

BIRMINGHAM CITY COUNCIL

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

19 September 2018
ALL WARDS

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
June-July 2018

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 June & July 2018

| | Magistrates' | Crown |
|------------------------|--------------|-------|
| Total | 10 | |
| | | |
| Allowed | 2 | |
| Dismissed | 5 | |
| Appeal lodged at Crown | | n/a |
| Upheld in part | 2 | |
| Withdrawn pre-Court | 1 | |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 June and July 2018 costs have been requested to the sum of £1553.90 so far with reimbursement of £1553.90 so far (100%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2018 to July 2018, costs associated to appeal hearings have been requested to the sum of £2183.30 so far with reimbursement of £2053.90 so far (94.1%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2018 to July 2018, costs contra Birmingham City Council associated to appeal hearings have been requested and awarded in excess of £7750.

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.

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 | Kabir Hussain | 18.06.2018 | Dismissed | £250 | £250 | On 31 January 2018, as the result of a complaint that a private hire driver, identified as Mr Hussain, had parked in a residential area then urinated in a bottle and thrown the contents out of his window on to the road, Committee considered and resolved to refuse the renewal of the licence. The bench took into account current and previous complaints made against Mr Hussain, together with the contradictory evidence given in court today, which calls his credibility into question. The Court was satisfied that the Licensing Sub-Committee had acted appropriately. |
| 2 | George Leroy Blake | 25.06.2018 | Allowed in part | £0 (contra BCC) | £0 (contra BCC) | On 13 February 2018, as the result of endorsements for 3 offences of speeding, all of which had been committed within a period of 3 days, Committee considered and also took into consideration an appearance before the Sub Committee in 2010 for offences of speeding, which had resulted in a warning letter to the appellant regarding his future conduct, and resolved to suspend the licence for a period of 6 months. The Court stated that the decision on 13 February 2018 to suspend the licence was not wrong due to the speeding offences committed in 2010 and 2017. However, the Court was of the view that the length of the suspension imposed was excessive and disproportionate due to the gap in offending and Mr Blake's low culpability. The Court stated a 2 month suspension was appropriate. |

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|---|----------------|----------------------|------------------------|-------------------------|-------------------------|---|
| 3 | Shazad Mehrban | 18.06.2018 | Allowed | £750 (contra BCC) | £750 (contra BCC) | On 1 March 2018, as the result of a complaint that a private hire driver, identified as Mr Mehrban, had acted in a highly inappropriate manner towards a female 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. The District Judge held that Mr Mehrban is a fit and proper person to hold a licence. She recognised the importance of public protection, especially in relation to taxis, but felt that on the balance of probabilities, Mr Mehrban did not act as alleged. The DJ reversed the decision to revoke, and held the licence is to be reinstated. |
| 4 | Umar Zada | Listed 09.07.2018 | Withdrawn Pre-Court | 0 | 0 | On 9 February 2018, as the result of information received from West Midlands Police that the appellant had been charged with offences of violence against the person, 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. On 4 July 2018 information was received that the appellant had been convicted and was withdrawing his appeal. The appellant has been sentenced to a total of 6 months' imprisonment, suspended for 12 months, together with up to 20 days' rehabilitation activity. |

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|---|---------------------|------------|-----------------|--|--------------------|--|
| 5 | Shukri Shafi Hassan | 11.07.2018 | Allowed in part | | 0 | On 6 March 2018, as the result of a complaint from a member of the public that the appellant “had overcharged her and didn’t know where he was going”, Committee considered and resolved to revoke the licence. After hearing submissions on behalf of both parties and oral evidence from the appellant, the magistrates came to the decision that the appeal be upheld in part: the magistrates accepted the findings of the Committee and did not find that their decision was wrong. However the magistrates changed the penalty imposed from revocation of the licence to suspension for a period of 6 months. An application was made for costs on the basis that the appeal was only part upheld, however, the court made no order as to costs. |
| 6 | Manjit Singh | 16.07.2018 | Allowed | | 0 Contra BCC | On 19 April 2018, as the result of information received from WMP alleging sexual misconduct on the part of the appellant, 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. On or about 29 May 2018 information was received stating that no further action was being taken by WMP as insufficient evidence existed for a realistic possibility of prosecution. The Magistrates heard the background to the case and the information from the Police that there was insufficient evidence to charge Mr Singh in respect of the allegation. In light of the developments since the original decision to immediately revoke on 19 April 2018, the Court upheld Mr Singh’s appeal but accepted that the decision made by the Council was reasonable and justified when it was made on 19 April 2018. On that basis the court made no order as to costs. |

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|-------------|--|------------|-------------------|---------|---------|--|
| 7 & 8 | Tanvir Hussain & t/a Broad Street Cars | 23.07.2018 | Both dismissed | £878.90 | £878.90 | On 31 January 2018, as the result of a complaint from members of the public regarding provocative, threatening and abusive on the part of the appellant, in conjunction with a conviction and a caution for breaches of legislation whilst previously licensed as a private hire operator, and earlier complaints regarding threatening, abusive and obstructive behaviour, Committee considered and resolved to revoke both licences. At Court on 23 July after a lengthy hearing which included evidence from both the complainants and the appellant himself, the Court confirmed that the appeals in respect of both licences were dismissed. They considered the totality of the matters including the history of incidents/ various complaints, but in particular the most recent complaint, the pattern of behaviour and his standard of driving. Costs were awarded in full in the sum of £878.90. |
| 9 | Mohammed Chowdhry | 30.07.2018 | Dismissed | £175 | £175 | On 9 April 2018, as the result convictions recorded against the applicant's name, which had previously resulted in the revocation of his licence, Committee considered and resolved to refuse the grant of a licence. Court dismissed Mr Chowdhury's appeal against the Licensing Sub Committee's refusal to grant him a private hire drivers licence and ordered him to pay costs of £175. |
| 10 | Parvez Iqbal | 30.07.2018 | Dismissed | £250 | £250 | On 6 March 2018, as the result of convictions recorded against the applicant's name, Committee considered and resolved to refuse the grant of a licence. Court rejected the appeal stating that he did not think Mr Iqbal was a reliable witness and was not telling the truth. |

MAGISTRATES' COURT – PRIVATE HIRE OPERATOR'S LICENCE

See 7 & 8 above