

**BIRMINGHAM CITY COUNCIL**

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

**16 SEPTEMBER 2015**  
**ALL WARDS**

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:**  
**MAY, JUNE AND JULY 2015**

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. This report includes details of three appeals finalised during May 2015 and not previously reported.
2. Recommendation
  - 2.1 That the report be noted.

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3. Summary of Appeal Hearings for May, June and July 2015

	Magistrates'	Crown
Total	23	1
Allowed	1	
Dismissed	15	
Appeal lodged at Crown		n/a
Upheld in part	2	1
Withdrawn	5	

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 May, June and July 2015 costs have been requested to the sum of £13,094.65 with reimbursement of £12,289.65 (93.8%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2015 to July 2015, costs associated to appeal hearings have been requested to the sum of £13,454.65 with reimbursement of £12,494.65 (92.7%) 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.

**SERVICE DIRECTOR 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	Rub Nawaz	01.06.2015	Allowed	0 (against BCC)	0	On 7 January 2015, as the result of a complaint of highly inappropriate behaviour towards two young female passengers, Committee considered and resolved to revoke the licence. The witnesses failed to attend the hearing, although requested on numerous occasions. In their absence Deputy DJ Goodman was unable to dispute evidence put forward by the appellant, and therefore found in his favour.
2	Bahader Arif	n/a	Withdrawn pre-Court	0	0	On 20 January 2015 Committee considered and resolved to refuse the renewal of the licence in line with the policy relating to a private hire driver convicted for plying for hire and driving without insurance. The appeal was withdrawn following conviction for commission of the same offences on two further occasions.
3	Nazakat Ali	03.06.2015	Allowed in part	0 (against BCC)	0	On 20 January 2015 Committee considered and resolved to refuse the renewal of the licence in line with the policy relating to a private hire driver convicted for plying for hire and driving without insurance. The appeal was allowed in part inasmuch as refusal to renew was substituted by refusal to renew for six months. Whilst the Court supported the Council's view regarding plying for hire, it was felt that he should be given "one last chance".
4	Nasir Hussain	03.06.2015	Allowed in part	0 (against BCC)	0	On 20 January 2015 Committee considered and resolved to revoke the licence in line with the policy relating to a private hire driver convicted for plying for hire and driving without insurance. The appeal was allowed in part inasmuch as revocation was substituted by two months' suspension. Although requested, no feedback has been received regarding the Court's arrival at this decision.

5	Wajid Ali	08.06.2015	Dismissed	£250	0	On 20 January 2015 Committee considered and resolved to revoke the licence in line with the policy relating to a private hire driver convicted for plying for hire and driving without insurance. Although the appeal was dismissed, no costs order was made given Mr Ali's loss of livelihood and restricted financial circumstances.
6	Naeem Ajaib	10.06.2015	Dismissed	£260	£130	On 2 February 2015 Committee considered and resolved to revoke the licence in view of his conviction for an offence of violence.
7	Mohammed Said	19.06.2015	Dismissed	£250	0	On 17 February 2015 Committee considered and resolved to revoke the licence in line with the policy relating to a private hire driver convicted for plying for hire and driving without insurance. Although the appeal was dismissed, no costs order was made.
8	Shazad Zafar	22.06.2015	Dismissed	£300	£300	On 2 February 2015 Committee considered and resolved to revoke the licence in line with the policy relating to a private hire driver convicted for plying for hire and driving without insurance. Although the appeal was dismissed, information received from Legal Services suggests that DJ Fowler appeared not to agree with the Council's policy.
9	Waseem Khan	24.06.2015	Dismissed	£250	£175	On 16 March 2015 Committee considered Mr Khan's recent poor driving history and his consistent failure to report endorsements as required and resolved to suspend / refuse the renewal of the licence for a total period of three months. Mr Khan has now lodged an appeal to Crown Court.
10	Imran Khan	10.07.2015	Dismissed	£375	£375	On 16 March 2015 Committee considered and resolved to revoke the licence in line with the policy relating to a private hire driver convicted for plying for hire and driving without insurance.
11	Munir Lal	10.07.2015	Dismissed	£250	£150	On 8 April 2015 Committee considered and resolved to revoke the licence in view of the appellant's conviction for benefit fraud and his failure to report that conviction. Mr Lal has reported his intention to appeal to Crown Court.
12	Shahid Mahmood	n/a	Withdrawn pre-Court	n/a	n/a	On 13 March 2015 Committee considered several offences of speeding and resolved to refuse the renewal of the licence for a period of three months. The appeal was withdrawn prior to the hearing and no costs were ordered.

13	Haytham Abdelkarem	22.07.2015	Dismissed	£480	£480	On 4 March 2015 Committee considered and resolved to revoke the licence in line with the policy relating to a private hire driver convicted for plying for hire and driving without insurance.
14	Abdul Hamid	23.07.2015	Dismissed	£250	£250	On 27 May 2015 Committee considered and resolved to revoke the licence in line with the policy relating to a private hire driver convicted for plying for hire and driving without insurance.
15	Nadeem Raja	23.07.2015	Dismissed	£250	£250	On 8 April 2015 Committee considered and resolved to revoke the licence in line with the policy relating to a private hire driver convicted for plying for hire and driving without insurance.
16	Tanveer Hussain	28.07.2015	Dismissed	£350	£350	On 16 March 2015 Committee considered and resolved to refuse the grant of a licence in line with the policy relating to conviction for drug-related offences.
17	Afzal Khan	29.07.2015	Withdrawn at Court	n/a	n/a	On 11 May 2015 Committee considered and resolved to refuse the grant of a licence in view of conviction for drug-related offences and allegations of “grooming” received from Home-To-School Transport Services. The appellant applied to adjourn, however, DJ Qureshi would not give the adjournment and indicated he would dismiss the appeal and order costs. The appellant took instruction, withdrew the appeal and no costs were ordered.
18	Siko Madlunga	31.07.2015	Dismissed	£300	£300	On 8 June 2015 Committee considered and resolved to revoke the licence in line with the policy relating to a private hire driver convicted for plying for hire and driving without insurance – in the appellant’s case, on two separate occasions.

# MAGISTRATES' COURT – LICENSING ACT 2003

1	Collingbourne Wines	17.06.2015	Dismissed	£1924.75	£1924.75	A routine inspection by Trading Standards revealed the presence of counterfeit and non-duty-paid alcohol on the premises. On 5 January 2015, as the result of a review of the premises licence, Committee considered and resolved to revoke the licence. The appellant failed to attend the Court hearing and consideration was made in his absence.
2	Caspian Way International Mini Market, Soho Hill, Hockley	11.05.2015	Dismissed	£2913.20	£2913.20	A routine inspection by Trading Standards revealed the presence of counterfeit and non-duty-paid alcohol and tobacco products on the premises. On 23 November 2014, as the result of a review of the premises licence, Committee considered and resolved to revoke the licence. DJ Zara dismissed the appeal as it was not lodged in time and he could not consider the merits of it. A costs order was nevertheless made.
3	M & S General Store, Herrick Road, Alum Rock		Withdrawn	£1500	£1500	A routine inspection by Trading Standards revealed the presence of counterfeit and non-duty-paid alcohol and significant quantities of tobacco products on the premises. On 8 December 2014, as the result of a review of the premises licence, Committee considered and resolved to revoke the licence. The appeal was listed to be heard on 6 May 2015 but was withdrawn; it was agreed that the appellant would pay costs to the Council.
4	Costcutter, Kitsland Road, Shard End	11.05.2015	Dismissed	£2291.70	£2291.70	Significant quantities of stolen cigarettes were found on the premises by the West Midlands Police. On 22 December 2014, as the result of a review of the premises licence, Committee considered and resolved to revoke the licence.
5	Supersam Mini Market, Rookery Road, Handsworth		Withdrawn	£900	£900	A routine inspection by Trading Standards revealed the presence of significant quantities of counterfeit and non-duty-paid alcohol and tobacco products on the premises. On 11 February 2015, as the result of a review of the premises licence, Committee considered and resolved to revoke the licence. The appeal was listed to be heard on 29 June 2015 but was withdrawn; it was agreed that the appellant would pay costs to the Council.

## CROWN COURT – PRIVATE HIRE DRIVER’S LICENCE

1	Tanveer Salim	19.06.2015	Allowed in part	0 (against BCC)	0	On 5 March 2014, as the result of abusive and aggressive behaviour towards the HCPH Police Liaison Officer, Committee considered and resolved to suspend / refuse the renewal of the licence for a total period of three months. The appeal was allowed in part inasmuch the three month period was substituted by refusal to renew for one month.
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