

Members are reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

WEDNESDAY, 17 JANUARY 2018 AT 10:00 HOURS
IN COMMITTEE ROOMS 3 & 4, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chairman to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 APOLOGIES

To receive any apologies.

3 - 14

3 MINUTES

To confirm and sign the Minutes of the meeting held on 13 December 2017.

15 - 26

4 LICENSING AND PUBLIC PROTECTION - BUDGET MONITORING 2017/18 (MONTH 8)

REPORT OF THE SERVICE DIRECTOR REGULATION AND ENFORCEMENT
AND INTERIM CHIEF FINANCIAL OFFICER

27 - 30

5 INTRODUCTION OF THE SINGLE JUSTICE PROCEDURE

REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT

31 - 40

6 HOUSE OF LORDS SELECT COMMITTEE ON THE LICENSING ACT 2003 GOVERNMENT RESPONSE

REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT

- 41 - 50**
- 7 **THE EFFECT OF REDUCING THE FREQUENCY OF FOOD HYGIENE INSPECTIONS AND THE FUTURE ROLE OF FOOD REGULATION**
- REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT
- 51 - 54**
- 8 **OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS TAKEN DURING NOVEMBER 2017**
- REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT
- 55 - 60**
- 9 **FIXED PENALTY NOTICES ISSUED NOVEMBER 2017**
- REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT
- 61 - 92**
- 10 **PROSECUTIONS AND CAUTIONS NOVEMBER 2017**
- REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT
- 93 - 94**
- 11 **SCHEDULE OF OUTSTANDING MINUTES**
- To consider the schedule of outstanding Minutes.
- 12 **OTHER URGENT BUSINESS**
- To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.
- 13 **AUTHORITY TO CHAIRMAN AND OFFICERS**
- Chairman to move:-
- 'In an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE 13 DECEMBER 2017

**MINUTES OF A MEETING OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE HELD
ON WEDNESDAY 13 DECEMBER 2017 AT 1000
HOURS IN COMMITTEE ROOMS 3 AND 4
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Alex Buchanan, Bob Beauchamp, Ian Cruise, Liz Clements, Nagina Kauser, Changes Khan, Chaman Lal and Mike Leddy.

NOTICE OF RECORDING/WEBCAST

- 944 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site (www.birminghamnewsroom.com) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

APOLOGIES

- 945 Apologies were received from Councillors Nawaz Ali, Basharat Dad, Lynda Clinton, Carole Griffiths, Des Flood and Rob Sealey.

MINUTES

- 946 The Minutes of the meeting held on 15 November 2017, having been previously circulated were confirmed as a correct record and signed by the Chairman.

CONTROL OF SEX ESTABLISHMENTS SEXUAL VENUES: SCARLETS, 34 HORSE FAIR, BIRMINGHAM, B1 1DA

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 1)

The following people were in attendance for the hearing:

On behalf of the Licence Holder

Ms Michelle Monaghan – Licence Holder
Ms Sarah Taylor – Poppleston Allen Solicitors

Those making Representations

There was no-one present at the meeting.

David Kennedy, Senior Licensing Officer made introductory comments relating to the report

Ms Taylor and Ms Monaghan made the comments in support of the application and in response to questions from Councillors;-

1. That this was a request for the renewal of a Sexual Entertainment Venue (SEV) licence the original application having been granted on 24 September 2011.
2. That the renewal was on terms as the previous renewal with only slight changes to the club rules.
3. There had been various visits to the premises since the licence had been issued in 2011 but no issues had been raised by the responsible authorities following these visits nor indeed upon application for renewal of the licence.
4. No objections to the renewal of the licence had been made by any of the responsible authorities.
5. Ms Monaghan also held an SEV licence for the Cyclone premises in Broad Street.
6. The premises were located in an area listed as suitable for a sexual entertainment venue by Birmingham City Council.
7. The premises had not changed since 2011 when a representation had been received from the Birmingham Royal Ballet and the Birmingham Hippodrome and while there had been no direct complaint from the premises Ms Monaghan had changed the premises opening hours from 9.00pm to 10.00pm (even though she had been granted a

licence from 9.00pm to 6.00am) so that there would no crossover of customers for the 2 venues – most shows at the Hippodrome finished between 9.00-9.15pm.

8. The exterior of the premises was very discreet with no large logos with a notice indicating that it was a late night venue – nothing indicating the type of entertainment offered.
9. That according to the licensing policy for SEVs there were no moral judgements to be made when looking at the licence for an SEV - this was a legitimate business with regulatory conditions.
10. That no complaints had been received by the premises from the Ballet or the Hippodrome during its years of operation.
11. That with regard to crime and disorder the Police were the authority on this regarding the premises and no objections had been raised by West Midlands police regarding the renewal of the licence.
12. There was no evidence of any crime and disorder related to the premises in any way or any sign of public nuisance.
13. Ms Monaghan was an experienced operator working in a tough business with all her business rates up to date, with no suggestion that she was not a good operator.
14. That with regard to the non-payment of music licence fees this had been for a completely different premises – no criminality had been involved and Ms Monaghan had paid the fees immediately – within minutes of finding out.
15. That the statement by the person making the representation that the venue would make Birmingham appear to be a 'seedy' place was a moral judgement which had not a reason for refusing the SEV licence.
16. The premises were a legitimate business in an area deemed appropriate for this type of entertainment and therefore it was requested that the licence be renewed.
17. That the changes in the club rules had added to the detail – nothing had been taken away and the main conditions remained unchanged.
18. That Ms Monaghan was very suitable for running the premises there had been no issues since obtaining her licence in 2011 either with her or the premises. There had been no complaints from the public and Ms Monaghan had a good record of compliance with visits from licensing and enforcement.
19. That the application was in line with the City Council's SEV policy and should therefore be renewed.

20. That the premises were trading from Monday to Sunday from 10.00pm to 6.00am.
21. That Oppidan Inns Ltd was the body operating the business – the director was Mr Monaghan's husband.
22. That the 2nd floor of the premises was an office and the upper floor was residential accommodation.
23. That the drugs policy was enforced by vigorous customer searches and keeping vigilance over the premises. Anyone found possessing drugs was evicted from the premises and not allowed to return.

In summing up, Ms Taylor stressed that the SEV licence should be renewed in line with City Council policy of the venue being situated in an appropriate location, there were no issues regarding the premises, no objections had been made by any of the responsible authorities and the establishment was a very well-run premises. Ms Monaghan operated the premises within the conditions of the licence, it was a legitimate business with a licence that could be reviewed annually and it created no issues in the locality regarding noise, public nuisance or crime and disorder.

At 1033 hours the Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer, the Committee Manager and Camera Operator withdraw from the meeting.

After an adjournment, all parties were recalled to the meeting at 1048 hours and the decision of the Committee to grant the renewal of the Sexual Entertainment Venue licence was announced with the everyone being advised that they would receive the full decision and reasons as set out below in due course:-

947

RESOLVED:-

That, having considered the application for renewal for the Sexual Entertainment Venue licence held under the Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), by Michelle Monaghan, in respect of Scarlets 34 Horse Fair, Birmingham, B1 1DA, this Committee hereby determines to GRANT the renewal of the licence as it stands, with the provision of new Club Rules, subject to the Council's approved standard conditions.

Members carefully considered the objection at Appendix 5 of the Committee Report but after much deliberation were persuaded that none of the discretionary grounds upon which the Council could refuse the application, as set out within paragraph 12(3) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) applied on this occasion.

This decision was based on the following:-

- Neither West Midlands Police nor Birmingham City Council, Licensing Enforcement had raised an objection against the renewal of the licence;

- There were currently 6 premises which were granted a SEV Licence within Birmingham, 5 of which were located within the inner ring road (A4540);
- Birmingham City Council's SEV Policy states that the Council considers that the part of the City which falls within the ring road (A4540) is an area which is appropriate to have an upper limit guide on the number of SEV's the appropriate upper limit being eight;
- The venue is located in an area of the City which is not residential, and has been the subject of inspections by the Council over the last 12 months. Following these inspections, no matters of concern were raised by either the Council or any "responsible authority" in respect of the renewal application;
- In terms of locality, the Committee were informed that the premises had not changed and neither had the locality,
- Neither the Birmingham Royal Ballet nor the Hippodrome, both of which had been specifically referenced within the objection had made an objection themselves to the renewal of the licence and furthermore following discussions with both venues the applicant had agreed to revise her hours of operation so that her venue would only open to the public after 2200 hours so as to avoid any potential cross over with any families visiting the Hippodrome or Birmingham Royal Ballet; and,
- The venue has been trading at its current location since 2011 and whilst every application is determined on its individual merits it did appear that on this occasion, the renewal of the Licence was appropriate.

In reaching this decision, the Committee has given due consideration to the City Council's Sexual Entertainment Venue Policy, the provisions of the Human Rights Act 1998, the Provision of Services Regulations 2009 and the Home Office guidance issued in March 2010 entitled "Sexual Entertainment Venues – Guidance for England and Wales", the application for renewal of the Sexual Entertainment Venue licence, the written objection received and the submissions made at the hearing by the applicant and their legal adviser.

All parties are reminded that under the provisions contained within Paragraph 27 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, the applicant has a right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

CONDITIONS OF LICENCE FOR HACKNEY CARRIAGE VEHICLES

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 2)

Shawn Woodcock, Acting Licensing Operations Manager made introductory comments relating to the report proposing a new set of conditions to be attached to the licences issued in respect of hackney carriage vehicles which have been reviewed updated and amended in an attempt to clarify certain issues and remove what are already legal duties and licensing policy.

He advised the Committee that the most significant change would be around the testing of the taxi meter – currently being undertaken in 1 week of the year at a given time for each driver at a site holding 300 vehicles (who would each be written to), the use of an approved tester for a week and 3-4 enforcement officers present each day to manage the process. As this was very resource intensive it was now proposed that each time drivers renewed their licence they would also need to provide a meter renewal certificate from any approved tester at any time in the 12 months leading to the licence renewal.

He responded appropriately to comment, questions and concerns from Members of the Committee relating to: the legal requirement for a meter test on an annual basis; that it was within the interests of the drivers to ensure meters were changed following fare alterations that costs spent on the meter testing would be better spent on more rigorous vehicle checks, trade would get reduced fees; that the proposed changes would go out to trade for full consultation, concerns about the distance drivers may have to travel for testing, the possibility of a mobile tester coming into the city, possibilities of the process being abused, stop checks to check meters, list of approved organisations for meter testing, dangerous hub caps and that no changes would be implemented until a full consultation had been taken with the trade early next year and a report brought forward to committee with recommendations.

The Chair put the recommendations to the meeting and it was unanimously agreed:-

948

RESOLVED:-

- i) That the Committee consider the proposed updated conditions for hackney carriage vehicles and following any necessary amendments agree to full consultation with the trade.
- ii) A final version with comments from the trade be brought back to Committee for ratification and agree an implementation date.

FRANKFURT CHRISTMAS MARKET

The following report of Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 3)

Nick Lowe, Operations Manager Food Team, made introductory comments relating to the report and responded appropriately to comments and questions from Members of the Committee.

During the debate Members gave consideration to the need for checks regarding food baked at correct temperatures, rubbish removal, refrigeration, the transport of food from vehicles to the stalls avoiding contamination, the disposal of waste water, the checks, verification and display of notices regarding allergens in foods.

The Chair and the Committee thanked officers for their work and diligence regarding the Frankfurt Market and all efforts to keep it open in adverse conditions.

949

RESOLVED:-

- i) That the report be noted.
-

NON ATTENDANCE OF DRIVERS AT SUB COMMITTEES

The following report of Acting Director of Regulation and Enforcement and Interim Chief Financial Officer was submitted:-

(See Document No. 4)

Chris Neville, Head of Licensing made introductory comments relating to the report and responded appropriately to comments and questions from Members of the Committee relating to: costs recovered through an application fee for all applicants, which would then be deducted from the full licence fee if successful in their application; the possibility of a condition on drivers' licences to attend sub-committees when requested or possibly a fine. Chris Neville agreed to seek legal advice on this.

Suggestions were made that letters inviting applicants to meetings could be made stronger with reference to times/resources wasted due to lack of attendance.

The Chair put the recommendations to the meeting and it was unanimously agreed:-

950

RESOLVED:-

- i) That the report be noted
 - ii) That outstanding minute no 846 of 12 April 2017 be discharged.
-

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS TAKEN DURING OCTOBER 2017

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 5)

Chris Neville, Head of Licensing, made introductory comments relating to the report and highlighted some of the cases therein.

951

RESOLVED:-

That the report be noted

FIXED PENALTY NOTICES ISSUED OCTOBER 2017

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 7)

Mark Croxford, Head of Environmental Health made introductory comments relating to the report and highlighted some of the cases therein. In response to questions from Members he advised that fly-posting and graffiti offences were generally dealt through the courts and ensuring that Amey were reporting repeat offenders to the Enforcement Team. Chris Neville agreed to look into problems reported by Councillor Cruise in his ward and refer them to the senior officer, Russell Davey.

952

RESOLVED:-

That the report be noted

PROSECUTIONS AND CAUTIONS – OCTOBER 2017

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 8)

Alison Harwood, the Acting Director of Regulation and Enforcement made introductory comments relating to the report and made reference to some of the prosecutions and cautions therein.

953

RESOLVED:-

That the report be noted

ACTION TAKEN BY THE CHAIR OF THE LICENSING AND PUBLIC PROTECTION COMMITTEE: OCTOBER 2017

There were no items to report under this.

954

RESOLVED:-

That the report be noted

SCHEDULE OF OUTSTANDING MINUTES

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 9)

Alison Harwood, The Acting Director of Regulation and Enforcement updated the dates for which reports would be forthcoming in relation to various Outstanding Minutes.

866 (ii) – Brexit

Sanjeev Bhopal, Committee Lawyer advised the Committee that the Brexit negotiations were ongoing – the discussions were into the 2nd phase of negotiations around trade. Mr Bhopal informed the Committee that as soon as there were any substantive updates either he or one of his colleagues from Legal services would be happy to advise the Committee in due course.

It was -

955

RESOLVED:-

That Outstanding Minute No.846 and 866 (ii)be discharged and all other Outstanding Minutes be continued.

OTHER URGENT BUSINESS

956

i) **Overcharging by Private Hire Drivers during Inclement Weather**

Councillor Cruise expressed concerns about reports in the newspapers regarding overcharging of fares coming into the City by some drivers during the inclement weather. Chris Neville advised the Committee that licensing had no control over this – the fares were based on the time taken for the journey and the supply of drivers – prices increased as journey times lengthened and supplies of drivers were low. There was no control over private hire fares and no legislation. Councillor Leddy suggested the setting of a minimum and maximum scale of charges irrespective of conditions and was advised that this again was beyond licensing control or conditioning.

The comments of the Committee were noted.

ii) **Use and Best Before Dates**

Nick Lowe, Operations Manager Food Team presented a briefing note on Use By and Best Before dates.

(See Document No.10)

He explained the difference between the two and the difference between food that was edible and food that was past its durability date. This was following reports in the news that a supermarket was selling out of date food at reduced costs to reduce food waste. He advised the Committee that food inspections were regularly undertaken by the Food Team to ensure that products were not sold past their use by date and stressed that most food waste actually occurred in the home. This information was noted by the Committee.

iii) **Deregulation Act/Cross-border Hire**

Chris Neville informed the Committee that the Chair had received a letter from the Right Honourable John Hayes MP, Minister of State for Transport Legislation in response to the letter sent by the Chair and 5 other licensing authorities sharing their concerns regarding the Deregulation Act and cross-border private hire.

The first part of the letter refers to the benefits of the act allowing operators to sub contract work to drivers outside of the authority's border and the prevention of drivers resorting to illegal measures of transportation.

The letter stressed that it was the responsibility of each Local Authority to carry out checks ensure that each driver was 'a fit and proper person'.

Furthermore, the letter stated that the Department would be undertaking a consultation on statutory and best practice guidance on licencing drivers properly. This would be in the form of a working group looking at the regulation of the industry and would input the letter received from the Chair and other LAs as information into this consultation.

Mr Neville stated that he would share this letter with the other signatories on the letter from other LAs as well as local MPs.

Resignation of Acting Director of Regulation and Enforcement

- iv) The Chair informed that Alison Harwood, Acting Director of Regulation and Enforcement was moving on and leaving her current role. The chair thanked Ms Harwood for all the time and support she had provided to the Committee and the Department and wished her well for the future.

Ms Harwood told the Committee that she had enjoyed her role and the opportunity to work in Regulation and Enforcement. She thanked the Committee and Officers for the support she had been given whilst undertaking this role.

AUTHORITY TO CHAIR AND OFFICERS

957

RESOLVED:-

In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

The meeting ended at 1238 hours.

.....
CHAIRMAN

Report to:	LICENSING AND PUBLIC PROTECTION COMMITTEE	
Report of:	SERVICE DIRECTOR REGULATION AND ENFORCEMENT AND INTERIM CHIEF FINANCIAL OFFICER	
Date of Decision:	17 JANUARY 2018	
SUBJECT:	LICENSING AND PUBLIC PROTECTION – BUDGET MONITORING 2017/18 (MONTH 08)	

1. Purpose of Report:
<p>1.1 This report sets out the position on the Licensing and Public Protection Committee's Revenue and Capital Budgets at the end of November 2017 (Month 8) and the forecast position for the year end. It highlights any issues that have arisen and informs the Licensing and Public Protection Committee of any action being taken to contain spending within the approved cash limits.</p> <p>1.2 The report also details the latest performance within the Licensing and Public Protection Committee including progress against the approved Savings Programme for 2017/18.</p> <p>1.3 The report is in line with the current City Council established financial monitoring framework to ensure that expenditure is managed within cash limits.</p>

2. Decision(s) Recommended:
<p>The Licensing and Public Protection Committee is requested to :</p> <p>2.1 Note the latest Revenue budget position at the end of November 2017 (Month 8) and Forecast Outturn as detailed in Appendix 1.</p> <p>2.2 Note the position with regard to the Savings Programme for 2017/18 as detailed in Appendix 2.</p> <p>2.3 Note the expenditure on grant funded programmes in Appendix 3.</p> <p>2.4 Note the position on Capital projects, as detailed in Appendix 4.</p> <p>2.5 Approve the appropriations to and from reserves relating to Proceeds of Crime Act</p> <p>2.6 Note the position on reserves and balances, as detailed in Appendix 5.</p>

Lead Contact Officer(s):	Sukvinder Kalsi, Assistant Director of Finance
Telephone No:	0121 303 3834
E-mail address:	sukvinder.kalsi@birmingham.gov.uk

<div data-bbox="102 152 399 197"> 3. Consultation </div> <div data-bbox="102 228 309 273"> 3.1 <u>Internal</u> </div> <div data-bbox="197 300 1495 416"> <p>The financial position on the revenue and capital budget is reported on a monthly basis to the Management Team and the Acting Service Director of Regulation and Enforcement is briefed on the major financial issues, as required in line with the Council’s framework.</p> </div> <div data-bbox="102 445 322 490"> 3.2 <u>External</u> </div> <div data-bbox="197 517 1495 602"> <p>There are no additional issues beyond consultations carried out as part of the budget setting process for 2017/18.</p> </div>
<div data-bbox="102 707 504 752"> 4. Compliance Issues: </div> <div data-bbox="102 781 1350 866"> 4.1 <u>Are the recommended decisions consistent with the Council’s policies, plans and strategies?</u> </div> <div data-bbox="197 891 1495 976"> <p>The budget is integrated within the Council’s Financial Plan 2017+, and resource allocation is directed towards policy priorities.</p> </div> <div data-bbox="102 1003 1331 1088"> 4.2 <u>Financial Implications (Will decisions be carried out within existing finances and Resources?)</u> </div> <div data-bbox="197 1113 1495 1198"> <p>The Licensing and Public Protection Budget Monitoring 2017/18 (Month 8) report provides details of monitoring of service delivery within available resources.</p> </div> <div data-bbox="102 1225 459 1270"> 4.3 <u>Legal Implications</u> </div> <div data-bbox="197 1294 1495 1563"> <p>Section 151 of the 1972 Local Government Act requires the Interim Chief Financial Officer (as the responsible officer) to ensure proper administration of the City Council’s financial affairs. Budgetary control, which includes the regular monitoring of and reporting on budgets, is an essential requirement placed on directorates and members of Corporate Management Team by the City Council in discharging the statutory responsibility. This report meets the City Council’s requirements on budgetary control for the specified area of the City Council’s Directorate activities.</p> </div> <div data-bbox="102 1590 590 1635"> 4.4 <u>Public Sector Equality Duty</u> </div> <div data-bbox="197 1659 1495 1816"> <p>There are no additional specific Equality Duty or Equality Analysis issues beyond any already assessed and detailed in the budget setting process and monitoring issues that have arisen in the year to date. Any specific assessments will be made by the Directorates in the management of their services.</p> </div>

5. Relevant Background/Chronology of Key Events:

Revenue Budget 2017/18

- 5.1 The City Council approved the overall budget on 28 February 2017. The Licensing and Public Protection Committee noted the original net revenue budget allocation of £7.553m (as detailed in Appendix 1) on 15 March 2017.
- 5.2 There have been no changes to the Committee's net budget in the previous report at Month 6. However, additional external funding has been obtained for Trading Standards £0.023m. This has been reflected as an increase in expenditure budgets funded through an equal increase in income (net neutral).

	£'m
Original Budget 2017/18 Reported to LPPC 15 March 2017	7.553
Allocation of Trade Union Facility	(0.016)
New External Funding – Operation Beorma (Counterfeiting) (£0.023m)	-
Current Approved Net Revenue Budget for Month 8	7.537

- 5.3 The City Council has well-established arrangements for monitoring spending against the cash limited budgets allocated to Directorates and Committees.
- 5.4 Reports are presented to Cabinet regularly on the overall city-wide financial position and the Licensing and Public Protection Committee receive periodic financial performance reports during the financial year.

Revenue – Financial Review and Year End Projections (Appendix 1)

- 5.5 The total expenditure at Month 8 (end of November 2017) is £5.552m, which represents 74% of the annual net budget.
- 5.6 A year end pressure of £0.460m is being forecast, all due to base pressures. This represents an improvement to the £0.684m pressure reported in the previous report (Month 6) brought to your committee.
- 5.7 Budgets continue to be managed rigorously and any changes will be reported in future reports.
- 5.8 The table below sets out a high level summary of the projected year end overspend by service (full details in Appendix 1) and how this is comprised of over the savings programme and base budget pressures.

Forecast Year End Variations – Month 8			
Budget Head	Savings Programme £'m	Base Budget (underspend) / Pressures £'m	Total (underspend) / Pressures £'m
Environmental Health	0.000	(0.360)	(0.360)
Pest Control	0.000	0.600	0.600
Registrars	0.000	0.000	0.000
Mortuary and Coroners	0.000	0.350	0.350
Trading Standards	0.000	(0.130)	(0.130)
Licensing	0.000	0.000	0.000
TOTAL	0.000	0.460	0.460

5.9 The key components of the projection include:

- **Environmental Health (£0.360m underspend) and Pest Control (£0.600m)** – Pest Control continues to experience income related pressure from contracts on clearance and the withdrawal of the sewer baiting contract. The two services are managed jointly and savings are being managed within Environmental Health to partly fund this.
- **Mortuary & Coroners (£0.350m pressure)** – pressure from 1974 Bombings Inquest is expected to be funded through Central Government, subject to final written confirmation. However there remains an estimated pressure of £0.350m from autopsies and transport of bodies due to the increased volume of referrals and post mortems required by this service.
- **Trading Standards (£0.130m underspend)** – service mitigations include the temporary secondment of one officer to another local authority and the securing for this financial year of external funding to support an existing anti-counterfeiting initiative.

Savings Programme

5.10 The Committee's Savings Programme is £0.032m for 2017/18.

5.11 In addition, unachieved savings of £0.014m have been brought forward from 2016/17 relating to the Commercial model for Business Support.

5.12 An assessment at Month 8 has concluded that this will be fully delivered in 2017/18 and all savings will be delivered..

Mitigations and Management Actions 2017/18

5.13 Managers within Regulatory Services are involved in a number of actions this financial year to mitigate budget pressures for current and future financial years.

5.14 Pest Control

- Contracts continue to be sought to clear waste land and Council Housing land to make good the £0.600m forecast pressure on income. However, savings are also being managed within Environmental Health to mitigate this pressure.

5.15 Mortuary and Coroners

- Pressures relating to the 1974 Inquest are expected to be met by specific Government Funding. However, other pressures remain significant (£0.350m) and will continue to cause a major ongoing pressure on Committee resources which will mean compensating reductions in other service budgets will be required.

5.16 Trading Standards

- Managers have arranged for the temporary secondment of one officer to another local authority and they have secured external funding from National Trading Standards Board to support their existing anti-counterfeiting initiative.

Capital

- 5.17 The Capital programme (Mortuary and Coroners) for planned essential health and safety works in the mortuary is now being extended to include a new roof.
- 5.18 A revised Business Case for the new project will be drafted and it is anticipated that the works will commence in the new year.

6. Grant Funded Programmes

- 6.1 Within Regulatory Services, there are two grant funded programmes: Illegal Money Lending and Scambusters.
- 6.2 Expenditure and income for each of the grants is shown in Appendix 3 and summarised below.

Illegal Money Lending

- 6.3 The Illegal Money Lending Team (IMLT) England investigates and takes action against Illegal Money Lending or “Loan Shark” perpetrators across the whole of England.
- 6.4 The project is funded through specific grant from National Trading Standards Board, with the allocation of up to £3.605m in 2017/18.
- 6.5 The expenditure at the end of November 2017 was £2.271m (63%). It is anticipated that the programme will fully spend the grant allocated.

Scambusters

- 6.6 The Scambusters (Regional Investigations) Team investigates and takes action against fraudsters operating across council boundaries in the central region.
- 6.7 Funding has been confirmed at £0.335m, similar to the amount allocated to this project during last financial year.
- 6.8 The expenditure at the end of November 2017 was £0.215m (64%). It is anticipated that the programme will fully spend the grant allocated.

7. Proceeds of Crime Act

- 7.1 Regulatory Services secures funding through the Proceeds of Crime Act 2002 in response to financial investigations undertaken following sentencing by the courts.
- 7.2 Expenditure on PoCA items is £0.380m at the end of November – to be funded through an appropriation of this amount from the reserves (where the opening balance was £0.919m).
- 7.3 Income has been received of £0.459m and this will also be appropriated to the reserves.
- 7.4 PoCA monies are ring-fenced for expenditure on community and crime prevention projects

8. Balances and Reserves:
8.1 The reserves at Month 8 are shown in Appendix 5.
8.2 The reserves at the start of the year (1 April 2017) totalled £1.837m.
8.3 With planned appropriations to PoCA reserves of net £0.079m, the reserve balance will be reduced to £1.758m.

9. Evaluation of Alternative Option(s):
9.1 During the year ahead the financial position will continue to be closely monitored and options identified to resolve budgetary pressures as necessary, and to meet new and emerging pressures

10. Reasons for Decision(s):
10.1 The Report informs the Licensing and Public Protection Committee of the Revenue and Capital Budget for 2017/18 and the forecast outturn at Month 8.
10.2 The latest position in respect of the Licensing and Public Protection Committee's use of reserves, Savings Programme and risks are also identified.

Signatures
Mark Croxford, Head of Environmental Health on behalf of the Service Director Regulation and Enforcement
4 th January 2018
Clive Heaphy Interim Chief Financial Officer
.....
Date

List of Background Documents used to Compile this Report:
Licensing & Public Protection - Revenue and Capital Budget 2017/18 – 15 March 2017
Licensing & Public Protection - Budget Monitoring 2017/18 (Month 02) - 12 July 2017
Licensing & Public Protection - Budget Monitoring 2017/18 (Month 04) - 13 September 2017
Licensing & Public Protection - Budget Monitoring 2017/18 (Month 06) - 15 November 2017

List of Appendices accompanying this Report (if any):
1. Appendix 1 - Financial Performance Statement Month 8 and Forecast Outturn
2. Appendix 2 - Savings Programme Performance 2017/18 Month 8
3. Appendix 3 - Summary of IMLT and Scambusters Grants
4. Appendix 4 - Capital Programme 2017/18 Month 8
5. Appendix 5 - Balances and Reserves at Month 8
Report Version 5.0 Dated 04 January 2018

Licensing and Public Protection Committee - 2017/18 Month 8 (November)

Revenue Expenditure

Service Areas

Budget 15Mar2017	Service Areas	Budget 13Sep2017	Movement (Aug-Sep)	Current Budget	Actuals	Forecast Year End	Savings Programme at Risk	Pressures
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
£'000		£'000	£'000	£'000	£'000	£'000	£'000	£'000
4,047	Environmental Health	4,031	0	4,031	1,714	(360)	0	(360)
4	Pest Control	4	0	4	493	600	0	600
878	Registrars	878	0	878	687	0	0	0
1,196	Mortuary and Coroners	1,196	0	1,196	1,771	350	0	350
1,453	Trading Standards	1,453	0	1,453	975	(130)	0	(130)
(8)	Licensing	(8)	0	(8)	94	0	0	0
7,570	Net Expenditure - Regulatory	7,554	0	7,554	5,734	460	0	460
(91)	Highways Regulatory	(91)	0	(91)	(232)	0	0	0
74	Access and Development	74	0	74	50	0	0	0
(17)	Net Expenditure - Highways	(17)	0	(17)	(182)	0	0	0
7,553	LPPC - Net Expenditure	7,537	0	7,537	5,552	460	0	460

Subjective Headings

Budget 15Mar2017	Subjective Categories	Budget 15Nov2017	Movement (Oct-Nov)	Current Budget	Actuals	Forecast Year End	Savings Programme at Risk	Pressures
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
£'000		£'000	£'000	£'000	£'000	£'000	£'000	£'000
10,803	Employees	11,125	0	11,125	7,727	195	0	195
978	Premises	978	0	978	596	0	0	0
200	Transport and Moveable Plant	200	0	200	123	0	0	0
3,494	Supplies and Service	3,155	23	3,178	2,053	(43)	0	(43)
208	Capital Financing	208	0	208	139	0	0	0
443	Recharge Expenditure	443	0	443	442	0	0	0
16,126	Gross Expenditure	16,109	23	16,132	11,080	152	0	152
(3,613)	Fees & Charges / Reserves	(3,542)	0	(3,542)	(1,812)	388	0	388
(4)	Rents etc	(4)	0	(4)	(10)	0	0	0
(3,778)	Misc Income / Depreciation	(3,848)	0	(3,848)	(2,463)	(80)	0	(80)
(1,178)	Recharge Income and Interest	(1,178)	(23)	(1,201)	(1,243)	0	0	0
(8,573)	Income	(8,572)	(23)	(8,595)	(5,528)	308	0	308
7,553	Net Expenditure	7,537	0	7,537	5,552	460	0	460

Note: figures exclude : PoCA, IMLT and Scambusters (see Appendix 3)

Licensing and Public Protection Committee - 2017/18 Month 8 (November)

Savings Programme and Tracker

		Progress against specific Savings with Actions Required					
	Total Programme 2017/18	Actions in place to fully achieve Savings (in line with Policy Decision)	Actions in place to fully achieve Savings (new Policy Decision required)	Actions in place to Achieve savings in year only	Actions in place but some risk to delivery	Savings not deliverable	TOTAL
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	£'000	£'000	£'000		£'000	£'000	£'000
*EGJ7 Commercial Model for Business Support							
Environmental Health	(23)	(23)	0	0	0	0	(23)
Trading Standards	(23)	(23)	0	0	0	0	(23)
Licensing and Enforcement	0	0	0	0	0	0	0
Mortuary and Coroners	0	0	0	0	0	0	0
Pest Control	0	0	0	0	0	0	0
Registrars	0	0	0	0	0	0	0
Total Regulatory Services	(46)	(46)	0	0	0	0	(46)
Highways Services	0	0	0	0	0	0	0
Total LPPC Savings Programme	(46)	(46)	0	0	0	0	(46)

* Includes undelivered savings of £14k brought forward from 2016/17

Licensing and Public Protection Committee - 2017/18 Month 8 (November)

Grant Funded Programmes

Service Areas	Grant Allocation 2017/18	Actuals Year to Date	Forecast Year End Variance
(1)	(2)	(3)	(4)
<u>Illegal Money Lending Team (IMLT) England</u>	£'000	£'000	£'000
Employees	2,943	1,824	0
Premises	54	22	0
Transport and moveab	115	76	0
Supplies and Service	334	224	0
Capital Financing	15	10	0
Recharge Expenditure	159	115	0
Gross Expenditure	3,620	2,271	0
Grants	(3,605)	(1,757)	0
Fees and Charges	0	0	0
Asset Revenue Manage	(15)	(10)	0
Income	(3,620)	(1,767)	0
Net Expenditure	0	504	0
<u>Scambusters</u>			
Employees	220	129	0
Premises	1	1	0
Transport and moveab	5	1	0
Supplies and Service	95	84	0
Recharge Expenditure	14	0	0
Gross Expenditure	335	215	0
Grant Income (NTSB)	(335)	0	0
Income	(335)	0	0
Net Expenditure	0	215	0

Licensing and Public Protection Committee - 2017/18 Month 8 (November)

Capital Programme

Service Areas	Allocation 2017/18	Actuals Year to Date	Forecast Year End Variance
(1)	(2)	(3)	(4)
	£'000	£'000	£'000
Mortuary Floor and Ventillation*	368	6	(362)
Capital Expenditure	368	6	(362)

* Capital Budget relating to Mortuary Floor and Ventilation has been transferred from 2016/17
(as reported to LPPC 18 January 2017)

Licensing and Public Protection Committee - 2017/18 Month 8 (November)

Balances and Reserves

	Licensing		Grants		PoCA			
Reserves and Balances	Entertain - ment Licensing	Hackney Carriage and Private Hire	Illegal Money Lending Team	Scam - busters Team	PoCA Trading Standards	PoCA Illegal Money Lending	Total Ringfenced Reserves	Total Reserves and Balances
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(10)
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Reserves as at 01 April 2017	0	(639)	(279)	0	(443)	(476)	(1,837)	(1,837)
Transactions (to)/from Balances in 2017/18					*	*		
Appropriations to Reserves in year	0	0	0	0	68	391	459	459
Appropriations from Reserves in year	0	0	0	0	(116)	(264)	(380)	(380)
Net Movements 2017/18	0	0	0	0	(48)	127	79	79
Estimated Reserves 31 March 2018	0	(639)	(279)	0	(491)	(349)	(1,758)	(1,758)

* Planned appropriations as set out in paragraphs 7.2 and 7.3

BIRMINGHAM CITY COUNCIL

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

17 JANUARY 2018
ALL WARDS

INTRODUCTION OF THE SINGLE JUSTICE PROCEDURE

1. **Summary**

- 1.1 This report details the process of the Single Justice Procedure introduced by the Criminal Justice and Courts Act 2015. The Government has signed a new Statutory Instrument which expands the availability of this procedure to a group of additional prosecutors that now includes local authorities.

2. **Recommendation**

- 2.1 That the report be noted.

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Originating Officer Anita Berg, Senior Officer, Legal Proceedings Team

3. Background

- 3.1 The Single Justice Procedure (SJP) is a new process aiming to remove high volume, low level “regulatory cases” from Magistrates’ Courtrooms where there is a “guilty” plea or the cases are not contested.
- 3.2 The purpose of the SJP is to deal more efficiently with summary only offences which do not carry an option of a custodial sentence. These are currently administered under the summons and court hearing procedure. These cases result in a financial penalty where the defendant is found guilty.

4. Current Process Procedure up to 16/10/2017

- 4.1 The defendant, regardless of their plea, will be given a Court date and summonsed to attend. The details of the case will be presented to the Magistrates Bench by a solicitor in a formal Courtroom and a decision made.

5. New Process Procedure as from 16/10/2017

- 5.1 The defendant will be sent a SJP notice that enables them to plead guilty to the offence or indicate they wish to attend court. The notice gives the defendant a date to respond to the allegation rather than a date to attend Court, which is 21 days from the service of the notice.
- 5.2 Where the defendant pleads guilty by responding within 21 days to the SJP notice, they will not have to attend Court. A single Magistrate and Legal Advisor will deal with the case. The guilty plea also means that there is no requirement for a formal Court set up or full bench of magistrates. Additionally there is no requirement for a prosecutor (Solicitor / Officers) to attend court either.
- 5.3 If a not guilty plea is entered or the case is identified as being complex then the matter will be adjourned to a Corporation Court and will be prosecuted by way of a summons as is the case now.

6. Changes Implemented by Legal Proceedings Team

- 6.1 Following liaison with Birmingham Magistrates’ Court and the Criminal Litigation Team (Council Solicitors), the Legal Proceedings Team (Regulation and Enforcement’s Administration Team for prosecutions) instigated the use of the SJP on Monday 16th October 2017. The Legal Proceedings Team is now using the process for all litter cases and we now intend to use the procedure for other summary only matters.
- 6.2 The new SJP process is completely electronic and dispenses with a lot of paperwork and manual recording. SJP notices are drawn up by our Legal

Proceedings Team and are sent to the Birmingham Magistrates Court via email to a dedicated Court mailbox. On conclusion of cases the Court Resulting Team will email a copy of the results to the Legal Proceedings Team.

- 6.3 At the moment finalised cases are reported to Committee in the month that they are heard. To date this has been relatively simple in that an officer has been present at court to hear the outcome of prosecutions. If there is a delay by the courts in the notifying outcomes this may affect the timeliness of our reports to committee. All cases will be reported but this may necessitate a change to the Legal Proceedings report.

7. Implications for Resources

- 7.1 The SJP is an example of an alternative service delivery which saves time for the Courts and for the person committing the offence.
- 7.2 Overall these changes will help our colleagues in Legal Services in that it reduces their need to attend court where guilty pleas are entered. However as your officers only attend trials, i.e. when not guilty pleas have been entered, there will be commensurate time saving for regulatory officers.
- 7.3 Our Legal Proceedings Team will save some time from not attending court, however, this will be re-invested in the production of SJP notices.

8. Implications for Policy Priorities

- 8.1 None identified.

9. Public Sector Equality Duty

- 9.1 There is no impact identified for the council as this will have been dealt with by the Ministry of Justice when implementing the SJP regime.

10. Consultation

- 10.1 No consultation is required to be undertaken by the local authority.

Head of Environmental Health
on behalf of:

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

BIRMINGHAM CITY COUNCIL

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

17 JANUARY 2018
ALL WARDS

HOUSE OF LORDS SELECT COMMITTEE ON THE LICENSING ACT 2003
GOVERNMENT RESPONSE

1. Summary

- 1.1 This report summarises the Government Response to the Report of The House of Lords Select Committee on the Licensing Act 2003.

2. Recommendation

- 2.1 That the report be noted.

Contact Officer: Emma Rohomon, Licensing Operations Manager
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3. Background

- 3.1 The House of Lords appointed a Select Committee on the Licensing Act 2003 on 25 May 2016. The purpose of the Select Committee was to carry out a review of how the Licensing Act 2003 had been implemented, with a view to understanding any lessons learned and to consider any proposals to amend the Act. The findings of the Select Committee were reported to your Committee in July 2017 along with some officer commentary.
- 3.2 In November 2017 the Government published its own response to the Select Committee report. These responses have been incorporated into the document presented to your Committee in July 2017 – for ease of reference and to provide context. This document is attached as an Appendix to this report.
- 3.3 A copy of the full response document can be located here:
<https://www.gov.uk/government/publications/the-government-response-to-the-report-from-the-house-of-lords-select-committee-on-the-licensing-act-2003>

4. Summary of Government Response.

- 4.1 The Government seeks to address many of the recommendations of the Select Committee through amendments to the Statutory Guidance (s182 Guidance).
- 4.2 There seems to be general agreement from the Government that many of the points raised by the Select Committee are valid, although the approach to remedying the issue varies significantly.
- 4.3 Significantly for your Committee, there are no plans to introduce locally set fees, nor to vary the existing fee structure. This is disappointing as the current fee structure causes an unsustainable pressure on the Licensing Service.
- 4.4 On the subject of planning and licensing, the Government does not agree with the effective ‘merging’ of the two areas, either administratively or legally, although they do echo the concerns regarding the way in which the two regimes conflict, and recommend an improved communication between the two systems.
- 4.5 Officers have met with colleagues from planning to try and find ways in which we can improve the interaction between the two service areas, and will continue working on this improvement going forward.
- 4.6 With regard to Cumulative Impact Policies; the Government will be progressing with the enacting of the Statutory provisions for Cumulative Impact. The legislation proposes a process not fundamentally different to the existing system used by your Committee. There will be a requirement to review the CIP areas more regularly than the Statement of Licensing Policy, which will be the only major difference.

- 4.7 Recommendations 11 and 12 referred to minimum standards for Member training. The current Code of Conduct for Licensing and Public Protection Committee Members states as follows:

Members dealing with Licensing issues will be required to attend a training session each year to receive guidance in relation to Licensing regulations and procedures and on declaration of personal or prejudicial interests. Training will be conducted in accordance with the Training for Councillors standard. Members who fail to attend such training will be excluded from meetings of Licensing Committee. This training should include a balance of the following:

- *Short (half day) sessions on special topics of interest or where appeals have indicated problems with Licensing policy.*
- *Special topic groups to consider thorny issues in depth.*
- *Formal training by internal and external speakers.*
- *Quick presentations by officers on hot topics, e.g. new legislation, white papers and their impacts, followed by a brief question and answer session.*

- 4.8 Officers are currently working on a separate report, to be brought to your Committee in the near future detailing more specific training requirements, and proposing a training plan.

5. Implications for Resources

- 5.1 At this early stage there are no implications for resources, although, the continuing inability to be able to set fees on a local basis only exacerbates the current financial pressures caused by the existing fee structure.

6. Implications for Policy Priorities

- 6.1 This work supports the Regulation and Enforcement Division's mission statement to provide 'locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors'.

7. Public Sector Equality Duty

- 7.1 This report is for information only. An Equalities Impact Assessment is not required.

8. Consultation

- 8.1 The content of this report is for information only and required no consultation to be carried out.

Head of Environmental Health

On Behalf of:

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: nil

APPENDIX 1

Summary Of Conclusions And Recommendations Of The House Of Lords Select Committee. (With Officer Comments In Grey)	Summary of Government Response
The Background to the Act	
<p>1. We think it unfortunate that in the 11 years since the full implementation of the Licensing Act there have been piecemeal amendments made by nine different Acts of Parliament, a large number of significant amendments made by other Acts and by secondary legislation and further changes to licensing law and practice made by amendment of the section 182 Guidance. (Paragraph 54)</p>	<p>No action</p>
<p>2. We regret that there will no longer be any opportunity for Parliament to scrutinise the Guidance in draft, nor even to ensure that there has been adequate consultation during its preparation. (Paragraph 55)</p>	<p>No action</p>
<p>3. Assuming that minimum unit pricing is brought into force in Scotland, we recommend that once Scottish ministers have published their statutory assessment of the working of MUP, if that assessment demonstrates that the policy is successful, MUP should be introduced in England and Wales. (Paragraph 86)</p>	<p>Remains under review</p>
<p>4. We urge the Government to continue to look at other ways in which taxation and pricing can be used to control excessive consumption. (Paragraph 87)</p>	<p>Remains under consideration</p>
The Licensing Process	
<p>5. We appreciate that we are perhaps more likely to receive evidence critical of the way the licensing process operates than evidence saying it operates well or better. We believe—we certainly hope—that most members of licensing committees take their responsibilities seriously, adopt a procedure which is fair and seen to be fair, are well advised, and reach sensible conclusions. But clearly reform of the system is essential. (Paragraph 116)</p>	<p>No action</p>
<p>6. Sections 6–10 of the Licensing Act 2003 should be amended to transfer the functions of local authority licensing committees and sub-committees to the planning committees. We recommend that this proposal should be trialled in a few pilot areas. (Paragraph 154)</p>	<p>No action</p>
<p>7. We believe that the debate and the consultation on transferring the functions of licensing committees and sub-committees to the planning committees must start now, and the pilots must follow as soon as possible. (Paragraph 155)</p>	<p>No action</p>

<p><i>This was not included in the call for evidence, but a suggestion which resulted from some of the evidence presented to the Select Committee. Had this been included in the call for evidence, we would have had an opportunity to comment. Both planning and licensing committees are carried on in accordance with their own, different, legislative controls, with many of the same Members. We would seek to ensure that both the Licensing and Public Protection Committee and the Planning Committee take an active part in any "debate and consultation". We would strongly refute any implied criticism of the Committee.</i></p>	
<p>Appeals</p>	
<p>8. Licensing authorities should publicise the reasons which have led them to settle an appeal, and should hesitate to compromise if they are effectively reversing an earlier decision which residents and others intervening may have thought they could rely on. (Paragraph 173)</p>	<p>To amend s182 Guidance: We do not consider it necessary to legislate to this effect. The section 182 guidance states that <i>"It is important that a licensing authority should give comprehensive reasons for its decision in anticipation of any appeals. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act."</i> We will amend the guidance to extend this principle to decisions made after a hearing.</p>
<p><i>In circumstances where a Consent Order is agreed to, this will be included in the monthly report to LPPC on the outcome of appeals.</i></p>	
<p>9. We recommend that appeals from licensing authorities should no longer go to magistrates' courts, but should lie to the planning inspectorate, following the same course as appeals from planning committees. This change is not dependent on the outcome of our recommendations on the licensing function, and should be made as soon as possible. (Paragraph 206)</p>	<p>No specific action other than: We will explore with partners whether there is good practice within the existing regime and from similar regimes that may offer some ideas for consideration.</p>
<p><i>This was not included in the call for evidence, but a suggestion which resulted from some of the evidence presented to the Select Committee. There are marked differences between the two systems, most fundamentally involving the parties who are able to appeal against planning decisions. It is unclear how this would improve the situation for any party and it</i></p>	

<i>would appear the issues may be more appropriately addressed by more training for the Magistrates.</i>	
Immediate Changes	
10. The section 182 Guidance should be amended to make clear the responsibility of the chair of a licensing committee for enforcing standards of conduct of members of sub-committees, including deciding where necessary whether individual councillors should be disqualified from sitting, either in particular cases or at all. (Paragraph 213)	To work with the LGA on addressing these points through their Councillor Handbook.
<i>Agreed</i>	
11. We recommend that the Home Office discuss with the Local Government Association, licensing solicitors and other stakeholders the length and form of the minimum training a councillor should receive before first being allowed to sit as a member of a sub-committee, and the length, form and frequency of refresher training. (Paragraph 218)	No specific action. To 'consider with partners'
<i>Agreed</i>	
12. The section 182 Guidance should be amended to introduce a requirement that a councillor who is a member of a licensing committee must not take part in any proceedings of the committee or a sub-committee until they have received training to the standard set out in the Guidance. (Paragraph 220)	No specific action. To 'consider with partners'
<i>Agreed. There are already training requirements in place within Birmingham, but a National approach is to be welcomed.</i>	
13. We recommend that where there are no longer any matters in dispute between the parties, a sub-committee which believes that a hearing should nevertheless be held should provide the parties with reasons in writing. (Paragraph 222)	To amend s.182 Guidance and LGA handbook.
<i>Agreed</i>	
14. The Hearings Regulations must be amended to state that the quorum of a sub-committee is three. (Paragraph 229)	Not required. Already the case.
<i>Agreed, this clarification of the Regulations is welcomed. (Albeit, in Birmingham we already work on this understanding)</i>	
15. Regulations 21 and 23 of the Hearings Regulations leave everything to the discretion of the committee. They regulate nothing. They should be revoked. (Paragraph 230)	No action.
<i>Agreed.</i>	
16. The section 182 Guidance should indicate the degree of formality required, the structure of hearings, and the order in which the parties should normally speak. It should make clear that parties must be allowed sufficient time to make their representations. (Paragraph 231)	To consult with partners before, potentially amending s182 guidance.

<i>Agreed. This would effect a single approach across all Local Authorities and reduce the likelihood of challenge to procedures.</i>	
17. We recommend that where on a summary review a licence is revoked and the livelihood of the licensee is at stake, magistrates' courts should list appeals for hearing as soon as they are ready. (Paragraph 236)	Judicial responsibility, not Government. Referred to Judiciary.
<i>Agreed.</i>	
18. We recommend that notice of an application should not need to be given by an advertisement in a local paper. Notices should be given predominantly by online notification systems run by the local authority. (Paragraph 242)	No plans to remove this requirement
<i>Agreed.</i>	
19. Local authorities should ensure that blue licensing notices, as for planning applications, should continue to be placed in shop windows and on street lights in prominent positions near the venue which is the subject of the application. (Paragraph 243)	To strengthen s182 Guidance
<i>Agreed. This is no change to the current position.</i>	
20. Coordination between the licensing and planning systems can and should begin immediately in all local authorities. The section 182 Guidance should be amended to make clear that a licensing committee, far from ignoring any relevant decision already taken by a planning committee, should take it into account and where appropriate follow it; and vice versa. (Paragraph 246)	To be considered as part of review of s.182 Guidance.
<i>Agreed. The Guidance should be amended to clarify the position and negate previous mixed messages which were given.</i>	
The Licensing Objectives	
21. We have received submissions in both written and oral evidence that three further objectives should be added to the four already listed. Our consideration of them is based on our view that the objectives are not a list of matters which it would be desirable to achieve, but simply an exhaustive list of the grounds for refusing an application or imposing conditions. There is therefore no point in including as an objective something which cannot be related back to particular premises. (Paragraph 250)	No action No intention to add more objectives.
22. Promotion of health and well-being is a necessary and desirable objective for an alcohol strategy, but we accept that it is not appropriate as a licensing objective. (Paragraph 261)	PH Are already a Responsible Authority within the existing regime. Seek to utilise existing framework, without adding new Licensing Objectives.
23. We do not recommend that "enjoyment of licensable activities", "the provision of social or cultural activities", or anything similar, should be	No action: No intention to add more objectives.

added as a licensing objective. (Paragraph 265)	
24. We do not recommend adding as a licensing objective “compliance with the Equality Act 2010” or “securing accessibility for disabled persons”. (Paragraph 272)	Government agree that additional objective would not be the solution to the problems experienced.
25. We recommend that the law should be amended to require, as in Scotland, that an application for a premises licence should be accompanied by a disabled access and facilities statement. (Paragraph 277)	To consult on this subject further with the trade and NALEO.
<i>Agreed.</i>	
The Off-Trade	
26. We do not recommend that powers to ban super-strength alcohol across many premises simultaneously be granted to local authorities. (Paragraph 309)	No intention to grant these powers
27. The Coalition Government’s Responsibility Deal on alcohol did not achieve its objectives, and appears to have been suspended. We believe much more still needs to be done to tackle the production of super-strength, low-cost alcoholic products. If and when any similar schemes are developed in the future, there must be greater provision for monitoring and maintaining them, and greater collaboration between all parties involved, including both public health experts and manufacturers. They should also account for the realities of super-strength alcohol, with particular focus on, for example, ABV rather than the specificities of packaging. (Paragraph 310)	No specific action. To ‘consider’.
<i>Agreed.</i>	
28. We believe that proposed Group Review Intervention Powers, which would give local authorities the power to introduce mandatory blanket conditions on all premises in a particular area, should not be introduced. As a blanket approach to problems which can normally be traced back to particular premises, they are likely to suffer from the same problems as Early Morning Restriction Orders, and the same results can be achieved through existing means. (Paragraph 316)	Further work to be done before continuing with the introduction of GRIPs.
29. While there appears to be some merit to a few voluntary schemes, the majority, and in particular the Government’s Responsibility Deal, are not working as intended. We believe there are limits to what can be achieved in this way, and many of the worst operators will probably never comply with voluntary agreements. We strongly believe that the Alcohol etc. (Scotland) Act 2010 offers a proportionate and practical basis for measures specifically regulating the off-trade. (Paragraph 321)	The Government does not intend to introduce legislation based on part 1 of the Alcohol etc (Scotland) Act 2010.

<p>30. We recommend that legislation based on Part 1 of the Alcohol etc. (Scotland) Act 2010 should be introduced in England and Wales at the first available opportunity. In the meantime, the section 182 Guidance should be amended to encourage the adoption of these measures by the off-trade. (Paragraph 322)</p>	<p>The section 182 guidance is not an appropriate means to encourage the industry to adopt these measures on a voluntary basis, as the guidance is provided for licensing authorities in relation to the carrying out of their functions under the Act.</p>

BIRMINGHAM CITY COUNCIL

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

17 JANUARY 2018
ALL WARDS

THE EFFECT OF REDUCING THE FREQUENCY OF FOOD HYGIENE INSPECTIONS AND THE FUTURE ROLE OF FOOD REGULATION

1. Summary

- 1.1 As a result of an Audit conducted by the Food Standards Agency, a number of food businesses were identified as being overdue for a Food Hygiene Inspection (referred to as 'overdue businesses'). These businesses were subject to a full inspection between April 2015 and March 2016.
- 1.2 The data and results of the food hygiene inspections were collated and analysed and compared against a random sample of food businesses which had received scheduled food hygiene inspections (referred to as 'scheduled businesses'). This report highlights the differences in the standards found.
- 1.3 In 2017 The Food Standards Agency (FSA) released a new vision that states the existing system of food regulation has not kept pace with technological changes and is not flexible enough to adapt to the changing environment, with the view that "one size doesn't fit all". The paper, 'Regulating our Future' was released in 2017 and contains a number of radical changes that could potentially weaken regulatory control further.

2. Recommendation

- 2.1 Based on our findings that the Chair of Licensing and Public Protection Committee write to the Food Standards Agency and the Secretary of State for Health outlining our concerns that a reduced regulatory system could weaken food safety and protection for consumers.

Contact Officer: Nick Lowe, Operations Manager Food
Telephone: 0121 303 2491
Email: nick.lowe@birmingham.gov.uk

Originating Officers: Laksmi Kerrison, Environmental Health Officer
Emily Hassall, Environmental Health Officer

3. Background

- 3.1 At the time the report was compiled, there were 7,606 Birmingham food businesses registered on our database. The Environmental Health Division is responsible for undertaking periodic food safety and hygiene inspections at all of these businesses.
- 3.2 All food businesses are risk-rated after an inspection and receive a risk rating of “A” (high risk) through to “E” (low risk). Factors affecting the risk rating are set out in the Food Standards Agency’s Food Law Code of Practice and Brand Standard Guidance (the Food Hygiene Rating Scheme).
- 3.3 The risk rating awarded to a business will also determine the Food Hygiene Rating Score (FHRS) which they receive; the score can range from “0” (urgent improvement necessary) to “5” (excellent standards). A score of “3” is considered ‘generally compliant’ with all food legislation requirements.
- 3.4 In April 2015 Birmingham City Council was subject to a random audit by the Food Standards Agency to verify the accuracy of our performance data and systems in place to discharge our duty with regard to food inspections and other interventions. At this time we and the agency identified a number of premises that had not been inspected due to the way the old data-base operated. The new data-base immediately identified them as not being inspected and an inspection programme was put in place to rectify this. This report relates to those premises which included a broad spectrum of medium and high risk premises.

4. Food Standards Agency Audit

- 4.1 The 2015 audit highlighted 103 food businesses across Birmingham which were overdue an intervention and had been previously risk rated A – C (high to medium risk).
- 4.2 An Environmental Health Officer was tasked with undertaking the food hygiene inspections (and taking necessary follow up/enforcement action) within these businesses to ensure a consistent approach. Of the 103 businesses which were overdue an inspection, 72 were still trading and were inspected with each business being provided with an up to date Food Hygiene Rating. The remaining 31 businesses were found to have closed down or the businesses had changed and were either no longer a food business or were registered, under their new name, as a food business and in our current database.
- 4.3 Although we would not want to intentionally have overdue and late inspections this did give us a unique insight into what happens in food businesses when they are not subject to regular inspection. The sample size (72) and the fact that some businesses had not been inspected for 5 years, gave us a

statistical sample size which was much more meaningful than anything we had done before.

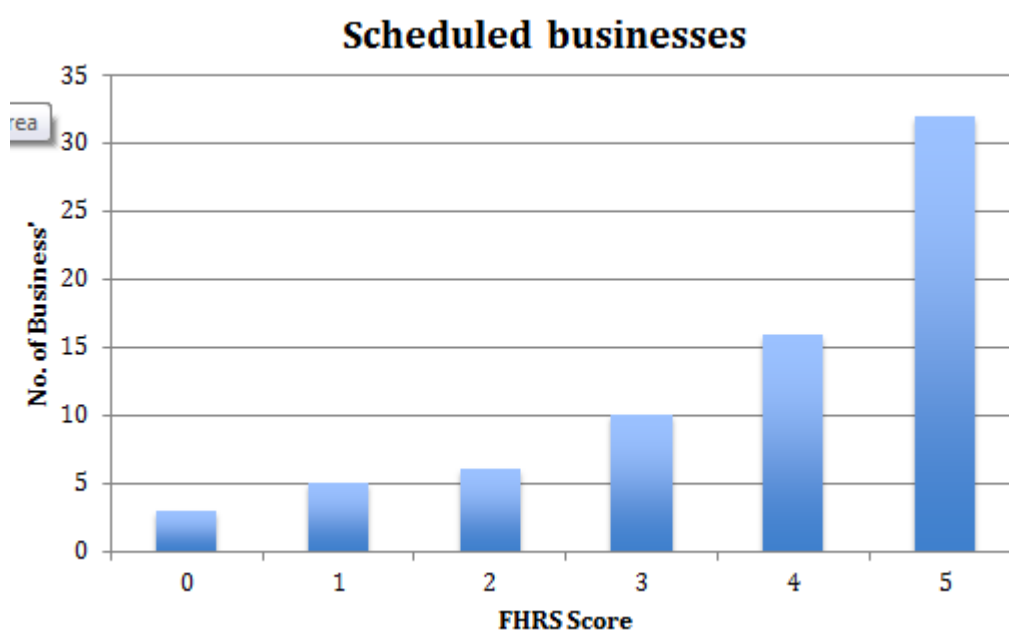
5. Data Collection and Results

5.1 The following sets of data have been gathered to determine the effect that the frequency of inspection poses on the Food Hygiene Rating of a business:

- Current FHRs score for overdue business (as a result of this project).
- Previous FHRs score for overdue business.
- Previous and current scores broken down into structure, hygiene and confidence in management.
- Length of time between interventions for overdue and scheduled inspections.

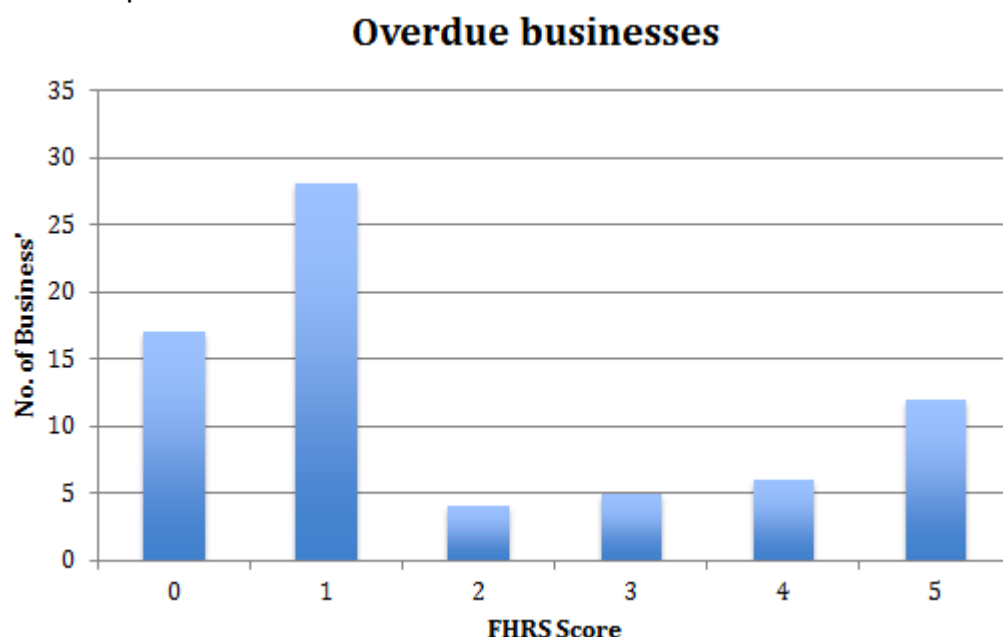
5.2 The FHRs score achieved by scheduled businesses and overdue businesses on the most recent inspection differed dramatically.

5.3 The FHRs scores achieved by (a random sample of) scheduled businesses on the most recent inspection can be seen below:



- 32 out of 72 businesses achieved an FHRs score of 5 (44%).
- Only 3 out of 72 businesses achieved an FHRs score of 0 (4%).
- 58 out of 72 businesses achieved an FHRs score of 3 or more meaning that 81% were considered broadly compliant.
- 14 out of 72 businesses received an FHRs score of 0, 1 and 2 meaning that 19% required improvement.
- There is a clear upward trend in the results towards compliance.

- 5.4 The FHRs scores achieved by the 72 overdue businesses on the most recent inspection can be seen below:



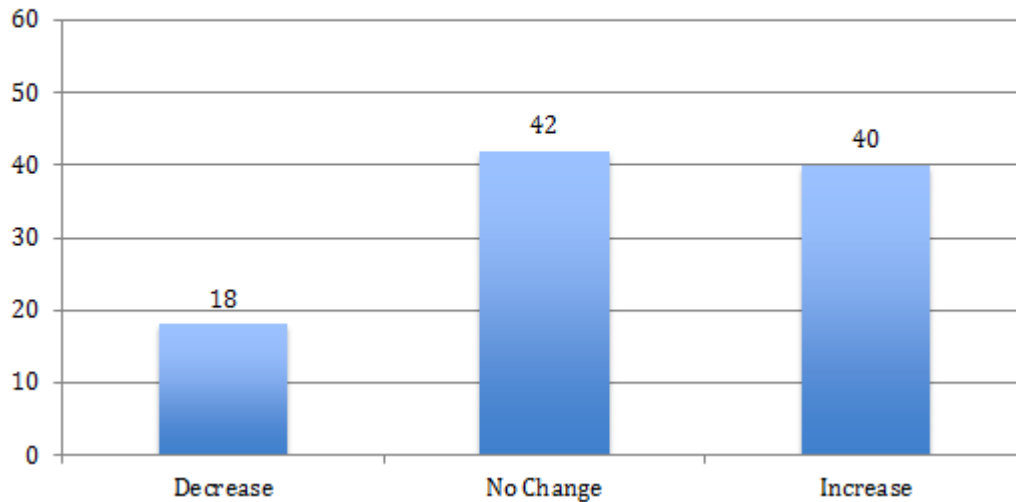
- 12 out of 72 overdue businesses received an FHRs score of 5 (16%).
- 17 out of 72 overdue businesses received an FHRs score of 0 (24%).
- 23 out of 72 overdue businesses received an FHRs score of 3 or more meaning that only 32% were considered broadly compliant.
- 49 out of 72 businesses received an FHRs score of 0, 1 and 2 meaning that 68% required improvement.
- Clearly more overdue premises received an FHRs score of 0 or 1.

Comparison of scores:

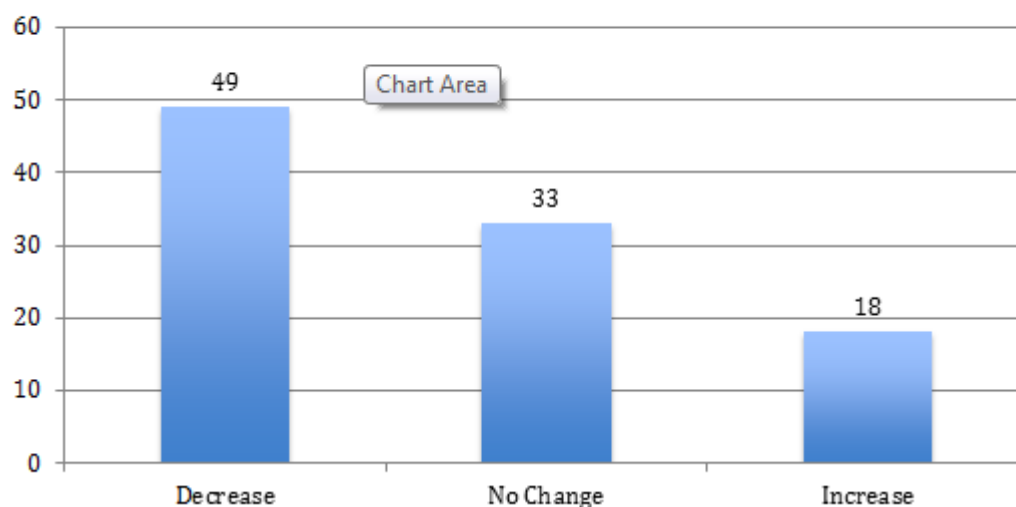
	Inspected on Time Group	Overdue Inspection Group
FHRs Score 5 (Higher is Best)	44%	16%
FHRs Score 0 (Lower is Best)	4%	24%
FHRs Score >3 (Higher is Best)	81%	32%
FHRs Score <2 (Lower is Best)	19%	68%

- 5.5 The differences in changes of FHRs scores can be seen in the graphs below for overdue premises and scheduled premises. It can be seen that premises which are inspected on time generally maintained or improved their FHRs score compared with over due businesses which 49% decreased their score meaning that standards had fallen.

% of businesses with change in FHRS for scheduled premises



% of businesses with change in FHRS for overdue premises



6. Food Hygiene Rating Analysis

- 6.1 32% of overdue businesses were classified as 'broadly compliant' (FHRS of 3, generally satisfactory, or above) compared with 81% of scheduled businesses; this implies that businesses subject to regular food hygiene interventions are more likely to be compliant with food safety regulations. The rate of broad compliance in all premises in Birmingham is currently 84%.
- 6.2 49% of overdue businesses saw a decrease in their score compared with 18% of scheduled businesses; this indicates that a lack of regular inspections enables food hygiene standards to decline.

- 6.3 40% of scheduled businesses saw an improvement in their score compared with only 18% of overdue businesses; this suggests a link between inspection frequency and higher standards.
- 6.4 The further difference in standards is illustrated by the amount of enforcement action required in overdue premises compared to those inspected on time. Of the 72 overdue inspections, 19 resulted in emergency closure action, a rate of 26%. The average rate of closures in remaining premises is 2.52%. Inspections of the overdue premises also resulted in the service of 27 Hygiene Improvement notices, 2 Health & Safety Improvement notices and 22 Health & Safety Prohibition notices, all rates considerably higher than in the scheduled visits. All this additional enforcement work takes up considerable time and resources in terms of documentation, court attendance, revisits and further investigation to consider if additional legal action is appropriate.

7. Potential Bias in the Study

- 7.1 Although there can always be some bias in any study we have tried to eliminate this. The FHRS scores for overdue businesses were awarded by one EHO for all of the premises to ensure consistency. However, the FHRS scores awarded to scheduled businesses were by a number of Environmental Health Officers. This identified bias in officer scoring is reduced through training in application of the Food Standards Agency guidance on the use of the brand Standard scoring system (how FHRS scores are calculated).

8. Conclusion

- 8.1 The following outcomes were established as a result of this project:
- 49% more of the scheduled businesses were 'broadly compliant' than the overdue businesses.
 - 31% more of the overdue businesses decreased their FHRS score than the scheduled businesses.
 - 22% more of the scheduled businesses increased their FHRS score than the overdue businesses.
 - There was greater decline in compliance with all standards in overdue businesses than no change or increase.
 - Scheduled businesses had the higher levels of increase or no change in standards than decrease overall.
 - The rate of closures in overdue premises was approximately 10 times higher than that in scheduled visits.
- 8.2 The analysis of the above data proves that the frequency of inspection has an effect on food safety compliance in food business within Birmingham City Council specifically with regard to the Food Hygiene Rating Score awarded to them.

- 8.3 It is proven that regular, planned interventions increase the likelihood of compliance with food law and reduces the need for costly enforcement interventions. It, therefore, follows that a lack of inspections is likely to enable a decrease standards in food businesses.

9. FSA – Regulating Our Future Proposals

- 9.1 The full details of the above proposals by the FSA to re-organise food inspections will be the subject of a further committee report in the New Year. For the purpose of this report, information is limited to those sections relevant to this study.

- 9.2 The outline proposals in the paper are:

- Businesses are responsible for producing food that is safe and what it says it is, and should be able to demonstrate that they do so. Consumers have a right to information to help them make informed choices about the food they buy – businesses have a responsibility to be transparent and honest in their provision of that information.
- FSA and regulatory partners' decisions should be tailored, proportionate and based on a clear picture of UK food businesses.
- The regulator should take into account all available sources of information.
- Businesses doing the right thing for consumers should be recognised; action will be taken against those that do not.
- Businesses should meet the costs of regulation, which should be no more than they need to be.

- 9.3 The following more specific concerns stem from this:

- Segmentation of the food safety regulatory regime as proposed by the FSA would effectively break the current system. There would be private assurance schemes, national inspection strategies, regulatory certified auditors and local authorities. Allowing several schemes to run at the same time will cause confusion and increase allegations of lack of consistency.
- The current food business inspection model is based on a risk assessment. It is proposed that this risk assessment will take into account information of compliance with other regulatory regimes such as VAT etc.
- The proposals also allow risk to be determined by a businesses' membership of third party quality assurance schemes. However, experience has shown that even national food companies, that have their own and third party auditing schemes still fail to comply with basic food safety requirements, such as having their premises free of vermin.
- Reference is made to the regulatory burden on businesses with third party Accreditation. It is difficult to understand how an independent

local authority inspection be a burden. For a major retailer a local authority intervention is typically once every two - three years and takes 90 minutes on site.

- Businesses will be encouraged to join private assurance schemes and thereby reduce the need for local authority inspection of their premises. This will only affect the larger food businesses, who can afford to belong to such schemes.
- It appears there is a proposal that privately employed "Certified Regulatory Auditors"(CRA) would be authorised to issue Food Hygiene Ratings (FHRS). It is inconceivable that any local authority would accept an inspection record from a private company and place the results on the FHRS website. This would infer acceptance and responsibility for findings which the local authority has no control over.

9.4 The effect of the above will be to reduce Local Authority control over food hygiene and food standards further, reducing the level of interventions and in some cases removing them altogether to be replaced by a privately bought in service. The detailed information in this report demonstrates how such a move could seriously impact on food hygiene standards in the city.

10. Implications for Resources

10.1 Whilst reducing the frequency of inspections may appear to free up resources for other activities, our study has shown that the increased rates of enforcement, advice and notice service in the premises inspected less frequently will lead to increased resources being required to reverse declining standards. Regular interventions enable advice to be given and where standards are seen to be falling. If the time frame between inspections is too great then the situation will have deteriorated to a level which cannot be reversed without resorting to enforcement to protect the public.

10.2 It is, therefore, likely that reducing food hygiene inspection rates will lead to lower standards in food premises and an undermining of confidence in our food businesses.

11. Implications for Policy Priorities

11.1 Compliant food businesses are not only crucial to the health and safety of citizens and visitors to the city but are also consistent with other policy priorities including economic success, staying safe and being healthy. Non-compliance with food law increases the likelihood of business customers contracting food poisoning and suffering ill health effects.

11.2 It is essential that all food businesses in Birmingham are subject to intervention on a regular basis in line with their risk rating.

- 11.3 Environmental Health departments must allocate sufficient resources to the food programme in order to drive up standards of food safety within food businesses in Birmingham and thus reduce the risk of customers becoming unwell.
- 11.4 It is important that all groups within Birmingham, as well as visitors to the city, are offered suitable safety standards in food businesses to allow them to eat out, safely, with confidence.

12. Public Sector Equality Duty

- 12.1 Equality issues are accounted for during activities carried out by officers.

Head of Environmental Health
on behalf of:

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: nil

BIRMINGHAM CITY COUNCIL

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

17 JANUARY 2018
ALL WARDS

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS
TAKEN DURING NOVEMBER 2017**

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: Chris Neville, Head of Licensing
Telephone: 0121 303 6111
E-mail: chris.neville@birmingham.gov.uk

3. Summary of Appeal Hearings for November 2017

	Magistrates'	Crown
Total	3	
Allowed		
Dismissed	3	
Appeal lodged at Crown		n/a
Upheld in part		
Withdrawn pre-Court		

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 2017 costs have been requested to the sum of £2,555.50 with reimbursement of £2,255.50 (88.3%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2017 to November 2017, costs associated to appeal hearings have been requested to the sum of £27,028.05 with reimbursement of £20,629.30 (76.3%) 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.

Head of Environmental Health
on behalf of:

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	Zafar Iqbal	17.11.2017	Dismissed	£300	£0	On 4 September 2017, as the result of conviction for offences of plying for hire and using a vehicle while uninsured, Committee considered and in line with policy relating to a private hire driver who has been convicted for such offences, resolved to revoke the licence.
2	Abdul Ghafoor	24.11.2017	Dismissed	£300	£300	On 2 October 2017, as the result of a complaint that children with special needs had been exposed to inappropriate explicit video images on Mr Ghafoor's mobile phone, the licence was revoked with immediate effect by the Chair of your Committee in the interests of public safety.

MAGISTRATES' COURT – LICENSING ACT 2003

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Najibullah Asakzai in respect of International Supermarket, 117 Villa Road, Handsworth, B19 1NH	13.11.2017	Dismissed	£1,955.50	£1,955.50	On 21 January 2017, as the result of an application for a review of the premises licence by Trading Standards Officers, large quantities of illicit and counterfeit tobacco products having been found concealed within the premises, which failed to promote the prevention of crime and disorder, the protection of children from harm, public safety and the prevention of public nuisance objectives in the Act, Committee considered and resolved that the premises licence be revoked.

BIRMINGHAM CITY COUNCIL

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

17 JANUARY 2018
ALL WARDS

FIXED PENALTY NOTICES ISSUED NOVEMBER 2017

1. Summary
 - 1.1 The report sets out a breakdown, on a Constituency/Ward basis, of fixed penalty notices issued in the City during the period of November 2017.
2. Recommendation
 - 2.1 That the report be noted.

Contact Officer: Mark Croxford, Head of Environmental Health
Telephone: 0121 303 6350
E-mail: mark.croxford@birmingham.gov.uk

3. Background

- 3.1 The issuing of fixed penalty notices [FPN] by officers from Regulation and Enforcement is one of the means by which the problems of environmental degradation such as littering and dog fouling are being tackled within the City.
- 3.2 The yearly total numbers of fixed penalty notices issued are indicated below.

<u>Month</u>	<u>Fixed Penalty Notices Issued</u>
April 2004 – March 2005	382
April 2005 – March 2006	209
April 2006 – March 2007	650
April 2007 – March 2008	682
April 2008 – March 2009	1,147
April 2009 – March 2010	1,043
April 2010 – March 2011	827
April 2011 – March 2012	2,053
April 2012 – March 2013	1,763
April 2013 – March 2014	1,984
April 2014 – March 2015	4,985
April 2015 – March 2016	5,855
April 2016 – March 2017	6,306

4. Enforcement Considerations and Rationale

- 4.1 The attached appendix shows the wards where FPNs were issued during the month of November 2017.
- 4.2 By identifying both the area where the FPN is issued and the ward/area that the litterer lives this demonstrates that the anti-litter message is being spread right across the city. By and large litter patrols are targeted to the primary and secondary retail areas of the city because there is a high level of footfall and they engage with a full cross section of the population. Targeted areas include locations where there are excessive levels of littering, smoking areas with high levels of cigarette waste that cause blight in the city and areas where there are known problems associated with groups gathering to eat outdoors.
- 4.3 The number of incidences of Fixed Penalty Notices being issued reflects the fact that there is still a problem with littering on our streets. Since the Health Act came into force there has been a decline in street cleanliness associated with cigarette waste. This is reflected not only in these statistics but also in the environmental quality surveys undertaken by Fleet and Waste Management that record cigarette waste being the most prevalent waste upon our streets and identify it in 98% of all samples of street cleanliness.

4.4 One of the difficulties in resolving the problem of cigarette waste being deposited on the street is that the perception of many smokers is that cigarette waste is not litter. A change in the culture and perceptions of these smokers is critical to resolving this problem.

4.5 Anyone who receives a FPN is encouraged to talk to their co-workers, friends and families to promote the anti-litter message.

5. Consultation

5.1 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[s] taken as a result of the contents of this report are subject to that Enforcement Policy.

6. Implications for Resources

6.1 The work identified in this report was undertaken within the resources available to your Committee.

7. Implications for Policy Priorities

7.1 The issue of fixed penalty notices has a direct impact on environmental degradation within the City and the Council's strategic outcome of staying safe in a clean, green city.

8. Public Sector Equality Duty

8.1 The actions identified in this report were taken in accordance with approved enforcement policies which ensure that equalities issues have been addressed.

Head of Environmental Health
on behalf of:

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: FPN records

APPENDIX 1
WARDS WHERE FPN'S ARE ISSUED

Constituency	Ward	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Edgbaston	Bartley Green	0	0	0	0	1	0	0	0					1
	Edgbaston	0	0	0	0	3	0	0	0					3
	Harborne	0	0	0	0	3	1	0	0					4
	Quinton	0	0	0	0	0	0	0	1					1
Erdington	Erdington	0	1	0	1	0	0	1	0					3
	Kingstanding	0	1	0	0	2	0	1	0					4
	Stockland Green	0	0	2	0	1	0	0	0					3
	Tyburn	0	1	1	1	0	2	0	0					5
Hall Green	Hall Green	0	1	0	0	0	0	0	0					1
	Moseley And Kings Heath	2	0	0	0	0	0	0	0					2
	Sparkbrook	0	1	1	0	6	0	0	0					8
	Springfield	0	0	0	0	0	2	1	0					3
Hodge Hill	Bordesley Green	0	0	0	1	1	0	0	1					3
	Hodge Hill	0	1	0	0	1	0	0	0					2
	Shard End	1	4	0	0	0	0	1	0					6
	Washwood Heath	1	0	0	1	7	15	5	2					31
Ladywood	Aston	0	2	0	1	1	0	4	0					8
	Ladywood	459	436	264	358	399	386	580	709					3,591
	Nechells	5	3	0	0	6	1	1	2					18
	Soho	5	1	2	13	28	3	3	2					57
Northfield	Kings Norton	0	0	4	3	0	0	0	0					7
	Longbridge	0	1	0	0	0	0	0	3					4
	Northfield	2	0	1	0	0	0	0	0					3
	Weoley	2	0	0	0	0	0	0	0					2
Perry Barr	Handsworth Wood	0	0	1	0	0	0	0	0					1
	Lozells And East Handsworth	0	2	2	0	1	1	0	4					10
	Oscott	0	1	1	2	0	0	0	0					4
	Perry Barr	1	0	1	0	0	0	0	0					2
Selly Oak	Billesley	1	1	0	0	0	0	0	0					2
	Bournville	0	0	2	0	0	0	0	1					3
	Brandwood	0	0	0	0	0	0	0	0					0
	Selly Oak	0	0	1	2	2	0	0	0					5
Sutton Coldfield	Sutton Four Oaks	0	0	0	0	0	0	2	6					8
	Sutton New Hall	0	0	0	0	0	0	0	0					0
	Sutton Trinity	0	0	0	0	0	0	1	1					2
	Sutton Vesey	0	0	0	0	3	0	1	0					4
Yardley	Acocks Green	6	6	1	0	2	0	0	0					15
	Sheldon	0	1	0	0	1	0	0	0					2
	South Yardley	1	1	3	0	2	0	2	9					18
	Stechford And Yardley North	1	0	1	0	0	0	0	0					2
Total		487	465	288	383	470	411	604	740	0	0	0	0	3,848

BIRMINGHAM CITY COUNCIL

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

17 JANUARY 2017
ALL WARDS

PROSECUTIONS AND CAUTIONS – NOVEMBER 2017

1. Summary
 - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of November 2017.
2. Recommendation
 - 2.1 That the report be noted.

Contact Officer: Mark Croxford, Head of Environmental Health
Telephone: 0121 303 6350
E-Mail: mark.croxford@birmingham.gov.uk

3. Results

3.1 During the month of November 2017 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- Two Licensing cases were finalised resulting fines of £585 and prosecution costs of £400. 12 penalty points were awarded. 20 simple cautions were administered as set out in Appendix 1.
- 82 Environmental Health cases resulted in fines of £29,100 and a 3 month conditional discharge. Prosecution costs of £23,916 were awarded together with clean-up costs in the sum of £321. One simple caution was administered as set out in Appendix 2.
- No Trading Standards cases were finalised during November 2017. One simple caution was administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in November 2017 and cases finalised by district April - November 2017.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team in April - October 2017.

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 November 2017 the following costs have been requested and awarded:

Licensing

£13,202 has been requested with £8,142 being awarded (62%).

Environmental Health

£232,003 has been requested with £190,029 being awarded (82%).

Trading Standards

£73,251 has been requested with £65,036 being awarded (89%).

- 5.3 For the month of November 2017 the following costs have been requested and awarded:

Licensing

£943 has been requested with £400 being awarded. (42%)

Environmental Health

£32,294 has been requested with £23,916 being awarded (74%).

Trading Standards

No costs 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.

Head of Environmental Health

on behalf of:

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	9/11/17	Mohammed Farooq 110 Wood Lane Handsworth Wood Birmingham B20 2AH	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in Broad Street, Birmingham and one of consequently having invalid insurance.	£235 fine x no insurance No separate penalty for plying + 6 penalty points £200 costs (£491 requested)	Handsworth Wood	Ladywood
2	9/11/17	Omid Qasmi 113 Corporation Street Dudley West Midlands DY2 7QT	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in Bennetts Hill, Birmingham and one of consequently having invalid insurance.	£350 fine x no insurance No separate penalty for plying + 6 penalty points £200 costs (£452 requested)	Out of area	Ladywood

LICENSING SIMPLE CAUTIONS

During the period of November 2017, 20 simple cautions have been administered.

Local Government (Miscellaneous Provisions) Act 1976

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

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

Section 64(3) Six cautions were issued for waiting on a Hackney Carriage stand without being licensed as Hackney Carriage

Section 57 Two cautions were issued for omitting a material particular on a licence application

Section 48(6) & 64(3) Two cautions were issued for failing to display a private hire vehicle licence plate and for waiting on a Hackney Carriage stand without being licensed as Hackney Carriage

Section 45 Town Police Clauses Act 1847 & Section 143 Road Traffic Act 1988

Two cautions were issued for plying for hire and driving without insurance

Licensing Act 2003

Section 135 One caution was issued for failing to produce a personal licence issued upon request by an authorised officer

Section 136(1)(a) & Section 57 One caution was issued for carrying on a licensable activity otherwise than in accordance with an authorisation and for failing to produce a premises licence upon request by an authorised officer.

Licensing Act 2003 Section 136(1)(b), 137(1) & 138(1) & Health Act 2003 Section 8(4)

One caution was issued for carrying on a licensable activity, namely an unauthorised event, the playing of recorded music and selling alcohol from a premises otherwise than in accordance with a licence. Also failing to cause a person to stop smoking in a smoke free premises.

Equalities Act 2010

One caution was issued for failing to carry out a booking

ENVIRONMENTAL HEALTH CASES

WASTE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	9/11/17	Lisa Reed 315 Highfield Lane Quinton Birmingham B32 1RU	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to ensure that domestic waste was transferred to an authorised person, in that waste including documentation was found deposited on the garage site at the rear of Auckland House, Welsh House Farm Road, Quinton, Birmingham	3 month conditional discharge £160 costs (£853 requested)	Quinton	Quinton
2	9/11/17	Sandu Niculescu 259 Wright Road Birmingham B8 1PB	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to ensure that waste was transferred to an authorised person, in that £10 was paid to an unknown person for removal of domestic waste which was found deposited on Crawford Street, Saltley, Birmingham close to the junction with Adderley Road.	£100 fine £250 costs (£644 requested) £160.50 clean-up costs awarded.	Washwood Heath	Washwood Heath
3	9/11/17	Mohammed Hassan Kadr 93 Lang Lane West Bromwich B70 7EU	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely cardboard, on Abberley Street, Winson Green, Birmingham when no environmental permit was in force.	£320 fine £500 costs (£1,160 requested)	Out of area	Soho

4	9/11/17	Joseph Barry 67 Melton Avenue Solihull B92 8HH	Environmental Protection Act 1990 Pleaded guilty to one offence of causing controlled waste to be deposited on land, in that five bags containing waste from MI Cars, Unit 5, 145/146 Weston Lane was deposited on the pavement outside 134 and 136 Weston Lane, Birmingham.	£235 fine £150 costs (£1,630 costs requested) £160.50 clean-up costs awarded.	Out of area	Sparkhill
5	15/11/17	Warda Mohamed 10B Hafton Grove Birmingham B9 5AN	Environmental Protection Act 1990 Found guilty in his absence of one offence of failing to comply with a notice requiring him to supply details of the person in control of a vehicle in that controlled waste, namely 7 black bags and 3 carrier bags of domestic waste, were deposited from the vehicle onto land in Bolton Road, Small Heath, Birmingham.	£440 fine £900 costs (£2,036 requested)	Nechells	Nechells
6	15/11/17	Ryan Creighton-Simons 27 Institute Road Kings Heath Birmingham B14 7EG	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a statutory demand requiring written information relating to the disposal of controlled waste from Seagur Sun, 47 Silver Street, Kings Heath, Birmingham within 7 days.	£90 fine £200 costs (£1,797 requested)	Moseley & Kings Heath	Moseley & Kings Heath
7	23/11/17	Abdul Karim Hussein 83 Wardlow Road Nechells Birmingham B7 4AH	Environmental Protection Act 1990 Pleaded guilty to one offence of causing or permitting controlled waste, namely wooden doors, to be deposited from a vehicle under his control in Bolton Road, Birmingham.	£265 fine £700 costs (£1,024 requested)	Nechells	Nechells

8	23/11/17	James Peter Delemere 139 Berkeley Road East Birmingham B25 8PW	Environmental Protection Act 1990 Pleaded guilty to three offences; two offences of causing or permitting controlled waste, namely soil and building waste, to be deposited from a vehicle under his control on land in Arthur Road, Birmingham on two separate occasions. One offence of failing to comply with a notice requiring the details of the person in control of the vehicle on the dates of offence to be provided.	£440 fine (£320 x offence 1 and £120 x offence 3) No separate penalty for offence 2. £1,320 costs (£1,320 costs requested)	South Yardley	Edgbaston
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FOOD HYGIENE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	9/11/17	Kavoos Talea 11 Rushbrooke Close Moseley Birmingham B13 8BS	Food Safety and Hygiene (England) Regulations 2013 Pleaded guilty to three offences of failing to comply with three Food Hygiene Improvement Notices, in that no evidence was provided of food handlers being supervised, instructed and/or trained in food hygiene matters, a wash hand basin was not provided in the food preparation area and failing to provide evidence of a documented food safety management system being in place at Eddi's Baguettes Bar, 980 Tyburn Road, Erdington, Birmingham	£600 fine (£200 x 3) £370 costs (£1,173 requested)	Moseley & Kings Heath	Tyburn

2	9/11/17	Mohammed Mushtaq 56 Calthorpe Road Birmingham B20 3LY	Food Safety and Hygiene (England) Regulations 2013 Health & Safety at Work etc Act 1974 Pleaded guilty to five offences; one offence of failing to take effective measures required by a Prohibition Notice to prevent access to a dangerous part of a pizza dough roller machine as it was found without guards. The remaining four offences relate to conditions at Uni Pizzas and Kebabs, 510 Birchfield Road, Birmingham. There were no adequate procedures to control pests, mouse droppings were found throughout the premises, the premises was not kept clean, there was a build-up of grease, dirt and food debris on equipment. There were no procedures in place based on HACCP and no evidence to demonstrate that food handlers had received any formal food hygiene training.	£1,750 fine (£350 x 5) £1,000 costs (£1,981 requested)	Lozells & East Handsworth	Lozells & East Handsworth
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HEALTH & SAFETY OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	1/11/17	Nightingale (UK) Ltd Wynner House 143 Bromsgrove Street Birmingham B5 6RG	Health & Safety at Work etc. Act 1974 Pleaded guilty to one offence of failing to ensure the provision and maintenance of the ARTICO lift and failing to ensure that systems of work were, so far as is reasonably practicable, safe and without risks to health. The lift had not been subject to any maintenance regime, risk assessment or inspection to determine if the control measures to ensure safety were suitable. The lift was not isolated once it was known that the middle lift door release was faulty and no suitable measures were in place to prevent access. Employees had not received adequate training, instruction or information in what to do if the lift failed and how to safely release people or goods. These failures led an employee to fall 4 metres down a lift shaft at the Nightingale night club on Kent Street, Birmingham.	£10,000 fine £6,251 costs (£6,251 requested)	Nechells	Nechells

LITTERING OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	3/11/17	Deinian Dobbin 23 Morgy Hill West Ryton Newcastle upon Tyne NE40 4UG	Environmental Protection Act 1990 Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£145 £175 costs (£175 requested)	Out of area	Ladywood
2	3/11/17	Marius Stan 62 Crossfield Road Kitts Green Birmingham B33 9QG	Environmental Protection Act 1990 Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Corporation Street, Birmingham.	£145 £175 costs (£175 requested)	Shard End	Ladywood
3	3/11/17	Samantha Smith 47 Bangor House Forth Drive Chelmsley Wood Solihull B37 6PJ	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
4	3/11/17	Grecu Sandel 8 Albert Road Stechford Birmingham B33 9BD	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	Stechford & Yardley North	Ladywood
5	3/11/17	Stefan Rezmues 112 Sandwell Street Walsall WS1 3EG	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood

6	3/11/17	Florina Oprea Apartment 200 Centenary Plaza 18 Holliday Street Birmingham B1 1TS	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Ladywood	Ladywood
7	3/11/17	Chloe Griffiths Flat 2 40 Church Road Moseley Birmingham B13 9AG	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Moseley & Kings Heath	Ladywood
8	3/11/17	Christopher Douglas Gee 6 Kings Hall 53 Wake Green Road Birmingham B13 9HW	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a paper food bag on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Moseley & Kings Heath	Ladywood
9	3/11/17	Harish Dalal 59 Esme Road Birmingham B11 4NJ	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	Springfield	Ladywood
10	3/11/17	Gheorghe Nixon Ciuca 41 Lea Road Birmingham B11 3LT	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping Subway packaging on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Springfield	Ladywood

11	3/11/17	Vasile Viorel Chirica 352a Soho Road Handsworth Birmingham B21 9QL	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Handsworth Wood	Ladywood
12	3/11/17	Vasil Calin 41 Lea Road Birmingham B11 3LT	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping subway packaging on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Springfield	Ladywood
13	3/11/17	Joshua Bannister 11 Herbert Street West Bromwich B70 6HY	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
14	3/11/17	Faisal Hisham Mahmoud Awad Apartment 38 Octhedron 50 George Street Birmingham B3 1PP	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Union Street, Birmingham.	£220 £175 costs (£175 requested)	Ladywood	Ladywood
15	3/11/17	Sohail Ali 51 Kings Road Yardley Birmingham B25 8HR	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Corporation Street, Birmingham.	£220 £175 costs (£175 requested)	South Yardley	Ladywood
16	3/11/17	Zaheer Abbas 8 Endwood Court Road Birmingham B20 2RY	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a plastic food box on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Handsworth Wood	Ladywood

17	9/11/17	Awas Hussain 27 Dora Road Birmingham B10 9RF	Environmental Protection Act 1990 Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£100 £175 costs (£175 requested)	Bordesley Green	Ladywood
18	9/11/17	Bechet Panar 70 Springfield Road Moseley Birmingham B13 9NP	Environmental Protection Act 1990 Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£75 £75 costs (£175 requested)	Springfield	Ladywood
19	9/11/17	Radu Cludiu Crestu 66 Greenhill Road Handsworth Birmingham B21 8DY	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Handsworth Wood	Ladywood
20	9/11/17	Michael Demeter 29 Farm End Close West Bromwich B71 3NN	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Cherry Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
21	9/11/17	Harvinder Dulai 623 Uppingham Road Thumby Leicester LE7 9QA	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bull Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
22	9/11/17	Gerald McIlreavey Flat 4 Camrose Tower 222 Rocky Lane Aston B7 5JA	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in High Street, Erdington.	£220 £175 costs (£175 requested)	Nechells	Ladywood

23	9/11/17	Hamad Mohammed Apartment 200 The Rotunda 150 New Street Birmingham B2 4PA	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Ladywood	Ladywood
24	9/11/17	Catarina Pereira Flat 11, Room B Block C Belgrave Middleway Birmingham B5 7AJ	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Lower Temple Street, Birmingham.	£220 £175 costs (£175 requested)	Edgbaston	Ladywood
25	9/11/17	Tania Poole 62 Brantley Road Birmingham B6 7DR	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Bull Street, Birmingham.	£220 £175 costs (£175 requested)	Perry Barr	Ladywood
26	9/11/17	Tamzyn Ripley Flat 21 Old Market Place Meadow Lane Newhall Swadlincote DE11 0FB	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
27	9/11/17	Philip John Roberts 3 Paget Cottages Munden Road Dane End Ware SG12 0NL	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
28	9/11/17	Parmjit Smith 145 Mount Pleasant Redditch Worcestershire B97 4JJ	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood

29	9/11/17	Neil Young 8 Turton Road Tipton West Midlands DY4 9LH	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
30	9/11/17	Farjullah Ali Abdi 8 Mull Close Rubery Rednall B45 0JF	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
31	9/11/17	Abdi Wahab Ahmed 188 Burlington Road Small Heath Birmingham B10 9PD	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Bordesley Green	Ladywood
32	9/11/17	Helen Broughton 56 Beechmore Road Sheldon Birmingham B26 3AR	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Sheldon	Ladywood
33	9/11/17	Samantha Campbell 76 Green Lane Handsworth Birmingham B21 0DD	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Corporation Street, Birmingham.	£220 £175 costs (£175 requested)	Soho	Ladywood
34	9/11/17	Yi Mymei Cheng 23 Whitby Road Birmingham B12 8QA	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Sparkbrook	Ladywood

35	9/11/17	Gina Cottingham 309 Rotten Park Road Edgbaston Birmingham B16 0LB	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Soho	Ladywood
36	17/11/17	Simon Wright 18 The Parklands Erdington Birmingham B23 6LA	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Stockland Green	Ladywood
37	17/11/17	Adam Windiate 31 Chedworth Drive Worcester WR4 9PB	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
38	17/11/17	Oita Vasile 18 Andell Road Sparkbrook Birmingham B11 1TN	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Sparkbrook	Ladywood
39	17/11/17	Maria Vasile 8 Adams Close Smethwick B66 1HD	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
40	17/11/17	Tayana Tehe 106 Winston Avenue Coventry CV2 1SE	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood

41	17/11/17	Janis Situms 18 Sandford Avenue Rowley Regis West Midlands B65 9LS	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
42	17/11/17	Susan Savage 57 Castle Street Roseville Precinct Bilston WV14 9EP	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Dale End, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
43	17/11/17	George Daniel Rusu 20 Colebrook Road Sparkhill Birmingham B11 2NT	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Union Street, Birmingham.	£220 £175 costs (£175 requested)	South Yardley	Ladywood
44	17/11/17	Stella Munteanu 46 Glenpark Road Ward End Birmingham B8 3QW	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	Washwood Heath	Ladywood
45	17/11/17	Costel Munteanu 46 Glenpark Road Ward End Birmingham B8 3QW	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Dale End, Birmingham.	£220 £175 costs (£175 requested)	Washwood Heath	Ladywood
46	17/11/17	Julia Hoskins 466 Alwood Road Weoley Castle Birmingham B29 5TW	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Weoley	Ladywood

47	17/11/17	Martin Greenwood 35 Crimmond Drive Halesowen B63 3RA	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
48	17/11/17	Sumandeep Singh Garewal 37 Bagnalls Wharf Wednesbury WS10 7EL	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
49	17/11/17	Dewi Ditchfield 17 Bridgefield Walk Rowley Regis B65 8PH	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in High Street, Harborne, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Harborne
50	17/11/17	Amy Averil 186 Callowbrook Lane Rubery Birmingham B45 9LB	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Longbridge	Ladywood
51	17/11/17	Alin Constantin Antoce 20 Colebrook Road Sparkhill Birmingham B11 2NT	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Union Street, Birmingham.	£220 £175 costs (£175 requested)	South Yardley	Ladywood
52	23/11/17	Javed Khan 267 Perry Common Road Erdington Birmingham B23 7AE	Environmental Protection Act 1990 Pleaded guilty to one offence of dropping a cigarette butt on the pavement in High Street, Erdington, Birmingham	£40 £90 costs (£175 requested)	Kingstanding	Erdington

53	23/11/17	Charlie Lineham 31 Raven Hays Road Birmingham B31 5JP	Environmental Protection Act 1990 Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£55 £50 costs (£175 requested)	Longbridge	Ladywood
54	23/11/17	Jeff Samson 16 One Tree Close Honour Oak London SE23 3QZ	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
55	23/11/17	Ajay Verma 91 Cowley Road Ilford London IG1 3JJ	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
56	23/11/17	Konrad Warchol Poplar House 3 Ashorne Hill Warwickshire CV33 9QW	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Corporation Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
57	23/11/17	Samantha Wilding 18 Smith Street Dudley DY2 8LH	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
58	23/11/17	Ping Wu 37 Willowbrook Road London SE15 6BW	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Navigation Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood

59	23/11/17	Ghiunaidin Asan 64 Babington Road Handsworth Birmingham B21 0QE	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Soho	Ladywood
60	23/11/17	Noel Barber 104 The Radleys Sheldon Birmingham B33 0QT	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Sheldon	Ladywood
61	23/11/17	Amber Beesley 70c Buffery Road Dudley DY2 8EF	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
62	23/11/17	Marius Raduca Boceat 42 Mount Street Redditch B98 7BE	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
63	23/11/17	Gabrielle Brazil 9 Meer End Road Warwickshire CV8 1PW	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Corporation Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
64	23/11/17	Michael Demeter 29 Farm End Close West Bromwich B71 3NN	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Cherry Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood

65	23/11/17	Constantin Cosmin Duduiala 766 Coventry Road Birmingham B10 0TX	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Bordesley Green	Ladywood
66	23/11/17	Aaron Foster Innis Inn Innis Moor St Austall Cornwall PL26 8YH	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
67	23/11/17	Georgios Katsikidis 248 Tennal Road Quinton Birmingham B32 2HJ	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Lower Temple Street, Birmingham.	£220 £175 costs (£175 requested)	Quinton	Ladywood
68	23/11/17	Alexander Maruntelu 161 Lea Road Wolverhampton WV3 0LQ	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
69	23/11/17	Marian Adrian Radoi Unit 17 Cobham Business Center Cobham Road Birmingham B9 4UP	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Nechells	Ladywood
70	23/11/17	Sahand Rashidi 132 Peebles Court 21 Whitestone Way Croydon CR0 4WL	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood

71	23/11/17	Cristina Piui Flat A 774 Stratford Road Sparkhill Birmingham B11 4BP	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Springfield	Ladywood
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ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

One caution was administered during November 2017.

Food Safety and Hygiene (England) Regulations 2013

One caution was issued for failing to comply with food hygiene regulations

TRADING STANDARDS CASES

There have been no Trading Standards prosecutions finalised in November 2017.

TRADING STANDARDS SIMPLE CAUTIONS

Two simple cautions were administered during November 2017.

Trade Marks Act 1994 Section 92(1)(c)

Two cautions were issued for having in possession, custody or control in the course of a business, items which bore signs identical to or likely to be mistaken for a registered trade mark.

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – NOVEMBER 2017

<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		1		
Harborne			1	
Quinton		1		
ERDINGTON				
Erdington			1	
Kingstanding				
Stockland Green				
Tyburn		1		
HALL GREEN				
Hall Green				
Moseley & Kings Heath		1		
Sparkbrook				
Springfield		1		
HODGE HILL				
Hodge Hill				
Washwood Heath		1		
Bordseley Green				
Shard End				
LADYWOOD				
Aston				
Ladywood	2		69	
Nechells		3		
Soho		1		

NORTHFIELD				
Kings Norton				
Longbridge				
Northfield				
Weoley				
PERRY BARR				
Lozells & East Handsworth		1		
Handsworth Wood				
Oscott				
Perry Barr				
SELLY OAK				
Billesley				
Bournville				
Brandwood				
Selly Oak				
SUTTON COLDFIELD				
Sutton Four Oaks				
Sutton New Hall				
Sutton Trinity				
Sutton Vesey				
YARDLEY				
Acocks Green				
Sheldon				
South Yardley				
Stechford & North Yardley				
TOTAL	2	11	71	0

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – NOVEMBER 2017

<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			1	
Edgbaston			1	
Harborne				
Quinton		1	1	
ERDINGTON				
Erdington				
Kingstanding			1	
Stockland Green			1	
Tyburn				
HALL GREEN				
Hall Green				
Moseley & Kings Heath		2	2	
Sparkbrook			2	
Springfield			5	
HODGE HILL				
Hodge Hill				
Washwood Heath		1	2	
Bordseley Green			2	
Shard End			1	
LADYWOOD				
Aston				
Ladywood			3	
Nechells		3	2	
Soho			3	

NORTHFIELD				
Kings Norton				
Longbridge			2	
Northfield				
Weoley			1	
PERRY BARR				
Lozells & East Handsworth		1		
Handsworth Wood	1		3	
Oscott				
Perry Barr			1	
SELLY OAK				
Billesley				
Bournville				
Brandwood				
Selly Oak				
SUTTON COLDFIELD				
Sutton Four Oaks				
Sutton New Hall				
Sutton Trinity				
Sutton Vesey				
YARDLEY				
Acocks Green				
Sheldon			2	
South Yardley		1	3	
Stechford & North Yardley			1	
OUT OF AREA	1	2	31	
TOTAL	2	11	71	0

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – NOVEMBER 2017

	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	0	0	0	0	2
Environmental Health (FPNs) Not paid and prosecuted	1	1	0	0	69	0	0	0	0	0	0	71
Environmental Health (non FPNs)	2	1	2	1	4	0	1	0	0	0	0	11
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – NOVEMBER 2017

	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	1	0	0	0	1	2
Environmental Health (FPNs) Not paid and prosecuted	3	2	9	5	8	3	4	0	0	6	31	71
Environmental Health (non FPNs)	1	0	2	1	3	0	1	0	0	1	2	11
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL - NOVEMBER 2017

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	3	0	12	2	0	1	1	2	0	22
Environmental Health (FPNs) Not paid and prosecuted	3	1	2	0	423	1	0	5	0	0	0	435
Environmental Health (non FPNs)	2	9	10	8	40	5	14	3	1	11	0	103
Trading Standards	1	0	2	1	5	0	0	0	0	2	0	11

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL – NOVEMBER 2017

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	5	6	2	1	2	0	0	0	5	22
Environmental Health (FPNs) Not paid and prosecuted	18	16	24	26	49	14	29	25	6	13	215	435
Environmental Health (non FPNs)	4	8	10	11	25	2	12	4	3	12	12	103
Trading Standards	1	0	2	0	5	0	0	0	0	1	2	11

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2017 – MARCH 2018

	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Total 2017/2018
Waste Investigation Outcomes								
Investigations into commercial waste disposal suspected offences and offences	23	35	83	101	88	43	90	463
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	20	32	75	85	75	37	56	380
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	11	13	25	29	89	28	37	232
<u>Section 87 Environmental Protection Act.</u> Fixed Penalty notices issued for commercial and residential litter offences (£80)	5	0	5	0	3	0	2	15
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)	4	9	7	1	6	2	4	33
Prosecutions								
Number of prosecution files submitted to legal services (number produced quarterly)			15			19		34

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

17 JANUARY 2018

SCHEDULE OF OUTSTANDING MINUTES

MINUTE NO./DATE	SUBJECT MATTER	COMMENTS
916 (iii) 23/10/2017	<u>Emissions Policy beyond 31 December 2019</u> The Acting Service Director of Regulation and Enforcement be requested to prepare a report for this committee to consider a medium to long-term emissions policy in respect of hackney carriage and private hire vehicles beyond 31st December 2019.	Report due in March 2018
916 (iv) 23/10/2017	<u>Absolute Age Policy in respect of Hackney Carriage and Private Hire Vehicles.</u> The Acting Service Director of Regulation and Enforcement be requested to prepare a report for this Committee at the earliest opportunity to consider an absolute age policy in respect of hackney carriage and private hire vehicles.	Report due in March 2018
920 23/10/2017	<u>Card Payments in Hackney Carriage Vehicles</u> The Acting Service Director of Regulation and Enforcement be requested to instruct officers to consult with the wider trade to establish the level of support for all Birmingham Licensed hackney carriages to be equipped to take credit card payments; amongst other drivers and trade organisations and report back to this Committee	Report due in February 2018
934 (ii) 15/11/2017	<u>Update Report on Proposed Strategy for Venues Operating as Shisha premises in Birmingham</u> The Acting Service Director of Regulation and Enforcement be requested to instruct officers to undertake a wider consultation with key stakeholders on the adoption of the proposed strategy. Officers to present the outcome of the consultation at a future meeting of Committee, with their recommendations on a finalised Strategy for the Committee's approval.	
935 (ii) 15/11/2017	<u>Update Report On Unauthorised Encampments</u> – The Acting Service Director of Regulation and Enforcement be requested to report further in three months' time to update on the various work items contained within this report.	Report due in February 2018

942 (ii) 15/11/2017	<u>Revision of Birmingham City Council Act 1990 Establishments for Massage and/or Special Treatments</u> The Acting Service Director of Regulation and Enforcement be requested to provide a report for Committee reviewing the need for the Birmingham City Council Act 1990 and options including delegation of hearings to Licensing Sub-Committees.	Report due in April 2018
942 (iii) 15/11/2017	<u>References from Councillors and MPs for Taxi Drivers</u> The Acting Service Director of Regulation and Enforcement be requested to provide a report for Committee with a recommendation that no references for driver applicants would be accepted from Members of Parliament.	Report due in March 2018