

BIRMINGHAM CITY COUNCIL

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

15 NOVEMBER 2017
ALL WARDS

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS
TAKEN DURING SEPTEMBER 2017**

1. Summary
 - 1.1 This report advises the Committee of the outcomes of appeals against the Sub Committee's decisions which are made to the Magistrates' Court, and any subsequent appeals made to the Crown Court, and finalised in the period mentioned above.
2. Recommendation
 - 2.1 That the report be noted.

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3. Summary of Appeal Hearings for September 2017

	Magistrates'	Crown
Total	3	
Allowed		
Dismissed	1	
Appeal lodged at Crown		n/a
Upheld in part	1	
Withdrawn pre-Court	1	

4. Implications for Resources

- 4.1 The details of costs requested and ordered in each case are set out in the appendix below.
- 4.2 In September 2017 costs have been requested to the sum of £2,200 with reimbursement of £2,050 (93.2%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2017 to September 2017, costs associated to appeal hearings have been requested to the sum of £22,238.55 with reimbursement of £18,395.30 (82.7%) ordered by the Courts.

5. Implications for Policy Priorities

- 5.1 The contents of this report contribute to the priority action of providing an efficient and effective Licensing service to ensure the comfort and safety of those using licensed premises and vehicles.

6. Public Sector Equality Duty

- 6.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Regulation and Enforcement Division, which ensures that equality issues have been addressed.

7. Consultation

- 7.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and the business community in terms of the regulatory duties of the Council. Any enforcement action taken as a result of the contents of this report is subject to that Enforcement Policy.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Prosecution files and computer records in Legal Proceedings team.

MAGISTRATES' COURT – PRIVATE HIRE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Waqar Ajmal	13.09.2017	Allowed in part	£300	£150	On 22 May 2017, as the result of a complaint that Mr Ajmal had been observed using a hand-held mobile phone while driving, and had become verbally abusive to a member of the public when remonstrated with, Committee considered and resolved to suspend the licence for a period of six months. The period of suspension was reduced to five months on appeal to the Magistrates' Court: the Bench agreed that the Council was right to suspend the licence for the behaviour Mr Ajmal had displayed towards the complainant, but considered the suspension period to be excessive.
2	Muhammed Afzal	22.09.2017	Dismissed	£300	£300	On 1 August 2017, as the result of receipt of information received from Mr Afzal's operator relating to an allegation of sexual misconduct towards a fare-paying passenger, in consultation with the Chair of your Committee the licence was revoked with immediate effect as this course of action was deemed necessary in the interests of public safety. Notice was hand delivered to Mr Afzal's home address by PC Humpherson, seconded to the Licensing Section from the West Midlands Police. An appeal to Crown Court has been indicated.

MAGISTRATES' COURT – LICENSING ACT 2003

1	Dayfor Limited iro Second City Suite, 100 Sherlock St, Birmingham B5 6LT	n/a	Withdrawn pre-Court	£1600	£1600	As the result of an incident on 4 February 2017 where a firearm had been discharged, on 7 February 2017 a notice for the expedited review of the premises licence was submitted by West Midlands Police on grounds that the crime and disorder Licensing objective within the Act was not being promoted. On 6 March 2017 the Committee considered and resolved to revoke the premises licence in order to promote the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm objectives in the Act. The appeal was abandoned on or about 30 August 2017, having been listed for hearing on 6 September 2017. Payment was made in settlement of legal costs.
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