

BIRMINGHAM CITY COUNCIL

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

21 JUNE 2017
ALL WARDS

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
TAKEN DURING MARCH AND APRIL 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 March 2017

	Magistrates'	Crown
Total	4	3
Allowed	2	
Dismissed	1	1
Appeal lodged at Crown		n/a
Upheld in part		2
Withdrawn at Court pre hearing	1	

4. Implications for Resources 2016/2017

- 4.1 The details of costs requested and ordered in each case are set out in the appendix below.
- 4.2 In March 2017 costs have been requested to the sum of £1,200 with reimbursement of £650 (54.2%) ordered by the Courts.
- 4.3 For the fiscal year recently ended, April 2016 to March 2017, costs associated to appeal hearings have been requested to the sum of £27,358.27 with reimbursement of £25,808.27 (94.3%) ordered by the Courts.

5. Summary of Appeal Hearings for April 2017

	Magistrates'	Crown
Total	5	1
Allowed	1	
Dismissed	4	1
Appeal lodged at Crown		n/a
Upheld in part		
Withdrawn pre-Court		

6. Implications for Resources 2017/2018

- 6.1 In April 2017 costs have been requested to the sum of £4,075 with reimbursement of £1,100 (27%) ordered by the Courts.

7. Implications for Policy Priorities

- 7.1 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.

8. Public Sector Equality Duty

8.1 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.

9. Consultation

9.1 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	Gurjit Singh	Listed 10.03.2017	Withdrawn at Court	£300	£100	On 3 January 2017, as the result of receiving a conditional discharge for the offence of soliciting another for the purpose of obtaining sexual services as a prostitute, Committee considered and in line with the relevant policy resolved to revoke the licence. The appeal was withdrawn at Court. Costs were applied for because a hearing had resulted.
2	Shangara Samra	10.03.2017	Dismissed	£300	£100	On 16 January 2017, as the result of a history of convictions and disqualifications from driving for drink/drive offences, and previous refusals and revocations for the same or similar offences, including one instance of revocation with immediate effect on grounds of public safety, Committee considered and resolved to refuse the application.
3	Mohammed Zabir Khan	13.03.2017	Allowed	0	0	On 3 November 2016, as the result of information received from West Midlands Police to the effect that the appellant had been involved in an incident involving offensive weapons, in consultation with the Chair of your Committee the licence was revoked with immediate effect on grounds of public safety. Notice was posted via Royal Mail because the Licensing Manager was not willing to risk the safety of Licensing Enforcement staff. The appeal was allowed because, in the words of the Clerk to the Justices, "the notice was defective" and "did not set out the reasons" and in the opinion of the Magistrates "the notice does not comply with S61(2A) or (2B)." An appeal to the Crown Court is being actively pursued by Birmingham City Council; the hearing is listed for 25 May 2017 and the result will be reported in due course.

4	Abdul Razaaq	31.03.2017	Allowed		£720 (contra BCC)	On 15 November 2016, as the result of a complaint from a member of the public that the appellant had caused damage to his lawn by deliberately driving over it, and that he had a poor grasp of the English language, Committee considered and resolved to suspend the licence for an unspecified period of time, pending the appellant passing all tests and attending all courses relevant to the grant of such a licence. The appeal was allowed because, in the words of the Magistrates "he was open and honest when questioned and therefore was a good and credible witness", and felt that "the suspension was disproportionate". The complainant was not called to Court to substantiate his complaint.
5	Gul Zubair	03.04.2017	Dismissed	£300	£300	On 8 November 2016, as the result of prosecution and conviction for the offences of plying for hire and subsequently invalidating his insurance, Committee considered and in line with the relevant policy revoked the licence.
6	Nasar Ahmed	07.04.2017	Dismissed	£350	£200	On 1 February 2017, as the result of the appellant's failure to undertake the required medical examination, in spite of numerous reminders in writing, and his failure to attend two Committee meetings to which he had been invited, Committee considered and resolved to revoke the licence. The appellant finally responded to correspondence by taking a medical examination after receiving notice that his licence had been revoked.
7	Saqab Javid	28.04.2017	Dismissed	£250	0	On 9 March 2016, as the result of information received from West Midlands Police to the effect that the appellant had been cautioned for the offence of possession of a Class A drug, and had tested positive for opiates, in consultation with the Chair of your Committee the licence was revoked with immediate effect on grounds of public safety. Notice in writing was hand delivered to the appellant's home address. The Magistrates were of the opinion that "clearly the right decision had been made".

MAGISTRATES' COURT – HACKNEY CARRIAGE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Maher Abdul-Wahab	21.04.2017	Allowed	0	0	On 13 February 2017, as the result of complaints from members of the public regarding abusive and aggressive behaviour on the part of the appellant, Committee considered and resolved to revoke the licence. The Magistrates allowed the appeal because the appellant either denied the inappropriate behaviour referred to in earlier complaints or denied any knowledge of complaints, and gave a completely different version of events to that contained within the statements made by the most recent complainants. The two most recent complainants were not called to Court to substantiate their complaint. No order was made for costs.
2	Sajid Hussain	21.04.2017	Dismissed	£300	£150	On 13 February 2017, as the result of concerns regarding his driving history, namely, 21 points on his driving licence since late 2009, including 12 "live" points at the time of the meeting, Committee considered and resolved to suspend the licence for a period of six months. The Magistrates were concerned regarding public safety, and "did not feel the Council's judgement was wrong".

CROWN COURT – HACKNEY CARRIAGE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Zulfaqar Ali	10.03.2017	Dismissed	£1000	£500	On 31 May 2016, as the result of the appellant's driving history, namely, disqualification from driving in 2011 as the result of 24 points on his driving licence and a further 11 points since reinstatement of his driving licence, Committee considered and resolved to refuse the renewal of the licence. The appeal to the Magistrates was dismissed on 24 October 2016.

2	Mohammed Ali	28.04.2017	Dismissed	£400	£400	On 8 June 2016, as the result of a complaint from a member of the public alleging inappropriate behaviour on the part of the appellant, Committee considered and resolved to refuse the renewal of the licence for a period of six months. The appeal to the Magistrates was dismissed on 12 August 2016. The complainant declined to attend Crown Court.
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CROWN COURT – PRIVATE HIRE DRIVER’S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Wiad Rehman	10.03.2017	Allowed in part	£1075	0	On 5 July 2016, as the result of the appellant’s driving history since becoming licensed as a private hire driver, namely, a total of 25 points on his driving licence since early 2007, and several previous appearances before Sub Committees, Committee considered and resolved to suspend and/or refuse the renewal of the licence for a period of six months. The appeal to the Magistrates was dismissed on 28 September 2016. The Bench reduced the period of suspension to three months. Information regarding the Bench’s reasoning for halving the Sub Committee’s period of suspension has been requested but not received.
2	Mohammed Farooq	31.03.2017	Allowed in part	£1000	0	On 20 September 2016, as the result of having committed two motoring offences in a period of less than six weeks that resulted in his licence being endorsed with eight points, Committee considered and resolved to suspend the licence for a period of two months. The appeal to the Magistrates was dismissed on 21 November 2016. The Bench agreed it was correct for the Sub Committee to suspend the licence, but considered a two-month period to be excessive and reduced the suspension period to one month.