

BIRMINGHAM CITY COUNCIL

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

18 APRIL 2018
ALL WARDS

PROSECUTIONS AND CAUTIONS – FEBRUARY 2018

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

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3. Results

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

- Three Licensing cases were finalised resulting in fines of £1,160 and prosecution costs of £1,868. Six penalty points were issued and a six month driving disqualification was imposed. 10 simple cautions were administered as set out in Appendix 1.
- 118 Environmental Health cases resulted in fines of £35,429. Prosecution costs of £17,924 were awarded. One simple caution was administered as set out in Appendix 2.
- There were no Trading Standards cases finalised in February 2018 and no simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in February 2018 and cases finalised by district April - February 2018.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team from April 2017 to January 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 2017 to February 2018 the following costs have been requested and awarded:

Licensing

£17,046 has been requested with £11,024 being awarded (65%).

Environmental Health

£329,417 has been requested with £267,538 being awarded (81%).

Trading Standards

£78,492 has been requested with £69,472 being awarded (89%).

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

Licensing

£2,135 has been requested with £1,868 being awarded (87%).

Environmental Health

£26,728 has been requested with £17,924 being awarded (67%).

Trading Standards

No costs have been requested or awarded.

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.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

LICENSING CASES**APPENDIX 1**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	1/2/18	Shazaad Ahmed 18 Hillside Road Erdington Birmingham B23 7PP	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in Bristol Road, Birmingham and one of consequently having invalid insurance.	£560 – No Insurance + 6 penalty points Disqualified from driving for 6 months No separate penalty for plying £300 costs (£450 requested)	Stockland Green	Selly Oak
2	9/2/18	Mazar Iqbal 48 Amberley Grove Witton Birmingham B6 7AN	Local Government (Miscellaneous Provisions) Act 1976 Pleaded guilty to one offence of knowingly making a false statement, in that he failed to disclose a current address on a licence application form.	£250 £250 costs (£367 requested)	Perry Barr	Ladywood
3	26/2/18	Mohammed Nawaz 35 Grove Avenue Moseley Birmingham B13 9RX	Equalities Act 2010 Pleaded <u>not guilty</u> to one offence of being the driver of a Hackney Carriage and failing to carry out a booking as the disabled customer was accompanied by an assistance dog. Found guilty following trial.	£350 £1,318 costs (£1,318 requested)	Moseley & Kings Heath	Ladywood

LICENSING SIMPLE CAUTIONS

During the period of February 2018 10 simple cautions have been administered

Local Government (Miscellaneous Provisions) Act 1976

Section 48(6) Seven cautions were issued for failing to display a private hire vehicle licence plate

Section 54(2) Two caution was issued for failing to wear the drivers badge in a position and manner as to be plainly and distinctly visible

Section 57 One caution was issued for omitting a material particular on a licence application

ENVIRONMENTAL HEALTH CASES**APPENDIX 2****WASTE OFFENCES**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	1.2.18	<p>Ion Stefan 121 Ash Road Birmingham B8 1DP</p> <p>Diaconu Stefan 121 Ash Road Birmingham B8 1DP</p> <p>Albert Stefan 121 Ash Road Birmingham B8 1DP</p>	<p>Environmental Protection Act 1990 Scrap Metal Dealers Act 2013</p> <p>Both Ion and Diaconu pleaded guilty to four offences; one of depositing controlled waste, namely 24 tyres on Baker Street, Nechells, Birmingham, one of being a transferor of waste and failing to keep written information relating to the itinerant scrap metal and waste collection business, one of operating a business as a scrap metal dealer within Birmingham without a licence and one of failing to keep any records of any scrap metal received</p> <p>Albert pleaded guilty to one offence of operating a business as a scrap metal dealer within Birmingham without a licence.</p>	<p>Total fine £960</p> <p>Ion & Diaconu Each fined £320 – offence 1</p> <p>No separate penalty for remaining offences</p> <p>Each ordered to pay £700 costs</p> <p>Forfeiture of the vehicle granted.</p> <p>Albert fined £320</p> <p>£450 costs</p> <p>Total costs awarded £1,850 (Total costs requested £2,686)</p>	Washwood Heath	Nechells
2	9/2/18	<p>Solihull Skip Hire 89 Ulverley Green Road OltonSolihull, B92 8AJ</p>	<p>Environmental Protection Act 1990</p> <p>Pleaded guilty to one offence of depositing controlled waste, namely waste from an overloaded skip, on land on Lilac Avenue, Birmingham.</p>	<p>£1,500</p> <p>£971 costs (£971 requested)</p>	Out of area	Oscott

3	22/2/18	Shahzad Kiyani 48 Albert Road Stechford Birmingham B33 9BD	Environmental Protection Act 1990 Pleaded guilty to two offences: 1 of failing to take all reasonable measures to prevent black bags of waste relating to the business at 148 Station Road, Stechford, Birmingham, from being deposited outside 148-150 Station Road and 1 offence of failing to keep written information as to the transfer of controlled waste from the business.	£250 - offence 1 No separate penalty for remaining offence £500 costs (£1,124 requested)	Stechford & Yardley North	South Yardley
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WASTE OFFENCES – SINGLE JUSTICE PROCEDURE

4	23/2/18	Liam Johns Flat above 1138 Coventry Road South Yardley Birmingham B25 8DU	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing waste, namely three cardboard boxes and two black bags, outside 1138 Coventry Road, South Yardley, Birmingham.	£220 £85 costs (£175 requested)	South Yardley	South Yardley
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ANIMAL WELFARE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	1/2/18	Glen Pardoe 24 Wellcroft Road Shard End Birmingham B34 6PA	The Dogs on Leads Order 2014 & The Fouling of Land by Dogs Order 2014 by made under the Clean Neighbourhoods and Environment Act 2005 Pleaded guilty to three offences of being in charge of a dog; one of failing to ensure that it was kept on a lead in Wellcroft Road, Birmingham and two offences of failing to remove dog faeces on Wellcroft Road.	£150 – offence 1 No separate penalty for remaining offences. £100 costs (£429 requested)	Shard End	Shard End

ANIMAL WELFARE OFFENCES – SINGLE JUSTICE PROCEDURE

2	23/2/18	Neil Bakewell 59 Donegal Road Sutton Coldfield B74 2AB	The Microchipping of Dogs (England) Regulations 2015 Found guilty in his absence of one offence of being the keeper of two Bearded Collie dogs and failing to comply with notices requiring that the microchip details recorded on the database were updated with the keeper's full name, address and contact number.	£220 £85 costs (£300 requested)	Sutton Vesey	Sutton Vesey
3	23/2/18	Paul Draper 62 Conover Road West Heath Birmingham B31 3QY	The Microchipping of Dogs (England) Regulations 2015 Found guilty in his absence of one offence of being the keeper of a Staffordshire Bull Terrier dog and failing to comply with a notice requiring that the microchip details recorded on the database were updated with the keeper's full name, address and contact number.	£220 £85 costs (£300 requested)	Northfield	Northfield
4	23/2/18	Mariana Bila 64 Tenby Road Springfield Birmingham B13 9LX	The Microchipping of Dogs (England) Regulations 2015 Found guilty in her absence of one offence of being the keeper of a Chihuahua dog and failing to comply with a notice requiring that the microchip details recorded on the database were updated with the keeper's full name, address and contact number.	£220 £85 costs (£300 requested)	Springfield	Springfield

FOOD HYGIENE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	9/2/18	H Happy Palace Limited 70 Hurst Street Birmingham B5 4TD	Food Safety and Hygiene (England) Regulations 2013 Pleaded guilty to four offences relating to conditions found at Café Soya, unit B105 The Arcadian, 70 Hurst Street, Birmingham. There was evidence of mouse activity throughout the premises and there was no evidence that pest control checks were being carried out. There was an accumulation of dirt and grease on the wall and floor behind the cooking station. Mouse droppings were found on a food preparation surface, inside a plate warmer, on a surface where cooked rice and beansprouts were being prepared and where chopping boards and cutlery were stored. There were no procedures based on HACCP.	£10,000 – Offence 1 No separate penalty for remaining offences. £1,368 costs (£1,368 requested)	Nechells	Nechells

LITTERING OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	1/2/18	Simon Orr 7 New Street Tamworth B78 3RD	Environmental Protection Act 1990 Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£40 £100 costs (£175 requested)	Out of area	Ladywood

LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
9/2/18	49	£9,990	£7,680	£8,575
23/2/18	59	£11,659	£5,015	£10,325

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

One simple caution was administered during February 2018

Food Safety and Hygiene (England) Regulations 2013

One caution was issued for failing to comply with Food Hygiene Regulations

There were no finalised prosecution for Trading Standards in February 2018.

TRADING STANDARDS SIMPLE CAUTIONS

No simple cautions were administered during February 2018

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

<u>WARDS & CONSTITUENCIES FINALIZED BY OFFENCE</u>				
	<u>Licensing</u>	<u>Environmental Health - Non FPNs</u>	<u>Environmental Health - FPNs</u>	<u>Trading Standards</u>
EDGBASTON				
Bartley Green				
Edgbaston				
Harborne				
Quinton				
ERDINGTON				
Erdington				
Kingstanding				
Stockland Green				
Tyburn				
HALL GREEN				
Hall Green				
Moseley & Kings Heath				
Sparkbrook				
Springfield		1		
HODGE HILL				
Hodge Hill				
Washwood Heath				
Bordseley Green				
Shard End		1		
LADYWOOD				
Aston				
Ladywood	2		108	
Nechells		2	1	
Soho				

NORTHFIELD				
Kings Norton				
Longbridge				
Northfield		1		
Weoley				
PERRY BARR				
Lozells & East Handsworth				
Handsworth Wood				
Oscott		1		
Perry Barr				
SELLY OAK				
Billesley				
Bournville				
Brandwood				
Selly Oak	1			
SUTTON COLDFIELD				
Sutton Four Oaks				
Sutton New Hall				
Sutton Trinity				
Sutton Vesey		1		
YARDLEY				
Acocks Green				
Sheldon				
South Yardley		2		
Stechford & North Yardley				
TOTAL	3	9	109	0

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

<u>WARDS & CONSTITUENCIES - FINALIZED BY DEFENDANT'S ADDRESS</u>				
	<u>Licensing</u>	<u>Environmental Health - Non FPNs</u>	<u>Environmental Health - FPNs</u>	<u>Trading Standards</u>
EDGBASTON				
Bartley Green				
Edgbaston			3	
Harborne			1	
Quinton			2	
ERDINGTON				
Erdington			1	
Kingstanding			1	
Stockland Green	1		1	
Tyburn			1	
HALL GREEN				
Hall Green				
Moseley & Kings Heath	1		1	
Sparkbrook			1	
Springfield		1	3	
HODGE HILL				
Hodge Hill			1	
Washwood Heath		1	2	
Bordseley Green			9	
Shard End		1	1	
LADYWOOD				
Aston			1	
Ladywood			5	
Nechells		1	1	
Soho			2	

NORTHFIELD				
Kings Norton				
Longbridge				
Northfield		1	3	
Weoley			2	
PERRY BARR				
Lozells & East Handsworth				
Handsworth Wood			2	
Oscott			1	
Perry Barr	1		1	
SELLY OAK				
Billesley				
Bournville			1	
Brandwood			2	
Selly Oak			1	
SUTTON COLDFIELD				
Sutton Four Oaks			1	
Sutton New Hall				
Sutton Trinity				
Sutton Vesey		1		
YARDLEY				
Acocks Green			2	
Sheldon			2	
South Yardley		1	2	
Stechford & North Yardley		1	2	
OUT OF AREA		1	50	
TOTAL	3	9	109	0

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – FEBRUARY 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	2	0	0	1	0	0	0	3
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	109	0	0	0	0	0	0	109
Environmental Health (non FPNs)	0	0	1	1	2	1	1	0	1	2	0	9
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	1	1	0	0	0	1	0	0	0	0	3
Environmental Health (FPNs) Not paid and prosecuted	6	4	5	13	9	5	4	4	1	8	50	109
Environmental Health (non FPNs)	0	0	1	2	1	1	0	0	1	2	1	9
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	2	0	3	0	16	2	0	2	1	2	0	28
Environmental Health (FPNs) Not paid and prosecuted	3	1	2	0	544	1	0	5	0	0	0	556
Environmental Health (non FPNs)	3	9	15	10	53	12	16	3	2	18	0	141
Trading Standards	1	0	4	1	6	0	0	0	0	2	0	14

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	1	7	7	3	1	3	0	0	0	5	28
Environmental Health (FPNs) Not paid and prosecuted	24	21	30	41	60	19	35	29	7	21	269	556
Environmental Health (non FPNs)	6	9	14	17	28	8	13	6	4	16	20	141
Trading Standards	1	0	4	0	6	0	0	0	0	1	2	14

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2017 – MARCH 2018

	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Total 2017/2018
Waste Investigation Outcomes											
Investigations into commercial waste disposal suspected offences and offences	23	35	83	101	88	43	90	111	63	120	757
<i>Section 34 Environmental Protection Act</i> demand notices issued: (trade waste statutory information demands)	20	32	75	85	75	37	56	76	46	94	596
<i>Section 34 Environmental Protection Act</i> fixed penalty notices issued to businesses (£300)	11	13	25	29	89	28	37	35	23	58	348
<i>Section 87 Environmental Protection Act.</i> Fixed Penalty notices issued for commercial and residential litter offences (£80)	5	0	5	0	3	0	2	3	0	1	19
<i>Section 33 Environmental Protection Act</i> fixed penalty notices issued for fly tipping (£400)	4	9	7	1	6	2	4	5	4	5	47
Prosecutions											
Number of prosecution files submitted to legal services (number produced quarterly)			15			19			53		87