

BIRMINGHAM CITY COUNCIL

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

13 MARCH 2019
ALL WARDS

PROSECUTIONS AND CAUTIONS – JANUARY 2019

1. Summary
 - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of January 2019.
2. Recommendation
 - 2.1 That the report be noted.

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3. Results

3.1 During the month of January 2019 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- Three Licensing cases were finalised resulting in fines of £1,120. 14 penalty points were issued and prosecution costs of £1,629 were awarded. No simple cautions were administered as set out in Appendix 1.
- 115 Environmental Health cases resulted in fines of £50,646 and a 4 month suspended sentence. Prosecution costs of £25,346 were awarded. No simple cautions were administered as set out in Appendix 2.
- No Trading Standards cases were finalised and no simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in January 2019 and cases finalised by district April – January 2019.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team in April - December 2018.

4. Consultation

4.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and business in terms of the regulation duties of the Council. Any enforcement action[s] taken as a result of the contents of this report are subject to that Enforcement Policy.

5. Implications for Resources

5.1 Costs incurred in investigating and preparing prosecutions, including officers' time, the professional fees of expert witnesses etc. are recorded as prosecution costs. Arrangements have been made with the Magistrates Court for any costs awarded to be reimbursed to the City Council. Monies paid in respect of fines are paid to the Treasury.

5.2 For the year April 2018 to January 2019 the following costs have been requested and awarded:

Licensing

£22,494 has been requested with £17,826 being awarded (79%).

Environmental Health

£297,236 has been requested with £222,738 being awarded (75%).

Trading Standards

£42,010 has been requested with £16,091 being awarded (38%).

- 5.3 For the month of January 2019 the following costs have been requested and awarded:

Licensing

£1,629 has been requested with £1,629 being awarded (100%)

Environmental Health

£35,613 has been requested with £25,346 being awarded (71%).

Trading Standards

No costs have been requested or awarded.

- 5.4 Since the start of the financial year until the end of January 2019 the following income has been received from the courts:-

Licensing

£13,058 has been received.

Environmental Health

£155,944 has been received including Waste Enforcement cases.

Trading Standards

£54,627 has been received.

(Total £223,629)

- 5.5 This will not directly correlate to the values awarded in the same time period as individual cases are often cleared in instalments with the associated fines and court costs taking precedence over the settling of BCC legal costs. Therefore, income received may relate to cases from the previous financial year or earlier.

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.

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	10/1/19	Shabir Khan Sparkhill Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in High Street, Harborne, Birmingham and one of consequently having invalid insurance.	£660 – no insurance + 8 penalty points No separate penalty for plying £694 costs (£694 requested)	Sparkhill	Harborne
2	10/1/19	Javid Akhtar Alum Moseley Birmingham	Equalities Act 2010 Pleaded guilty to one offence of being a driver of a Hackney Carriage and failing to carry a passenger in a wheelchair.	£250 £425 costs (£425 requested)	Moseley	Ladywood
3	24/1/19	Sultan Ali Sparkbrook Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in Waterloo Street, Birmingham and one of consequently having invalid insurance.	£210 – No insurance + 6 penalty points No separate penalty for plying £510 costs (£510 requested)	Sparkbrook & Balsall Heath East	Ladywood

LICENSING SIMPLE CAUTIONS

During the period of January 2019, no simple cautions were administered

ENVIRONMENTAL HEALTH CASES**WASTE OFFENCES**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	10/1/19	PMC Butchers Ltd 219 Bacchus Road Birmingham B18 4RE	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from PMC Butchers, 219 Bacchus Road, Birmingham was disposed of within 7 days.	£300 £180 costs (£370 requested)	Soho & Jewellery Quarter	Soho & Jewellery Quarter
2	10/1/19	Sam & Harry's Green Lane Ltd 130 Whitacre Road Birmingham B9 5NN	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to take all reasonable measures to prevent a contravention under Section 33 by employees, in that there were no proper arrangements for the disposal of commercial waste from Sam & Harry's, 294-296 Green Lane, Birmingham.	£2,500 £891 costs (£891 requested) £160.50 clean-up costs awarded.	Heartlands	Bordesley Green
3	24/1/19	Fab Travel N Parcel Services Ltd 287 Witton Road Aston Birmingham B6 6NT	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Fab Travel N Parcel Services, 287 Witton Road, Aston, Birmingham was disposed of within 7 days.	£300 £420 costs (£420 requested)	Aston	Aston
4	24/1/19	Leisha Lavinia Howard Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely toys, packaging and other waste, on Dugdale Street, Winson Green, Birmingham.	£101 £250 costs (£850 requested)	North Edgbaston	Soho & Jewellery Quarter

5	24/1/19	Mohammed Masud Ahmed Rujel Small Heath Birmingham	Environmental Protection Act 1990 Pleaded guilty to two offences; one offence of depositing controlled waste, namely three black bags of household waste, on Baker Street, Small Heath, Birmingham and one offence of failing to comply with a notice requiring the details of the person in control of the vehicle on the date of offence to be provided.	£240 – offence 1 No separate penalty for remaining offence. £500 costs (£1,647 requested)	Small Heath	Bordesley Green
6	25/1/19	Tara McMullen-Zaman Stockland Green Birmingham Tariq Zaman Stockland Green Birmingham	Environmental Protection Act 1990 Both defendants pleaded guilty to one offence of trading as “Lass with a Van”, and failing to secure written descriptions of waste on its transfer. They advertised on Facebook and collected household waste, including bulky items, for a fee. The waste was then transported to Tyseley Household Recycling Centre, Birmingham.	Total £240 (each fined £120) Total £500 costs (£250 each) (£6,685 requested)	Stockland Green	Tyseley & Hay Mills

ANIMAL WELFARE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	24/1/19	Amanda Ellen Cox Harborne Birmingham	Animal Boarding Establishments Act 1963 Pleaded guilty to one offence of keeping a boarding establishment for animals at 68 Quinton Road, Harborne, Birmingham without a licence.	£300 £877 costs (£877 requested)	Harborne	Harborne

FOOD HYGIENE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	24/1/18	Ismail Good Birmingham	Food Safety and Hygiene (England) Regulations 2013 Pleaded guilty to three offences relating to conditions at Marrakesh, 478 Coventry Road, Birmingham. Mouse and rats droppings were found throughout the premises and a plastic drain pipe to the kitchen had been gnawed by a rat leaving a hole in the kitchen wall. A cardboard box containing individual bags of pasta was gnawed by rats and mice	£480 – offence 1 No separate penalty for remaining offences £500 costs (£1,055 requested)	Bordesley Green	Bordesley Green
2	24/1/19	Khyber Restaurant and Takeaway Ltd 20 Alum Rock Road Birmingham B8 1JB Zahoor Khan Moseley Birmingham	Food Safety and Hygiene (England) Regulations 2013 Both defendants pleaded guilty to 12 offences relating to conditions found at Khyber Restaurant & Takeaway, 20 Alum Rock Road, Birmingham during inspections in September 2017, April 2018 and June 2018. Mouse droppings were found throughout the premises during the first two visits. Cleaning cloths and chopping boards were dirty. Mouse droppings were found inside a sugar tub, a box of ginger and in a box of tomatoes. There was no soap or hand drying facilities to the sinks. During the third inspection, the walk-in chiller was found to be excessively dirty, the surface in the rear store room could not be properly cleaned and the walls in the store room were dirty.	Total £20,000 For the Company (£6,000 x 1 - September 2017 offence £8,000 x 1 - April 2018 offence £6,000 x 1 - June 2018 offence) No separate penalty for remaining offences Khan – 4 month imprisonment suspended for 12 months £3,393 costs (£3,393 requested)	Alum Rock	Alum Rock

3	28/1/19	Tasty Chicken Birmingham Ltd 636 Coventry Road Birmingham B10 0UT	Food Safety and Hygiene (England) Regulations 2013 Found guilty in their absence of nine offences relating to conditions found at Chicken.com, 570 Bristol Road, Selly Oak, Birmingham. The premises were in a dirty condition. Food handlers were not supervised or trained in food hygiene matters. Staff had a lack of knowledge of allergens, food was not kept in appropriate temperatures, there was a lack of hand washing and the staff were not wearing suitable clothing. Plastic containers storing food were dirty; a pizza oven conveyor belt was encrusted in dirt and debris. There was a hole in the back door which could allow access to pests. Food was being stored in rusty tins, raw chicken had splattered on ready-to-eat burger buns and there were no procedures based on HACCP.	£5,000 – offence 1 No separate penalty for remaining offences. £1,050 costs (£1,050 requested)	Small Heath	Bournbrook & Selly Park
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LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
18/1/19	105	£21,185	£16,785	£18,375

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

No simple cautions were administered during January 2019.

TRADING STANDARDS CASES

No Trading Standards prosecutions were finalised during January 2019

TRADING STANDARDS SIMPLE CAUTIONS

No simple cautions were administered during January 2019.

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – JANUARY 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	0	0	2	0	0	0	0	0	0	3
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	105	0	0	0	0	0	0	105
Environmental Health (non FPNs)	1	0	0	1	6	0	0	1	0	1	0	10
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – JANUARY 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	3	0	0	0	0	0	0	0	0	3
Environmental Health (FPNs) Not paid and prosecuted	10	6	9	8	15	4	13	4	1	2	33	105
Environmental Health (non FPNs)	1	1	0	5	3	0	0	0	0	0	0	10
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL 2018-JANUARY 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	1	0	21	0	0	6	2	0	0	31
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	658	0	0	0	0	0	0	658
Environmental Health (non FPNs)	5	12	16	24	50	2	7	6	2	19	1	144
Trading Standards	1	1	4	1	2	0	2	1	0	0	0	12

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL 2018-JANUARY 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	6	6	3	1	4	1	0	2	8	31
Environmental Health (FPNs) Not paid and prosecuted	30	25	36	52	99	29	46	19	7	25	290	658
Environmental Health (non FPNs)	4	12	16	29	34	6	5	6	1	9	22	144
Trading Standards	0	1	4	1	1	0	1	1	0	1	2	12

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2018 – MARCH 2019

	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Total 2018/2019
Waste Investigation Outcomes										
Duty of Care inspections into the waste disposal arrangements of commercial premises	125	116	157	81	135	128	104	64	63	973
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	105	100	122	70	127	74	67	32	52	749
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	30	41	50	35	62	80	83	21	19	421
<u>Section 87 Environmental Protection Act.</u> Fixed Penalty notices issued for commercial and residential litter offences (£80)	0	2	0	0	0	0	1	0	0	3
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)	4	5	3	7	6	3	6	9	4	47
Prosecutions										
Number of prosecution files submitted to legal services (number produced quarterly)			43			24			71	138