

BIRMINGHAM CITY COUNCIL

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

16 JANUARY 2019
ALL WARDS

PROSECUTIONS AND CAUTIONS – NOVEMBER 2018

1. Summary
 - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of November 2018.
2. Recommendation
 - 2.1 That the report be noted.

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3. Results

3.1 During the month of November 2018 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- No Licensing cases were finalised or cautions administered as set out in Appendix 1.
- 75 Environmental Health cases resulted in fines of £21,291 and prosecution costs of £17,183 were awarded. A 12 month Community Order was also imposed. No simple cautions were administered as set out in Appendix 2.
- Two Trading Standards cases were finalised resulting in a total of 14 years imprisonment and a fine of £200. Prosecution costs of £300 were awarded. One simple caution was administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in November 2018 and cases finalised by district April – November 2018.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team in April - October 2018.

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 2018 to November 2018 the following costs have been requested and awarded:

Licensing

£18,601 has been requested with £15,302 being awarded (82%).

Environmental Health

£246,750 has been requested with £189,999 being awarded (77%).

Trading Standards

£42,010 has been requested with £16,091 being awarded (38%).

- 5.3 For the month of November 2018 the following costs have been requested and awarded:

Licensing

No costs were requested.

Environmental Health

£22,482 has been requested with £17,183 being awarded (76%).

Trading Standards

£2,217 has been requested with £300 being awarded (14%).

- 5.4 Since the start of the financial year until the end of November 2018 the following income has been received from the courts:-

Licensing

£10,624 has been received.

Environmental Health

£126,847 has been received including Waste Enforcement cases.

Trading Standards

£51,402 has been received.

(Total £188,873)

- 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.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

LICENSING CASES

APPENDIX 1

There were no licensing prosecutions finalised during November 2018.

LICENSING SIMPLE CAUTIONS

During the period of November 2018, no simple cautions were administered

ENVIRONMENTAL HEALTH CASES**WASTE OFFENCES**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	8/11/18	Inayah Daycare Ltd 214-215 Bacchus Road Birmingham B18 4RE	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Inayah Daycare Ltd, 214-215 Bacchus Road, Birmingham was disposed of within 7 days.	£600 £485 costs (£485 requested)	Soho & Jewellery Quarter	Soho & Jewellery Quarter
2	8/11/18	Pakeeza Halal Meat Centre Ltd 139 Soho Road Birmingham B21 9ST	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Pakeeza Halal Meat Centre, 139 Soho Road, Birmingham was disposed of within 7 days.	£300 £620 costs (£620 requested)	Soho & Jewellery Quarter	Soho & Jewellery Quarter
3	22/11/18	Omid Pishan Birmingham	Environmental Protection Act 1990 Pleaded guilty to two offences; one of failing to take reasonable measures to prevent a contravention in that waste from Kurdish Nan, 614 Washwood Heath Road, Birmingham was found on the pavement outside 604 Washwood Heath Road and one offence of failing to comply with a notice requiring written information of how waste from the business was disposed of within 7 days.	£300 – offence 1 No separate penalty for offence 2 £641 costs (£641 requested)	Weoley & Selly Oak	Ward End

4	22/11/18	CV Brothers Ltd 560B Coventry Road Small Heath Birmingham B10 0UN	Environmental Protection Act 1990 Pleaded guilty to one offence of knowingly causing or permitting controlled waste, namely till receipts, large quantities of ice cream and milkshake related food waste products and packaging from Shake House, 560B Coventry Road, to be deposited on the pavement near 560 Coventry Road and outside 564 Coventry Road, Birmingham.	£4,000 £944 costs (£944 requested)	Small Heath	Small Heath
5	22/11/18	Asima Muzzaker Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Impact Hair & Beauty, 786A Coventry Road, Birmingham was disposed of within 7 days.	£300 – offence 1 No separate penalty for offence 2 £275 costs (£550 requested)	Small Heath	Small Heath
6	22/11/18	Kundun Sweets Ltd 648-650 Washwood Heath Road Birmingham B8 2HQ	Environmental Protection Act 1990 Pleaded guilty to two offences; one offence of knowingly causing or permitting controlled waste, namely one black sack containing till receipts and utility bills, to be deposited on the pavement near 604 Washwood Heath Road and one offence of failing to comply with a notice requiring written information of how waste from Kundun Sweets Ltd, 648-650 Washwood Heath Road, Birmingham was disposed of within 7 days.	£500 – offence 1 No separate penalty for offence 2 £600 costs (£922 requested)	Ward End	Ward End

7	22/11/18	Xing Yi Huang Sutton-In-Ashfield	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely two fridge freezers, onto land on Bissell Street, Birmingham.	£905 £838 costs (£838 requested)	Out of area	Nechells
8	26/11/18	Bargains for Sure Ltd 1174 Stratford Road Birmingham B28 8XB	Environmental Protection Act 1990 Found guilty in their absence of one offence of failing to comply with a notice requiring written information of how waste from Bargains for Sure, 451 Brays Road, Birmingham was disposed of within 7 days.	£400 £620 costs (£620 requested)	Hall Green North	Garretts Green

ANIMAL WELFARE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	21/11/18	Rameez Hussain Birmingham	Animal Welfare Act 2006 Pleaded guilty to two offences; one offence of being the person in charge of a dog, namely an American bulldog type dog at an address in Birmingham, and failing to take all reasonable steps to ensure that the needs of the animal were met and one offence of causing unnecessary suffering to the dog by reason of an unsuitable environment. There was no clean, dry area for the dog to lie down and no evidence of food. The floor was covered in faeces, urine and water.	Community Order for 12 months and to complete 25 RAR days (Rehabilitation Activity Requirement). Disqualified from keeping animals for 5 years and deprived from owning the dog. £1,000 costs (£5,312 requested)	Glebe Farm & Tile Cross	Glebe Farm & Tile Cross

LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
9/11/18	33	£7,086	£5,675	£5,775
23/11/18	33	£6,900	£5,485	£5,775

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

No simple cautions were administered during November 2018.

TRADING STANDARDS CASES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	7/11/18 at Birmingham Crown Court	<p>Ibrar Hussain Birmingham</p> <p>Sabiha Shaheen Birmingham</p> <p>Mohammed Afsar (AKA Malik) Birmingham</p>	<p>Criminal Law Act 1977 Theft Act 1698 Criminal Justice and Public Order Act 1994</p> <p>Hussain, Shaheen and Afsar each pleaded <u>not guilty</u> to one offence of conspiring together to commit fraud by falsely representing that items of jewellery, namely gold bangles which were sold from retail premises on the Stratford Road, Birmingham, were made of 22 carat gold when they were not.</p> <p>Hussain pleaded <u>not guilty</u> to three further charges of threatening witnesses with violence, intending for the course of justice to be obstructed.</p> <p>Afsar pleaded <u>not guilty</u> to one further charge of making a demand with menaces, by threatening an employee that if he did not continue to work without pay his family would suffer violence and he would be reported to the authorities as a visa over stayer.</p> <p>Found guilty following trial.</p>	<p>Hussain - a total of 7 years imprisonment</p> <p>(5 years x count 1 + 12 months x counts 6 & 7 - concurrent with each other but consecutive to 5 years + 12 months x count 8</p> <p>Shaheen - 3 years imprisonment and disqualified from being a Director of a Company for 7 years</p> <p>Afsar - a total of 4 years imprisonment</p> <p>(4 years x count 1 + concurrent sentence of 4 years on count 2)</p> <p>POCA Timetable set</p>	South Yardley	Sparkhill

2	22/11/18	Fozia Shabir Slough	Consumer Protection from Unfair Trading Regulations 2008 Pleaded guilty to one offence of recklessly engaging in a commercial practice which contravened the requirements of professional diligence by advertising and offering for sale a Range Rover Sport vehicle from Ambassador Automobiles Ltd, 568 Moseley Road, Birmingham without carrying out a basic inspection to ascertain whether the vehicle was safe, roadworthy, of satisfactory quality or economical repair.	£200 fine £300 costs (£2,217 requested) £2,532 compensation awarded	Out of area	Balsall Heath West
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TRADING STANDARDS SIMPLE CAUTIONS

One simple caution was administered during November 2018

Road Traffic Act 1988 Section 75(5)

One caution was issued for supplying a Hyundai Getz in an unroadworthy condition.

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – NOVEMBER 2018

	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	66	0	0	0	0	0	0	66
Environmental Health (non FPNs)	0	0	0	5	3	0	0	0	0	1	0	9
Trading Standards	0	0	2	0	0	0	0	0	0	0	0	2

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – NOVEMBER 2018

	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	1	4	9	11	2	1	4	0	3	30	66
Environmental Health (non FPNs)	0	0	1	4	2	1	0	0	0	0	1	9
Trading Standards	0	0	0	0	0	0	0	0	0	1	1	2

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL-NOVEMBER 2018

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	18	0	0	5	1	0	0	24
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	498	0	0	0	0	0	0	498
Environmental Health (non FPNs)	4	11	16	19	41	2	6	5	2	18	1	125
Trading Standards	1	1	4	1	2	0	2	1	0	0	0	12

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL-NOVEMBER 2018

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	3	6	2	0	4	0	0	2	7	24
Environmental Health (FPNs) Not paid and prosecuted	17	15	26	43	76	22	31	14	3	22	229	498
Environmental Health (non FPNs)	3	10	16	21	28	6	4	6	1	9	21	125
Trading Standards	0	1	4	1	1	0	1	1	0	1	2	12

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2018 – MARCH 2019

	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Total 2018/2019
Waste Investigation Outcomes								
Duty of Care inspections into the waste disposal arrangements of commercial premises	125	120	156	82	112	128	104	827
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	105	102	122	71	111	74	67	652
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	30	41	50	35	62	80	83	381
<u>Section 87 Environmental Protection Act.</u> Fixed Penalty notices issued for commercial and residential litter offences (£80)	0	2	0	0	0	0	1	3
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)	4	5	3	7	6	3	7	35
Prosecutions								
Number of prosecution files submitted to legal services (number produced quarterly)			43			24		67