

BIRMINGHAM CITY COUNCIL

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

23rd OCTOBER 2019
ALL WARDS

PROSECUTIONS AND CAUTIONS – AUGUST 2019

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

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3. Results

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

- No Licensing cases were finalised during August 2019. One simple caution was administered as set out in Appendix 1.
- 43 Environmental Health cases resulted in fines of £11,202 together with two suspended prison sentences, two disqualifications from owning animals and one disqualification from owning a pet shop. Prosecution costs of £15,386 were awarded. No simple cautions were administered as set out in Appendix 2.
- Two Trading Standards cases resulted in two community orders. Prosecution costs in the sum of £1,500 were awarded. Six simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in August 2019 and cases finalised by district April 2019 – August 2019.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team from April 2019 to August 2019.

4. Consultation

4.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and business in terms of the regulation duties of the Council. Any enforcement action[s] taken as a result of the contents of this report are subject to that Enforcement Policy.

5. Implications for Resources

5.1 Costs incurred in investigating and preparing prosecutions, including officers' time, the professional fees of expert witnesses etc. are recorded as prosecution costs. Arrangements have been made with the Magistrates Court for any costs awarded to be reimbursed to the City Council. Monies paid in respect of fines are paid to the Treasury.

5.2 For the year April 2019 to August 2019 the following costs have been requested and awarded:

Licensing

£3,684 has been requested with £2,763 being awarded (75%)

Environmental Health

£125,696 has been requested with £93,768 being awarded (75%).

Trading Standards

£21,936 had been requested with £13,603 being awarded (62%).

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

Licensing

No costs have been requested or awarded

Environmental Health

£19,754 has been requested with £15,386 being awarded (78%).

Trading Standards

£2,188 had been requested with £1,500 being awarded (69%).

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

Licensing

£828 has been received.

Environmental Health

£11,952 has been received including Waste Enforcement cases.

Trading Standards

£757 has been received.

(Total £13,537).

- 5.5 This will not directly correlate to the values awarded in the same time period as individual cases are often cleared in instalments with the associated fines and court costs taking precedence over the settling of BCC legal costs. Therefore, income received may relate to cases from the previous financial year or earlier.

6. Implications for Policy Priorities

- 6.1 The contents of this report contribute to the priority action of ensuring business compliance with legislation to protect the economic interests of consumers and businesses as contained in the Council Business Plan 2015+.

7. Public Sector Equality Duty

- 7.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Licensing and Public Protection Committee which ensures that equality issues have been addressed.

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

LICENSING CASES

APPENDIX 1

No Licensing cases were finalised during August 2019

LICENSING SIMPLE CAUTIONS

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

Local Government (Miscellaneous Provisions) Act 1976

Section 48(6) & Section 54(2) One caution was issued for failing to display a private hire vehicle licence plate and for failing to wear the drivers badge in a position and manner as to be plainly and distinctly visible

ENVIRONMENTAL HEALTH CASES**WASTE OFFENCES**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	8/8/19	Shir Agha Meakhel Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Hussain Food Store, 247 Pretoria Road, Birmingham was disposed of within 7 days.	£450 fine £1,190 costs (£1,190 requested)	Stockland Green	Heartlands
2	8/8/19	Kingdom Private Ltd 883 Washwood Heath Road Birmingham B8 2NA	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Chicken.Com, 883 Washwood Heath Road, Birmingham was disposed of within 7 days.	£400 fine £371 costs (£371 requested)	Ward End	Ward End
3	8/8/19	Haroon Lookman Birmingham	Environmental Protection Act 1990 Pleaded guilty to six offences; one offence of instructing unknown persons to collect and dispose of the waste from Highfield Fish Bar, 6 Highfield Road, Birmingham without ensuring that the persons were authorised to transfer waste and five offences of intentionally obstructing an authorised officer in the exercise of his powers or duties by giving a false name.	£420 fine (£210 x 2) No separate penalty on remaining offences. £400 costs (£1,257 requested)	Sparkhill	Alum Rock

4	14/8/19	Abdul Karim Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information on how waste from Clearance Centre, 112 Cherrywood Road, Birmingham was disposed of within 7 days.	£300 fine £570 costs (£570 requested)	Sparkhill	Bordesley & Highgate
5	22/8/19	Joab Tawanda Rusike Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information on how waste from I Sell, 35 Station Road, Erdington, Birmingham was disposed of within 7 days.	£300 fine £100 costs (£482 requested)	Castle Vale	Erdington
6	22/8/19	Halima Mohamed Birmingham	Environmental Protection Act 1990 Pleaded guilty to two offences; one offence of failing to comply with a notice requiring written information on how waste from Gaf Tailoring, Unit 2, 92 High Street, Kings Heath, Birmingham was disposed of and one offence of failing to comply with a requirement in a demand for information relating to business waste produced at the business.	£300 – offence 1 No separate penalty for remaining offence £605 costs (£605 requested)	Handsworth	Brandwood & Kings Heath
7	22/8/19	Lee Nguyen Birmingham	Environmental Protection Act 1990 Anti-Social Behaviour, Crime and Policing Act 2014 Pleaded guilty to three offences; one offence of failing to comply with a notice requiring written information on how waste from Envy, 11 The Radleys, Sheldon, Birmingham was disposed of within 7 days and two offences of failing to comply with the conditions of a notice requiring the defendant to cease the practice of using “illegal advertisements” to promote Envy in that unauthorised advertisements were found on Olton Boulevard East and Greenwood Avenue, Birmingham.	£600 (£300 x 2 offences 1 & 2) No separate penalty for remaining offence £300 costs (£634 requested)	Handsworth	Sheldon

8	22/8/19	Cyril Murtagh Birmingham	Environmental Protection Act 1990 Pleaded guilty to three offences of depositing controlled waste, namely a number of black bags of waste, on land outside 137 Monyhull Hall Road, Birmingham on three separate occasions.	£500 – offence 1 No separate penalty for remaining offences £500 costs (£1,475 requested)	Druids Heath & Monyhull	Druids Heath & Monyhull
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FOOD HYGIENE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
9	14/8/19	RCJ Catering Ltd Unit 4-5 3 Langton Road Birmingham B8 3DG	Food Safety and Hygiene (England) Regulations 2013 Found guilty in their absence of six offences relating to conditions found at Roti & Curry Junction, Unit 4-5, 3 Langton Road. Birmingham. The premises was not kept clean, racking used to store clean pots was dirty, ceiling cladding was dirty in the dry store area and a wooden pallet used for cooling pots of cooked food was filthy. The flooring in the main kitchen was not properly sealed; floor paint had cracked and peeled away leaving exposed concrete. Walls in the dry store were damaged. Food tongues, a blender and a jug used to scoop rice were filthy. Touch points throughout were dirty. A ready to eat chocolate cake was stored directly on top of raw meat; some uncovered food was left to cool on the floor whilst cleaning was taking place. There were no procedures based on HACCP.	£1,000 – offence 1 No separate penalty for remaining offences £100 costs (£1,720 requested)	Alum Rock	Alum Rock

ANIMAL WELFARE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
10	22/8/19	Nazar Hussain Birmingham Mohammed Nabeel Birmingham	<p>Pet Animals Act 1951, Animal Welfare Act 2006 & Wildlife and Countryside Act 1981</p> <p>Nazar Hussain, being the licence holder of Bordesley Green Pets and Aquatics, 149 Bordesley Green, Birmingham, pleaded guilty to 12 offences; five of failing to comply with the licence conditions in that a cockatiel was found with a broken wing and leg and had not received appropriate care and treatment, partridges were not kept in suitable accommodation, cockatiels, budgerigars and quail were accommodated without appropriate environmental enrichment, quail and budgerigars were not supplied with adequate water, partridges were kept in housing which did not minimise stress from other animals, cats were roaming free in the shop and there was no evidence that staff were competent in pet shop management and animal handling, One offence of causing a cockatiel to suffer and four offences of failing to ensure that the needs of animals were met. Two offences of keeping a cockatiel and a partridge in cages which were not large enough to allow the birds to stretch their wings.</p> <p>Mohammed Nabeel, being the Manager of the pet shop, pleaded guilty to seven offences; one of failing to obtain veterinary treatment in respect of a cockatiel, two of keeping a cockatiel and a partridge in cages which did not permit the birds to stretch their wings and four of failing to ensure that the needs of a cockatiel, adult rabbits, quail and budgerigars were met.</p>	<p><u>Nazar Hussain</u></p> <p>10 weeks imprisonment suspended for 12 months.</p> <p>10 years disqualification from keeping animals.</p> <p>10 year disqualification from owning a pet shop</p> <p>£2,815 costs</p> <p><u>Mohammed Nabeel</u></p> <p>10 weeks imprisonment suspended for 12 months.</p> <p>10 years disqualification from keeping animals.</p> <p>£2,815 costs</p> <p>(£5,630 requested)</p>	Garretts Green	Bordesley Green

LITTERING OFFENCES (NON SJP)

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
11	8/8/19	Liam Abrahams Bedford	Environmental Protection Act 1990 Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham	£100 fine £220 costs (£220 requested)	Out of area	Ladywood

DETAILS OF LITTERING OFFENCES

	Date Case Heard	Name	Fine/Penalty & Costs	Ward of defendant
12	9/8/19	Mohammed Ahmed Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Small Heath
13	9/8/19	Rashied Kaej Alfoudari Coventry Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
14	9/8/19	Jamie R Ashley Rugby Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
15	9/8/19	Dayl Bird Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Bordesley Green

16	9/8/19	Gergana Boneva Wolverhampton Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
17	9/8/19	Wen Qiang Cai Dudley Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
18	9/8/19	Alexandru Cornea Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Erdington
19	9/8/19	Adrian Donaldson Dudley Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
20	9/8/19	Petru Dormenco Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Nechells
21	9/8/19	Marius Dumitru Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Aston
22	9/8/19	Mark Hall Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Pype Hayes
23	9/8/19	Steve Hughes Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Lozells

24	9/8/19	Rachel Hughes Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Lozells
25	9/8/19	Sobiya Hussain Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Bromford & Hodge Hill
26	9/8/19	Joanne Jones Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Harborne
27	9/8/19	Anil Kumar Laddher Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Handsworth Wood
28	9/8/19	Muhammed Lal Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Moseley
29	9/8/19	Changjian Li Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Bournbrook & Selly Park
30	9/8/19	Jenna Lindsey Solihull Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
31	9/8/19	Alexandru Mihai Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Alum Rock

32	9/8/19	Ann Marie Morgan Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Bordesley & Highgate
33	9/8/19	Usana El Jandaou Moxhlis Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Sparkbrook & Balsall Heath
34	9/8/19	Onyela Ohagei Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Weoley & Selly Oak
35	9/8/19	Awat Rasul Bristol Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
36	9/8/19	Toby Rowland Leicester Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
37	9/8/19	Jennifer Rudzianskas Bedford Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
38	9/8/19	Sophie Sallis West Bromwich Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
39	9/8/19	Sandu Sopoiala Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Nechells

40	9/8/19	Stephanie Stoney Leicester Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
41	9/8/19	Kathryn Stubbs Birmingham Guilty plea	£40 fine £75 costs (£175 requested)	Brandwood & Kings Heath
42	9/8/19	Levy Vidal Wolverhampton Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
43	9/8/19	Jim L Worrall Tamworth Guilty plea	£192 fine £75 costs (£175 requested)	Out of area

LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
9/8/19	32	£6,832	£5,400	£5,600

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

No simple cautions were administered during August 2019.

TRADING STANDARDS CASES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
44	22/8/19	Israr Ismail Burton on Trent	<p>Electrical Equipment (Safety) Regulations 2016 & Trade Marks Act 1994</p> <p>Pleaded guilty to five offences; two of failing to verify, prior to making electrical equipment, namely AC/DC adaptors, available on the market, that the manufacturer had complied with the regulations relating to labelling and that the products were accompanied by instructions and safety information and three of having in possession at Sari Electronics Ltd trading as Xtreme Mobiles, 28D Great Hampton Street, Birmingham an Apple power adaptor, Apple ear pods and Samsung earphones which bore registered trademarks without the consent of the trade mark holders</p>	<p>12 month Community Order with 120 hours unpaid work</p> <p>Forfeiture order granted in respect of 543 seized items.</p> <p>£1,500 costs (£2,188 requested)</p>	Out of area	Newtown
45	30/8/19 at Birmingham Crown Court	Dildar Khan Birmingham	<p>Tobacco and Related Products Regulations 2016, Trade Marks Act 1994 & Fraud Act 2006</p> <p>Pleaded guilty to six offences; one of possessing for supply 35 packets of cigarettes at Zahir Supermarket, 476-478 Bordesley Green, Birmingham which failed to carry the required health warnings, one of possessing for supply 335 packs of oral tobacco which was prohibited as tobacco for oral use must not be produced or supplied, three offences of possessing hand rolling tobacco which bore registered trademarks without the consent of the trade mark holders and one offence of carrying on a fraudulent business, namely offering counterfeit hand rolling tobacco and cigarettes, not lawfully permitted to be sold in the UK.</p>	<p>12 month Community Order with a 20 day rehabilitation activity requirement focusing on criminal behaviour</p> <p>POCA timetable set</p>	Heartlands	Heartlands

TRADING STANDARDS SIMPLE CAUTIONS

During the period of August 2019 six simple cautions were administered.

Criminal Justice Act 1988

Three cautions were issued for selling a knife to a person under the age of 18 years.

Tobacco and Related Products Regulations 2006 & Standardised Packaging of Tobacco Products Regulations 2015

Two cautions were issued for selling tobacco products for smoking which breached regulations in that the colour of the packaging was incorrect and they did not carry health warnings

Trade Marks Act 1994

One caution was issued for having in possession, custody or control in the course of a business, 72 items which bore signs identical to or likely to be mistaken for registered trademarks.

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – AUGUST 2019

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

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	0	0	0	0	0	0	0	0
Environmental Health (FPNs) Not paid and prosecuted	1	2	2	3	4	1	4	2	0	0	14	33
Environmental Health (non FPNs)	0	2	2	2	0	0	2	1	0	1	0	10
Trading Standards	0	0	0	1	0	0	0	0	0	0	1	2

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	0	0	4	0	0	0	1	0	0	6
Environmental Health (FPNs) Not paid and prosecuted	0	1	0	0	268	0	0	0	0	0	0	269
Environmental Health (non FPNs)	1	3	11	15	25	2	5	3	2	2	0	69
Trading Standards	0	0	0	2	2	1	3	0	1	3	0	12

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	1	0	2	2	0	0	0	0	1	0	6
Environmental Health (FPNs) Not paid and prosecuted	17	12	15	18	32	7	22	9	2	14	121	269
Environmental Health (non FPNs)	1	7	12	12	18	0	6	3	1	2	7	69
Trading Standards	0	0	0	2	1	0	3	1	1	3	1	12

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2019 – MARCH 2020

Waste Investigation Outcomes													
	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Total
Duty of care inspections into the waste disposal arrangements of commercial premises	64	97	93	94	92								440
Section 34 Environmental Protection Act demand notices issued:(trade waste statutory information demands)	37	59	64	51	45								256
Section 34 Environmental Protection Act Fixed Penalty Notices issued to businesses (£300)	36	0	34	5	7								82
Section 87 Environmental Protection Act Fixed Penalty notices issued for commercial and residential litter offences(£80)	0	0	0	0									0
Section 33 Environmental Protection Act Fixed penalty notices issued for fly tipping (£400)	0	6	2	3	2								11
Prosecutions													
Number of prosecution files submitted to legal services, (number produced quarterly).	13	10	35	9	9								76