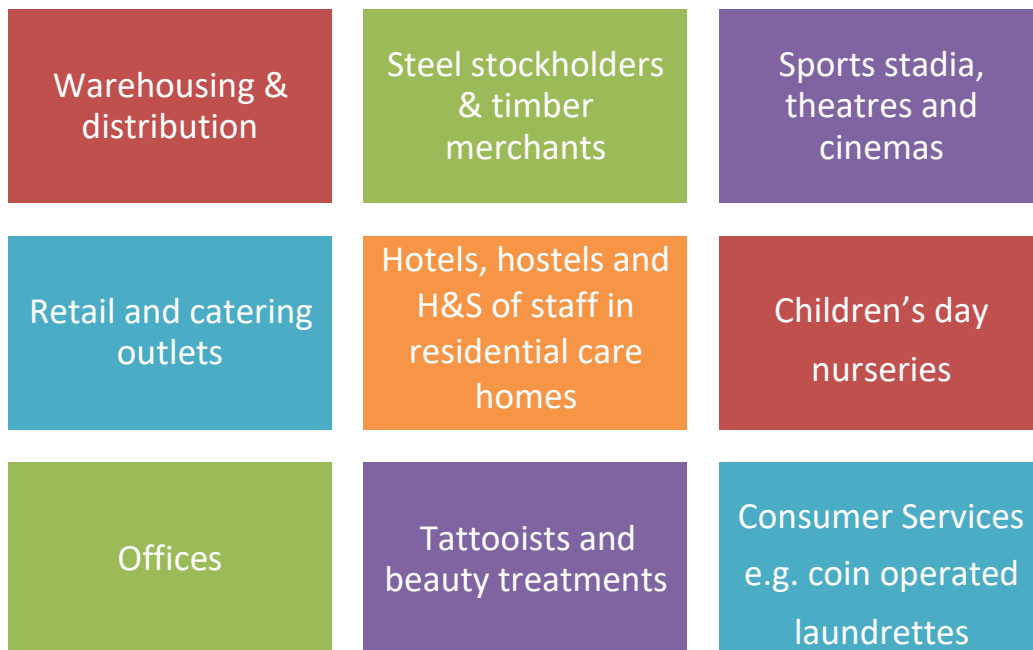
2.2 One of the key elements of the Code is that local authorities must, annually, publish their HSLEP. This HSLEP sets out the arrangements to demonstrate how we will comply with Section 18 of HASWA and, outlines the work programme for the forthcoming financial year.

Appendix 1

- 2.3** 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 13) and takes into account local health and safety priorities which are based on local intelligence mainly generated through incidents / accidents received.

3 The Scope of the Health and Safety Service

- 3.1** 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:



- 3.2** 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.

3.3 Our approach to regulation is in line with the HSE’s and our Enforcement Policy, 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).

4 Primary Authority Partnership (PAP)

4.1 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.

4.2 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.

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

4.4 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

John Lewis Partnership PLC

- partnership covers John Lewis and Waitrose stores and distribution centres.

Claire's Accessories

- Our partnership applies to Claire's Accessories retail stores.

Gala Bingo Limited

- Officer provide support to the business in relation to their bingo centres nationally.

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

5 Priorities for 2024/25

5.1 Whilst trying to recruit, the 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:

HEALTH AND SAFETY INTERVENTION PLAN FOR 2024/2025

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 300 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	10 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 220 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 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	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

Appendix 1

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 several 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	100% inspected
Reduce the risk of Carbon monoxide poisoning within commercial catering premises using solid fuel cooking equipment.	Carry out investigation of control measures in place within premises where solid fuel is used as a cooking method to reduce the risks of Carbon monoxide poisoning to staff and members of the public including residents of adjacent flats.	40 visits	100% Investigated
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	4 visits	100% inspected
Reduce the risk explosion and fire due poorly installed or maintained gas systems within catering premises.	Carry out proactive inspection of mains and LPG gas installations within catering premises during food hygiene inspections to ensure appropriate systems are maintained	100	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, 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% to be visited	100% of those requiring visits will be investigated

Appendix 1

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
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Birmingham City Council
Report to Licensing and Public Protection
Committee

26 JUNE 2024



Title:	UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS
Lead Cabinet Portfolio:	Not Applicable
Relevant Overview and Scrutiny Committee:	Not Applicable
Report Author:	Mark Wolstencroft, Operations Manager Environmental Protection City Operations Directorate 07766 924993 Mark.wolstencroft@birmingham.gov.uk
Authorised by:	Sajeela Naseer, Director Regulation & Enforcement City Operations Directorate
Is this a Key Decision?	Not Applicable
If this is a Key Decision, is this decision listed on the Forward Plan?	Not Applicable
Reason(s) why not included on the Forward Plan:	Not Applicable
Is this a Late Report?	No
Reason(s) why Late:	Not Applicable
Is this decision eligible for 'call in?'	Not Applicable
If not eligible, please provide reason(s):	Not Applicable

Wards: All

Does this report contain exempt or confidential information? No

Has this decision been included on the Notification of Intention to consider Matters in Private? Not Applicable

Reasons why not included on the Notification: Not Applicable

1 EXECUTIVE 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 13 March 2024
- 1.2 This report comprises input from Environmental Health (site repossession), Planning (planning policy and site identification) and Housing (site development and management).

2 COMMISSIONERS' REVIEW

- 2.1 This section, as confirmed by the Lead Commissioner, is not required for reports submitted to Licensing and Public Protection Committee.

3 RECOMMENDATIONS

That the Committee:

- 3.1 Note the report.

4 KEY INFORMATION

Context

- 4.1 This report is an update on activities since the last report to your Committee on 13 March 2024.
- 4.2 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.
- 4.3 The strategy employed by the City Council to manage unauthorised encampments is contained within a Memorandum of Understanding between the City Council and West Midland 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.
- 4.4 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.

- 4.5 Birmingham City Council presently has one developed transit site at Proctor Street affording space for 12 caravans, this having been reduced from 15 recently following an updated Fire Risk Assessment, 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 but requires formalising of the occupancy of the current occupants.
- 4.6 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 within Environmental Health to focus on recovery of land.

Site Provision Update

- 4.7 In order to identify the future need for both permanent and transit pitches, a revised Gypsy and Traveller Accommodation Needs Assessment (GTANA) has been carried out by RRR Consultancy to assess current needs (2023-2028) and future needs (2028-2042). The GTANA recommends requirements for site provision for permanent and transit GRT pitches over the coming years to guide planning and housing policy decisions going forward.
- 4.8 In terms of transit provision, the GTANA recommends that, as well as maintaining the existing transit site at Proctor Street, that the local authority adopts a negotiated stopping policy. This is land temporarily used as authorised short-term stopping places, particularly when Proctor Street is not available or is unsuitable. The requirements for such stopping places reflect the fact that the site will only be used for a proportion of the year and that individual households will normally only stay on the agreed location for a few days. Amenities such as portable toilets and wheelie bins should ideally be made available for the duration of the agreed period.
- 4.9 The Consultants have experience of carrying out similar assessments in local authority areas throughout the country over a number of years and have built up a relationship with representatives of GRT communities across all regions through this work. From this contact and experience, they have concluded that negotiated stopping is a balanced and flexible approach which is favoured by, and results in a reduced social cost to GRT communities themselves. This has also been substantiated by research carried out in Greater London and Leeds and has been successful in those areas, favoured both by local authorities and the GRT community alike.

- 4.10 Other recommendations made in the GTANA for the City Council to consider in terms of other provision include:
- Liaising with occupiers of existing underused sites to see how the expansion / extension of such sites can help meet future accommodation needs.
 - Working with existing GRT communities and their representatives to help them identify permanent sites and investigating alternative methods of bringing them forward such as a community land trusts, shared ownership, local authority rental.
 - Considering alternative site funding mechanisms such as site acquisition funds, loans for private site provision through Community Development Financial Institutions and joint ventures with members of the different community groups.
 - Continue to liaise with relevant enforcement agencies including the police to develop a common approach to dealing with unauthorised encampments including negotiated stopping.
 - Better sharing of information between agencies in relation to GRT communities.
 - Continuing to provide a holistic vision for GRT community groups within the City Council's Community and Homelessness Strategies.
- 4.11 To ensure that these recommendations are being duly considered and implemented, as well as consideration of the wider needs of GRT communities, officers have set up a fortnightly GRT Strategy and Operational working group. Chaired by the Housing Directorate and made up of housing, planning and environmental health officers, this group will be a vehicle to oversee existing transit and permanent GRT sites; liaise with occupiers of existing sites to establish future need; help set up the corporate procedures and protocols for negotiated stopping (including putting together a rolling programme of sites); liaise with relevant enforcement agencies and share information and; establish better communication with representatives of the GRT community to identify future needs and ways in which additional sites can be brought forward.

Transit Site Update

- 4.12 Proctor Street transit site became operational on 1st November 2020 but, following significant damage and vandalism, in January 2023 the site was forced to be closed to undergo substantial repairs. Due to the level of damage to both the welfare unit and electrical feeder pillar, coupled with unforeseen complications with the electrical supply, lengthy contractor response times and new spend control processes, repairs have taken longer than anticipated. Repairs are now nearing completion with mobilisation works now being instructed. It is anticipated that all required works to render the site ready to open will be completed before the end of May.

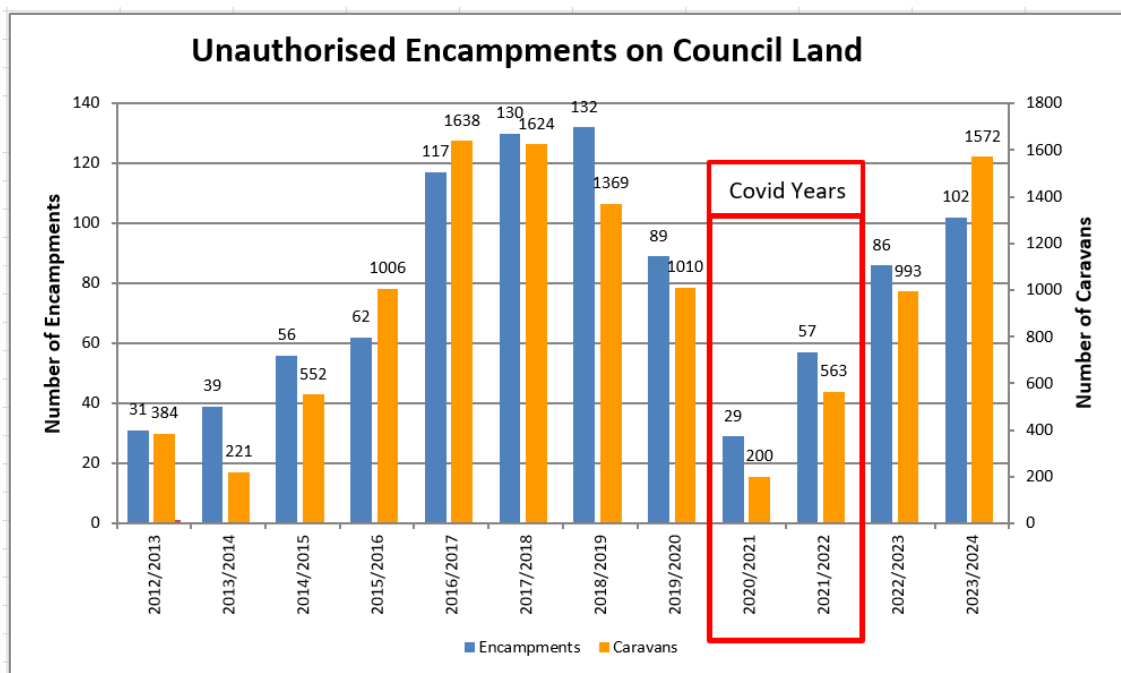
- 4.13 There has been a further delay caused by an unauthorised encampment gaining access to the site in mid-April however an eviction took place on 26 April. Since the eviction, there has been an issue with fly-tipping due to the site being left unsecured; an order has been raised by Housing Management for the removal of this fly-tipping ahead of the site opening.
- 4.14 Positive progress has been made in developing processes for the operational management of Proctor Street. A full risk assessment has highlighted several concerns and these are being addressed. As confirmed at paragraph 3.5, a fire risk assessment has identified a need to reduce the number of pitches from 15 to 12 in line with revised safety guidance post-Grenfell; revised pitch markings have been installed as part of the remedial works to ensure compliance. Draft occupancy agreements have been drawn up.
- 4.15 Operational arrangements have been made for the collection of pitch fees at Proctor Street via the Ringgo app; this will alleviate the need for officers to attend the site to take cash payments.
- 4.16 Due to the revised fire safety regulations post-Grenfell, the viability of the Aston Brook Street transit site has been reviewed. It is likely that this site will be suitable for a maximum of two pitches under the revised regulations and this reduction in provision, coupled with the likely cost of works required to bring the site into use means that it is not viable to use this site going forward. Exploratory works have commenced on a planned disposal of this land either to Midland Heart (who own the adjacent housing estate) for affordable housing, or via auction on the open market.
- 4.17 The transit site at Tameside Drive has been problematic for several years, due to issues in gaining access. This was in the main due to a breakdown in the relationship between the long-term occupants of the site and the Council. In recent months, significant progress has been made in re-building this relationship and in gaining access to the site to carry out inspections and assess the scale of works required to bring the site back into use. The current occupants have indicated a willingness to sign occupancy agreements and adhere to the terms of occupation, and the condition of the welfare blocks has been inspected with orders raised by Housing Management for remedial works to enable the works to be carried out. A site visit by the Council's contractors is planned 14 June 2024 to continue with the planned maintenance and fire precautions programme.

4.18 There is a plot of land adjacent to the Tameside Drive site that is currently owned by Education but has been unused for around 50 years since the demolition of a school. Enquiries have been made around this plot and Education have indicated that they are willing to dispose of the land to City Housing; works have commenced on gaining a valuation of the land and the necessary permissions to progress this proposal. If this land is obtained, the intention is to make this a permanent site for the current occupants of Tameside Drive and to then free up the entirety of the Tameside Drive site for transit purposes. In the alternative, work will continue to negotiate suitable arrangements with the current occupants to enable the existing site to be used for both permanent and transit purposes.

4.19 A business case has been drafted and is due for review by City Housing Directors to approve the budget requirement; this will then need to be submitted for approval by the S151 Board.

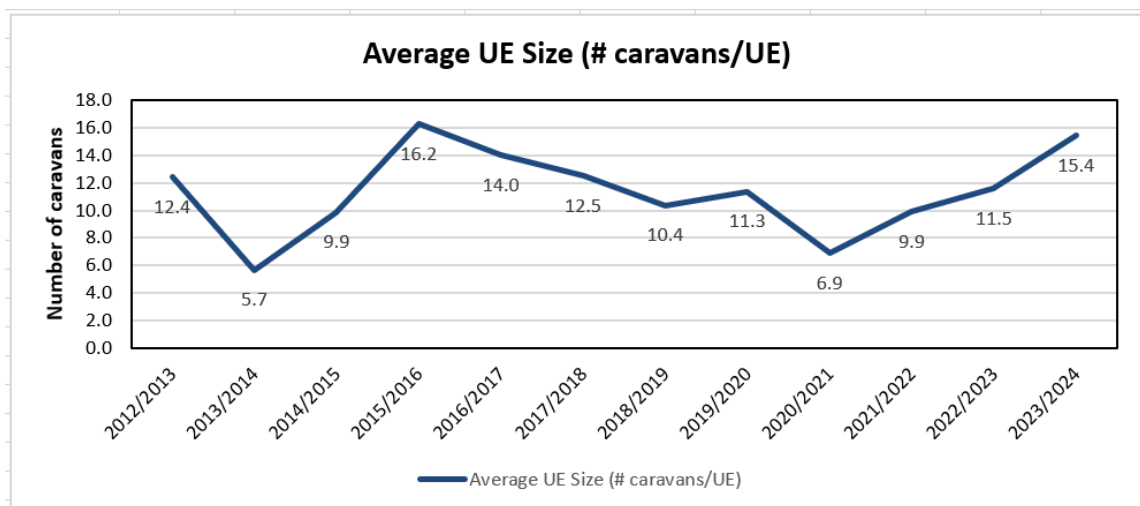
Unauthorised Encampments

4.20 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 2012/2013 with the final column showing data for 2023/2024 up to the end of March 2024.



4.21 Although the number of encampments on Council land has dropped in the years after the transit site opened in November 2019 it should be borne in mind that this also covers the period encapsulated by the pandemic and as such the circumstances have not been 'normal'.

- 4.22 The numbers of unauthorised encampments in 2022/23 is 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.
- 4.23 This unauthorised use of the Proctor Street Transit Site has led to increased pressure on 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.
- 4.24 During 2023/2024 the numbers of UE is the highest post the pandemic and is likely reflecting a continuance of the trend from 2016/17 to 2018/19 before the start of the pandemic. This increase exists even with what appears to be a drop in expected UE numbers in January through March likely due to the poor weather reducing site accessibility. The increasing numbers of UE was one of the reasons behind the establishment of the transit site and clearly shows the need for such a site(s) to afford the regulatory agencies the ability to better manage UE.
- 4.25 A point to note is that the number of caravans to UE suggests a slight shift to larger encampments either as larger single travelling groups or smaller groups combining when a UE is established. Analysis suggests more the latter. Although this has meant that officers have to deal with more ‘family heads’ on individual sites, there has been limited impact arising from this. Officers have also suggested that there has been less need for WMP support when accessing sites which is a good reflection of the competency of the officers involved and their developed relationships with the various family groups.



Strategic Management of Unauthorised Encampments

- 4.26 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’.

4.27 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.

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

GRT Strategy 2024+

4.29 The Council's current GRT Strategy is at 2019 edition. A new strategy will be produced for 2024 onwards, to reflect the current position in relation to provision of transit and permanent sites. Work on the strategy has been delayed until the outcome of the GTAA (as detailed at paragraphs 4.7- 4.11) is finalised.

4.30 Officers from Strategic Enabling have commenced work on benchmarking other LA strategies and have held initial meetings with the Travellers' Movement in relation to a critical friend role in the development of the strategy and in providing links to lived experience groups to provide insight to inform the strategy. Whilst the current strategy focuses solely on accommodation provision, there is a desire to develop a more holistic strategy that details the support and services available to travellers across a wider range of services such as Education and Health. It is hoped that the revised strategy will be brought to cabinet in late 2024.

5 IMPACT AND IMPLICATIONS

Finance

5.1 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. Presently there is a contract in place for the provision of enforcement agents from 01 September 2023 to 31 August 2024 for the value of £255,000. A new invitation to tender is presently out to market and expected to be completed for mobilisation in September. The Environmental Health resources employed in carrying out the work detailed in this report are contained within the approved budget available to your Committee.

5.2 The resources required for identifying and gaining strategic approval for the allocation of transit sites lies with colleagues within Planning Policy. The funds for commissioning the GTAA are contained within the approved local plan costs, whilst the day-to-day staffing costs are drawn from existing staff resources contained within approved revenue budgets.

- 5.3 The resources required for developing and managing transit site operations is the responsibility of the Housing Department. The resources to manage the transit site are presently drawn from existing staff resources although there is a recognised need for approved revenue to undertake this function; an application for dedicated staff resource and a contingency for maintenance and repair of the transit site to the value of £262,000 per annum has been submitted.

Legal

- 5.4 The Mobile Homes Act 1983 provides the legislative framework for the occupancy of GRT permanent and transit sites Part 1 Schedule 1 Chapter 3 and Chapter 4, including setting out implied terms of any occupancy agreement and the obligations and responsibilities of the Council as site owner and occupiers.
- 5.5 The Home Office has provided statutory guidance which should be considered when the taking action against unauthorised encampments including under the Criminal Justice and Public Order Act 1994 and the Anti social behaviour Crime and Policing ACT 2014.
- 5.6 Specific regard should be had to Article 14 of the European Convention on Human Rights (ECHR (the prohibition on discrimination) and Article 8 ECHR (the right to private life) and the possibility of unjustified discrimination against Gypsies and Travellers.
- 5.7 The Council has powers to hold and appropriate land under the Sections 120-122 of the Local Government Act, 1972. The general appropriation power is section 122(1) of the Local Government Act 1972 (the 1972 Act).
- 5.8 This states that Councils "may appropriate for any purpose for which the council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the council and is no longer required for the purpose for which it is held immediately before the appropriation ..."

Equalities

- 5.9 The management of unauthorised encampments comprises processes that affect groups and individuals who are (mostly) from specific and defined ethnic minorities e.g. Romany Gypsies, Irish Travelers.
- 5.10 The specific decision-making element e.g. commissioning a new "Gypsy & Traveller Accommodation Assessment" or reviewing the "Joint Protocol on Managing Unauthorised Encampments" will require an Equalities Assessment. This report is an informative report and contains no decision making aspect.

Procurement

5.11 Not applicable

People Services

5.12 There are no staffing implications arising from the recommendations in this report.

Corporate Parenting

5.13 There are no implications or opportunities in relation to the Corporate Parenting responsibility arising from the recommendations of this report.

Other

5.14 There are no other implications arising from the recommendations of this report.

6 APPENDICES

6.1 NIL

7 BACKGROUND PAPERS

7.1 NIL

Birmingham City Council



Report to Licensing and Public Protection Committee

26 June 2024

Title:	INCREASE IN STATUTORY CIVIL REGISTRATION FEES EFFECTIVE 28 MAY 2024
Lead Cabinet Portfolio:	Not applicable
Relevant Overview and Scrutiny Committee:	Not applicable
Report Author:	Bev Nash, Head of Bereavement and Registration Services City Operations Directorate Phone Number 0121 303 0138 Email Bev.Nash@birmingham.gov.uk
Authorised by:	Sajeela Naseer, Director of Regulation & Enforcement City Operations Directorate
Is this a Key Decision?	Not Applicable
If this is a Key Decision, is this decision listed on the Forward Plan?	Not Applicable
Reason(s) why not included on the Forward Plan:	Not Applicable
Is this a Late Report?	Not Applicable
Reason(s) why Late:	Not Applicable
Is this decision eligible for 'call in?'	Not Applicable
If not eligible, please provide reason(s):	Not Applicable
Wards:	All

Does this report contain exempt or confidential information?

No

Has this decision been included on the Notification of Intention to consider Matters in Private?

Not Applicable

Reasons why not included on the Notification:

Not Applicable

1 EXECUTIVE SUMMARY

- 1.1 This report provides an update to the Review of Licensing and Public Protection Fees and Charges 2024/25 report dated 17 January 2024 in relation to the fees and charges for civil registrations.

2 COMMISSIONERS' REVIEW

- 2.1 This section, as confirmed by the Lead Commissioner, is not required for reports submitted to Licensing and Public Protection Committee.

3 RECOMMENDATIONS

That the Committee:

- 3.1 Note the contents of this report which is for information only.

4 KEY INFORMATION

Context

- 4.1 There are a number of fees and charges applied by the Register Office that are governed by statute and were not reviewed in the report to the LPPC in January 2024
- 4.2 The General Register Office (GRO) has been conducting a review of statutory fees.
- 4.3 On 7th May 2024 the General Register Office issued a Circular to all civil registration Districts, to give notification that The Registration of Births, Deaths, Marriages and Civil Partnerships (Fees and Records) (Amendment) Regulations 2024 had been laid before Parliament and would come into force on 28th May 2024, (Appendix A).
- 4.4 The Regulations will increase several civil registration fees as set out in Appendix B - Circular Annex A, which lists the current fees and the new fees as of 28 May 2024.

5 IMPACT AND IMPLICATIONS

Finance

- 5.1 Using 2023-24 figures as a baseline it is estimated that the fee increases will generate approximately £160k additional income for the Service during 2024-25 from the equivalent range of statutory registration services.

5.2 With the opening of the new maternity and critical care units at the Midland Metropolitan University Hospital in Sandwell, expected to commence operating in November 2024, there is likely to be a reduction in the number of birth and death registrations by Birmingham Register Office. It is anticipated that the new hospital will manage around 800-900 deaths and approximately 3000 – 4000 births.

5.3 If this reduction in registrations does occur as predicted, then there is likely to be a reduction in income of around £80,000 per annum. Therefore, the net increase in income in a full year is only expected to be £120,000 for 2025/26 onwards.

Legal

5.4 The fees are statutory and are set by legislation so there is a legal requirement to implement them in accordance with the Registration of Births, Deaths, Marriages and Civil Partnerships (Fees and Records)(Amendment) Regulations 2024

Equalities

5.5 This is a statutory fee and there are no specific implications identified.

Procurement

5.6 Not applicable

People Services

5.7 Not applicable

Climate Change, Nature and Net Zero

5.8 Not applicable

Corporate Parenting

5.9 There are no implications or opportunities in relation to the Corporate Parenting responsibility arising from the recommendations in this report.

Other

5.10 There are no other implications arising from the recommendations in this report.

6 APPENDICES

6.1 Appendix A – Proper Officer Letter – Revised Civil Registration Fees

6.2 Appendix B – Circular Annex A – List of Local Registration Services' fees

7 BACKGROUND PAPERS

7.1 The Registration of Births, Deaths, Marriages and Civil Partnerships (Fees and Records)(Amendment) Regulations 2024.

[The Registration of Births, Deaths, Marriages and Civil Partnerships \(Fees and Records\) \(Amendment\) Regulations 2024 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2024/1000/contents/made)



HM Passport
Office

General Register Office

PO Letter 04/2024

7 May 2024

Dear Proper Officer,

Please read in conjunction with Circular 7/2024.

Revised Civil Registration Fees

On 7 May 2024, The Registration of Births, Deaths, Marriages and Civil Partnerships (Fees and Records) (Amendment) Regulations 2024 were laid in Parliament and will come into force on 28 May 2024. The Regulations will increase some civil registration fees.

The full list of fee increases for the local registration service is set out in an annex to this letter. The fees reflect inflationary increases and move some fees, such as for certificates, to recover full costs. The same increase has been applied to fees for services provided by GRO. For services relating to marriages and civil partnerships, additional increases have been applied to reflect that those fees have not been increased for some time.

Whilst information to the public (including publicity materials) will be provided at the time of the fee changes, advance notice is being provided to local authorities to allow sufficient lead time to update websites and any financial systems for 28 May 2024.

A detailed **Q and A** is enclosed with this letter and Circular in case of enquiries by the public in advance of this date. Any press or media queries should be directed to the Home Office, Press Office tel: 0300 123 3535

Yours faithfully,

A handwritten signature in black ink, appearing to read 'C Blay', with a long horizontal flourish extending to the right.

Carly Blay

Deputy Director of Civil Registration and Citizenship

Passports, Citizenship and Civil Registration Directorate

Customer Services

LRS Circular and PO letter Q&A – Revised fees May 2024

Q1. When are fees increasing?

The revised fees will be implemented from 00:01am on 28 May 2024

Q2. Why are fees increasing?

Revised fee levels will enable the Local Registration Service (LRS) to reflect the increased cost in registration services they provide.

Q3. What will the statutory fees be?

A full list of LRS fees is set out in an **annex** to this document.

Q4. Why are some fees increasing more than others?

Some fees relating to marriage and civil partnership services provided by the LRS have not seen an increase since 2010. The additional increase to fees for these services will move them closer to levels to recover the full costs of providing them.

Q5. When will customers be told about the fee changes?

The public will be made aware of the changes on 28 May 2024

Q6. Why the delay in-between publicising the fee increases to the public?

It is practice to fully inform customers at the time of actual price changes, once the new fees come into force. There will be appropriate publication of the new fees in due course.

Q7. What if we receive any queries from customers before Go live date?

You can advise the customer of the fee changes, which will apply from 28 May 2024. If you receive enquiries from the media or press, then please direct them to Home Office Press Office tel: 0300 123 3535

Q8. Are fees increasing at GRO?

Yes. Fees for services provided by GRO will increase by the same level as those for the LRS.

Q9 Are licence fees taken on behalf of the Registrar General also increasing?

Yes, details of the fee are set out in Regulation 3A of the amending regulations and set out in **Table 1** below. These fees will continue to form part of the end of year reconciliation process.

Table 1

Category	Revised fee	Retained	Transmitted to GRO
A	£99	£35	£64
B	£83	£31	£52
C	£66	£22	£44
Registrar General's Licence	£18		

Q10 How have the fees been calculated?

Fees increases have taken into account recent inflationary increases in costs. They are informed by the annual income and expenditure tool returns from the LRS.

Q11 What do we do if a fee has been charged pre-increase in advance of a service to be provided after the regulations come into force?

Fees should not usually be charged in advance of a service provided. However, in circumstances such as an application made for a certificate being made prior to the fee increase but only produced after 28 May, the current £11/£35 fee should be charged. A new Regulation 8 provides for this transitional protection.

Q12 Why is there a fee for the short death certificates as it is not yet available to issue?

The regulations provide for fees to be charged for short death certificates as and when they are introduced as part of the Death Certification Reforms. This provision negates the need to provide for further fee regulations at that time.

For revised GRO certificate fee enquires in advance of 28 May 2024, please direct the public to telephone GRO on 0300 123 1837. For enquires after 28 May 2024, revised GRO fees will be on GOV.UK.

List of LRS Fees and Percentage increase from 28 May 2024

Service	Current fee	Fee from 28 May 2024	Change in Fee (£)	Change in Fee (%)
Certification of place of meeting for religious worship	£29.00	£32.00	£3.00	10%
[Recording a notice of marriage—]				
(a) where both parties to the proposed marriage are exempt persons within the meaning of section 49 of the Immigration Act 2014	£35.00	£42.00	£7.00	20%
(b) in any other case	£47.00	£57.00	£10.00	21%
Attendance of superintendent registrar other than at that superintendent registrar's office for purpose of being given notice of marriage—				
(a) of a house-bound person	£47.00	£57.00	£10.00	21%
(b) of a detained person	£68.00	£82.00	£14.00	21%
Application to reduce the 28 day waiting period	£60.00	£66.00	£6.00	10%
Application for registration of a building for the solemnization of marriages between a man and a woman—				
a) where the building is already registered under section 43A of the Marriage Act 1949	£64.00	£71.00	£7.00	11%
b) where the building is not already registered under Section 43A of the Marriage Act 1949	£123.00	£136.00	£13.00	11%
Application for registration of a building for the solemnization of marriages of same sex couples where—				
(a) the building is already registered under Section 41 of the Marriage Act 1949	£64.00	£71.00	£7.00	11%
b) the building is not already registered under Section 41 of the Marriage Act 1949	£123.00	£136.00	£13.00	11%
Joint application for the registration of a building for the solemnization of marriages between a man and a woman and of same sex couples	£123.00	£136.00	£13.00	11%
Registrar attending marriage at a registered building	£86.00	£104.00	£18.00	21%
Registrar attending marriage at a register office	£46.00	£56.00	£10.00	22%
Registrar attending marriage—				
(a) at the place where the house-bound person or persons usually resides	£81.00	£98.00	£17.00	21%
(b) at the place where the detained person or persons usually resides	£88.00	£106.00	£18.00	20%
Superintendent registrar attending marriage—				
(a) at the place where the house-bound person or persons usually resides	£84.00	£101.00	£17.00	20%
(b) at the place where the detained person or persons usually resides	£94.00	£113.00	£19.00	20%

a) Standard service for a certified copy of an entry in the marriage register obtained from a registrar	£11.00	£12.50	£1.50	14%
(b) Priority service for a certified copy of an entry in the marriage register obtained from a registrar	£35.00	£38.50	£3.50	10%
General search of indexes of [the entries in the marriage register and of the marriage register books kept by superintendent registrars	£18.00	£20.00	£2.00	11%
(a) Standard service for certified copy of an entry [in the marriage register or a marriage register book, obtained from a superintendent registrar]	£11.00	£12.50	£1.50	14%
(b) Priority service for certified copy of an entry [in the marriage register or a marriage register book, obtained from a superintendent registrar]	£35.00	£38.50	£3.50	10%
Correction of an error in an entry in a marriage register book (other than an error caused by a registrar when entering particulars in that marriage register book) where an application is made to a superintendent registrar under regulation 11K of the Registration of Marriages Regulations 2015	£90.00	£99.00	£9.00	10%
Correction of an error in an entry in the marriage register (other than an error caused by a registrar when entering particulars in the register) where an application is made to a superintendent registrar under regulation 11L(2) of the Registration of Marriages Regulations 2015	£90.00	£99.00	£9.00	10%
Registration of name of child or of alteration of name	£40.00	£44.00	£4.00	10%
Issue of certificate of baptism where child's name altered or given	£1.00	£1.50	£0.50	50%
A correction to a register of live-births, still-births or deaths, relating to an error caused by a qualified informant concerning a live-birth, still-birth or death when providing information to the registrar of live-births, still-births or deaths, by				
(a) the person with custody of the register	£75.00	£83.00	£8.00	11%
(b) the person with custody of the register on the authority of the Registrar General	£90.00	£99.00	£9.00	10%
General search of indexes kept by superintendent registrar	£18.00	£20.00	£2.00	11%
(a) Standard service for certified copy of an entry in the register kept by the superintendent registrar	£11.00	£12.50	£1.50	14%
(b) Priority service for certified copy of an entry in the register kept by the superintendent registrar	£35.00	£38.50	£3.50	10%
(a) Standard service for certified copy of an entry in registers kept by registrars	£11.00	£12.50	£1.50	14%
(b) Priority service for certified copy of an entry in the register kept by the superintendent registrar	£35.00	£38.50	£3.50	10%
(a) Standard service for a short certificate of birth obtained from a registrar or superintendent registrar	£11.00	£12.50	£1.50	14%
(b) Priority service for a short certificate of birth obtained from a registrar or superintendent registrar	£35.00	£38.50	£3.50	10%
Opinion letter by the Registrar General following consideration of the documents referred to in paragraph 5(1)(e), (f) or (i) of Schedule 3 to the Registration of Marriages Regulations 2015	£75.00	£83.00	£8.00	11%

provided [to a superintendent registrar] as evidence of the ending of a previous marriage or civil partnership				
Opinion letter by the Registrar General following consideration of documents supplied to a registration authority under paragraph 4 of Schedule 3 to the Civil Partnership (Registration Provisions) Regulations 2005 as evidence of the ending of a previous civil partnership or marriage	£75.00	£83.00	£8.00	11%
Entry of notice of marriage to be solemnized on the authority of the Registrar General's licence	£3.00	£4.00	£1.00	33%
Issue of Registrar General's licence for marriage to be solemnized on the authority of that licence	£15.00	£18.00	£3.00	20%
Attendance at a marriage solemnized on the authority of the Registrar General's licence by—				
(a) a registrar	£2.00	£2.50	£0.50	25%
(b) a superintendent registrar	£2.00	£2.50	£0.50	25%
Opinion letter by a superintendent registrar following consideration of the documents referred to in paragraph 5(1)(e), (f) or (i) of Schedule 3 to the Registration of Marriages Regulations 2015 provided as evidence of the ending of a previous marriage or civil partnership	£50.00	£55.00	£5.00	10%
Opinion letter by a registration authority following consideration of documents supplied to a registration authority under paragraph 4 of Schedule 3 to the Civil Partnership (Registration Provisions) Regulations 2005 as evidence of the ending of a previous civil partnership or marriage	£50.00	£55.00	£5.00	10%
Attendance of the civil partnership registrar in whose presence the Registrar General's licence is signed	£2.00	£2.50	£0.50	25%
Attendance of the civil partnership registrar for the purpose of signing the civil partnership schedule under the procedure for house-bound persons	£81.00	£98.00	£17.00	21%
Attendance of the civil partnership registrar for the purpose of signing the civil partnership schedule under the procedure for detained persons	£88.00	£106.00	£18.00	20%
Signing by the civil partnership registrar of the civil partnership schedule	£46.00	£56.00	£10.00	22%
Attestation by an authorised person of the necessary declaration at a place provided by the registration authority –				
(a) where both parties to the proposed civil partnership are exempt persons within the meaning of section 49 of the Immigration Act 2014	£35.00	£42.00	£7.00	20%
(b) in any other case	£47.00	£57.00	£10.00	21%
Attendance of an authorised person at a place other than one provided by the registration authority, for the purpose of attesting the necessary declaration under the procedure for house-bound persons	£47.00	£57.00	£10.00	21%
Attendance of an authorised person at a place other than one provided by the registration authority, for the purpose of	£68.00	£82.00	£14.00	21%

attesting the necessary declaration under the procedure for detained persons				
Attestation by an authorised person of the necessary declaration under the special procedure	£3.00	£4.00	£1.00	33%
Application to shorten the waiting period in relation to a notice of proposed civil partnership	£60.00	£66.00	£6.00	10%
Issue of Registrar General's licence	£15.00	£18.00	£3.00	20%
(a) Standard service for a certified copy [...] of an entry in the civil partnership register issued by the Registrar General	£11.00	£12.50	£1.50	14%
(b) Priority service for a certified copy [...] of an entry in the civil partnership register obtained from the Registrar General	£35.00	£38.50	£3.50	10%
(a) Standard service for a certified copy [...] of an entry in the civil partnership register issued by a registration authority	£11.00	£12.50	£1.50	14%
(b) Priority service for a certified copy [of an entry in the civil partnership register] issued by a registration authority	£35.00	£38.50	£3.50	10%
A correction to an entry in the civil partnership register, other than a correction relating to an error caused by the registration authority when information was recorded in the register	£90.00	£99.00	£9.00	10%
On giving the required notice to a registration authority for an application for a certificate of no impediment	£35.00	£38.50	£3.50	10%
Conversion of civil partnership in accordance with the standard procedure	£45.00	£50.00	£5.00	11%
Conversion of civil partnership in accordance with the procedure for housebound persons	£99.00	£109.00	£10.00	10%
Conversion of civil partnership in accordance with the procedure for detained persons	£117.00	£129.00	£12.00	10%
Conversion if a civil partnership according to the special procedure	£15.00	£18.00	£3.00	20%
The first stage of the procedure for conversion of civil partnership in accordance with the two stage procedure for conversion on secular premises	£27.00	£30.00	£3.00	11%
Conversion of civil partnership in accordance with the two stage procedure for conversion on religious premises				
(a) for the first stage of the procedure	£27.00	£30.00	£3.00	11%
(b) for the second stage of the procedure	£91.00	£101.00	£10.00	11%
(a) Standard service for a certified copy of an entry relating to a marriage in the conversion register issued by the superintendent registrar	£11.00	£12.50	£1.50	14%
(b) Priority service for a certified copy of an entry relating to a marriage in the conversion register issued by the superintendent registrar	£35.00	£38.50	£3.50	10%

Birmingham City Council



Report to Licensing and Public Protection Committee

26 June 2024

Title:	ENFORCEMENT POLICY REVIEW - REGULATION AND ENFORCEMENT
Lead Cabinet Portfolio:	Not applicable
Relevant Overview and Scrutiny Committee:	Not applicable
Report Author:	Sajeela Naseer, Director of Regulation and Enforcement Regulation and Enforcement Phone Number: 0121 675 2495 Email: sajeela.naseer@birmingham.gov.uk
Authorised by:	Craig Cooper, Strategic Director – City Operations City Operations
Is this a Key Decision?	Not applicable
If this is a Key Decision, is this decision listed on the Forward Plan?	Not applicable
Reason(s) why not included on the Forward Plan:	Not applicable
Is this a Late Report?	No
Reason(s) why Late:	Not applicable
Is this decision eligible for 'call in?'	Yes
If not eligible, please provide reason(s):	Not Applicable

Wards: All

Does this report contain exempt or confidential information? No

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Has this decision been included on the Notification of Intention to consider Matters in Private?

Not applicable

Reasons why not included on the Notification:

Not applicable

1 EXECUTIVE 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 were conducted in November 2017, June 2020, November 2020, July 2022, and June 2023.
- 1.3 In this latest proposed version of the Policy minor amendments have been made to reflect changes to associated legislation.

2 COMMISSIONERS' REVIEW

- 2.1 This section, as confirmed by the Lead Commissioner, is not required for reports submitted to Licensing and Public Protection Committee.

3 RECOMMENDATIONS

That the Committee:

- 3.1 Approves the Regulation and Enforcement - Enforcement Policy which is attached at Appendix A.
- 3.2 Approves Birmingham City Council's Private Sector Housing Civil Penalty Policy at attached at Appendix B.
- 3.3 Approves The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (as amended) Statement of Principles which is attached at Appendix C.

4 KEY INFORMATION

- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 The Code places certain specific obligations upon regulators. Those obligations are set out below.
- 4.4.1 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.

- 4.4.2 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.
- 4.4.3 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.
- 4.4.4 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.
- 4.4.5 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.
- 4.4.6 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.
- 4.5 The Policy references the Council’s Civil Penalty Charging Policy.
- 4.6 In January 2019 Cabinet approved the Civil Penalty Charging Policy 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”.
 - 4.6.1 Changes to legislation and an Upper Tribunal (Lands Chamber) decision has necessitated a review of the Civil Penalty Charging Policy.
 - 4.6.2 The Council’s Civil Penalty Charging Policy at Appendix B has been amended to reflect the review.

4.7 In June 2022 this Committee approved the Statement of Principles for determining financial penalties under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

4.7.1 These regulations have been amended by The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 which came into force on 1 October 2022.

4.7.2 The Council's Statement of Principles at Appendix C have been amended to reflect the 2022 Regulations.

5 RISK MANAGEMENT

5.1 Failure to have a Policy that meets the requirements of the Regulator's Code would result in successful challenges of the Council's decisions by offenders.

6 CONSULTATION

6.1 Regulation and Enforcement has carried out a process to ensure that this Policy is fully compliant with the Regulator's Code. This process included the first version of the Policy being subject to a full period of consultation both through this Committee, and on the Council's website to enable anyone with an interest to make comment. The consultation ran from 13 March to 24 April 2015. There were no responses to the consultation.

6.2 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.

7 IMPACT AND IMPLICATIONS

Finance

7.1 The activities governed by this Policy are all carried out within the Council's agreed budgets. Where matters result in court proceedings costs will always be pursued.

- 7.2 In terms of Appendix 2 - Civil Penalties Charging Policy - Private Rented Sector, this provides a framework on which officers can calculate a suitable penalty to levy dependent on the severity of the offence and any mitigation or aggravating factors. The application of a consistent approach to calculation will enable a consistent penalty to be applied. This will be monitored throughout 2024/25 to enable a baseline for civil penalty receipts to be identified. Any receipt must be used for enforcement of the private rented sector (this includes activities funded through the general fund).

Legal

- 7.3 This section is mandatory for all reports. It will be completed by the relevant Legal Business Partner (unless relating to the 'exempt from call in – see below). The clearances form should also highlight the name of the Legal Business Partner who has cleared the report, and the date they cleared it.

Equalities

- 7.3 The proposed revised policy applies to all businesses residents and staff and will not have a significant impact on any with different protected characteristics.
- 7.4 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 4. No issues have been identified.
- 7.5 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.

Procurement

- 7.6 Not applicable.

People Services

- 7.7 There are no staffing implications arising from the recommendations in this report.

Corporate Parenting

- 7.8 There are no implications or opportunities in relation to the Corporate Parenting responsibility arising from the recommendations in this report.

Other

- 7.9 There are no other implications arising from the recommendations in this report.

8 APPENDICES

- 8.1 Appendix A - Regulation and Enforcement – Enforcement Policy
- 8.2 Appendix 1 - Enforcement Policy Risk Matrix
- 8.3 Appendix 2 - Civil Penalties Charging Policy - Private Rented Sector
- 8.4 Appendix 3 - The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (as amended) Statement of Principles
- 8.5 Appendix 4 - Enforcement Policy Equality Assessment

9 BACKGROUND PAPERS

- 9.1 Regulation and Enforcement – Enforcement Policy

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 S1670/2009 (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_city_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) Emailing pl@birmingham.gov.uk

- (f) Writing to the Director Regulation and Enforcement, Units 1-3 Ashted Lock Way, Birmingham. B7 4AZ
- (g) 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.

7.14.2A 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:

- (a) Modification of the conditions of the Licence.
- (b) Exclusion of licensable activity from the scope of the Licence.
- (c) Removal of the Designated Premises Supervisor.
- (d) Suspension of the Licence for a period not exceeding three months.
- (e) Revocation of the Licence.
- (f) Issue of a Warning Letter.
- (g) 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:

- (a) Revocation of the Licence.
- (b) Suspension of the Licence for a specified period not exceeding three months.
- (c) Exclusion of a condition attached to the Licence, under Section 168, or removal or amendment of an exclusion.
- (d) 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. The policy applies to civil penalties under the following legislation:

- Section 30 Housing Act 2004 (failure to comply with an improvement notice);
- Section 72 Housing Act 2004 (offences in relation to licensing of Houses in Multiple Occupation);
- Section 95 Housing Act 2004 (offences in relation to licensing of houses under Part 3 of the Act);
- Section 139 Housing Act 2004 (failure to comply with an overcrowding notice);
- Section 234 Housing Act 2004 (failure to comply with management regulations in respect of a House in Multiple Occupation)
- The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

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. The Code can be viewed at <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 initially 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" and an amended version approved by the Licensing and Public Protection Committee on the 26 June 2024.

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/files/documents/4145-tenant-fees-act-penalty-notice-policy/file>

7.16.3 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (as amended) ("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. An amended version was approved by Licensing and Public Protection Committee on the 26 June 2024 to reflect changes introduced by the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022. The 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.

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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 at <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. The procedure can be view at:

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' reputation) in taking no action	No reputational risk.	0
	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.

Birmingham City Council Civil Penalty Charging Policy
- Private Rented Sector

1. Determining the amount of a penalty charge

1.1 This policy sets out the methodology that Birmingham City Council will apply in exercising its powers under the Housing and Planning Act 2016 to impose a civil penalty on a landlord and/or occupier. The Council reserves the right to review this document from time to time in accordance with legislative changes, and tribunal updates and guidance.

2. Legal powers

2.1 Section 126 and Schedule 9 of the Housing and Planning Act 2016 introduced civil penalties for certain housing offences under the Housing Act 2004 (“the Act”).

2.2 Civil penalties enable local authorities to issue financial penalties of up to a maximum of £30,000 against landlords (defined as either the owner or manager of a privately rented property within this policy) and who commit the offences set out below. The law also allows the Council to issue civil penalties against occupiers of Houses of Multiple Occupation (HMO) where they have failed to comply with specific regulations.

Offence	Relevant legislation
Failure to comply with an improvement notice	Section 30 Housing Act 2004
Offences in relation to licensing of Houses in Multiple Occupation under Part 2 of the Housing Act 2004	Section 72 Housing Act 2004
Offences in relation to licensing of houses under Part 3 of the Housing Act 2004	Section 95 Housing Act 2004
Offences of contravention of an overcrowding notice	Section 139 Housing Act 2004

- 2.3 Authorised officers may issue a civil penalty where any of these regulations are found to have been breached. The pursuance of a civil penalty does not prevent the Council from taking emergency remedial action under section 40 Housing Act 2004.
- 2.4 The Council will give the person a notice of its proposal (Notice of Intent) to impose a financial penalty. The Notice of Intent will set out:
- the amount of the proposed financial penalty.
 - the reasons for proposing to impose the penalty.
 - information about the right of the landlord to make representations within 28 days from when the notice was given.
- 2.5 The Council will only accept representations in writing. These may be made by email or in hard copy form. Where these representations refer to other documents in support, it is the landlord's responsibility to provide documentary evidence to support their case.
- 2.5 At the end of the period of representation, the Council will decide whether to impose a penalty and the penalty amount. If the Council decides to impose the penalty, the person will receive a final notice requiring that the penalty be paid within 28 days.
- 2.6 Income received from a civil penalty will be retained by the Council authority to further its functions in relation to their enforcement activities covering the private rented sector.

3. Main principles for issuing a penalty charge

- 3.1 The main principles for issuing a penalty charge are to:
- lower the risk to the tenants' health and safety and well-being
 - promote compliance of landlords in the private rented sector
 - eliminate any financial gain or benefit from non-compliance
 - educate landlords on the associated risks of non-compliance
 - be proportionate to the nature of the breach of legislation and the risk posed
 - aim to prevent future non-compliance

4. Main principles which will be taken into account when setting penalty charge levels

4.1 The Council will require the landlord to pay a civil penalty when it is satisfied it has evidence of non-compliance and the breach allows the Council to so. This will be determined using the following principles:

- The seriousness of the offence
- The culpability and track record of the offender
- The harm caused to the tenant/s
- Punishment of the offender
- Deterring the offender from repeating the offence
- Deterring others from committing similar offences
- Removing any financial benefit the offender may have obtained as a result of committing the offence.

5. Level of penalty charge

5.1 The Council has the power to impose a civil penalty charge of up to £30,000 for each offence. The maximum amount will be reserved for the very worst offences. The actual amount levied in any particular case will reflect the seriousness of the offence, as well as taking into account the landlord's previous record of offending.

5.2 The table below details the starting level of a civil penalty for offences ranging from moderate to very severe.

Seriousness of the offence	Starting level
Mild	£2500
Moderate	£7500
Serious	£12500
Very serious	£17500
Severe	£22500

5.3 The Council has the right at any time to withdraw a Notice of Intent or Final Notice and reduce the amount specified in a Notice of Intent or Final Notice.

6. Imposing a civil penalty

6.1 The Council must be satisfied there is sufficient evidence to provide a realistic prospect of conviction against the landlord and that the public interest will be served by imposing a civil penalty.

6.2 The following questions will be considered:

- Does the Council have sufficient evidence to prove beyond reasonable doubt that the offence was committed by the landlord in question?
- Is the public interest properly served by imposing a civil penalty on the landlord in respect of the offence?
- Has the evidence been reviewed by a relevant Service Manager or above?
- Are there any reasons why a prosecution may be more appropriate than a civil penalty?

6.3 If the offence is particularly serious and the landlord has committed similar offences in the past, a banning order will be considered as an alternative to a civil penalty.

7. Setting civil penalties

7.1 Where a landlord has committed multiple offences and a civil penalty could be imposed for each one, consideration will be given to whether it is just and proportionate to impose a penalty for each offence.

7.2 When calculating the civil penalty amounts for multiple offences, there will be an inevitable cumulative effect. Care will be taken to ensure the total amount being imposed is just and proportionate to the offences involved.

7.3 Ultimately the level of penalty will be such that the offender does not benefit as a result of committing an offence.

8. Determining the civil penalty amount

8.1 This process is broken down into six stages:

- Stage 1 determines the seriousness of the offence to identify a starting level of the penalty.
- Stage 2 determines aggravating factors such as culpability and the track record of the offender.
- Stage 3 determines whether there are any mitigating factors to reduce the penalty.
- Stage 4 ensures there is no financial benefit gained by committing the offence.
- Stage 5 provides how much may be added to the penalty amount for licensing offences as a result of the landlord's income.
- Stage 6 reviews the penalty amount to ensure it is proportionate – the total amount at this stage cannot go above £30,000.

9. Stages to be completed when deciding the amount of a financial penalty under the Housing Act 2004

9.1 Stage 1 – determining the seriousness of the offence to identify a starting level of the penalty.

9.1.1 Failure to comply with an Improvement Notice - Section 30 of the Housing Act 2004

9.1.2 The maximum Court fine following prosecution that can be levied for failure to comply with an Improvement Notice is unlimited.

9.1.3 An Improvement Notice served under Part 1 Housing Act 2004 specifies repairs/improvements that the landlord should carry out in order to address one or more identified Category 1 and/or Category 2 hazards in a property.

9.1.4 Category 1 hazards are the most serious hazards, judged to have the highest risk of harm to the occupiers. The Council has a duty under section 5 of the Housing Act 2004 to take appropriate action where a dwelling is found to have one or more Category 1 hazards present.

9.1.5 In most cases, the service of an Improvement Notice will have followed an informal stage, where the landlord had been given the opportunity to carry out improvements without the need for formal action. In such cases, an identified failure to comply with an Improvement Notice will represent a continued failure on the part of the landlord to deal appropriately with one or more significant hazards affecting the occupier/s of the property.

9.1.6 The Council views the offence of failing to comply with the requirements of an Improvement Notice as a significant issue, exposing the occupier/s of a dwelling to one or more significant hazards.

9.1.7 The seriousness of the offence is viewed by the Council as being a serious offence, attracting a financial penalty with a starting level of £12500.

9.1.8 Where an Improvement Notice has been served for five or more hazards and the landlord has failed to carry out all remedial action required, the Council will view this a severe matter, attracting a starting penalty of £17500.

9.2 Failure to license offences.

9.2.1 The maximum Court fine following prosecution that can be levied for failure to license a House of Multiple Occupation (HMO) or Part 3 House is unlimited.

9.2.2 Failure to license an HMO - Section 72(1) of the Housing Act 2004.

9.2.2.1 Under Part 2 Housing Act 2004, it is an offence to operate an HMO without a licence. The Council has two HMO licensing schemes, mandatory and an additional scheme. The mandatory scheme applies to HMOs occupied by 5 or more persons and such HMOs will require an HMO licence.

9.2.2.2 The Council has exercised the power under Section 56 Housing Act 2004 and designated the whole of the city as an Area for Additional Licensing. The designation came into force on the 5th June 2023 and will expire on the 4th June 2028 unless the Council revokes the scheme under section 60 of the Act. Through the additional licensing scheme the Council aims to improve the management of this type of housing.

9.2.2.3 The additional scheme applies to HMOs in the city occupied by three or more persons forming two or more households sharing one or more basic amenities, such as a WC or kitchen. It also includes all self-contained flats falling under the definition of Section 257 HMOs.

9.2.2.4 HMO licensing was introduced to allow local authorities to regulate standards and conditions in high risk, multiply occupied residential premises. Through the property licence regime, local authorities ensure that the HMO has sufficient kitchens, baths/showers and WCs and place a limit on the number of persons permitted to occupy it and the licence holder is required to comply with a set of licence conditions.

9.2.2.4 The Council views the offence of failing to license a mandatory HMO as a significant failing. Licensing was introduced by the Government in order to regulate management, conditions, standards and safety in the properties considered to represent the highest risk to tenants as regards such matters as fire safety and overcrowding. This seriousness of the offence is viewed by the Council as being a very severe matter, attracting a financial penalty with a starting level of £22500.

9.2.2.5 Due to lower occupancy levels within properties falling under the additional HMO licensing designation, the Council views the offence of failing to license as a lesser, but very serious offence, attracting a civil penalty with a starting level of £17500.

9.2.2.6 Failure to license a property under the Council's selective licensing scheme – Section 95(1) of the Housing Act 2004.

9.2.2.7 The Council has exercised their powers under Section 80 Housing Act 2004 and has designated 25 wards of the city as an Area for Selective Licensing which came into force on the 5th June 2023 and will expire on the 4th June 2028 unless

the Council revokes the scheme under section 84 of the Housing Act 2004. Through the Selective Licensing scheme, the Council aims to reduce crime and deprivation.

9.2.2.8 The Council would view the offence of failing to ensure that a rented home was licensed under its selective licensing scheme as a significant issue, meaning that the tenants and wider community are not protected by the additional regulatory controls afforded by licensing.

9.2.2.9 This seriousness of the offence is viewed by the Council as being a moderate matter, attracting a financial penalty with a starting level of £12500.

9.3 Breach of licence conditions – Sections 72(3) and 95(2) Housing Act 2004

9.3.1 The maximum Court fine following prosecution that can be levied for failure to comply with a licence condition is unlimited.

9.3.2 All property licences impose a set of conditions on the licence holder. These conditions impose a variety of obligations relating to the letting, management and condition of the property including, but not limited to:

- The provision of documentation regarding energy performance certificates, fire detection, emergency lighting, gas installations and electric installations.
- Installing and maintaining smoke alarms
- Notification of legal proceedings, contraventions and other relevant information that may affect a fit and proper person status.
- Obtaining tenant references, providing written tenancy agreements, carrying out inventories, providing rent statements, and protecting deposits.
- Notifying the Council in any specified changes in circumstances.
- Carrying out specified measures to prevent or address crime and anti-social behaviour.
- Ensuring suitable provision is made for the storage of refuse and recycling.
- Carrying out works that were a condition of the granted licence.
- Providing details of emergency arrangements.

9.3.3 It is important that the manager of a licensed property complies with all licence conditions, but the Council recognises that a failure to comply with certain licence conditions is likely to have a much bigger impact on the safety and comfort of residents than others.

9.3.4 The table below sets out the starting point of civil penalty for failure to comply with the licensing conditions of the three property licensing schemes in operation in the city.

Conditions relating to:	Starting Level		
	Selective Licensing	Additional Licensing	Mandatory Licensing
The provision of smoke alarms and/or other fire detection measures and emergency lighting	£12500	£17500	£22500
The provision of carbon monoxide alarms where required	£12500	£17500	£22500
Safety of electrical appliances or installation	£12500	£17500	£22500
Furniture and furnishings	£12500	£17500	£22500
Crime and/or anti-social behaviour	£7500	£12500	£17500
Occupancy levels and rooms sizes	£7500	£17500	£22500
Tenant references	£2500	£2500	£2500*
Refuse and recycling	£2500	£7500	£12500
Security	£7500	£7500	£7500
Change of circumstances	£7500	£12500	£17500
Provision of information/documents on demand	£7500	£12500	£17500
Provision of documentation to tenants	£2500	£2500	£2500

*see 9.3.5

9.3.5 The requirement on the licence holder to demand references is not part of the Council's current mandatory licence conditions. Should this requirement be adopted in the future the civil penalty starting point will be £2500.

9.4 Failure to Comply with The Management of Houses in Multiple Occupation (England) Regulations 2006 and The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007

- 9.4.1 The maximum Court fine following prosecution that can be levied for failure to comply with each individual regulation is unlimited.
- 9.4.2 The Management of Houses in Multiple Occupation (England) Regulations 2006 impose duties on the persons managing HMOs in respect of:
- Providing information to occupiers (Regulation 3)
 - Taking safety measures, including fire safety measures (Regulation 4)
 - Maintaining the water supply and drainage (Regulation 5)
 - Supplying and maintaining gas and electricity, including having these services/appliances regularly inspected (Regulation 6)
 - Maintaining common parts (Regulation 7)
 - Maintaining living accommodation (Regulation 8)
 - Providing sufficient waste disposal facilities (Regulation 9)
- 9.4.3 The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 impose duties on the persons managing HMOs as defined by Section 257 Housing Act 2004 in respect of:
- Providing information to occupiers (Regulation 4)
 - Taking safety measures, including fire safety measures (Regulation 5)
 - Maintaining the water supply and drainage (Regulation 6)
 - Supplying and maintaining gas and electricity, including having these services/appliances regularly inspected (Regulation 7)
 - Maintaining common parts (Regulation 8)
 - Maintaining living accommodation (Regulation 9)
 - Providing sufficient waste disposal facilities (Regulation 10)
- 9.4.4 The Council will consider any duty imposed by the Regulations to maintain or keep in repair as requiring a standard of maintenance or repair that is reasonable in the circumstances, taking account of the age, character and prospective life of the house and the locality in which it is situated.
- 9.4.5 It is important that the manager of an HMO complies with all regulations, but the Council recognises that a failure to comply with certain regulations is likely to have a much bigger impact on the safety and comfort of residents than others.
- 9.4.6 The table below sets out the starting point of civil penalty for failure to comply with each of the regulations with properties falling under the additional and mandatory HMO licensing schemes.

Regulation	Starting Level	
	Additional Licensing	Mandatory Licensing
Failure to comply with the duty of manager to provide information to occupier	£2500	£2500
Duty of manager to take safety measures	£17500	£22500
Duty of manager to maintain water supply and drainage	£17500	£22500
Duty of manager to supply and maintain gas and electricity	£17500	£22500
Duty of manager to maintain common parts, fixtures, fittings and appliances	£12500	£17500
Duty of manager to maintain living accommodation	£12500	£17500
Duty to provide waste disposal facilities	£12500	£17500
Duty of occupiers of HMOs (see 9.4.7)	£2500	£2500

10 9.4.7 Regulation 10 of The Management of Houses in Multiple Occupation (England) Regulations 2006 and Regulation 11 of The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 place a duty on an occupier of the HMO to:

- (a) conduct themselves in a way that will not hinder or frustrate the manager in the performance of their duties;
- (b) allow the manager, for any purpose connected with the carrying out of any duty imposed on him by the Regulations, at all reasonable times to enter any living accommodation or other place occupied by that person;
- (c) provide the manager, at their request, with such information as he may reasonably require for the purpose of carrying out any such duty;
- (d) take reasonable care to avoid causing damage to anything which the manager is under a duty to supply, maintain or repair under these Regulations;
- (e) store and dispose of litter in accordance with the arrangements made by the manager, and
- (f) comply with the reasonable instructions of the manager in respect of any means of escape from fire, the prevention of fire and the use of fire equipment.

9.4.8 A civil penalty against an occupier of an HMO will only be considered where the landlord has exhausted all available options open to them. As occupiers of HMOs are potentially deprived and/or vulnerable, the Council will consider the likely impact of a civil penalty on that person. Factors which may be considered include the occupier's mental health and wellbeing, and financial means.

9.5 Failure to Comply with an Overcrowding Notice – Section 139 of the Housing Act 2004

9.5. The maximum Court fine following prosecution that can be levied for failure to comply with an Overcrowding Notice is unlimited.

9.5.2 Section 139 Housing Act 2004 allows the Council to serve an Overcrowding Notice in respect of an HMO that is not required to be licensed under Part 2 Housing Act 2004. At the present time in Birmingham there a city-wide additional licensing scheme for smaller HMOs and therefore all HMOs are required to be licensed. The notice specifies, on a room-by-room basis, the maximum number of persons allowed to occupy each room as sleeping accommodation or that the room is not considered suitable for that purpose. The Council would view the offence of failing to comply with the requirements of an Overcrowding Notice as a significant matter, exposing the tenant/s of an HMO to unacceptably cramped living conditions. The offence is viewed by the Council as being a very serious matter, attracting a financial penalty with a starting level of £17500.

9.6 Failure to Comply with a Banning Order - Section 21 of the Housing And Planning Act 2016

9.6.1 The maximum Court fine that can be levied for failure to comply with a Banning Order following prosecution is unlimited. In addition, the Court can also impose a prison sentence for up to 51 weeks.

9.6.2 The Housing and Planning Act 2016 includes provisions and processes for a person to be banned from being involved, for a specified period, in one or more of the following activities:

- Letting housing
- Engaging in letting agency work
- Engaging in property management work

9.6.3 Banning Orders are reserved for what are recognised as being the most serious housing-related offences. In the event that the Council was satisfied that the offence of breaching a Banning Order had occurred, this would normally be the subject of prosecution proceedings. Where it was determined that a civil penalty would be appropriate in respect of a breach of a Banning Order, this would

normally be set at the maximum level of £30,000 to reflect the severity of the offence.

10. Stage 2 – Aggravating factors

10.1 Statutory aggravating factors.

10.1.1 The table below provides details of the statutory aggravating factors which must be taken into account when determining the amount of the civil penalty.

Factor	Percentage addition to starting penalty
Previous convictions, having regard to: <ul style="list-style-type: none"> a) the nature of the offence to which the conviction relates and its relevance to the current offence b) the time that has elapsed since the conviction 	20%

10.2 Other aggravating factors.

10.2.1 The table below shows the aggravating factors which may be applied to the civil penalty and the amount by which the penalty will be increased if applicable.

Factor	Percentage addition to starting penalty
Deliberate intent when committing the offence. Examples of deliberate intent would include knowledge that the offence was occurring, committing the offence after relevant correspondence was sent by the Council.	10%
Evidence of wider community impact.	10%
Obstruction of justice. This may include a failure to comply with a section 16 Local Government (Miscellaneous Provisions) Act 1976 notice, failing to comply with a s.235 Housing Act 2004 notice, or failing to provide a substantive response to a letter of alleged offence.	10%

Established historical record of providing substandard accommodation or poor property management in the past 12 months.	10%
Landlord is a large portfolio holder (5 or more properties, and/or 2 or more HMOs) or a managing agent	20%

10.2.2 The Council recognises that there are myriad of aggravating factors that may not fall into the categories in the table at 10.2.1. The Council has discretion to apply further additions to reflect other aggravating factors that have been identified.

10.2.3 These figures take into consideration the administrative costs incurred by the Council in investigating and preparing the case and the civil penalty notice (CPN).

11. Stage 3 – Mitigating factors

11.1 The Council will take into consideration personal mitigation measures. Full disclosure will be required, however, including evidence of any personal claims.

11.2 Factors reducing the seriousness of the offence or reflecting personal mitigation are shown in the table below

Factor	Percentage reduction to starting penalty
No previous convictions or no relevant or recent convictions (10% reduction)	10%
Co-operation and steps voluntarily taken to remedy problem or putting things right.	10%
Self-reporting	10%
Documented evidence of medical issues such as, but not limited to: <ul style="list-style-type: none"> • 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 	15%

<p>it affects the responsibility of the offender</p> <ul style="list-style-type: none"> • sole or primary carer for dependent relatives 	
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11.3 The Council recognises that there are myriad of mitigating factors that may not fall into the categories in the table at 11.2. The Council has discretion to apply further deductions to reflect other mitigating factors that may be put forward by the offender.

11.4 The Council may take into account consideration personal mitigating factors. Full disclosure will be required including evidence of any personal claims made. The Council will record the matters taken into consideration when determining the level of reduction in the amount of the civil penalty.

11.5 Stage 4 – financial benefit

11.5.1 Each case will be determined on its own merits. Examples of potential financial benefits are shown in the table below. The Council will need to prove the amount of financial benefit the offender has obtained. If the offender does not provide sufficient information an estimate of the benefit can and will be made.

Offence	Example of potential financial benefit
Failure to comply improvement notice or electrical safety regulations	The cost of any works required for compliance, but which have not been completed.
Offences of contravention of an overcrowding notice	Rental income whilst the property was being occupied in contravention of the overcrowding notice.
Failure to comply with management regulations in respect of HMO	The cost of any works that are required to avoid breaching the regulations.

11.5.2 Once determined, this amount will be added to the penalty so as to remove any financial benefit gained through offending. It will be added at this stage, irrespective of whether the issues have been rectified.

12. Stage 5 – considering the landlord's income (for licensing offences only)

12.1 The Council is permitted to consider all a landlord's income and assets when calculating a civil penalty. The Council may use its legal powers to require landlords to provide details of their finances.

12.2 The rental income is calculated as the benefit obtained by committing the offence. Examples of what may be considered rental income are shown in the table below.

Offence	Example of potential income benefit
Offences in relation to licensing of HMOs	Rental income whilst the HMO was operating unlicensed or where it was occupied by more than the number of persons authorised by the licence, the additional rental income from letting the property as an HMO requiring a licence as opposed to a non-licensable property, the cost of complying with any works conditions on the licence, and the cost of the licence.
Offences in relation to licensing of houses under Part 3 of the Act	Rental income whilst the property was operating unlicensed or where it was occupied by more than the number of persons authorised by the licence, the cost of complying with any works conditions on the licence, and the cost of the licence.

12.3 The Council may consider all the landlord's income throughout the duration of the offence when calculating a civil penalty. This will be the weekly income, as declared on the tenancy agreement for the property where the offence occurred, or the evidence of rental income gathered at the time of the offence occurred.

12.4 For property agents, the relevant income will be any fees they received for the management of the property, as stated on the management contract between the agent and the other parties to the contract. Where the fees include VAT or any other charges, the gross amount of the fees will be used.

12.5 The Council can make a full financial assessment of a landlord's assets and any income they receive, not just from rental income, when calculating an appropriate financial penalty. The Council will consider carrying out a full financial investigation where it considers it is reasonable and proportionate to do so in the circumstances. Full financial investigations will normally only be considered for the more serious cases.

12.6 Full disclosure and evidence of financial information will be required in order that an accurate portrayal can be considered. This can include:

- work undertaken for the repair and maintenance of the property.
- utilities such as electricity, gas and water.
- services such as broadband, cleaning and gardening.
- landlord training.
- management fees.

12.7 In cases where the landlord is not forthcoming with this information or documentation, an estimate of the average weekly income will be used. It will be for the landlord to make representations against the estimated figure if they deem it to be too high.

13. Stage 6 – review of the penalty

13.1 To arrive at the amount of the penalty calculation, the figure at stage 1 will determine the penalty award on a penalty scale, including aggravating factors.

13.2 Stage 2 will adjust the level penalty taking into consideration any mitigation factors.

13.3 Stage 3 will check the landlord has not gained any financial benefit from committing the offence.

13.4 Stage 4 will provide the landlord's income to increase or reduce the penalty calculation, where applicable.

13.5 Stage 5 will check:

- whether the proposed level of penalty charge is proportionate.
- the offender should be deterred from committing further offences.
- there should be no financial gain committing the offence.

13.6 This review (Stage 6) will give the final civil penalty amount that will be imposed on the offender.

13.7 The amount of the civil penalty imposed will never less than it would have reasonably cost the landlord to comply in the first place.

14. Role of the First-tier Tribunal (Property Chamber)

14.1 A landlord who is served with a notice may appeal to the First-tier Tribunal (Property Chamber). The Tribunal has the power to confirm, vary (increase or reduce) the size of the civil penalty or cancel the civil penalty.

15. Recovery of penalty charge

15.1 The Council can apply to a County Court for a court order to enforce the civil penalty and recover the debt where the landlord has not paid within 28 days of the service the charge notice and the landlord has either:

- not made an appeal to the First Tier Tribunal
- made an appeal that has since been determined in the Council's favour

15.2 The Council will also seek to recover the costs incurred in taking this action from the landlord.

16. Database of rogue landlords and property agents

16.1 Where a landlord or property agent receives two or more civil penalties over a 12-month period, we will include that person's details in the database of rogue landlords and property agents. While it is not a compulsory requirement, the government's statutory civil penalty guidance strongly encourages councils to do so, to ensure that other councils are made aware that formal action has been taken.

17. Reduction of civil penalty amount.

11 **17.1 A 25% reduction in the penalty may be offered if at the first opportunity the landlord admits guilt for the offence and immediately remedies any outstanding issues. This is in line with the "General guideline: overarching principles" issued by the Sentencing Council and will only be available for a first offence.**

17.2 Where offered, the reduction will only be available to the landlord when the council serves the Final Notice, and is conditional upon the following criteria being met:

- payment of the net civil penalty (after the 25% reduction) is made in full within 28 days of the date of the Final Notice.
- any outstanding issues or works are fully completed within the same period.

17.3 In default of the above conditions the offer of a reduction will be withdrawn, and the full amount of the penalty will become payable.

17.4 At any point after 28 days of service of the Final Notice there will be no further offer of any reduction in the level of penalty.

18. Review of policy

18.1 This policy will be reviewed annually.

Regulation and Enforcement – Enforcement Policy
The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
(as amended)
Statement of Principles

Introduction

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 impose duties on certain landlords of residential premises in respect of smoke and carbon monoxide alarms. These regulations are enforced by local housing authorities and allow for the imposition of a penalty charge if a landlord fails to comply with a remedial notice served by the authority. Local Housing Authorities are required to prepare and publish a Statement of Principles which they must have regard to in determining the amount of a penalty charge. Birmingham City Council will have regard to this statement when determining the amount of a penalty charge and may review, revise and republish the statement when necessary.

The Legal Framework

The powers come from the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (the Regulations), being a Statutory Instrument (2015 No 1693) which came into force on 1 October 2015. These regulations have been amended by The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 being a Statutory Instrument (2022 No 707) which came into force on 1 October 2022.

Duties on Landlords

Regulation 4(1) requires that a landlord must ensure that:

During any period when the premises are occupied under a tenancy:

- i) a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
- ii) a carbon monoxide alarm is installed in any room of premises used as living accommodation, which contained a fixed combustion appliance other than a gas cooker;
- iii) checks are made by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.
- iv) where, following a report made on or after 1st October 2022 by a tenant or by their nominated representative to the landlord, a prescribed alarm is found not to be in proper working order, the alarm is repaired or replaced

Properties subject to Part 2 or Part 3 licensing are exempt from the 2015 and 2022 Regulations although compliance is achieved through an additional clause within the property licensing conditions.

Remedial Action

The Council has a duty to serve a Remedial Notice within 21 days where it has reasonable grounds to believe that a landlord is in breach of one or more of the duties under regulation 4(1).

'Reasonable grounds' would include being informed by a tenant, letting agent or housing officer that the required alarms are not installed. The regulations do not require the enforcing authority to enter the property or prove non-compliance in order to issue a remedial notice, however, the Council will aim to visit such properties to confirm that the required works have not been undertaken.

The landlord must take the remedial action specified in the notice within 21 days beginning with the day on which the notice is served.

Penalty Charge

Where this authority is satisfied, on the balance of probabilities, that a landlord has not taken the remedial action specified in the notice within 28 days, the authority will:

- Arrange for a person authorised by the authority to undertake the remedial action specified in the notice within 28 days; and
- Require the landlord to pay a penalty charge of such amount as the authority may determine, but which must not exceed £5,000.

The following points are 'Principles to be applied in determining the imposition of a Penalty Charge'.

1. The purpose of imposing a penalty charge

The primary aims of financial penalties will be to:

- Recover the costs incurred by the Council in investigating the matter, taking action and in arranging any necessary remedial work.
- Recover the Council's costs of the actual remedial work
- Reduce the risk to tenants' health and safety by ensuring that the property in question benefits from a safe means of escape in the case of fire.
- Promote compliance of landlords in the Private Rented Sector with legal standards.
- Eliminate any financial gain or benefit from non-compliance with regulation.
- Educate landlords on the associated risks of non-compliance.
- Be proportionate to the nature of the breach of legislation and the risk posed.
- Aim to prevent future non-compliance.

2. Criteria for the imposition of a penalty charge

In deciding whether it would be appropriate to impose a penalty charge, we will take account of the circumstances under consideration. Factors which the Council will take into consideration include, but are not limited to:

- The extent to which the circumstances from which the contravention or failure arose were within the control of the landlord.
- The presence or absence of internal controls or procedures which were intended to prevent the breach.
- The steps that the landlord has taken since being served with a Remedial Notice under Regulation 5.
- Whether the landlord has been obstructed in his duty, or if the tenant has removed detectors.
- Evidence of compliance with the legislation g. a signed inventory at the start of the tenancy, or photographic evidence showing measures installed with the date and time attached.
- A financial penalty will not normally be used if the Council considers other regulatory action is more appropriate.

3. Criteria for determining the amount of a penalty charge

The Regulations set a maximum penalty charge of £5000. In determining the amount of penalty to be applied, each case will be treated on its merits and will take account of the following:

- That the landlord will have been served with a Remedial Notice and will, therefore, have been provided with sufficient time in which to put matters right.
- That, by not complying with the requirements of the remedial notice, the landlord is demonstrating a clear disregard for their tenant's safety and for compliance with the legislation.
- Whether works are undertaken by the landlord or, in default, by the Council.
- The cost incurred by the Council including officer-time and the cost of carrying out the works following non-compliance.
- Whether there have been repeated breaches or failure to comply.
- Whether there have been breaches of other housing legislation.
- Attempt to conceal the breach or failure to comply.
- The likely impact on tenants and associated risk to their health and safety and wellbeing.

- The absence of management controls or procedures intended to prevent the breach.
- Co-operation with investigation undertaken by the Council.
- Any unjustified written representations made against a Remedial Notice.
- Representations to the Council to review the penalty charge which are considered to be justified.
- Any other relevant matters.

In the absence of mitigating factors, the Council will apply the maximum charge of £5,000.

4. Time limits

By virtue of Regulation 8 (3) the Local Housing Authority may not serve a penalty charge notice later than six weeks after it is first satisfied, on the balance of probabilities, that a landlord on whom it has served a remedial action notice is in breach of the duty under regulation 6 (1).

5. Review of a Penalty Charge Notice

If a landlord does not agree with a penalty charge, they can make a request to the authority for it to be reviewed. This request must be in writing and within the time period specified in the penalty charge notice.

Senior Officers of the Council (not previously involved in the case) will consider any representations and will decide whether to confirm, vary or withdraw the penalty charge notice. A landlord may appeal to the First-tier Tribunal if the penalty charge notice is confirmed or varied by the Council after a review. The Tribunal can then quash, confirm or vary the Council's decision.

In considering any representations, the Council will have regard to:

- Whether the provisions of the legislation have been correctly applied.
- Whether the provisions of this policy have been followed.
- Any other relevant matters, including, but not limited to, the criteria for determining the amount of a penalty charge (section 3).

Review requests should be made in writing and addressed to the Private Rented Sector Operations Manager either by email to PRS@birmingham.gov.uk or by post to:

Birmingham City Council,
 Regulation and Enforcement Division Services,
 Private Rented Sector
 Units 1-3 Ashted Lock Way,
 Birmingham,
 B7 4AZ

6. Recovery of a Penalty Charge

Subject to the determination of any appeal, the Council will recover any unpaid penalty charge, plus legal costs, through court proceedings.

7. Revision of statement of principles

Regulation 13 (2) provides that the Local Housing Authority may revise its statement of principles and, where it does so, it will publish the revised statement.

Further guidance for landlords can be found at:

<https://www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords/the-smoke-and-carbon-monoxide-alarm-england-regulations-2015-qa-booklet-for-the-private-rented-sector-landlords-and-tenants>

Created: 05/06/2024

EQUALITY IMPACT ASSESSMENT

Review of Regulation and Enforcement's Enforcement Policy

Reference: EIA000446

Date: 11/06/2024

Submitted by: Simon Williams

EIA Form – About your EIA

Reference number	EIA000446
Date Submitted	11/06/2024
Subject of the EIA	Review of Regulation and Enforcement's Enforcement Policy
Brief description of the policy, service or function covered by the EIA	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. The review includes the review of the appendices to the Policy are: the Enforcement Policy Risk Matrix, the Civil Penalties Charging Policy and the Statement of Principles for determining financial penalties under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
Equality Assessment is in support of...	["Amended policy"]
How frequently will you review impact and mitigation measures identified in this EIA?	Annually
Due date of the first review	2024-06-30

Directorate, Division & Service Area

Which directorate(s) are responsible for this EIA?	["City Operations"]
Division	Regulation and Enforcement
Service area	Regulation and Enforcement
Budget Saving	No

Officers

What is the responsible officer's name?	Click or tap here to enter text.
What is the responsible officer's email address?	simon.williams@birmingham.gov.uk
What is the accountable officer's name?	Sajeela Naseer
What is the accountable officer's email address?	sajeela.naseer@birmingham.gov.uk

Data Sources

Data sources	["Quantitative data (please specify in the box below)", "Relevant reports/strategies", "Relevant research"]
Data source details	Prosecutions and Cautions Report (record of all successful and non successful enforcement actions taken by the Division) and reported to Licensing and Public Protection Committee at least 6 times a year. Complaints received in relation to enforcement action taken.

Protected Characteristics

Protected Characteristic – Age

Does this proposal impact people due to their age as per the Equality Act 2010?	No
What age groups are impacted by your proposal?	
Please describe any potential impact to the age characteristic	
How could you mitigate against any negative impact to the age characteristic?	
Please describe how this proposal does not impact people due to their age	The policy is applied to all people who commit an offence enforced by the Division. If the perpetrator is below the age allowed in law for enforcement action to be taken then this is not pursued. The public interest test is also applied and may consider if the age of the perpetrator is relevant.

Protected Characteristic – Disability

Does this proposal impact those people with a disability as per the Equality Act 2010?	No
Please describe any potential impact to the disability characteristic	
How could you mitigate against any negative impact	

to the disability characteristic?	
Please describe how this proposal does not impact people due to their disability	The policy is applied to all people who commit an offence enforced by the Division. Any disability related to the perpetrator will be considered either prior to formal enforcement or after the event if the disability is considered relevant in the decision making process on whether to pursue enforcement and whether such pursuance is in the public interest

Protected Characteristic – Sex

Does this proposal impact citizens based on their sex as per the Equality Act 2010?	No
What sexes will be impacted by this proposal?	
Please describe any potential impact to the sex characteristic	
How could you mitigate against any negative impact to the sex characteristic?	
Please describe how this proposal does not impact people due to their sex	The policy is applied to all people who commit an offence enforced by the Division. Decisions are taken in line with the Enforcement Policy and subject to the evidential and public interest tests among others.

Protected Characteristic - Gender Reassignment

Does this proposal impact people who are proposing to undergo, undergoing or have undergone a process to reassign one's sex as per the Equality Act 2010?	No
Please describe any potential impact to the gender reassignment characteristic	
How could you mitigate against any negative impact to the gender reassignment characteristic?	
Please describe how this proposal does not impact	The policy is applied to all people who commit an offence enforced by the Division. Decisions are taken

people due to gender reassignment	in line with the Enforcement Policy and subject to the evidential and public interest tests among others.
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Protected Characteristic - Marriage and Civil Partnership

Does this proposal impact people who are married or in a civil partnership as per the Equality Act 2010?	No
What legal marital or registered civil partnership status will be impacted by this proposal?	
Please describe any potential impact to the marriage and civil partnership characteristic	
How could you mitigate against any negative impact to the marriage and civil partnership characteristic?	
Please describe how this proposal does not impact people who are married or in a civil partnership	The policy is applied to all people who commit an offence enforced by the Division. Decisions are taken in line with the Enforcement Policy and subject to the evidential and public interest tests among others.

Protected Characteristic - Pregnancy and Maternity

Does this proposal impact people covered by the Equality Act 2010 under the protected characteristic of pregnancy and maternity?	No
Please describe any potential impact to the pregnancy and maternity characteristic	
How could you mitigate against any negative impact to the pregnancy and maternity characteristic?	
Please describe how this proposal does not impact people who are covered by the pregnancy and maternity characteristic	The policy is applied to all people who commit an offence enforced by the Division. Decisions are taken in line with the Enforcement Policy and subject to the evidential and public interest tests among others.

Protected Characteristic - Ethnicity and Race

Does this proposal impact people due to their race as per the Equality Act 2010?	No
What ethnic groups would be impacted by this proposal?	
Please describe any potential impact to the ethnicity and race characteristic	
How could you mitigate against any negative impact to the ethnicity and race characteristic?	
Please describe how this proposal does not impact people due to their race	The policy is applied to all people who commit an offence enforced by the Division. Decisions are taken in line with the Enforcement Policy and subject to the evidential and public interest tests among others.

Protected Characteristic - Religion or Beliefs

Does this proposal impact people's religion or beliefs as per the Equality Act 2010?	No
What religions could be impacted by this proposal?	
Please describe any potential impact to the religion or beliefs characteristic	
How could you mitigate against any negative impact to the religion or beliefs characteristic?	
Please describe how this proposal does not impact people due to their religion or beliefs	The policy is applied to all people who commit an offence enforced by the Division. Decisions are taken in line with the Enforcement Policy and subject to the evidential and public interest tests among others.

Protected Characteristic - Sexual Orientation

Does this proposal impact people's sexual orientation as per the Equality Act 2010?	No
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What sexual orientations may be impacted by this proposal?	
Please describe any potential impact to the sexual orientation characteristic	
How could you mitigate against any negative impact to the sexual orientation characteristic?	
Please describe how this proposal does not impact people due to their sexual orientation	The policy is applied to all people who commit an offence enforced by the Division. Decisions are taken in line with the Enforcement Policy and subject to the evidential and public interest tests among others.

Monitoring

How will you ensure any adverse impact and mitigation measures are monitored?	Through the Licensing and Public Protection Committee we monitor all formal enforcement action and our success rates in taking formal action. We monitor complaints to establish whether individuals, groups or businesses have complained about enforcement action we have taken, whether this complaint is upheld, whether patterns emerge and whether complaints are received about the decisions of specific officers.
Please enter the email address for the officer responsible for monitoring impact and mitigation	sajeela.naseer@birmingham.gov.uk

Birmingham City Council

Report to Licensing and Public Protection Committee

26 June 2024



Title:	PROSECUTIONS AND CAUTIONS – MARCH 2024
Lead Cabinet Portfolio:	Not applicable
Relevant Overview and Scrutiny Committee:	Not applicable
Report Author:	Anita Berg, Senior Officer Legal Proceedings City Operations Directorate 07912 402503 anita.berg@birmingham.gov.uk
Authorised by:	Sajeela Naseer, Director of Regulation and Enforcement City Operations Directorate
Is this a Key Decision?	No
If this is a Key Decision, is this decision listed on the Forward Plan?	Not Applicable
Reason(s) why not included on the Forward Plan:	Not Applicable
Is this a Late Report?	No
Reason(s) why Late:	Not Applicable
Is this decision eligible for 'call in?'	Not Applicable
If not eligible, please provide reason(s):	Not Applicable
Wards:	All

Does this report contain exempt or confidential information?

No

Has this decision been included on the Notification of Intention to consider Matters in Private?

No

Reasons why not included on the Notification:

Not Applicable

1 EXECUTIVE SUMMARY

1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of March 2024.

1.2 The following cases were heard at Birmingham Magistrates' Court, unless otherwise stated:

- 70 Environmental Health cases were finalised resulting in fines of £17,707. Prosecution costs of £9,163.05 were awarded.
- No Licensing cases were finalised.
- No Trading Standards cases were finalised.
- Four Waste Enforcement cases were finalised resulting in fines of £4,978.50. Prosecution costs of £10,529.20 were awarded.

2. COMMISSIONERS' REVIEW

2.1 This section, as confirmed by the Lead Commissioner, is not required for reports submitted to Licensing and Public Protection Committee.

3 RECOMMENDATIONS

That the Committee:

3.1 Note the report.

4 KEY INFORMATION

Context

4.1 For the year April 2023 to March 2024 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)
£376,820.10 has been requested with £294,236.51 being awarded (78%)

Licensing
£23,332.45 has been requested with £14,847.60 being awarded (64%)

Trading Standards
£49,012.75 has been requested with £28,649 being awarded (58%)

- 4.2 For the month of March 2024 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)
£29,016.39 has been requested with £19,692.25 awarded (68%)

Licensing
No costs have been requested.

Trading Standards
No costs have been requested.

5 IMPACT AND IMPLICATIONS

Finance

- 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.

The actual receipt of awarded costs depends on payment plan timings as agreed through the Courts and could cover a number of years.

Legal

- 5.2 There are no legal implications in relation to this report.

Legal Services are key partner and are involved in the matters listed above and ongoing matters, providing advice, support and presenting matters at Court. When a decision is made to institute proceedings, Legal Services provide oversight, case management and expert legal support to ensure cases are progressed and that any necessary legal input is provided in a timely manner.

Equalities

- 5.3 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.

Corporate Parenting

- 5.4 There are no implications or opportunities in relation to the Corporate Parenting responsibility arising from the recommendations in this report'.

Other

- 5.5 'There are no other implications arising from the recommendations in this report'

6 APPENDICES

- 6.1 Appendix 1 details all prosecutions finalised during March 2024 by ward.
- 6.2 Appendix 2 details all cautions administered during March 2024.
- 6.3 Appendix 3 lists the enforcement activity undertaken by the Waste Enforcement Team from April 2023 to March 2024.
- 6.4 Appendix 4 lists Penalty Charge Notices issued by Parking Enforcement specifically for individuals parking on Taxi Ranks across the City from April 2023 to March 2024. Please note this does not include other parking tickets issued anywhere else in the City.

7 BACKGROUND PAPERS

- 7.1 Nil.

PROSECUTIONS FINALISED DURING MARCH 2024

Mar-24

#	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	07/03/2024	Noorullah Zaki Birmingham	Sparkhill	Food Safety and Hygiene (England) Regulations 2013 Pleaded guilty to four offences; one of displaying food, namely yoghurt, for sale at Ladypool Mini Market, 201 Ombersley Road, Birmingham which was past its use by date and three offences of failing to comply with Hygiene Improvement Notices requiring that the toilet did not open directly into a room in which food is handled, the premises were to be kept clean and maintained in good repair and condition and a permanent procedure based on HACCP was to be implemented.	£666.00	£1,331.05	£1,331.05	£1,997.05	Fine on offence 1. No separate penalty on remaining offences.	Sparkbrook & Balsall Heath East
2	Waste Enforcement	07/03/2024	Nadeem Mahboob Birmingham	Small Heath	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely one bulk bag of building materials, from a vehicle on to land at the rear of Minstead Road, Birmingham.	£346.00	£961.20	£961.20	£1,306.20		Gravelly Hill
3	Waste Enforcement	07/03/2024	Winston Clarke Birmingham	Soho & Jewellery Quarter	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely 4 large filled bulk bags, from a vehicle on to land on Ickneild Street, Birmingham.	£595.00	£568.00	£1,330.48	£1,163.00	Costs awarded include clean-up costs of £160.50	Soho & Jewellery Quarter
4	Environmental Health	08/03/2024	Dumitru Alexandru Birmingham	Alum Rock	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
5	Environmental Health	08/03/2024	Urmat Askarbekov Stafford	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
6	Environmental Health	08/03/2024	Sharon Bardsley Birmingham	Stockland Green	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
7	Environmental Health	08/03/2024	Halilovic Bisa Birmingham	Edgbaston	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Soho Road, Birmingham.	£220.00	£85.00	£175.00	£305.00		Handworth
8	Environmental Health	08/03/2024	Shidong Cao Birmingham	Ladywood	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Upper Dean Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bordesley & Highgate
9	Environmental Health	08/03/2024	Ann Marie Cartwright Birmingham	Erdington	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
10	Environmental Health	08/03/2024	Kai Chim Birmingham	Soho & Jewellery Quarter	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

11	Environmental Health	08/03/2024	Danielle Collins Birmingham	Brandwood & Kings Heath	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Ormond Road, Rubery, Birmingham.	£220.00	£85.00	£175.00	£305.00		Frankley Great Park
12	Environmental Health	08/03/2024	Anthony Davis Aberystwyth	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	£85.00	£175.00	£305.00		Ladywood
13	Environmental Health	08/03/2024	Leonard Mitica Dinu Birmingham	Holyhead	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Soho Road, Handsworth, Birmingham.	£220.00	£85.00	£175.00	£305.00		Soho & Jewellery Quarter
14	Environmental Health	08/03/2024	Derek Draper Birmingham	Sparkbrook & Balsall Heath East	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Warwick Road, Acocks Green, Birmingham.	£220.00	£85.00	£175.00	£305.00		Acocks Green
15	Environmental Health	08/03/2024	Linda Draper Birmingham	Sparkbrook & Balsall Heath East	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Warwick Road, Acocks Green, Birmingham.	£220.00	£85.00	£175.00	£305.00		Acocks Green
16	Environmental Health	08/03/2024	Norica Dumitru Birmingham	Holyhead	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Soho Road, Handsworth, Birmingham.	£220.00	£85.00	£175.00	£305.00		Soho & Jewellery Quarter
17	Environmental Health	08/03/2024	Voenea Elvis Smethwick	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
18	Environmental Health	08/03/2024	Mostafa Ghorbani Birmingham	Sparkhill	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
19	Environmental Health	08/03/2024	David Gooding Birmingham	Moseley	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in High Street, Kings Heath, Birmingham.	£220.00	£85.00	£175.00	£305.00		Brandwood & Kings Heath
20	Environmental Health	08/03/2024	Leona Hare Rugby	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	£85.00	£175.00	£305.00		Ladywood
21	Environmental Health	08/03/2024	Michael Hinks Birmingham	Heartlands	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Temple Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
22	Environmental Health	08/03/2024	Christopher Hinsley Birmingham	Kingstanding	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
23	Environmental Health	08/03/2024	Sam Horton Bromsgrove	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	£85.00	£175.00	£305.00		Ladywood
24	Environmental Health	08/03/2024	Alexandra Ilie Birmingham	Aston	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
25	Environmental Health	08/03/2024	Mohammed Ilyas Birmingham	Gravelly Hill	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

26	Environmental Health	08/03/2024	Samiman Jaffar Wembley	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	£85.00	£175.00	£305.00		Ladywood
27	Environmental Health	08/03/2024	Muhammed Junaid Birmingham	Aston	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
28	Environmental Health	08/03/2024	Alan Kasterton Redditch	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
29	Environmental Health	08/03/2024	Sharon Kelly Birmingham	Bournbrook & Selly Park	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Bristol Road South, Northfield, Birmingham.	£220.00	£85.00	£175.00	£305.00		Northfield
30	Environmental Health	08/03/2024	Rajiv Kulkarni Birmingham	Bournbrook & Selly Park	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
31	Environmental Health	08/03/2024	Chuan Lin Cardiff	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Ladywell Walk, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bordesley & Highgate
32	Environmental Health	08/03/2024	Istrate Mihut Mihai Birmingham	South Yardley	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	08/03/2024	Susan Norton Birmingham	Oscott	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
34	Environmental Health	08/03/2024	Jade Pitts Birmingham	Kingstanding	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Sutton New Road, Erdington, Birmingham.	£220.00	£85.00	£175.00	£305.00		Erdington
35	Environmental Health	08/03/2024	Klevis Prenga Tipton	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	£85.00	£175.00	£305.00		Ladywood
36	Environmental Health	08/03/2024	Sherkhan Qader Widnes	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	£85.00	£175.00	£305.00		Erdington
37	Environmental Health	08/03/2024	Aaron Qu Nottingham	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
38	Environmental Health	08/03/2024	Atteeq Rehman Birmingham	Yardley West & Stechford	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in High Street, Erdington, Birmingham.	£40.00	£85.00	£175.00	£125.00		Erdington
39	Environmental Health	08/03/2024	Sharmaine Rileys Northampton	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	£85.00	£175.00	£305.00		Ladywood
40	Environmental Health	08/03/2024	James Robinson Tamworth	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

41	Environmental Health	08/03/2024	Allen Saber Colchester	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Nineveh Road, Soho, Birmingham.	£220.00	£85.00	£175.00	£305.00		Soho & Jewellery Quarter
42	Environmental Health	08/03/2024	Roman Sarnecki Wednesbury	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Soho Road, Birmingham.	£220.00	£85.00	£175.00	£305.00		Soho & Jewellery Quarter
43	Environmental Health	08/03/2024	Millie Seager Droitwich	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	£85.00	£175.00	£305.00		Ladywood
44	Environmental Health	08/03/2024	Cosmina Simdoianu Birmingham	Soho & Jewellery Quarter	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	08/03/2024	Debbie Southgate Birmingham	Bordesley & Highgate	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
46	Environmental Health	08/03/2024	Abbey Stonebanks Wallsend	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
47	Environmental Health	08/03/2024	Kevin Stothard Sunderland	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
48	Environmental Health	08/03/2024	Azad Ullah Birmingham	Aston	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
49	Environmental Health	08/03/2024	Turcitu Visan Birmingham	Birchfield	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Spiceal Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Ladywood
50	Environmental Health	08/03/2024	Tat Ming Wong Stourport on Severn	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Ladywell Walk, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bordesley & Highgate
51	Environmental Health	08/03/2024	Chuanjian Xe Kidderminster	Out of area	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
52	Environmental Health	08/03/2024	Valentina Zerra Birmingham	Stockland Green	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
53	Environmental Health	08/03/2024	Jackson Zhang Birmingham	Nechells	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Ladywell Walk, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bordesley & Highgate
54	Waste Enforcement	12/03/2024	Jimmy's Restaurant and Bar Mediterranean Ltd 22 Waterfront Walk Birmingham B1 1SN	Ladywood	Environmental Protection Act 1990 Pleaded guilty to two offences; one offence of failing to take all reasonable measures to prevent a contravention of Section 33 in that there was inadequate waste provision at Noels Bar, 22 Waterfront Walk, Birmingham and inadequate training was provided to staff and one offence of using Birmingham City Council to collect and dispose of trade waste from the business and did not have written descriptions of the waste produced and transferred from the business.	£4,037.50	£8,500.00	£9,652.61	£12,537.50	Fine on offence 1. No separate penalty on offence 2.	Ladywood

55	Waste Enforcement	21/03/2024	Noureedin Shangeer Birmingham	Sparkbrook & Balsall Heath East	Environmental Protection Act 1990 Pleaded guilty to three offence; two offences of depositing controlled waste, including children's toys, wood, a wheel/tyre, white boards, dismantled cupboards, a metal filing cabinet, documents and a photocopier, from a vehicle on John Kempe Way, Birmingham on two separate dates and one offence of failing to comply with a Notice requiring information to be provided as to the person in control of the vehicle on the dates of offence.	£0.00	£500.00	£1,071.00	£500.00	Community Order with a Curfew Requirement of 8 weeks.	Sparkbrook & Balsall Heath East
56	Environmental Health	22/03/2024	Morgan Adams Corby	Out of area	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in High Street, Birmingham.	£50.00	£80.00	£175.00	£130.00		Ladywood
57	Environmental Health	22/03/2024	Brendan Billingham Dudley	Out of area	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
58	Environmental Health	22/03/2024	Hayley Samantha Broadfield Birmingham	Bartley Green	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Pershore Street, Birmingham.	£220.00	£85.00	£175.00	£305.00		Bordesley & Highgate
59	Environmental Health	22/03/2024	Sandra Chelariu Birmingham	Sparkhill	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
60	Environmental Health	22/03/2024	Brenda Faibis Birmingham	Sparkhill	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Stratford Road, Sparkhill, Birmingham.	£220.00	£85.00	£175.00	£305.00		Sparkhill
61	Environmental Health	22/03/2024	Ikbar Gul Birmingham	Sparkbrook & Balsall Heath East	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Startford Road, Sparkhill, Birmingham.	£220.00	£85.00	£175.00	£305.00		Sparkhill
62	Environmental Health	22/03/2024	Thomas Howard Birmingham	Handsworth	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Rookery Road, Soho, Birmingham.	£220.00	£85.00	£175.00	£305.00		Holyhead
63	Environmental Health	22/03/2024	Seba Ion Birmingham	Bordesley & Highgate	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
64	Environmental Health	22/03/2023	Alice Knight Southam	Out of area	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in New Street, Birmingham.	£92.00	£22.00	£175.00	£114.00		Ladywood
65	Environmental Health	22/03/2024	Mohammed Matloob Birmingham	Bournbrook & Selly Park	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in High Street, Birmingham.	£40.00	£85.00	£175.00	£125.00		Ladywood
66	Environmental Health	22/03/2024	Florin Petrovici Birmingham	Soho & Jewellery Quarter	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
67	Environmental Health	22/03/2024	Ion Scarlat Birmingham	North Edgbaston	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Dudley Road, Winson Green Birmingham.	£220.00	£85.00	£175.00	£305.00		North Edgbaston
68	Environmental Health	22/03/2024	Martina Shurmer Birmingham	Harborne	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

69	Environmental Health	22/03/2024	Horvath Vilmos Birmingham	Perry Barr	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
70	Environmental Health	22/03/2024	Leanna Walker Worcester	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
71	Environmental Health	22/03/2024	Julius Warren Birmingham	Sutton Reddicap	Environmental Protection Act 1990 Section 87 Pleaded guilty to one offence of dropping litter in Stephenson Street, Birmingham.	£40.00	£85.00	£175.00	£125.00		Ladywood
72	Environmental Health	22/03/2024	Thanath Watson Evesham	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	£85.00	£175.00	£305.00		Ladywood
73	Environmental Health	25/03/2024	Nicholas Guy Telford	Out of area	Environmental Protection Act 1990 Section 87 Found guilty in absence of one offence of dropping litter in Pinfold Street, Birmingham. Originally listed for trial.	£139.00	£185.00	£1,203.05	£324.00		Ladywood
74	Environmental Health	25/03/2024	Chai Bar Ltd 1 Alum Rock Road Birmingham B8 1LL	Alum Rock	Food Safety Act 1990 Food Safety and Hygiene (England) Regulations 2013 Found guilty in absence of 3 offences of failing to comply with Improvement Notices; one requiring accurate information to be provided with regards to the 14 prescribed allergens that could cause food allergies and intolerances in the food produced and sold at the premises at 1 Alum Rock Road, Birmingham, one requiring a permanent procedure based on HACCP principles to be put in place, implemented and maintained and one requiring products for direct sale, namely pre-packed cakes, to be labelled correctly.	£3,000.00	£2,020.00	£2,020.00	£5,020.00		Alum Rock

SIMPLE CAUTIONS ADMINISTERED DURING MARCH 2024

ENVIRONMENTAL HEALTH

No simple cautions were administered.

LICENSING

Ten simple cautions were administered.

Local Government (Miscellaneous Provisions) Act 1976

Section 48(6) Four cautions were issued for failing to display a private hire vehicle licence plate.

Local Government (Miscellaneous Provisions) Act 1976

Section 57 Two 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) Four 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.

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY

Waste Investigation Outcomes													
	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Total
Duty of care inspections into the waste disposal arrangements of commercial premises	58	59	63	75	46	21	14	44	26	71	206	60	743
Section 34 Environmental Protection Act demand notices issued:(trade waste statutory information demands)	49	56	86	54	37	7	9	30	10	60	195	72	665
Section 34 Environmental Protection Act Fixed Penalty Notices issued to businesses (£300)	9	25	8	5	13	3	1	0	1	11	7	14	97
Section 87 Environmental Protection Act Fixed Penalty notices issued for commercial and residential litter offences(£150)	1	4	0	1	0	0	0	0	0	0	1	0	7
Section 33 Environmental Protection Act Fixed penalty notices issued for fly tipping (£400)	9	18	8	14	11	7	4	5	13	5	5	9	108
Prosecutions													
Number of prosecution files submitted to legal services, (number produced quarterly.	1	4	1	2	1	4	6	2	0	2	2	3	28

APPENDIX 4

Monthly Parking Pcns Issued in Taxi Ranks	Processing
April 2023	299
May 2023	331
June 2023	327
July 2023	330
August 2023	257
September 2023	344
October 2023	454
November 2023	555
December 2023	486
January 2024	481
February 2024	469
March 2024	425
TOTAL	4758