

**BIRMINGHAM CITY COUNCIL**

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

**16 January 2019**  
**ALL WARDS**

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:  
November 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.

Contact Officer: Emma Rohomon, Acting Head of Licensing  
Telephone: 0121 303 6103  
E-mail: Emma.Rohomon@birmingham.gov.uk

### 3. Summary of Appeal Hearings for November 2018

	Magistrates'	Crown
Total	5	
Allowed		
Dismissed	4	
Appeal lodged at Crown		
Upheld in part		
Withdrawn pre-Court	1	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 November 2018 costs have been requested to the sum of £4783.80 so far with reimbursement of £4483.80 so far (93.7%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2018 to November 2018, costs associated to appeal hearings have been requested to the sum of £12054.50 so far with reimbursement of £10600.10 so far (87.9%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2018 to November 2018, costs contra Birmingham City Council associated to appeal hearings have been requested and awarded in excess of £10483.

### 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	Nesar Ali	02.11.2018	Dismissed	£300.00	£0.00	The appeal was against the Sub-Committee decision to refuse to grant a private hire driver's licence to Mr Ali due to convictions recorded against him. The appeal was heard before a lay bench. Mr Ali attended and was unrepresented. Mr Ali gave evidence saying that the offences were committed a long time ago and that he had spent a lot of money in making his application. The bench were sympathetic with Mr Ali, however they did not consider that the sub-committee had made a wrong decision and dismissed the appeal. An application for costs was made but the Court did not make an Order for costs.
2	Komor Ali	16.11.2018	Dismissed	£250.00	£250.00	The appeal was against the Sub-Committee decision to revoke the private hire driver's licence previously issued to Mr Ali, following a conviction recorded against him for assault. Mr Ali failed to attend Court and the appeal was dismissed. The District Judge ordered the appellant to pay our costs in the sum of £250.
3	Aslam Ahmed	16.11.2018	Dismissed	£300.00	£300.00	The appeal was against the Sub-Committee decision to revoke the private hire driver's licence previously issued to Mr Ahmed, following convictions recorded against him for plying for hire and no insurance. The District Judge dismissed the appeal saying that the decision was in line with settled policy and the decision was not wrong. The Judge ordered the appellant to pay our costs of £300.

4	Mohammad Akhlaq	26.11.2018	Dismissed	£250.00	£250.00	The appeal was against the Sub-Committee decision to revoke the private hire driver's licence previously issued to Mr Akhlaq following convictions for plying for hire and no insurance recorded against him. The Court was not satisfied that the decision to revoke Mr Akhlaq's licence was wrong and therefore dismissed the appeal. Our costs were awarded in full in the sum of £250.
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**MAGISTRATES' COURT – LICENSING ACT 2003**

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Mohammed Malik In respect of Cloud Nine 76 Gooch Street North Birmingham B5 6QU	n/a	Withdrawn pre-Court	£3683.80	£3683.80	The appeal was against the Sub-Committee decision to revoke the licence following a review which had been triggered by a closure order. The appeal was abandoned, the court awarded full costs totalling £3683.80.