

**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, 15 NOVEMBER 2017 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.birminghamnewsroom.com](http://www.birminghamnewsroom.com)) 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 - 18**

**3 MINUTES**

To confirm and sign the Minutes of the meeting held on 23 October 2017

**19 - 42**

**4 HARMONY 88, 1ST FLOOR LADYWELL HOUSE, 20 HURST STREET, BIRMINGHAM B5 4BN RENEWAL OF LICENCE**

REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

**43 - 54**

**5 LICENSING AND PUBLIC PROTECTION COMMITTEE BUDGET MONITORING 2017/18 (MONTH 06)**

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

**55 - 66**

**6 PROPOSED STRATEGY FOR VENUES OPERATING AS SHISHA PREMISES IN BIRMINGHAM**

REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

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|-------------------------|----|---|--|
| <b><u>67 - 88</u></b>   | 7  | <b><u>UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS</u></b>   | Report of the Acting Director of Regulation and Enforcement  |
| <b><u>89 - 116</u></b>  | 8  | <b><u>ENFORCEMENT POLICY REVIEW REGULATION AND ENFORCEMENT</u></b>  | ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  |
| <b><u>117 - 120</u></b> | 9  | <b><u>OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS TAKEN DURING SEPTEMBER 2017</u></b>                  | ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  |
| <b><u>121 - 126</u></b> | 10 | <b><u>FIXED PENALTY NOTICES ISSUED SEPTEMBER 2017</u></b>   | ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  |
| <b><u>127 - 156</u></b> | 11 | <b><u>PROSECUTIONS AND CAUTIONS SEPTEMBER 2017</u></b>  | Acting Director of Regulation and Enforcement  |
| <b><u>157 - 162</u></b> | 12 | <b><u>ACTIONS TAKEN BY THE CHAIR OF THE LICENSING AND PUBLIC PROTECTION COMMITTEE DURING OCTOBER 2017</u></b> | ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  |
| <b><u>163 - 164</u></b> | 13 | <b><u>SCHEDULE OF OUTSTANDING MINUTES</u></b>   | To consider the schedule of outstanding minutes.   |
|                         | 14 | <b><u>OTHER URGENT BUSINESS</u></b>   | 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.                   |
|                         | 15 | <b><u>AUTHORITY TO CHAIR AND OFFICERS</u></b>   | Chair to move:-<br><br>'In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee'. |

## **BIRMINGHAM CITY COUNCIL**

**LICENSING AND  
PUBLIC PROTECTION  
COMMITTEE  
23 OCTOBER 2017**

**MINUTES OF A MEETING OF THE LICENSING  
AND PUBLIC PROTECTION COMMITTEE HELD  
ON MONDAY 23 OCTOBER 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, Des Flood, Carol Griffiths, Nagina Kauser, Changeese Khan, Chaman Lal and Mike Leddy.

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**NOTICE OF RECORDING/WEBCAST**

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

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**APOLOGIES**

- 914 Apologies were received from Councillors Nawaz Ali, Lynda Clinton, Basharat Dad and Rob Sealey.

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**MINUTES**

- 915 The Minutes of the meeting held on 13 September 2017, having been previously circulated were confirmed as a correct record and signed by the Chairman.
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**EMISSION STANDARDS AND SUITABILITY FOR USE OF BIRMINGHAM  
HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

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

(See Document No. 1)

Chris Neville, Head of Licensing, made introductory comments relating to the report recommending minimum vehicle emissions standards for hackney carriage and private hire vehicles as part of a range of measures that the City is undertaking in order to respond to the need for Birmingham to improve air quality in the City.

In response to questions from members, he explained that: Euro 4 for petrol engines was selected for petrol engines as this was the minimum emissions standard for petrol engines and with the lowest impact for Hackney Carriage (HC) and Private Hire (PH) vehicles' drivers over the longest possible time; the area for the Clean Air Zone (CAZ) had not yet been identified by the City Council and no decisions had been made regarding charging/non-charging residents entering the clean air zone had not been agreed – work was being undertaken to identify the worst hotspots for pollution within the city. He stressed that as much notice as possible needed to be given to drivers to bring their vehicles to the standards required by the EU Air Quality Directive and the UK Plan. Taxis were one of the biggest methods of travelling to work and DEFRA would be providing funding to help with changes and Birmingham Licensing would bid for funding as soon as it was made available.

He further responded that the emissions standards policy for HC and PH vehicles would be 1 of many strands across Birmingham regarding air quality involving cross-cutting issues affecting both the public and private sector and in providing information to Birmingham residents. Changes needed to be place for December 2019 in a rapidly changing landscape working with the government to reduce emissions.

The Chair advised the Committee that everything possible had been done to limit the impact on drivers and work was being done in other committees regarding poor health as a result of poor air quality - the Air Quality Strategy Group was composed of Members from Transportation, Health and Highways drawing different strands of policy across all areas. Furthermore, that the Air Quality Plan would be brought to the attention of the public and full Council as soon as possible.

Further responses to questions from the Committee by Mr Neville included reference to: the fact that talks regarding emissions and the likelihood of emissions standards being implemented had commenced 2 years earlier and it had taken 18 months to solidify a policy; it was hoped that the government would be making more money available to retrofit vehicles to improve vehicle exhaust emissions, including LPG conversions. 65 HC vehicles had been successfully converted from diesel engines to LPG during 2016 and 2017 funded by the department of Transport as part of a pilot project. Only 1 garage had been used to carry out the conversions, however if more money was

made available and other garages met the required criteria and the work was carried out well and safely then more garages would be available for the retrofits.

Mr Neville noted members' concerns regarding emissions from private and commercial vehicles and the possibility of drivers purchasing vehicles when standards may change again, but stressed that there was a requirement from DEFRA for standards that HC and PH vehicles **had to** adhere to in order to comply with the CAZ requirements – separate arrangements would need to be looked at regarding other vehicles. He however, highlighted the need for drivers to plan ahead when changing their vehicle and not to buy a vehicle that only met the lowest standard for emissions given the possibility of future changes and pointed that he would like to be in a position of providing drivers with a medium to long term policy on vehicle emissions standards dependent on national level.

Following this comments and questions on the report were received from the Taxi Trade Associations:

- The CAZ would involve ring roads within the city therefore having a major impact of everyone.
- That the consultation discussions 2 years ago had not included vehicle emissions – licensing had been aware of this since 2010 why had drivers not been informed earlier?
- There were lots of issues with the HC vehicles that had been converted to LPG.
- That 77% of PH and 94% of HC vehicles would need to be replaced or retrofitted to meet the standards having a huge impact on the taxi trade and the death of 'the black cab' in Birmingham.
- If Licensing Committee would be approving the retrofit that the trade had identified?
- That the costs for changing vehicles were prohibitive for most drivers.
- That the World Health organisation stated that replacing diesel vehicles with petrol did not make any difference to vehicle emissions.
- That drivers were being penalised without a Clean Air Policy being in place.
- That a retrofit solution had been identified, costing only £100 per vehicle which was still waiting for approval by DEFRA which had been tried and tested by the trade and would solve many problems.
- That the percentage of pollution by taxis was only 25 and would not reduce emissions to the Euro standards.
- Buildings in the city restricting air flow.
- That all the building work in the City requiring taxis to take longer?
- The proposed map of the CAZ?

In response to these Mr Neville stated that:

- In 2010 Licensing had had discussions with the trade regarding air quality but real targets had only been set in the last 2-3 years by the EU and the UK government.

- The CAZ had not been identified and it was not the committee's job to define it.
- That the retrofit solution put forward by the trade would only be applied if it met the Clean Vehicle Retrofit Accreditation Scheme (CVRAS) set up by DEFRA.
- That further funding would be available for LPG conversions.
- That drivers would be able to hire vehicles.
- Resources would be put in position to help drivers as much as possible.
- That the Health & Overview Scrutiny Committee had determined that vehicle emissions made the most difference to Air Quality in Birmingham.
- That there was no scope to move the policy beyond the date in the report.
- That building restrictions were the responsibility of planning.
- Transportation and Highways would need to look at congestion due to building work.

The Chair put the recommendations to the meeting and by 9 votes for to 2 votes, it was:-

916

**RESOLVED:-**

- (i) That Birmingham City Council will revise its current Policy on the approved vehicle types for use as Private Hire Vehicles and Hackney Carriage Vehicles whereby it will not license or permit the use of any vehicle as a hackney carriage or private hire vehicle after 31 December 2019 that does not meet the minimum emission standards of Euro 4 for petrol engines, Euro 6 for diesel engines or is Ultra Low Emission or a Zero Emission Capable Vehicle.

The Chair put the recommendations to the meeting and by 9 votes for to 2 vote, it was:-

**RESOLVED:-**

- (ii) That the policy described in paragraph 2.1 of the report will apply to the grant of new vehicle licences and the renewal of existing licences likewise.

The Chair put the recommendations to the meeting and by 11 votes for, it was:-

**RESOLVED:-**

- (iii) That officers are asked to prepare a separate report to consider a medium to long-term emissions policy in respect of hackney carriage and private hire vehicles beyond 31<sup>st</sup> December 2019.

- (iv) That officers are asked to prepare a separate report for this Committee at the earliest opportunity to consider an absolute age policy in respect of hackney carriage and private hire vehicles.

The Chair put the recommendations to the meeting and by 10 votes for to 1 vote, it was:-

**RESOLVED:-**

- (v) That Birmingham City Council will continue to license hackney carriage vehicles that have been converted to LPG under the department for Transport funded scheme until December 2025, subject to them passing a strict annual inspection to verify their mechanical and structural condition, the criteria for which will be developed in due course; and subject to any intervening local or national policy decisions that might take precedence.

The Chair put the recommendations to the meeting and by 11 votes for, it was:-

**RESOLVED:-**

- (vi) That Birmingham does not propose to license any vehicles, or vehicles that are not wheelchair accessible as hackney carriages.
- (vii) That outstanding minute 651 (iii) of 20.04.16 be discharged (That officers engage with the neighbouring West Midlands Licensing Authorities to discuss proposals for a regional emissions standard for hackney carriages and private hire vehicles).
- (viii) That a short-life officer/member working group be created to consider what criteria or specification Birmingham should adopt for engine sizes or power outputs for electric vehicles and for that working group to make recommendations to the Licensing & Public Protection Committee.

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At 1200 hours the meeting was adjourned.

At 1215 hours the meeting was reconvened.

**BIRMINGHAM CITY COUNCIL ACT 1990 ESTABLISHMENTS FOR  
MESSAGE AND/OR SPECIAL TREATMENTS: BIRMINGHAM THAI  
THERAPY, 1159 BRISTOL ROAD SOUTH, NORTHFIELD, BIRMINGHAM,  
B31 2SL GRANT OF LICENCE**

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

(See Document No. 2)

The following people were in attendance for the hearing:

**On behalf of the Applicant**

Ms Patricia Ballinger – Applicant

Mr Heath Thomas – Solicitor

**Those making Representations**

Ms Sarah Lavender – Licensing Enforcement Officer

Mr Anthony Denby – Local Trader

Councillor Ian Cruise made a declaration that Birmingham Thai Therapy was in his ward but that he had not visited the premises.

David Kennedy, Licensing Section, made introductory comments relating to the report.

Mr Heath Thomas and Ms Ballinger made the following comments in support of the application and in response to questions from Councillors;-

- Ms Ballinger was a mature individual with 19 years' experience of both working in the leisure sector and in a regulated sector including teaching and swimming. She also had a private security licence and was therefore able to work within rules and within the standard conditions for a special licence.
- That Ms Ballinger had displayed the notice for the application at the site and apart from those present there had been an absence of responses from any other authority. West Midland Police in particular, (who would be intelligence led as to the character of an individual) had raised no objections – suggesting that they deemed Ms Ballinger as of good character, suitable to operate premises.
- That with regard to the history of the premises – Ms Ballinger had had no dealings with either the management or customers or the previous of the premises.
- Ms Ballinger was in the process of obtaining a 3 year lease for the building – which would be completed if the application for the licence was approved.
- This would be a ground floor premises with a reception area and 3 treatment rooms, bespoke massage tables, washing facilities with hot and cold water, showering facilities, adequate lighting and ventilation.
- The building was therefore fit for purpose, with the premises equipped to an appropriate standard with equipment for special premises.



- The brochure for the business would advertise services for male and female clients and list the treatments proposed with a transparent pricing list.
- The premises had been empty for some time and Ms Ballinger had therefore enquired about the lease
- There would be 2 other staff employed at the premises at the current time with PAYE payments. 1 was already recruited and Ms Ballinger was currently recruiting for another – however she could not confirm employment until the licence had been approved.
- Ms Ballinger would notify the authorities with details of her employees within 7 days of employment and display their qualifications at the premises. She would notify the authorities of any staff changes, not employ anyone under 17, keep a daily register of start and finish times.
- The premises would be developing other treatments in time but would only provide massage services at the current time.
- That the licence application should be granted as Ms Ballinger was over 21, there was an absence of comment from WMP regarding the application and the premises was suitable for complying with standard conditions and Ms Ballinger had not been or was involved in any improper conduct regarding the premises.
- Mr Denby's information regarding 'additional services' at the premises was hearsay evidence and therefore the evidential threshold for 'improper conduct' had not been met – there were not enough actual facts to consider this seriously.
- Notwithstanding this Ms Ballinger had had no previous association or dealings with the previous business or owner and could not be tarnished by this.
- That with regard to the suggestion of 'unannounced inspection visits by licensing enforcement Ms Ballinger would welcome these as she would be running a legitimate business in line with the conditions of the licence.
- That there was no content in Mr Denby's representation that referred to Ms Ballinger. Ms Ballinger had spoken to Mr Denby, who had genuine concerns regarding the past but was happy for the new business to continue as long as it had complied with all the licence conditions.
- It was the intention to grow the business and employ more staff in the future but in the meantime customers would have to pre-book treatments.

- Therefore the licence should be granted with standard conditions in place.
- That the employee currently recruited was 50 years and had undergone 150 hours of training at Technical College.
- That the beds at the premises were special massage beds.
- That recruitment of employees was not restricted to any specific nationality – just requisite experience and training.
- That the premises would provide deep tissue, sports and salt scrub massages – not treating medical conditions.
- All customers would complete a medical form and raise any areas of concern with staff.
- That Ms Ballinger would be in earshot of the treatment rooms so if any of her employees received inappropriate behaviour from customers she would be there to deal with it – there would be zero tolerance on this.
- Staff would wear a uniform of trousers and a polo top.

12:52 the meeting adjourned to consider a question by a member of the committee regarding the location of her home in relation to the business, in order for her to deal with problems at the premises.

13:02 the meeting re-convened and the Committee Lawyer advised members that this question was outside the remit of the representations against the application

- That Ms Ballinger would be at the premises during all hours of opening.
- That this was an aspirational licence and the hours of opening would be dependent on bookings and walk-in trade – initially it would be a small business possibly not open for all the hours of business – if successful another employee would be engaged as a manager for cover.
- That Ms Ballinger did not know nor had any connection with the previous owner.
- That in the event of problems Ms Ballinger would engage with WMP and would also engage with the neighbourhood police team.
- That she had never had a licence revoked and none of her employees had worked at the previous establishment.
- The opening hours of the business were 10.00am to 8.00pm.

Ms Lavender made the following comments in support of her case and in response to questions from Councillors:-

- The previous business at the premises had featured in a prostitution forum and had closed at the end of August 2017 and the new application for a special licence had been submitted at the end of August 2017.
- Ms Ballinger had stated that she no connection whatsoever with the previous business but she also had no experience in running a massage premises.
- The previous employees at the premises had also been Thai with customers who were specifically looking for Thai girls and it was widely known what the premises were used for.
- Her main concerns were regarding the therapists working at the premises being asked for 'extras' and how Ms Ballinger would deal with this given her lack of experience.
- All of her fears however had been eliminated and she also felt that the only way to get to know and to control the premises was when it was opened. She was happy that Ms Ballinger had no connection with the previous premises.
- That WMP carried out checks to ensure that employees' qualifications were valid and that employees were not being trafficked.
- That Ms Ballinger would be able to manage the opening hours.
- That her knowledge of the previous operation at the premises was based on her own experience of visiting the premises and men leaving as soon as they knew who she was, not providing full details of their names and of details posted on a website by male customers regarding the premises.

Mr Denby made the following comments in support of her case and in response to questions from Councillors:-

- He had lived in the area for 45 years and the premises in question were located near to 2 nurseries and a primary school.
- That the previous premises had had a lot of men hanging around with none of them parking their vehicles near the premises, some of whom had come into his own shop and told him that they had been next door and had been offered sexual extras whilst there.
- A 70 year old customer had also told him that she had bought a voucher for the premises for a massage and he too had been offered sexual favours.

- He had been at his premises for 12 years and during this time there had been no police activity at Birmingham Thai Massage.
- That he had been into the premises whilst they were under the management of the previous owner but had not been offered any sexual favours.
- That the premises had often been closed for 2 hours in the middle of the day when he had seen customers entering the premises.

In summing up, Mr Denby stressed that in the past the previous business had offered sexual favours and this would not change and therefore the licence should not be granted.

In summing up, Ms Lavender that she supported the application as a genuine business opportunity for Ms Ballinger but she had concerns regarding her ability to deal with difficult customers.

In summing up Mr Thomas Emphasised that Ms Ballinger was a mature woman with clearly set out experience of working in a regulated environment and follow rules and apply standard conditions. Extra conditions were unnecessary as enforcement had the power to undertake visits at any time.

He stressed that Ms Ballinger openly welcomed engagement with Ms Lavender making unannounced visits as she would be running a legitimate business. There was no evidence at all of her having any historic connections with the previous business, she was seeking qualified staff with the appropriate qualifications – not necessarily with Thai nationality -, the premises was very suitable for the type of business to be run with aspirational business hours and Ms Ballinger would be fully engaged with the neighbourhood police team and Mr Denby to address any concerns. He concluded that the 'proof of the pudding would be in the eating' with Ms Ballinger being allowed to operate a premises legitimately to the satisfaction of Licensing, Committee and Mr Denby and accepting unannounced visits from enforcement.

At 1347 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 1420 hours and the decision of the Committee to grant the application was announced with the Ms Ballinger being advised of the full decision and reasons as set out below in due course:-

917

**RESOLVED:-**

That the application by Ms Patricia Ballinger for a Massage and Special Treatment Licence in respect of Birmingham Thai Therapy, 1159 Bristol Road South, Birmingham, Northfield, B31 2SL **BE GRANTED** subject to the following Conditions:

- The Applicant's legal advisor, Mr Heath Thomas of Messrs Harrison Clark Rickerbys Solicitors, confirmed that the applicant would agree to an undertaking which would allow Birmingham City Council, Licensing Enforcement Officers to undertake and carry out unannounced inspections of the premises to ensure that the premises were operating in compliance with the Conditions of Licence, throughout the duration of the Licence;
- The Applicant must provide Birmingham City Council, Licensing Enforcement Section, Ashted Lock, Building 1 – 3 Ground Floor, Birmingham Science Park, Dartmouth Middleway, Aston, Birmingham B7 4AZ (or via email to [licensing@birmingham.gov.uk](mailto:licensing@birmingham.gov.uk)) with a schedule of opening hours for the Premises at least one calendar month before the Premises open to the public and every month thereafter in advance of the following month the Premises wishes to trade throughout the duration of the Licence.
- The Applicant is reminded that in accordance with Condition 10 of the Birmingham City Council Act 1990, Standard Conditions of Licence, for Massage and Special Treatments Establishments she must adhere to the following:

*“The Licensee shall notify the Council within 7 days, any change to the list of persons engaged in the provision of massage or special treatment at the establishment. If the change relates to the addition of a new person then notification must be by completion and submission within 7 days of Document MST 6.1.” being a Practitioners Personal Details Disclosure Form*

The Practitioners Personal Details Disclosure form requires details of all relevant technical and professional qualifications attained by the therapist / practitioner.

The Committee has given due consideration to the information contained in the application, the written representations received and the submissions made at the hearing by the Applicant, their legal adviser and those making representations.

It carefully considered the representations made by Birmingham City Council Licensing Enforcement and a neighbouring business owner about the type of services the previous occupants had offered, but concluded that this was in no way attributable to the current Applicant. However, concerns raised by Members of the Committee themselves about the public perception of the new business were addressed by imposing the aforementioned suitable Conditions on to the Licence.

Right of Appeal

All parties are reminded that under the provisions contained within Birmingham City Council Act 1990, any applicant for the grant or renewal of a licence who is aggrieved by the terms, conditions or restrictions on or subject to which the licence is granted or renewed has a right of appeal to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

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**BIRMINGHAM TAXI DEMAND SURVEY**

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

(See Document No. 3)

Chris Arundel, Principal Licensing Officer, made introductory comments relating to the report and responded appropriately to Members' questions relating to comments regarding the taxi rank at New Street Station, out of town taxis, safeguarding, demands regarding the needs of customers with disabilities; average cab operating hours and the needs for taxi ranks to be placed in the right areas following redevelopment of the City Centre.

The Chair put the recommendations to the meeting and by 11 votes for, it was:-

918

**RESOLVED:-**

- i) That the report be noted; and
- ii) That the moratorium on the issue of any new hackney carriage vehicle licences continues for up to 3 years, subject to a further survey to establish demand within that period.

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**PROPOSALS TO INTRODUCE QUALITY RATING SCHEME FOR PRIVATE HIRE OPERATORS**

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

(See Document No. 4)

Shawn Woodcock, Licensing Operations Manager, 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 the scheme to be compulsory rather than voluntary; including sections on driver training,

controlling bad behaviour in drivers and providing documentation on drivers; and the ability for customers to find the best-rated operators to use.

The Chair put the recommendations to the meeting and by 11 votes for, it was:-

919

**RESOLVED:-**

- i) To implement a Quality Rating Scheme to coincide with the introduction of the new conditions of Licence based on the scheme at Appendix A, within the report, subject to any changes made by the Committee.
- ii) That the rating of each operator be reviewed annually in line with a programmed Operator Inspection.
- iii) Not to implement any such scheme.

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**CARD PAYMENTS IN HACKNEY CARRIAGE VEHICLES**

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

(See Document No. 5)

Chris Arundel, Principal Licensing Officer, 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 an improved image for the City via the use of card payments for all users; urgent consultation throughout the trade for this in time for the Commonwealth Games and the need for a speedy policy and implementation with realistic timescales.

The Chair put the recommendations to the meeting and by 11 votes for, it was:-

920

**RESOLVED:-**

To consider the matters raised in the report (and if convinced of the merits of the TOA proposal) instruct officers to consult with the wider trade to establish the level of support for the proposal; amongst other drivers and trade organisations and report back to this Committee.

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**SUPPLEMENTAL FEES AND CHARGES 2017/18 REPORT IN RESPECT OF BIRMINGHAM REGISTER OFFICE**

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

(See Document No. 6)

Andrea Haines, Superintendent Registrar/ Registration Services Manager, made introductory comments relating to the report and responded appropriately to comments and questions from Members of the Committee.

921

**RESOLVED:-**

That the additional fees and charges to take effect from 1 November 2017 in relation to Register Office Services as detailed in Appendix 1 of the report be approved.

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

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

(See Document No. 7)

Chris Neville, Head of Licensing, made introductory comments relating to the report.

922

**RESOLVED:-**

That the report be noted

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**FIXED PENALTY NOTICES ISSUED AUGUST 2017**

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

(See Document No. 8)

Chris Neville, Head of Licensing, made introductory comments relating to the report.

923

**RESOLVED:-**

That the report be noted

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**PROSECUTIONS AND CAUTIONS – JULY AND AUGUST 2017**

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

(See Document No. 9)

The Acting Director of Regulation and Enforcement made introductory comments relating to the report and undertook to speak to City Centre



Management or the Management relating to an issue raised by Councillor Des Flood relating to activities taking in the City Centre shopping area where promotion companies were giving out freebies which result in an immediate littering offence.

Chris Neville, Head of Licensing, undertook to investigate a similar issue in relation to the distribution of flyers.

924

**RESOLVED:-**

That the report be noted

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

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

(See Document No. 8)

925

**RESOLVED:-**

That the report be noted

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**SCHEDULE OF OUTSTANDING MINUTES**

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 9)

The Acting Director of Regulation and Enforcement updated the dates for which reports would be forthcoming in relation to various Outstanding Minutes and it was -

926

**RESOLVED:-**

That Outstanding Minute No. 651 (iii) be discharged and all other Outstanding Minutes be continued.

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**OTHER URGENT BUSINESS**

927

There were no items of Other Urgent Business.

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**AUTHORITY TO CHAIRMAN AND OFFICERS**

928

**RESOLVED:-**

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

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The meeting ended at 1610 hours.

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CHAIRMAN

**Please note that certain images and content in the attached internet version of this report have been removed in the interests of public decency.**

**Anyone who wishes to see the report in full should apply in writing to the officer at the address indicated below.**

**David Kennedy,  
Principal Licensing Officer,  
Birmingham City Council  
Licensing Section  
PO Box 17013  
Birmingham  
B6 9ES**

**Email: [licensing@birmingham.gov.uk](mailto:licensing@birmingham.gov.uk)**

**BIRMINGHAM CITY COUNCIL**

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

**15 NOVEMBER 2017**  
**NECHELLS**

**BIRMINGHAM CITY COUNCIL ACT 1990**  
**ESTABLISHMENTS FOR MASSAGE AND/OR SPECIAL TREATMENTS**

**HARMONY 88, 1<sup>ST</sup> FLOOR LADYWELL HOUSE, 20 HURST STREET,  
BIRMINGHAM B5 4BN**

**RENEWAL OF LICENCE**

1. Summary

- 1.1 Anyone conducting an establishment for treatment by way of massage, solaria, jacuzzi, sauna, steam treatment, aromatherapy and other similar types of treatment is required to be licensed.
- 1.2 Each premises is subject to an inspection by a Licensing Enforcement Officer and there is consultation with the West Midlands Police concerning the suitability of applicants.
- 1.3 An application has been received for the renewal of a licence for the provision of massage at Harmony 88, 1<sup>st</sup> Floor Ladywell House, 20 Hurst Street, Birmingham B5 4BN.
- 1.4 Paragraph 5 of this report outlines the criteria for consideration of a Massage and Special Treatment Licence.

2. Recommendation

- 2.1 That Committee is requested to consider and determine the application for the renewal of a Massage & Special Treatment licence in accordance with the provisions of Birmingham City Council Act 1990 and having regard to the options contained in paragraph 6.1 of this report.

Contact officer: David Kennedy, Principal Licensing Officer  
Telephone: 0121 303 9896  
Email: [david.kennedy@birmingham.gov.uk](mailto:david.kennedy@birmingham.gov.uk)

### 3. Background

- 3.1 Harmony 88 Limited t/a Harmony 88, 1<sup>st</sup> Floor Ladywell House, 20 Hurst Street, Birmingham B5 4BN applied for the renewal of a Massage and Special Treatment Licence to permit the provision of massage at the premises between the hours of 10am and 10pm Monday to Sunday. A copy of the application is attached at Appendix 1.
- 3.2 A representation has been received from a representative of the Licensing Enforcement Team a copy of which is attached as Appendix 2.
- 3.3 A copy of the applicant's response following disclosure of the representation to them is attached as Appendix 3.
- 3.4 A copy of Birmingham City Council's standard conditions relating to Massage & Special Treatment Licences is attached at Appendix 4.
- 3.5 Representatives of Harmony 88 Limited have been invited to attend the Committee meeting in support of their application and to respond to any questions members may have.
- 3.6 The Licensing Enforcement Officer has also been invited to attend the Committee meeting in support of their representation and to respond to any questions members may have.

### 4. Consultation

- 4.1 The applicant was required to serve notice of their application to the Chief Constable of West Midlands Police.
- 4.2 In addition, upon receipt of an application the Licensing Section consults with the relevant Local Policing Unit and the Licensing Enforcement Team.
- 4.3 A representative of West Midlands Police Licensing Team has confirmed that they have no objections to the renewal of the licence.

### 5. Matters for Consideration

- 5.1 The Committee is advised that the Birmingham City Council Act specifies the following grounds for refusal of an application for the renewal of a licence in the case of:
  - a) any person under the age of 21;
  - b) any person who has been convicted of an offence under the Sexual Offences Acts 1956 to 1976 or the Street Offences Act 1959 or who may be otherwise unsuitable to hold such a licence;

- c) any premises which are unsuitable for the purposes of an establishment for massage or special treatment or in which the accommodation or provision for such treatment is not reasonably adequate or suitable;
- d) any establishment which has been or is being improperly conducted;
- e) any establishment in which adequate professional, technical or other staff is not available for the administration of such massage or special treatment as may there be provided; or
- f) any establishment which is being carried on in contravention of the provisions of this Act or any byelaw made there under.

5.2 Having considered the application, the representation received and having heard from all parties present at the hearing the Committee is required to determine the application for the renewal of a Massage and Special Treatment Licence.

## 6. Options Available

6.1 The Committee may:

- 6.1.1 Renew the licence subject to compliance with the standard conditions of licence.
- 6.1.2 Renew the licence subject to compliance with the standard conditions of licence and / or the imposition of other terms, conditions or restrictions as the Committee may consider appropriate.
- 6.1.3 Refuse to renew the licence. The Committee may not refuse the application without first giving the applicant an opportunity of appearing before and being heard by a Committee of the Council, and if so required by him, the Council shall within 7 days after their decision give him notice thereof containing a statement of the grounds on which it was based.

## 7. Right of Appeal

- 7.1 The Act provides that any applicant for the grant, renewal or transfer of a licence has a right of appeal against decisions to refuse to grant, renew or transfer a licence to the Magistrates Court.
- 7.2 The Act also provides that any applicant who is aggrieved by the terms, conditions or restrictions on or subject to which the licence is granted or renewed has a right of appeal to the Magistrates' Court.
- 7.3 Any such appeals to be lodged within 21 days beginning with the date on which they are notified of the decision in writing.

8. Implications for Resources

- 8.1 A fee of £153 is payable for the renewal of a Massage and Special Treatment Licence to permit the provision of one treatment.
- 8.2 In the event of an appeal hearing, the Magistrates power to award costs derives from Section 64 of the Magistrates Courts Act 1980 which entitles them to make such order as they think just and reasonable.

9. Implications for Policy Priorities

- 9.1 The work identified in this report is consistent with our mission statement being locally accountable and responsive fair regulation for all – achieving a safe, healthy, clean, green and fair trading City for residents, business and visitors.

10. Public Sector Equality Duty

- 10.1 No specific implications have been identified. Officers have considered the Public Sector Equality Duty in accordance with the provisions of the Equality Act 2010 and determined that there are no Equality and Diversity implications in respect of their report because of the nature of the recommendation.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background papers: nil

MST 1/25

## BIRMINGHAM CITY COUNCIL ACT 1990

## Application for a Licence to use any Premises as an Establishment for Massage and/or Special Treatments

- 1 Trading Name of Massage/Special Treatment Business:  
HARMONY 88 LTD  
 Address of Business: 1ST FLOOR, LADYWELL HOUSE, 20 HURST STREET,  
BIRMINGHAM B5 4BN Tel No. 0121 622 1100
2. Is the application being made by an individual: ☐ (go to Q 3)  
 or on behalf of a partnership ☐ (go to Q 4)  
 or a company? ☒ (go to Q 4)

## INDIVIDUAL APPLICANT'S DETAILS

3. Full name of the Applicant .....  
 (Any former names must also be given).  
 Home Address of the applicant .....  
 Date of birth .....  
 National Insurance no. or the EU Member State equivalent .....  
 Contact tel. no (during normal office hours) .....  
 Address you wish any correspondence to be sent to .....



## COMPANY/PARTNERSHIP APPLICATION DETAILS

4. Name of Company and company registration number (where applicable) HARMONY 88 LTD 09762868  
 Address 1ST FLOOR, LADYWELL HOUSE, 20 HURST STREET,  
BIRMINGHAM B5 4BN

If the applicant is a company, complete the details below in respect of each of the directors, the company secretary or other persons responsible for the management of the company. In the case of a partnership, details of all the partners must be given.

| Name           | Address | Designation |
|----------------|---------|-------------|
| XIAOLONG ZHANG |         | DIRECTOR    |
| QINGWEI ZHANG  |         | DIRECTOR    |



|                                    |
|------------------------------------|
| GENERAL DETAILS OF THE APPLICATION |
|------------------------------------|

The following questions are to be answered by all applicants

5. Is this application for a

Grant ☐ or a Renewal ☒ or a Transfer ☐ or to add further treatments ☐

If renewal give the date existing licence is due to expire: 17-08-2017

6. For what activities is the licence required?

Massage ☒ Sauna ☐ Solaria/Sunbed ☐ Spa/baths etc ☐ Steam treatment ☐

If any other treatment, please give details

7. Will the massage or special treatment be available specifically for:

Males: ☐ Females: ☐ Both: ☒

8. Give details of the time during which it is proposed that the premises shall be open.

i) Days of the week: 7 DAYS A WEEK

ii) Hours of the day: 10 A.M. - 10 P.M.

NB. Treatments shall be permitted only between 6am and 12 midnight on any day

9. Are the whole premises described above to be used for massage/special treatment?

Yes ☒ No ☐

10. If the answer to question 9, above, is 'No', please state:

i) Which part of the premises is to be used for the purposes of the licence?

ii) What are the rest of the premises used for?

11. Are the premises leasehold? Yes ☒ No ☐

Are the premises freehold? Yes ☐ No ☐

Please give the name and address of the landlord or of the freeholder:

CENTURY MANAGEMENT LTD. UNIT B206 THE ARCADIAN CENTRE  
70 HURST STREET BIRMINGHAM B5 4TD.

12. State the full name(s) and address(es) of the owner(s) of the massage/special treatment business, if different to the applicant.

.....

.....

.....

13. If there is to be a manager responsible for the premises in the absence of the licence holder, please supply the following details:

| First Name | Surname | Former Name<br>(if any) | Permanent Address | Date of Birth |
|------------|---------|-------------------------|-------------------|---------------|
| XIAOLONG   | ZHANG   |                         |                   |               |

14. Please give details of **ALL** persons who will be administering treatment (whether qualified or not)

| Full Name           | Address |
|---------------------|---------|
| SUQING EDWARDS (LI) |         |
| WEIFONG CHEN        |         |
| LANDI KONG          |         |

NB - For each person detailed above you must complete a personal details form (document ref MST 6/2) and submit all completed forms with this application

15. Please give details of involvement with any other massage or special treatment establishment and also the nature and extent of such interest, either as:

a) owner or director of owning company: .....

.....

or

b) employee: .....

.....

16. Has the applicant or any persons named of this form any convictions/cautions? Yes ☐ No ☒

If so, please give details below (road traffic convictions/endorsements need not be stated):

**Convictions:**

| First Name | Surname | Former Name (if any) | Court | Date | Offence | Penalty or Sentence |
|------------|---------|----------------------|-------|------|---------|---------------------|
|            |         |                      |       |      |         |                     |

**Cautions:**

| First Name | Surname | Former Name (if any) | Offence | Date | Where Caution Administered |
|------------|---------|----------------------|---------|------|----------------------------|
|            |         |                      |         |      |                            |

(If necessary, please continue on a separate sheet)

**DECLARATION****To be completed by Applicant:**

I, declare that the information given above is true and correct to the best of my knowledge and I understand that if I provide any false information or intentionally withhold any relevant information, I am liable to prosecution.

Signed: ..... Date of Application: 26 / 07 / 2017

Name (PLEASE PRINT) XIAOLONG ZHANG

Job Title DIRECTOR

NB: If the application is on behalf of a company, the Company Secretary, or Director of the company should sign the above declaration. If any person signs the declaration on behalf of an applicant, please state in what capacity you are acting.

**If completed on behalf of an Applicant please complete the following:**

I can confirm that the details given on this form are as stated by the applicant and are correct to the best of my knowledge.

Name (block capitals) .....

Organisation .....

Relationship to Applicant (eg Solicitor, Employer) .....

Signature ..... Date ..... / ..... / .....

**Completed Applications should be returned to:**

Birmingham City Council  
Licensing Section  
P.O. Box 17013  
Birmingham  
B6 9ES  
Email: [licensing@birmingham.gov.uk](mailto:licensing@birmingham.gov.uk)

**Checklist for Applicants**

Have you remembered to:-

Enclose cheque/payment ☐

Sign application form ☐

Send Notice of Application to WM Police ☐

Enclose completed Personal details form ☐

for each Person listed in section 14 ☐

Display Notice of Application (grant only) ☐

Electrical Certificate (required for grant & renewal) ☐



## Birmingham City Council Act 1990 – Massage and Special Treatments Licence

## Personal Details Form

|   |   |
|---|---|
| Trading Name and Address of Massage and/or Special Treatment Premises:  | HARMONY 88 LTD.<br>1ST FLOOR, LADYWELL HOUSE, 20 HURST ST<br>BIRMINGHAM B5 4BN      |
| Full name of person giving treatment (Please give former names if any): | SUQING LI   |
| Address:  |   |
| Postcode:   |   |
| Age:  |   |
| National Insurance Number:  |   |
| Date and Place of Birth:  |   |
| Qualifications to give the treatment:                                   | SENIOR LEVEL<br>TRADITIONAL CHINESE MEDICAL<br>MESSAGE, RESEARCH COURSES & PRACTICE |
| Name and Address of College/Organisation:                               | FUSHUN SHENG LI MASSAGE<br>SCHOOL OF CHINA  |

I consent to the information provided on this form being exchanged with other agencies in the interests of enforcement and protection of public funds

Signed: .....

Dated: 26-07-2017

This form is to be completed for each person providing treatments under the Birmingham City Council Act 1990. It must be signed by the individual named on the form.

## Completed Forms should be sent to:

Birmingham City Council  
Licensing Section  
P.O. Box 17013  
Birmingham  
B6 9ES

## Birmingham City Council Act 1990 – Massage and Special Treatments Licence

## Personal Details Form

|   |  |
|---|--|
| Trading Name and Address of Massage and/or Special Treatment Premises:  | HARMONY SS LTD · 1ST FLOOR · LADYWELL HOUSE · 20 HURST STREET · BIRMINGHAM B5 4BN  |
| Full name of person giving treatment (Please give former names if any): | WAI FONG CHEN  |
| Address:  |  |
| Postcode:   |  |
| Age:  |  |
| National Insurance Number:  |  |
| Date and Place of Birth:  |  |
| Qualifications to give the treatment:                                   | COMPLETED THE TRAINING PROGRAM ON THAI MASSAGE   |
| Name and Address of College/Organisation:                               | THE UNION OF THAI TRADITIONAL MEDICINE SOCIETY<br>DEPARTMENT OF MEDICAL SERVICES<br>BUILDING 6 MINISTRY OF PUBLIC HEALTH |

I consent to the information provided on this form being exchanged with other agencies in the interests of enforcement and protection of public funds

Signed: ....

Dated: 26-07-2017

This form is to be completed for each person providing treatments under the Birmingham City Council Act 1990. It must be signed by the individual named on the form.

## Completed Forms should be sent to:

Birmingham City Council  
Licensing Section  
P.O. Box 17013  
Birmingham  
B6 9ES

## Birmingham City Council Act 1990 – Massage and Special Treatments Licence

## Personal Details Form

|   |   |
|---|---|
| Trading Name and Address of Massage and/or Special Treatment Premises:  | HARMONY 88 LTD. 1ST FLOOR -<br>LADYWELL HOUSE, 70 HURST ST. BIRMINGHAM B5 4BN |
| Full name of person giving treatment (Please give former names if any): | <del>LAN</del> LANDI KONG   |
| Address:  |   |
| Postcode:   |   |
| Age:  |   |
| National Insurance Number:  |   |
| Date and Place of Birth:  |   |
| Qualifications to give the treatment:                                   | FULLY QUALIFIED PRACTITIONER<br>OF CHINESE TUI NA . MASSAGE . REFLEXOLOGY     |
| Name and Address of College/Organisation:                               | THE CHINESE TUI NA &<br>REFLEXOLOGY THERAPISTS<br>ASSOCIATION UK .            |

I consent to the information provided on this form being exchanged with other agencies in the interests of enforcement and protection of public funds

Signed: .....

Dated: ..... 26-07-2017 .....

This form is to be completed for each person providing treatments under the Birmingham City Council Act 1990. It must be signed by the individual named on the form.

## Completed Forms should be sent to:

Birmingham City Council  
Licensing Section  
P.O. Box 17013  
Birmingham  
B6 9ES

## ENFORCEMENT REPORT

Harmony 88, 1<sup>st</sup> Floor Ladywell House, Hurst Street, Birmingham B5 4BN

15/08/2017

Following receipt of an application to renew their licence, I visited the above named premises to conduct an inspection to check for compliance with the conditions attached to a massage and special treatment licence.

On arrival at the premises, at approximately 21.10hours, we were met by the applicant, Mr Xialong Zhang. This is the first application received from Mr Zhang, the previous licence (2016) was issued to Zhenwei Huang. There was also a therapist present.

The following matters were identified

- the daily register was not being completed fully; therapists names were not being recorded, as detailed on the application form, they were using nicknames. This makes it difficult to see which therapist is conducting which treatment. There were also 2 therapists names listed for one client
- a large number of clients were male and there were 'xxx' in place of names, no contact details and appointments not booked in advance
- we could see on the CCTV a number of men come to the door of the premises and were turned away by the therapist who was present. It was clear it was due to our presence.

As an enforcement officer of many years, the operation of the business did not appear to be what is expected of a legitimate massage establishment

On return to the office, following this inspection, I searched the internet and came across a review on a website called [www.ukpunting.com](http://www.ukpunting.com), which is specifically designed to be a prostitute review forum. Included was a review relating to this premises. I attach a printout of the review at Appendix 1.

I believe you can get a genuine massage at Harmony 88 but, as the attached print out shows, you can also, as I suspected, pay for sex acts.



Objection to the renewal of the licence

I object as I believe the licence holder would be unable to comply with condition number 12 of the Massage and Special treatments licence which states -

12. The Licensee shall not permit the establishment to be used for any illegal or immoral purpose.



Sarah Hemsall  
**Licensing Enforcement Officer**

**Regulation and Enforcement  
Licensing Section**

P.O. Box 17013  
Birmingham  
B6 9ES

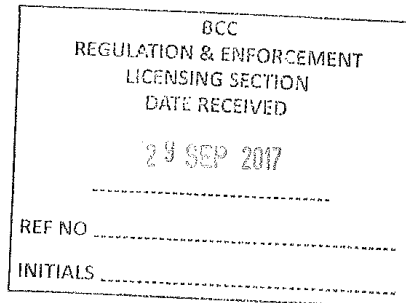
Tel. 0121 675 2925

[sarah.hemsall@birmingham.gov.uk](mailto:sarah.hemsall@birmingham.gov.uk)

**THE PRINTOUT REFERED TO IN LICENSING ENFORCEMENT OFFICER REPORT (APPENDIX 1) HAS BEEN DISCLOSED TO THE APPLICANT & MEMBERS INADVANCE OF THE HEARING.**

**HOWEVER THESE PAGES HAVE BEEN REDACTED PRIOR TO PUBLICATION ON BIRMINGHAM CITY COUNCILS WEBSITE – SEE COVERING PAGE OF THIS REPORT.**

The Licensing Section  
 Birmingham City Council  
 P.O. Box 17013  
 Birmingham B6 9ES



Dear officer,

This is to confirm we received reply from you.

I hereby confirm that we would like you to proceed with our application for the renewal of Massage Treatment license for Harmony 88 Limited. We are happy to attend meetings with the Committee and open to public.

As you know, this treatment centre has been here for a long time, and keeps very good records. Even after Mr Qingwei Zhang and I took over the position of directors of this place, all therapist remains the same. And we have meetings with our therapists regularly, to ensure all we do obey to the law.

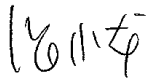
The following are replies to your questions.

- Regarding the daily register, we do records same as previous years. The therapists' names are recorded in their Chinese surname. The officer asked me to put their English names in future, which has been changed since that day of visiting.
- Regarding some clients' names were put "xxx". Every time each customer walks in, we will ask for their details, but some really refuse to give and they may feel offended if we insist asking their personal details.
- Some people did come or call in to ask if we offer sex service, we certainly response to them NO. This is a very basic rule of our centre. We have signed contract with all therapists that there will be no sex service allowed at this place. And a notice was displayed in all treatment rooms.
- Regarding your search on ukpunting, I am confused and shocked, but I have to say that

there is no one called Julia ever working here!

We again confirm we would like to continue the application. We are happy to be monitored and supervised by the City Council and public at all times. As the director of this place, I will continue to make sure no illegal matters happen.

Kind regards,



Mr Xiaolong Zhang

Director

Harmony 88 Limited

1<sup>st</sup> Floor, Ladywell House

20 Hurst Street

Birmingham B5 4BN

Mobile: 07795 368 674

Email: harmony88massage@gmail.com



MST 4.7 (01.11.2007)

**BIRMINGHAM CITY COUNCIL ACT 1990**  
**CONDITIONS OF LICENCE**  
**MASSAGE AND SPECIAL TREATMENT ESTABLISHMENTS**

**THE LICENSEE**

1. Treatments that are covered by the Birmingham City Council Act 1990 which are not specified on the licence shall not be offered.
2. The establishment shall trade at the address specified in the licence, and in the name specified in the licence.
3. The Licensee shall notify the Council in writing, within 7 days, of any change in the name or private address of the Licensee.
4. The Licensee, if a company, shall notify the Council in writing, within 7 days, of any change in the names of directors of the company.
5. Unless the Licensee has written consent of the Council they shall not:
  - a) employ anyone at the premises whose licence has previously been revoked or who has been refused a licence where they were unsuitable to hold a licence;
  - b) employ anyone at the premises where the Council has previously considered that individual to be unsuitable because of misconduct; or
  - c) permit any such person mentioned in a) or b) above to directly or indirectly have an interest in the business carried on at the premises;
  - d) employ any person in the conduct of the establishment under the age of 17.
6. Treatment shall only be given by persons approved by the Council or under the supervision of a person approved by the Council.
7. The Licensee shall ensure that all persons approved by the Council to offer treatments shall display at the premises all certificates of recognised qualifications in respect of the services permitted by the Licence.
8. The Licensee must display, in a prominent position within the premises, the Licence issued by the Council

9. The Licensee shall at all times exhibit, in a conspicuous position, a complete scale of fees for treatments given at the premises.
10. The Licensee shall notify the Council, within 7 days, any change to the list of persons engaged in the provision of massage or special treatment at the establishment. If the change relates to the addition of a new person then notification must be by completion and submission within 7 days of Document MST6.1.
11. The Licensee shall notify the Council in writing within 7 days of any conviction received by him/her in respect of any offence of dishonesty or immorality.
12. The Licensee shall not permit the establishment to be used for any illegal or immoral purpose.

#### **THE PREMISES**

13. The premises and any treatment room or waiting room must be kept clean and maintained in good repair and condition.
14. There shall be adequate lighting and ventilation to any treatment or waiting room, either by natural or artificial means.
15. Readily accessible wash hand basins must be provided for any treatment rooms.
16. There shall be provided for each wash hand basin, hot and cold water, soap, a nail brush and clean hand drying facilities.
17. There shall be provided in every treatment and waiting room suitable and sufficient means for heating and a reasonable room temperature shall be maintained.
18. Suitable and sufficient toilet accommodation must be available for employees and clients.
19. The Licensee shall ensure compliance at all times with the relevant provisions of the Health and Safety at Work Act 1974 and shall at all times take reasonable precautions to ensure the safety of clients whilst in the premises.

#### **CUSTOMER CARE**

20. Where it is intended that more than one person shall be treated in the same room, suitable screening shall be provided to maintain privacy.

21. All instruments, towels, materials and equipment used in connection with the establishment shall be thoroughly cleansed prior to use by, or application to any client and there shall be provided proper means for securing the cleansing of all such instruments, towels, materials and equipment.
22. The Licensee shall ensure that all persons present in any part of the establishment are decently and properly dressed at all times, except for those persons receiving treatment in accordance with the conditions of this Licence.
23. Adequate changing accommodation shall be provided.

#### **RECORDS**

24. The Licensee shall keep and maintain:
  - a) A record of all persons employed for administering treatment, whether qualified or not, with details of their full name, date of birth, private address, national insurance number, signature and qualifications where applicable.
  - b) A daily register of all staff administering treatment shall be maintained; the register shall record the start and finish time of each therapist.

The above records shall be kept on the premises named on the licence at all times, and shall be immediately available for inspection, by an authorised officer, during opening hours.

No person shall make a false entry into any records required to be kept as a condition of the licence.

#### **CONDUCT OF BUSINESS**

25. The Licensee or a responsible person nominated by the Licensee, in writing to the Licensing Section, must be on the premises and in charge of the establishment and immediately contactable by an authorised officer at any time during the permitted hours of opening.
26. The Licensee must ensure that the nominated person is fully aware of the Conditions of Licence, particularly those relating to the maintaining of records.
27. The Manager or other person directly or indirectly responsible for the management of the premises shall be under the same obligation as the Licensee to comply with these conditions.

**PERMITTED HOURS**

28. The services provided by this establishment shall be permitted only between the hours of 6.00 am and 12.00 midnight on any day. (Please note that the hours permitted by this licence do not override any restrictions imposed by any planning consents for the premises.)

**SAFETY OF EQUIPMENT - ELECTRICAL CERTIFICATE**

29. The Licensee shall on application for renewal of this Licence submit to the Council a certificate signed by a competent electrician certifying the safety of all electrical installations, equipment and electrical apparatus used within the establishment for the purposes of the Licence.

**SPECIFIC CONDITIONS RELATING TO MASSAGE**

1. All massage rooms/areas shall contain a suitable massage couch/bench/table. (Four Poster beds, or beds designed for the purpose of sleeping shall not be permitted.)
2. There shall be no advertisement in words or pictures suggesting that there is an erotic element in the treatment provided.

**SPECIFIC CONDITIONS FOR SUNBEDS AND SOLARIA**

1. See Appendix A attached.



### **SPECIFIC CONDITIONS FOR SUNBEDS AND SOLARIA**

Each premises licensed to provide facilities of ultra violet tanning equipment, sun beds and tanning booths shall ensure compliance with the following conditions:

1. The Licensee shall draw up a schedule of maximum exposure times based on the information supplied by the manufacturer and the operator shall advise clients of suitable exposure levels to avoid over-exposure particularly during initial sessions.

#### **Notice**

2. Warning notices and guidance notes issued by the Health and Safety Executive shall be clearly displayed near the machine informing users of the equipment of the danger of over-exposure.

#### **Safety Equipment**

3. Suitable goggles for the protection of the eyes of users of the equipment must be provided and each user must be advised of the dangers of failing to properly protect the eyes from ultra violet light. No user of the equipment should be allowed to undertake treatment without such protection.
4. A suitable readily identified emergency device shall be fitted within easy reach of a person using the equipment. The device, when operated, should switch off ultra violet lamps and summon assistance.
5. Equipment must be situated in a suitable room or cubicle and so positioned that adequate ventilation and cooling is provided. The operation of the equipment must not result in the temperature in the treatment room becoming unreasonable.

#### **Cleaning**

6. The licensee must have procedures in place to ensure that the surface of the bed is cleansed, between each client use, with a suitable cleanser as recommended by the manufacturer of the appliance.

#### **Safety of Users**

7. The Licensee must have procedures in place to ensure that prospective users of sun beds are made aware, on each visit, that certain medical conditions or medicines that are combined with exposure to UV light can have an adverse effect on the health and safety of the user.
8. The Licensee must have procedures in place to ensure that prospective users of sun beds are provided with clear and concise information for:-
  - Guidelines on how to identify individual skin types
  - Safe limits for using a sun bed without burning, to include an understanding that there must be 48 hours between tanning sessions and not to exceed more than 20 tanning sessions per year
  - Informing users whenever the lamps have been changed in the previous 2 weeks, thus making the sun bed more powerful.



|                          |   |  |
|--------------------------|---|--|
| <b>Report to:</b>        | <b>LICENSING AND PUBLIC PROTECTION COMMITTEE</b>  |  |
| <b>Report of:</b>        | <b>ACTING SERVICE DIRECTOR REGULATION AND ENFORCEMENT AND INTERIM CHIEF FINANCIAL OFFICER</b> |  |
| <b>Date of Decision:</b> | <b>15 NOVEMBER 2017</b>   |  |
| <b>SUBJECT:</b>          | <b>LICENSING AND PUBLIC PROTECTION – BUDGET MONITORING 2017/18 (MONTH 06)</b>                 |  |
|                          |   |  |

|   |
|---|
| <b>1. Purpose of Report:</b>  |
| <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 September 2017 (Month 6) 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> |

|  |
|--|
| <b>2. Decision(s) Recommended:</b>   |
| <p>The Licensing and Public Protection Committee is requested to :</p> <p>2.1 Note the latest Revenue budget position at the end of September 2017 (Month 6) 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 Note the position on reserves and balances, as detailed in Appendix 5.</p> |

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

|   |
|---|
| <b>3. Consultation</b>  |
| <p data-bbox="86 156 1495 246">3.1 <u>Internal</u></p> <p data-bbox="199 246 1495 380">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> <p data-bbox="86 380 1495 470">3.2 <u>External</u></p> <p data-bbox="199 470 1495 629">There are no additional issues beyond consultations carried out as part of the budget setting process for 2017/18.</p> |

|   |
|---|
| <b>4. Compliance Issues:</b>  |
| <p data-bbox="86 707 1495 828">4.1 <u>Are the recommended decisions consistent with the Council's policies, plans and strategies?</u></p> <p data-bbox="199 828 1495 940">The budget is integrated within the Council's Financial Plan 2017+, and resource allocation is directed towards policy priorities.</p> <p data-bbox="86 940 1495 1052">4.2 <u>Financial Implications (Will decisions be carried out within existing finances and Resources?)</u></p> <p data-bbox="199 1052 1495 1164">The Licensing and Public Protection Budget Monitoring 2017/18 (Month 6) report provides details of monitoring of service delivery within available resources.</p> <p data-bbox="86 1164 1495 1545">4.3 <u>Legal Implications</u></p> <p data-bbox="199 1254 1495 1545">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> <p data-bbox="86 1545 1495 1915">4.4 <u>Public Sector Equality Duty</u></p> <p data-bbox="199 1635 1495 1915">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> |

## 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 budget since the previous report at Month 4 (the major changes are summarised in the table below).

|   | £'m          |
|---|--------------|
| <b>Original Budget 2017/18 Reported to LPPC 15 March 2017</b> | <b>7.553</b> |
| Allocation of Trade Union Facility                            | (0.016)      |
| <b>Current Approved Net Revenue Budget for Month 6</b>        | <b>7.537</b> |

- 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 6 (end of September 2017) is £3.868m, which represents 51% of the annual net budget.
- 5.6 A year end pressure of £0.684m is being forecast, all due to base pressures. This is unchanged from the previous report (Month 4) brought to your committee.
- 5.7 The 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.

| <b>Forecast Year End Variations – Month 6</b> |                                  |   |   |
|---|----------------------------------|---|---|
| <b>Budget Head</b>                            | <b>Savings Programme<br/>£'m</b> | <b>Base Budget (underspend)<br/>/ Pressures<br/>£'m</b> | <b>Total (underspend)<br/>/ Pressures<br/>£'m</b> |
| Environmental Health                          | 0.000                            | (0.300)   | (0.300)   |
| Pest Control                                  | 0.000                            | 0.600   | 0.600   |
| Registrars                                    | 0.000                            | 0.000   | 0.000   |
| Mortuary and Coroners                         | 0.000                            | 0.384   | 0.384   |
| Trading Standards                             | 0.000                            | 0.000   | 0.000   |
| Licensing                                     | 0.000                            | 0.000   | 0.000   |
| <b>TOTAL</b>                                  | <b>0.000</b>                     | <b>0.684</b>  | <b>0.684</b>                                      |

5.9 The key components of the projection include:

- **Environmental Health (£0.3m underspend) and Pest Control (£0.6m)** – 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 (£0.384m 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 £0.384m from autopsies and transport of bodies due to the increased volume of referrals and post mortems required by this service.

### **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 Therefore the total savings programme for 2017/18 is £0.046m, as shown in Appendix 2.

5.13 An assessment at Month 6 has concluded that this target will be fully delivered in 2017/18.

5.14 The continued rigorous management action and financial control of officers is required to ensure that the programme will be achieved.

### **Mitigations and Management Actions 2017/18**

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

5.16 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.

5.17 Mortuary and Coroners

- Pressures relating to the 1974 Inquest are expected to be met by specific Government Funding. However, other pressures remain significant (£0.384m) and will continue to cause a major ongoing pressure on Committee resources which will mean compensating reductions in other service budgets will be required.

### **Capital**

5.18 The Capital programme (Mortuary and Coroners) for essential health and safety works in the mortuary and will be funded through prudential borrowing of £0.024m per annum.

5.19 The programme was originally planned to commence in 2016/17, but has been rescheduled to start by late summer 2017/18. Details are shown on Appendix 4.

|           |   |
|-----------|---|
| <b>6.</b> | <b>Grant Funded Programmes</b>  |
| 6.1       | Within Regulatory Services, there are two grant funded programmes: Illegal Money Lending and Scambusters.   |
| 6.2       | Expenditure and income for each programme is shown in Appendix 3 and summarised below.  |
|           | <b><u>Illegal Money Lending</u></b>   |
| 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 September 2017 was £1.613m (45%) and it is anticipated that the programme will fully spend the grant allocated.   |
|           | <b><u>Scambusters</u></b>   |
| 6.6       | The Scambusters team investigates and takes action against fraudsters operating across council boundaries in the central region.  |
| 6.7       | Funding has now been confirmed at £0.335m, similar to the £0.332m allocated to this project during last financial year.   |
| 6.8       | The expenditure at the end of September 2017 was £0.120m.   |
| <b>7.</b> | <b>Proceeds of Crime Act</b>  |
| 7.1       | Regulatory Services secures funding through the Proceeds of Crime Act 2002 in response to financial investigations undertaken post sentencing by the courts.  |
| 7.2       | Expenditure on PoCA related items is £0.322m at the end of September, whilst income has been received of £0.459m. This is strictly ring-fenced for expenditure on community and crime prevention projects |
| <b>8.</b> | <b>Balances and Reserves:</b>   |
| 8.1       | The balances and reserves at Month 6 are shown in Appendix 5.   |
| 8.2       | The balances at the start of the year (1 April 2017) totalled £1.837m, all of which are specific ring-fenced resources.   |
| <b>9.</b> | <b>Evaluation of Alternative Option(s):</b>   |
| 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 6.

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**

Alison Harwood  
Acting Service Director Regulation and Enforcement .....

Michael O'Donnell  
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

**List of Appendices accompanying this Report (if any):**

1. Appendix 1 - Financial Performance Statement Month 6 and Provisional Outturn
2. Appendix 2 - Savings Programme Performance 2017/18 Month 6
3. Appendix 3 - Summary of IMLT and Scambusters Grants
4. Appendix 4 - Capital Programme 2017/18 Month 6
5. Appendix 5 - Balances and Reserves at Month 6

|                       |     |              |                 |
|-----------------------|-----|--------------|-----------------|
| <b>Report Version</b> | 5.0 | <b>Dated</b> | 17 October 2017 |
|-----------------------|-----|--------------|-----------------|



## Licensing and Public Protection Committee - 2017/18 Month 6 (September)

## Revenue Expenditure

## Service Areas

| Budget<br>15Mar2017 | Service Areas                | Budget<br>13Sep2017 | Movement<br>(Aug-Sep) | Current<br>Budget | Actuals | Forecast<br>Year End | Savings<br>Programme<br>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             | 970     | (300)                | 0                               | (300)     |
| 4                   | Pest Control                 | 4                   | 0                     | 4                 | 337     | 600                  | 0                               | 600       |
| 878                 | Registrars                   | 878                 | 0                     | 878               | 549     | 0                    | 0                               | 0         |
| 1,196               | Mortuary and Coroners        | 1,196               | 0                     | 1,196             | 1,120   | 384                  | 0                               | 384       |
| 1,453               | Trading Standards            | 1,453               | 0                     | 1,453             | 758     | 0                    | 0                               | 0         |
| (8)                 | Licensing                    | (8)                 | 0                     | (8)               | 379     | 0                    | 0                               | 0         |
| 7,570               | Net Expenditure - Regulatory | 7,554               | 0                     | 7,554             | 4,113   | 684                  | 0                               | 684       |
| (91)                | Highways Regulatory          | (91)                | 0                     | (91)              | (280)   | 0                    | 0                               | 0         |
| 74                  | Access and Development       | 74                  | 0                     | 74                | 35      | 0                    | 0                               | 0         |
| (17)                | Net Expenditure - Highways   | (17)                | 0                     | (17)              | (245)   | 0                    | 0                               | 0         |
| 7,553               | LPPC - Net Expenditure       | 7,537               | 0                     | 7,537             | 3,868   | 684                  | 0                               | 684       |

## Subjective Headings

| Budget<br>15Mar2017 | Subjective Categories        | Budget<br>13Sep2017 | Movement<br>(Aug-Sep) | Current<br>Budget | Actuals | Forecast<br>Year End | Savings<br>Programme<br>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            | 5,705   | 260                  | 0                               | 260       |
| 978                 | Premises                     | 978                 | 0                     | 978               | 447     | 0                    | 0                               | 0         |
| 200                 | Transport and Moveable Plant | 200                 | 0                     | 200               | 87      | 0                    | 0                               | 0         |
| 3,494               | Supplies and Service         | 3,155               | 0                     | 3,155             | 1,302   | (66)                 | 0                               | (66)      |
| 208                 | Capital Financing            | 208                 | 0                     | 208               | 104     | 0                    | 0                               | 0         |
| 443                 | Recharge Expenditure         | 443                 | 0                     | 443               | 442     | 0                    | 0                               | 0         |
| 16,126              | Gross Expenditure            | 16,109              | 0                     | 16,109            | 8,087   | 194                  | 0                               | 194       |
| (3,613)             | Fees & Charges / Reserves    | (3,542)             | 0                     | (3,542)           | (1,314) | 490                  | 0                               | 490       |
| (4)                 | Rents etc                    | (4)                 | 0                     | (4)               | (7)     | 0                    | 0                               | 0         |
| (3,778)             | Misc Income / Depreciation   | (3,848)             | 0                     | (3,848)           | (1,703) | 0                    | 0                               | 0         |
| (1,178)             | Recharge Income and Interest | (1,178)             | 0                     | (1,178)           | (1,195) | 0                    | 0                               | 0         |
| (8,573)             | Income                       | (8,572)             | 0                     | (8,572)           | (4,219) | 490                  | 0                               | 490       |
| 7,553               | Net Expenditure              | 7,537               | 0                     | 7,537             | 3,868   | 684                  | 0                               | 684       |

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

## Licensing and Public Protection Committee - 2017/18 Month 6 (September)

### Savings Programme and Tracker

|   |                            | Progress against specific Savings with Actions Required                           |   |  |   |                            |             |
|---|----------------------------|---|---|--|---|----------------------------|-------------|
|   | Total Programme<br>2017/18 | Actions in place to<br>fully achieve Savings<br>(in line with Policy<br>Decision) | Actions in place to<br>fully achieve Savings<br>(new Policy Decision<br>required) | Actions in place to<br>Achieve savings in<br>year only | Actions in place but<br>some risk to delivery | Savings not<br>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           |
|   |                            |   |   |  |   |                            |             |
| <b>Total LPPC Savings Programme</b>         | <b>(46)</b>                | <b>(46)</b>   | <b>0</b>  | <b>0</b>   | <b>0</b>                                      | <b>0</b>                   | <b>(46)</b> |

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

## Licensing and Public Protection Committee - 2017/18 Month 6 (September)

## Grant Funded Programmes

| Service Areas   | Grant Allocation<br>2017/18 | Actuals<br>Year to Date | Forecast<br>Year End<br>Variance |
|---|-----------------------------|-------------------------|----------------------------------|
| (1)   | (2)                         | (3)                     | (4)                              |
| <b><u>Illegal Money Lending Team (IMLT) England</u></b> | <b>£'000</b>                | <b>£'000</b>            | <b>£'000</b>                     |
| Employees   | 2,543                       | 1,322                   | 0                                |
| Premises  | 62                          | 21                      | 0                                |
| Transport and moveab                                    | 241                         | 58                      | 0                                |
| Supplies and Service                                    | 617                         | 133                     | 0                                |
| Capital Financing                                       | 15                          | 8                       | 0                                |
| Recharge Expenditure                                    | 142                         | 71                      | 0                                |
| <b>Gross Expenditure</b>                                | <b>3,620</b>                | <b>1,613</b>            | <b>0</b>                         |
| Grants  | (3,605)                     | (794)                   | 0                                |
| Fees and Charges  | 0                           | 0                       | 0                                |
| Asset Revenue Manage                                    | (15)                        | (56)                    | 0                                |
| <b>Income</b>   | <b>(3,620)</b>              | <b>(850)</b>            | <b>0</b>                         |
| <b>Net Expenditure</b>                                  | <b>0</b>                    | <b>763</b>              | <b>0</b>                         |
| <b><u>Scambusters</u></b>                               |                             |                         |                                  |
| Employees   | 140                         | 100                     | 0                                |
| Premises  | 1                           | 1                       | 0                                |
| Transport and moveab                                    | 5                           | 1                       | 0                                |
| Supplies and Service                                    | 175                         | 18                      | 0                                |
| Recharge Expenditure                                    | 14                          | 0                       | 0                                |
| <b>Gross Expenditure</b>                                | <b>335</b>                  | <b>120</b>              | <b>0</b>                         |
| Grant Income (NTSB)                                     | (335)                       | 0                       | 0                                |
| <b>Income</b>   | <b>(335)</b>                | <b>0</b>                | <b>0</b>                         |
| <b>Net Expenditure</b>                                  | <b>0</b>                    | <b>120</b>              | <b>0</b>                         |

## Licensing and Public Protection Committee - 2017/18 Month 6 (September)

## Capital Programme

| Service Areas                    | Allocation 2017/18 | Actuals<br>Year to Date | Year End<br>Variance |
|----------------------------------|--------------------|-------------------------|----------------------|
| (1)                              | (2)                | (3)                     | (4)                  |
|                                  | <b>£'000</b>       | <b>£'000</b>            | <b>£'000</b>         |
| 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 6 (September)

## Balances and Reserves

|   | Licensing                        |   | Grants                           |                           | PoCA                         |                                  |                                 |                                      |
|---|----------------------------------|---|----------------------------------|---------------------------|------------------------------|----------------------------------|---------------------------------|--------------------------------------|
| Reserves and Balances                             | Entertain -<br>ment<br>Licensing | Hackney<br>Carriage and<br>Private Hire | Illegal Money<br>Lending<br>Team | Scam -<br>busters<br>Team | PoCA<br>Trading<br>Standards | PoCA<br>Illegal Money<br>Lending | Total<br>Ringfenced<br>Reserves | Total<br>Reserves<br>and<br>Balances |
| (1)   | (2)                              | (3)                                     | (4)                              | (5)                       | (6)                          | (7)                              | (8)                             | (10)                                 |
|   | £'000                            | £'000                                   | £'000                            | £'000                     | £'000                        | £'000                            | £'000                           | £'000                                |
| <b>Reserves and Balances 01 April 2017</b>        | <b>0</b>                         | <b>(639)</b>                            | <b>(279)</b>                     | <b>0</b>                  | <b>(443)</b>                 | <b>(476)</b>                     | <b>(1,837)</b>                  | <b>(1,837)</b>                       |
| <b>Transactions (to)/from Balances in 2017/18</b> |                                  |   |                                  |                           |                              |                                  |                                 |                                      |
| Appropriations to Reserves in year                | 0                                | 0                                       | 0                                | 0                         | 0                            | 0                                | 0                               | 0                                    |
| Appropriations from Reserves in year              | 0                                | 0                                       | 0                                | 0                         | 0                            | 0                                | 0                               | 0                                    |
| <b>Net Movements 2017/18</b>                      | <b>0</b>                         | <b>0</b>                                | <b>0</b>                         | <b>0</b>                  | <b>0</b>                     | <b>0</b>                         | <b>0</b>                        | <b>0</b>                             |
| <b>Estimated Reserves 31 March 2018</b>           | <b>0</b>                         | <b>(639)</b>                            | <b>(279)</b>                     | <b>0</b>                  | <b>(443)</b>                 | <b>(476)</b>                     | <b>(1,837)</b>                  | <b>(1,837)</b>                       |



**BIRMINGHAM CITY COUNCIL**

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

**15 NOVEMBER 2017**  
**ALL WARDS**

**PROPOSED STRATEGY FOR VENUES OPERATING  
AS SHISHA PREMISES IN BIRMINGHAM**

1. Summary

- 1.1 This report sets out a draft Strategy for your Committee's consideration regarding the multi-agency activities, including those carried out by Regulation and Enforcement, surrounding venues operating as Shisha premises and Shisha smoking in Birmingham.
- 1.2 This draft Strategy consolidates the approaches, led by officers of Regulation and Enforcement, in assisting Shisha premises to be compliant, safe, and have minimal impact on the wider community. The draft Strategy includes activities to inform consumers on the health risks associated with Shisha smoking.

2. Recommendations

- 2.1 Subject to any proposed amendments made by members of the Committee, officers are instructed to undertake a wider consultation with key stakeholders on the adoption of the attached draft Strategy. A public consultation will be then undertaken for a period of not less than 8 weeks.
- 2.2 Officers to present the outcome of the consultation at a future meeting of Committee, with their recommendations on a finalised Strategy for this Committee's approval.
- 2.3 That the Chair of Licensing and Public Protection Committee, writes to the Parliamentary Under Secretary of State for Public Health and Primary Care urging the Government to bring in a Licensing Regime for Shisha premises.

Contact Officer: Janet Bradley, Operations Manager Environmental Health  
Telephone: 0121 303 5435  
E-mail: [janet.bradley@birmingham.gov.uk](mailto:janet.bradley@birmingham.gov.uk)

### 3. Background

- 3.1 Tobacco smoking is still the biggest cause of preventable disease, death and contributor of health inequalities<sup>1</sup>. Tobacco shisha smoking is smoking, similar to tobacco cigarette smoking and, therefore, has the same potential health harms as tobacco cigarette smoking. This method of smoking is also called hookah, narghile, water pipe, or hubble bubble smoking – is a way of smoking tobacco, sometimes mixed with fruit or molasses sugar, through a bowl and hose or tube<sup>2</sup>. Electronic shisha is now available to consumers which are usually in the form of shisha pens or electronic shisha pipes. Electronic shisha is similar to electronic cigarettes in that tobacco is not burnt and vapour is the by-product, not smoke. This report is concerned with shisha tobacco smoking and, therefore, includes venues operating as shisha premises (or commonly known as lounges).
- 3.2 Your officers continue to be at the forefront of tackling issues surrounding shisha activities within Birmingham and nationally. A combination of interventions currently include: partnership working, business support, enforcement activities, collaborative research, raising awareness to consumers and maintaining the priority around shisha interventions assist in making Birmingham's work relevant, effective and shared at a Regional and National level. All intervention outcomes are aimed at assisting premises to be safe, compliant and have minimal impact in their neighbourhood.
- 3.3 There are many partners involved with this work within Birmingham namely; Public Health England, Planning, West Midlands Fire Authority, West Midlands Police, Trading Standards, Public Health and Licensing all coordinated and lead by Environmental Health.
- 3.4 The number of known Shisha operational premises within the City continues to rise (see Figure 1 below). There are 37 shisha businesses known to be currently trading in Birmingham located predominantly in the south east of the City in Digbeth, Sparkbrook, Selly Oak, Hall Green, Nechells and Ladywood Wards. A further 17 premises have been identified as potential Shisha lounges and are under investigation. These are mainly situated in the Lozells and East Handsworth and Aston Wards.
- 3.5 Despite the considerable multi-agency supporting actions and interventions to enable lawful trading of these premises, there continues to be high profile anti-social behaviour; criminal activity; non-compliance with the smoke free legislation; and fire regulations; together with a disproportionate resource demand from all agencies. All of the activity is to ensure customer safety and reduce impacts from associated activities on surrounding communities. This high demand demonstrates the inadequacies of current legislative framework surrounding Shisha premises i.e. no sole piece of legislation is effective in

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<sup>1</sup> Professor John Britton, Director, UK Centre for tobacco & alcohol studies, Uni of Nottingham; Tim Baxter, DH and Steve Brine MP .PHE Towards a smoke free Generation: Making it happen here conference. Birmingham November 2017

<sup>2</sup> <https://www.bhf.org.uk/heart-health/risk-factors/smoking/shisha>



controlling the impact of a poorly/inconsiderately operated premises with this no one agency takes the lead.

- 3.6 In addition, many Shisha premises in Birmingham are expanding their business offer and size to include licensable (e.g. public entertainment – DJ's, performers, music) and non-licensable activities (e.g. food/ restaurants; electronic shisha; street entertainment). In some cases this has a significant effect in the way the premises operate and trade leading them to be akin to nightclub status. This can lead to an adverse impact on the locality.
- 3.7 Dip sample research with university student's<sup>3</sup>, higher education students<sup>4</sup> and researchers<sup>5</sup> reveal that Shisha premises in Birmingham are becoming more mainstream, having a wider diversity of clientele then previously found frequenting them. Many young people (e.g.18 to 24 years) from around the region state that they travel to Birmingham to visit Shisha premises<sup>2</sup>.
- 3.8 Further, this insight reveals many young people continue to believe that Shisha tobacco smoking is less harmful than cigarette smoking (or do not understand that Shisha tobacco smoking is in fact smoking). In addition a number of students<sup>2</sup> state that they believed Shisha tobacco pipes to be the same as electronic Shisha pens due to the smell of the smoke/vapour given off being the same<sup>2</sup>. Such misunderstanding is anecdotally attributed in part to a lack of messages informing users of any negative health impacts in mainstream media, social media or other platforms. The draft Strategy includes a harm reduction campaign, which could be undertaken at a regional level, that provide messages to remind users of the potential harms Shisha tobacco can pose.
- 3.9 Birmingham Environmental Health was invited to Westminster City Council's Shisha symposium in February 2017 to present its experience of Shisha harm reduction campaign and enforcement interventions as well as report on the research undertaken in 2014 (detailed within Committee report February 2016).
- 3.10 This symposium found many other local authorities, namely Westminster, Brent and Ealing have very similar experiences to Birmingham in terms of legislative challenges, health observations, and anti-social behaviour type impacts. Multi-agency interventions undertaken in these local authorities were also similar. The numbers and types of premises and business offers differ in these areas, in that in general Birmingham now has the fourth highest number of premises in the UK after Westminster, Ealing and Brent Councils.
- 3.11 The aforementioned local authorities have each published Shisha strategy outlining the regulatory, business support and health interventions and outcomes each Local Authority is striving for.

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<sup>3</sup> University of Birmingham Medical Students research around attitudes towards shisha smoking, discussion February 2017

<sup>4</sup> Walsall College open day October 2017

<sup>5</sup> University of Birmingham Physics and Public Health research staff, discussion, February 2017

- 3.12 The recently published tobacco control plan for England – Towards a Smoke free Generation (published 18/07/17) does not offer any additional legislation nor interventions that would reduce the impact Shisha is having on health and communities, particularly relating to young adults.

#### 4. Current Legislative Provisions for Shisha Venues

- 4.1 Shisha premises are businesses that have to comply with legislation like any other business. There is no legal requirement for the business or the operators to be authorised, licensed or registered to open and operate as a shisha premises. There is no legal requirement for shisha businesses to inform the Local Authority that they are trading other than to gain planning permission and if they serve food and/or drinks to register as a food business with Environmental Health.
- 4.2 Smoking is the main activity within shisha venues. The majority of venues known to agencies currently offer tobacco shisha to customers and therefore there is responsibilities of the operators to comply with tobacco and smoke free related legislation. Trading Standards focus on tobacco containing products illegally sold to persons under 18 years old and the steps take to comply with this such as a refusal register and correct labelling of products. In the past there have been claims that underage sales of shisha take place in lounges, however, test purchasing using children has not been explored due to the risk of exposure to the children from tobacco smoke. There appears to be no other Local Authority that has gone down this route.
- 4.3 The Smoke Free Legislation (the Health Act 2006 and related Regulations) was enacted in 2007 to protect workers and the public from second hand smoke. It is an offence to smoke in “enclosed premises” or “substantially enclosed” premises and was drafted and enacted prior to the rise in Shisha premises in the UK. To be deemed a smoking shelter or open to the air 50% of the area must be open. The 50% rule<sup>6</sup> applying to the ‘openness’ of the premises is often frustrated by the interpretation of this provision especially where the open part of the structure is close to a solid structure such as a wall.
- 4.4 The maximum fine for offences under the Smoke free legislation are £2,500 per offence, which in comparison to the income received by premises is not significant and, therefore, this legislation does not act as a deterrent.

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<sup>6</sup> Under Smoke free (Premises & Enforcement) Regulations 2006 nearly all public places and work places that are enclosed or substantially enclosed must be smoke free. The definition of “Enclosed and substantially enclosed” premises:

(1) Premises are enclosed if they (a) have a ceiling or roof; and (b) except for doors, windows and passageways, are wholly enclosed either permanently or temporarily.

(2) premises are substantially enclosed if they have a ceiling or roof but there is—

(a) an opening in the walls; or (b) an aggregate area of openings in the walls, which is less than half of the area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premises.

- 4.5 Many of the activities associated with Shisha premises are deemed as 'high risk' with regards to smoking; potential carbon monoxide levels and potential infection control issues from sharing pipes; potential for underage sales and concerns around means of escape in the event of a fire (due to the numbers of ignition sources). Often these high risks cause the public and many agencies to believe there are closure powers available to close shisha premises. This is not the case as the Health Act 2006 does not contain powers to close down or prohibit shisha premises. The Fire Authority has powers to prohibit premises under the Regulatory Reform (Fire Safety) Order 2005 around lack of provision for means of escape. These powers have been used on a number of occasions in Birmingham's Shisha premises, though once the works required under this legislation have been carried out the premises are allowed to reopen.
- 4.6 A number of Shisha premises have Premises Licences for Late Night Refreshment (under the Licensing Act 2003) for the sale of hot food and hot drinks between the hours of 11pm and 5am, however, these do not impose any requirements or conditions (unless volunteered by the applicant at the time of their application) and neither does this change the opening hours of the business from what is stipulated within their planning permission. To date none of the premises have a licence for the sale of alcohol which would impose other conditions on the business and require the Police to be consulted when considering such a licence.
- 4.7 During 2016/2017 there were only 2 planning applications both for the same premises and both eventually withdrawn, this is despite 22 further premises being found in the last 6 months. Since 2011 all planning applications relating to Shisha premises are referred to Environmental Health to ensure the premises comply at the planning application stage, with the Health Act 2006 and the Environmental Protection Act 1990 with regard to the impact on the amenity of local residents such as noise from activities associated with the premises.
- 4.8 Planning only allows planning permission to be given when a Shisha premises can demonstrate compliance with the Smokefree legislation. However, of late, Environmental Health officers have found that new developments have not adhered to the original approved planning application plans, particularly in relation to the internal design which is crucial in order to comply with the smokefree legislation. These have been referred to the Planning Enforcement Team. Planning legislation does not allow planning applications to be rejected on the basis of being a risk to public health. Environmental Health has a close working relationship with Planning and Planning Enforcement on these issues.
- 4.9 Your officers are working with other local authorities, and there is a consensus it is considered that the best option for effectively dealing with shisha premises to ensure compliance is to introduce a licensing scheme which would consolidate interventions to reduce the current issues and impacts apparent with many of the venues. It is envisaged that such a scheme has

the potential to assist premises with compliance and reducing impacts as all the requirements would be under one regime rather than several. Provisions could be made to have enhanced controls to ensure safety of consumers and employees; ensure minimal impact on local areas and legislate a preventative role in reducing uptake of smoking in the under 18 year olds.

- 4.10 The City Council has written to the Minister for Health on three occasions asking the Government to bring in a Licensing Regime to provide better control of shisha premises, as have other local authorities, but to date, this has not been accepted.

## 5. The Draft Strategy

- 5.1 In response to issues outlined, a draft Shisha strategy has been prepared, as in the attached appendix, which consolidates current actions and interventions by the city's agencies whose legislation shisha premises must comply with. Further it advises on potential addition interventions in the future for consideration.
- 5.2 The overriding outcome of this draft strategy is for venues operating as shisha premises to be safe, compliant, have minimal impact on the wider community, that they do not encourage under 18 year old uptake and use, and that shisha users have the facts surrounding the potential harmful effects of shisha tobacco smoking to make informed choices on their activity.
- 5.3 The aim of drafting this strategy is for all agencies involved with shisha premises to:
- a) review the current position and reassess their operational, systematic and legislative interventions currently undertaken within and between agencies to;
  - b) whether or not the position or interventions are assisting in achieving the objectives and outcomes within the strategy;
  - c) whether or not additional or alternative interventions should be considered such as a new consolidative legislation regime and lastly;
  - d) If this approach could and should be applied within the region.
- 5.4 Birmingham currently has the greatest number of premises within the region, however, businesses are now being found in Walsall, Wolverhampton and Sandwell. This draft strategy goes some way to ensure there is a consistent approach to businesses within the West Midlands region.
- 5.5 The Lead agencies identified in 3.3 have contributed to the strategy and are sighted on it.

## 6. Consultation

- 6.1 As part of the formal consultation exercise, this report will be referred to the Cabinet Member for Health and Wellbeing; the Chair of the Planning

Committee; Birmingham Public Health, Public Health England, West Midlands Fire Authority and West Midlands Police.

6.2 This report is to be referred to the Association of Directors of Public Health (APDH) West Midlands Network and Environmental Health Chief Officers for West Midlands to consider adoption of this strategy on a regional basis.

6.3 A public consultation on the final draft will occur for an eight week period. If required a full equality assessment will also be drawn up.

## 7. Implications for Resources

7.1 The work identified in the report was undertaken within the resources available to your Committee. The current interventions detailed within the draft strategy, undertaken by officers of Regulation and Enforcement, are currently undertaken within the same resource. Further resource for any potential regional work will be considered through funding outside of this committee.

7.2 Any enforcement actions taken in relation to Shisha are subject to the considerations in Regulation and Enforcements enforcement policy.

## 8. Implications for Policy Priorities

8.1 The work identified in the report contributes to the “succeed economically” strategic outcome, ensuring that all traders conduct their business in a fair and equitable trading environment.

8.2 The work particularly addresses the Council plan priority “To tackle inequality and deprivation, promote social cohesion across all communities in Birmingham and ensure dignity, in particular for our elderly and safeguarding for children”. The work further addresses the Council plan priority “Creating a healthier environment For Birmingham”.

## 9. Public Sector Equality Duty

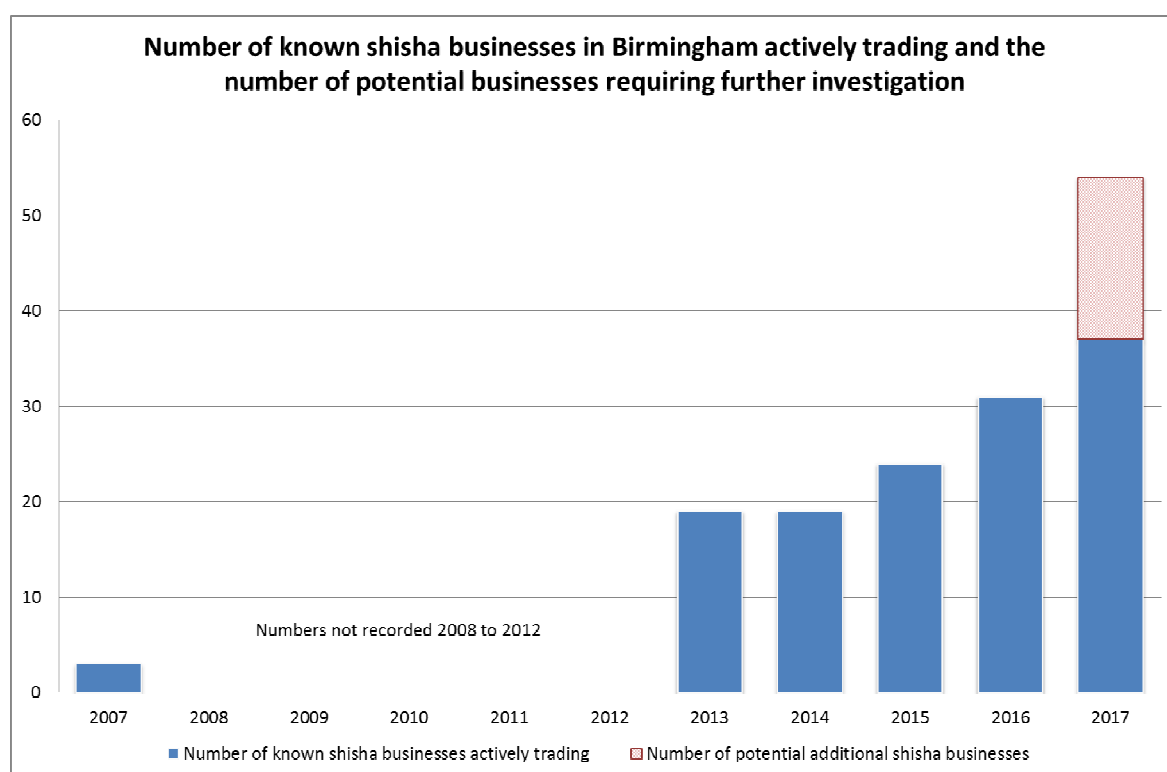
9.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Licensing and Public Protection Committee which ensures that equality issues have been addressed.

## **ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

### Background Papers:

1. Towards a Smoke free Generation. A Tobacco Control Plan for England. July 2017 Department of Health  
<https://www.gov.uk/government/publications/towards-a-smoke-free-generation-tobacco-control-plan-for-england>

Figure 1



|  |  | OUTCOMES   | ACTIONS   | MEASURE   | TARGET   |
|--|--|--|---|---|--|
| <b>A. Regulating shisha activity for compliant and fair trading businesses</b> | -Striving for well run, safe and fair trading shisha businesses. Achieved through business support and regulator activities. Fair trading businesses are those which are legislatively responsible and do not ignore their duties or responsibilities. | <b>Shisha businesses operate compliantly, safely, responsibly and are well managed –</b> | <ul style="list-style-type: none"> <li>• <b>Early intervention-</b> Advise shisha owners of compliance duties (with specific legislation) on initial advice calls, planning applications and initial visits.</li> <li>• All shisha premises requesting planning permission and licenses from BCC will receive business support information</li> </ul>   | all new shisha premises or new owners are provided with business advice and a business compliance visits (BCC & WM Fire)  | Measure achieved within 2 months of becoming aware of premises   |
|  |  | Prevention interventions; engagement and business support                                | <ul style="list-style-type: none"> <li>• <b>Shisha businesses support packs</b> that provide information and advice on the legislative framework shisha business owners must adhere to</li> <li>• Packs provided to all known shisha premises within Birmingham annually</li> <li>• Business packs annually reviewed and refreshed; standardised information across the West Midlands.</li> </ul>   | Business packs made available on the BCC and agency websites<br>Business packs annually refreshed<br>Business packs provided to known businesses.   | Measure achieved   |
|  |  |  | <ul style="list-style-type: none"> <li>• <b>Working with shisha business</b> on unsafe activities to produce bespoke activity guidance: infection control; safe handling of lighting, use and disposal of charcoal; use of heating equipment indoor and outdoor, and under 18 restrictions on sale of tobacco and health information provision surrounding tobacco sales.</li> </ul>  | Business guidance produced and distributed on specific activities within shisha premises  | Measure achieved   |
|  |  |  | <ul style="list-style-type: none"> <li>• <b>Establish links with business partnerships</b> to reinforce compliance and safety messages to businesses;</li> <li>• explore communication mechanisms to enhance distribution of support materials</li> </ul>   | Links established with businesses<br>Determine appropriate communication platforms  | Measure achieved   |
|  |  | regulatory interventions   | <ul style="list-style-type: none"> <li>• <b>Develop a risk rating scheme</b> of all known shisha premises - high/ low risk, compliant/ non-compliant with Fire safety; Smoke free; planning; licensing; tobacco regulations; health and safety; food safety; waste; litter; measures to reduce anti-social behaviour, supply to under 18yr olds and compliance with businesses rates</li> <li>• Include inspection regimes. Where possible, premises to be inspected with all relevant legislation</li> </ul> | risk rating of premises with partners   | 100% of all known premises risk rated and visited relative to risk   |
|  |  |  | <ul style="list-style-type: none"> <li>• All agencies in contact with, or have services concerned with shisha premises understand the legal framework that premises should operate within to reduce business competitive advantage through illegal activity or operation and ensure safety.</li> </ul>  | Legal Framework refreshed, published and agreed by all partners (within Shisha Operations group)  | Measure achieved   |
|  |  |  | <ul style="list-style-type: none"> <li>• <b>shisha premises count</b> undertaken annually and database refreshed</li> </ul>   | undertaken annually on a specified date by Shisha Operations group  | Measure achieved   |
|  |  |  | <ul style="list-style-type: none"> <li>• Business compliance visits undertaken by Environmental Health; Planning; Licensing; Trading Standards; West Midlands Fire Authority; West Midlands Police (depending on situation/ complaint/ issue). HMRC/Immigration involved – intel based</li> <li>• Targeted enforcement action on the most problematic premises/ non-compliant businesses</li> </ul>   | all known risk rated high premises have at least a bi-yearly inspection by all agencies (where required), premises inspection rate determined by risk rating;<br>all complaints received investigated;<br>Appropriate enforcement interventions undertaken to be concluded. | 100% of rolling programme have a yearly compliance inspection;<br>100% of all complaints investigated;<br>all enforcement action undertaken has an outcome |

| OUTCOMES  |  | ACTIONS  | MEASURE   | TARGET   |                   |
|---|--|--|---|--|-------------------|
| B. Well Managed business that minimise impacts- | Dealing with problems and impacts - no business should adversely impact or be a danger to its customers; employees and local communities; Safe, compliant premises with minimal community impact | <b>The prevention of crime and disorder</b><br>(Protecting the amenity of neighbourhoods) and reducing impacts | <ul style="list-style-type: none"><li>Ensure all active shisha premises are inspected with regard to the legislative framework on a bi-annual basis.</li><li>Provision of business support information to assist in the prevention of crime and disorder</li><li>Where applicable, ensure that the Premises License Statement demonstrates how the premises will uphold this objective</li><li>In the case of specific issues arising, the relevant authority to take the lead on the issue</li></ul>   | <ul style="list-style-type: none"><li>Information provided to shisha premises on a variety of measures that will assist to reduce impacts to persons, communities, users and the public</li><li>Where premises apply for a premises license- should the information not be apparent on the Premises license statement to demonstrate how the premises will uphold the licensing objective then the premises will be contacted by the appropriate Responsible Authority.</li><li>Define the hygiene standard (legislative and voluntary)for shisha premises</li><li>Production of a social responsibility scheme around young people for shisha premises in collaboration with businesses</li></ul> | Measures achieved |
|   |  | <b>Public Safety</b> (safe customers, employees and visitors) and heath related harms                          | <ul style="list-style-type: none"><li>Appropriate regulatory, enforcement and advice interventions undertaken with regard to the regulators enforcement policy around infectious disease; tobacco product labelling; indoor air quality; supply of tobacco to young people (verification schemes and Proxy supply reduction)Fire Safety; adequate level of natural ventilation and carbon monoxide.</li><li>Where applicable, ensure that the Premises License statement demonstrates how the premises will uphold this objective.</li><li>Define hygiene standards (legislative and voluntary) to protect from disease transmission</li></ul>  |  |                   |
|   |  | <b>The prevention of public nuisances</b>  | <ul style="list-style-type: none"><li>Provide information to businesses on how to reduce external noise, litter, waste, gatherings of people (late night/ early morning) and vehicle impacts from parking and car cruising, noise, waste, ASB activities, car related ASB that effect neighbourhoods and residents.</li><li>Where applicable, ensure that the Premises License statement demonstrates how the premises will uphold this objective</li></ul>   |  |                   |
|   |  | <b>Protection of children from harm</b>  | <ul style="list-style-type: none"><li>Ensure age of sale restrictions are understood by businesses, public and partners and effective mechanisms in place at all shisha premises to restrict underage sales (age verification schemes). Working towards shisha premises being only for over 18 years admittance.</li><li>Where applicable, ensure that the Premises License statement demonstrates how the premises will uphold this objective.</li><li>Work with agencies and businesses to produce a social responsibility scheme for shisha businesses around young people including safeguarding.</li></ul>   |  |                   |
|   |  |  | <ul style="list-style-type: none"><li>Agency compliance visits to premises and responding to complaints.</li><li>Provision of safeguarding information and advice to premises (where applicable) and with relevant partners. (similar to those adopted by licensed premises).</li></ul>   | Safeguarding information provided and distributed to premises  | Measures achieved |
|   |  | <b>Resource, systems, governance</b>   | <ul style="list-style-type: none"><li>Ensure effective partnership working between partners; agencies; services; other local authorities and regulators; government and non-government agencies to ensure awareness of shisha as a business sector; appropriate information provided to businesses and interventions to assist in the outcome of minimising impacting activities..</li><li>Quarterly operations meeting; joint inspections with agencies to reduce burden on businesses</li><li>Sharing intelligence- MOU's (e.g. with non-regulators) and data sharing agreements in place between regulators.</li><li>Ensure there is an effective recording and response complaint system available, and advertised for users, employees and the public to voice issues and concerns to regulators and agencies regarding shisha activities (not necessary a bespoke system)</li></ul> | <ul style="list-style-type: none"><li>Complainants provided with information on which agencies will respond to which concerns and complaints.</li><li>Ensure an effective response mechanism to complaints, incidents and concerns;</li><li>Ensure wider agencies are aware of shisha businesses so they can report on potentially new premises;</li><li>Yearly report to LPPC and Cabinet Member for Health and Well-being; ADPH Regional group</li></ul>   |                   |



| OUTCOMES   |  |  | ACTIONS  | MEASURE  | TARGET            |
|--|--|--|--|--|-------------------|
| C. Promotion of shisha use<br>harm reduction messages for shisha users | Studies show that many shisha smokers are unaware of its health impacts, with many wrongly considering shisha smoking to be a healthier alternative to other tobacco smoking | Using education and awareness raising, providing harm reduction messages for users to enable informed choice, and potentially reducing uptake (This is not seeking to prohibit shisha smoking, but strive to enable shisha users to take informed responsible decisions about shisha smoking.) | <ul style="list-style-type: none"><li>• <b>Promoting healthier lifestyle messages</b> around safer usage of shisha, messages informing of the potential harm of smoking shisha.</li><li>• This work will be undertaken by the West midlands Regional Tobacco Control alliance shisha subgroup (a subgroup of the Regional Tobacco Control Network). Messages will respect cultural aspects of the activity.</li><li>• Raising awareness that shisha is smoking with businesses, employees; users; the public and organisations which interact with smokers and young people and promoting responsible choices</li></ul>  |  | Measures achieved |
|  |  |  | <ul style="list-style-type: none"><li>• Enable and advocate that places/ events which attract or provide services for children or young people, do not actively promote shisha smoking (e.g. fresher's at universities)</li><li>• Minimising harm through partner policies of harm reduction messages and reducing promotion, glamorisation and normalisation of smoking, including shisha smoking, especially around young people</li><li>• Ensuring the location, advertisement and activates surrounding shisha businesses do not provide an incentive to young people to try, uptake or purchase shisha, i.e. opening times; proximity to child centric places and premises and advertising smoking not prominent where children will be present</li></ul> | Planning Department<br>Events<br>working with educational establishments                               |                   |
|  |  |  | <ul style="list-style-type: none"><li>• Raising awareness with health care workers to increase knowledge of shisha smoking activity. Enabling access to advice on shisha smoking cessation</li></ul>   | Working with dentists; health care workers; midwives and GP's to raise awareness around shisha smoking |                   |
| D. Assisting the evidence  | Contributing to the evidential base for practice, behaviours and environment   |  | <ul style="list-style-type: none"><li>• Working with, and assisting research partners to further the UK evidential base around the shisha activity.</li><li>• Assistance with local universities to further research opportunities to establish best practice, particularly around heath impact and usage.</li></ul>   | No measure as availability of research opportunities is determined by the research institute           |                   |

| OUTCOMES   | ACTIONS   |   | MEASURE   | TARGET  |
|--|---|---|---|---|
| <b>E. Advocating for future legislative interventions that will further ensure compliant, safe premises and enable reductions in health and community impacts.</b> | Exploration of systems; legislative frameworks or policy that incentivise, further regulates and educates around shisha activities (sales and smoking activity) to reduce harms and impacts | Partnerships and collaborations to develop strategies, systems and networks for better regulation, improving management and reducing risks and impacts around shisha activity   | produce an options paper for discussion<br>produce a paper of evidence of existing challenges | Possible new interventions:<br>1. A new legislation framework;<br>2. Enhance current Smoke free legislation;<br>3. Changing council policy around the Local Government Declaration on Tobacco Control Authorities |
|  |   | Further partnerships and interested partners to advocate for stronger and clearer legislative frameworks that address the health, safety and environmental impacts associated with shisha premises activity and no under 18yrs admittance |   |   |
|  |   | Partners and agencies to provide evidence for action  |   |   |
|  |   | Using the political environment and process to enhance action   |   |   |

**BIRMINGHAM CITY COUNCIL**

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

**15 NOVEMBER 2017**  
**ALL WARDS**

**UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS**

1. Summary

- 1.1 This report provides Committee with an update on work being undertaken to improve the response to unauthorised encampments in the city since the last report on the 12 July 2017.

2. Recommendations

- 2.1 That the report is noted and outstanding minute number 882(ii) be discharged.
- 2.2 That Committee agree to a further report be brought in 3 months to update on the various work items contained within this report.

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E-mail: [mark.croxford@birmingham.gov.uk](mailto:mark.croxford@birmingham.gov.uk)

### 3. Background

- 3.1 This report is an update on activities since July's Licensing and Public Protection Committee.
- 3.2 An unauthorised encampment is one which is established on land without the express permission of the landowner. The groups responsible generally comprise elements of Gypsy, Romany, Traveller or other ethnic groupings and are collectively known colloquially as "travellers" or more correctly GRT.

### 4. Update on the Provision of a Transit Site

- 4.1 Committee is aware that the Bromford Green Recycling Centre was being considered as a possible transit site. Advice from planning colleagues is that this cannot be pursued as the Birmingham Development Plan (BDP) includes a projection of GRT housing needs for the city. This assessment includes a projection for Gypsy Romany Travellers who are likely to come to the city.
- 4.2 The BDP identifies Proctor Street car park and the extension to Aston Brook Street North permanent site as being sufficient to meet the need. As such until these two sites are brought into operation it would be contrary to planning policy to consider alternative sites unless a new housing needs assessment were carried out.
- 4.3 The focus of the working group will now turn to bring the identified sites into operation. In addition the group has requested Development to reconsider the needs assessment.

### 5. Injunctive Action

- 5.1 Further to the verbal updates in July and September, committee is aware that there are now a number of injunctions aimed at reducing the effects of unauthorised encampments. As a formal written record the two injunctions operate until the 27 June 2019 and cover the following parks:
  - i. Alexander Stadium and Perry Park.
  - ii. Selly Oak Park, Selly Park Recreation Ground and Hazelwell Park.
- 5.2 As of the 27 September 2017, a successful application was made to the County Court to vary the second of the above two injunctions. Swanshurst Park in Billesley is now also covered by the terms of the injunction and a copy of this is in the attached appendix. A Power of Arrest was also granted; therefore, anyone setting up an encampment with a purpose to reside in any of the 5 parks could be arrested and taken before the court.
- 5.3 In August the High Court Sheriff, acting as our agent, was assaulted when recovering land occupied by an unauthorised encampment. Accordingly prompt action was taken to obtain an interim injunction, now a full injunction prohibiting Mr. John Connors from assaulting; verbally abusing; or encouraging others to abuse or

assault; any council officer, their agent or Police Officer. Strong action will continue to be taken against individuals if behaviours warrant such interventions.

## 6. Briefings

- 6.1 On the 7<sup>th</sup> September two Member's Briefing sessions were held in the Council House to advise members on all aspects of unauthorised encampments. The sessions covered the wider powers available to the council and the Police; the necessity to undertake welfare assessments; and the duties placed on the Local Authority. The feedback from the members who attended was very positive.

## 7. Cabinet Member Summit

- 7.1 On the 2<sup>nd</sup> of October Cllr Trickett, the Cabinet Member for Clean Streets, Recycling and Environment, held a summit on unauthorised encampments to engage with Members of Parliament. In attendance were Richard Burden MP, Steve McCabe MP, The Chair and Deputy Chair of Licensing and Public Protection Committee, the Police and Crime Commissioners Office and the Cabinet Member.

- 7.2 Both MPs requested some comments for the Parliamentary debate on the 9<sup>th</sup> October. We suggested that:

- i. the duty for LA's to have a transit site should be better defined;
- ii. a change in the law to allow for regional transit sites to maximize efficiencies of such developments;
- iii. that the welfare needs duty be better defined and that the "need" should be positively evidenced, not "just claimed";
- iv. that there should be an updated and one process for eviction for all authorities to give a consistent approach across the country;
- v. that an obstruction offence was consider as part of this updated process;
- vi. that a fee should be chargeable for all unauthorised and tolerated stopping whether or not the land was designated for camping to enable repairs or facilities to be provided.

- 7.3 The Cabinet Member and the meeting as a whole considered a strategic solution with sufficient spaces on a transit site would be the best option to follow and to this end a joint EMT report has been requested by the Cabinet Member from Place (Housing and Environmental Health) and Development Directorate. This is planned for the December meeting.

## 8. Consultation

- 8.1 The report is for information and, therefore, no consultation has been undertaken.
- 8.2 Information continues to be made available to MPs and elected members to seek support in reducing the impact on communities that unauthorised encampments have and to reduce the burden on land owning departments.

9. Implications for Resources

- 9.1 Regulation and Enforcement are responsible for the assessments leading up to legal action, the service of notices and arrangement of resources for an eviction to occur. The default costs (bailiff actions), the repair of land its cleansing is borne by the land owning departments. The Environmental Health resources employed in carrying out the work detailed in this report are contained within the approved budget available to your Committee.

10. Implications for Policy Priorities

- 10.1 The protocol contributes to fulfilling the Council's vision (Vision 2020) set out in the *Council Business Plan for 2016*, specifically to provide 'thriving local communities' and to work towards delivering 'a healthy, happy city'.
- 10.2 The work also 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'.

11. Public Sector Equality Duty

- 11.1 The management of unauthorised encampments is a process that affects groups and individuals who are (mostly) from specific and defined ethnic minorities e.g. Romany Gypsies, Irish Travelers.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil

**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**BIRMINGHAM DISTRICT REGISTRY**

**In the matter of an application for an injunction under s.1, Localism Act 2011, s.222, Local Government Act 1972, s.130 of the Highways Act 1980 and s.187B Town and Country Planning Act 1990.**

**B E T W E E N**

**BIRMINGHAM CITY COUNCIL**

**and**

**PERSONS UNKNOWN**

**Defendants**

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**INJUNCTION ORDER**

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**PENAL NOTICE**

**IF YOU DO NOT OBEY THIS ORDER YOU WILL BE GUILTY OF CONTEMPT OF COURT AND YOU MAY BE SENT TO PRISON, FINED OR HAVE YOUR ASSETS SEIZED.**

On 27<sup>th</sup> September 2017, before His Honour Judge McKenna, sitting at the High Court of Justice, Birmingham District Registry, Priority Courts, 33 Bull Street, Birmingham, B4 6DS, the Court considered an application to vary the Final Injunction ordered by The Honourable Mr Justice Morris on the 14 July 2017.

Upon hearing the claim for a Final Injunction without notice to the Defendants.

AND UPON considering an application to vary the Final Injunction Order granted on the 14 July 2017 before The Honourable Mr Justice Morris.



AND UPON the hearing of the claim to vary the Final Injunction, without notice to the Defendants.

AND UPON considering the Witness Statement of Mark Croxford dated 8 September 2017, Witness Statement of Police Sergeant Trevor Mehaffy dated 5 September 2017, Witness Statement of Mike Hinton dated 12<sup>th</sup> September 2017, Witness Statement of Fire Officer Andrew Young dated 6 September 2017, Witness Statement of Parveen Nar and Witness Statements of one local resident.

**IT IS ORDERED THAT**

1. All persons are forbidden to enter or remain on any part of the land which is coloured in red on the plan attached to this Order at Schedule 1, situated at and known as:
  - (i) Selly Oak Park;
  - (ii) Selly Park Recreation Ground;
  - (iii) Hazelwell Park; and
  - (iv) Swanshurst Park.for the purpose of establishing, joining or being part of an encampment on that land.
2. All persons are also forbidden to promote, organise or publicise in any manner, the existence of, or the intention to establish, an encampment on any part of the land referred to at paragraph 1 of this Order.
3. All persons who are part of any encampment referred to at paragraph 1 above are also forbidden to perform any the following acts on any part of the land the boundaries of which are marked in blue on the map attached to this Order at Schedule 2:
  - (i) threatening, abusing or distressing any other person (including by permitting animals for which they are responsible to do so);
  - (ii) urinating or defecating other than in a lavatory provided for the purpose;
  - (iii) allowing any animal for which they are responsible to defecate without properly disposing of the faeces;
  - (iv) fly-tipping;
  - (v) dropping litter



(vi) damaging any property belonging to the claimant or to any other person (including, but not limited to trees and plants).

4. “Encampment” has the meaning set out at Schedule 3 to this Order.
5. A power of arrest, pursuant to s.27 Police and Justice Act 2006 shall apply to paragraphs 1 and 3 above.
6. Any person served with a copy of this Order may apply to the Court to vary or discharge it, on 48 hours written notice to the Claimant.
7. The Claimant shall be permitted to serve the Claim Form, this Order and the said power of arrest by the alternative methods specified at Schedule 4 to this Order.
8. This Order shall remain in force until midnight on 14 July 2019.
9. The time for serving the Claimant’s Claim Form shall be extended, pursuant to CPR Rule 7.6 until 14 July, 2019.

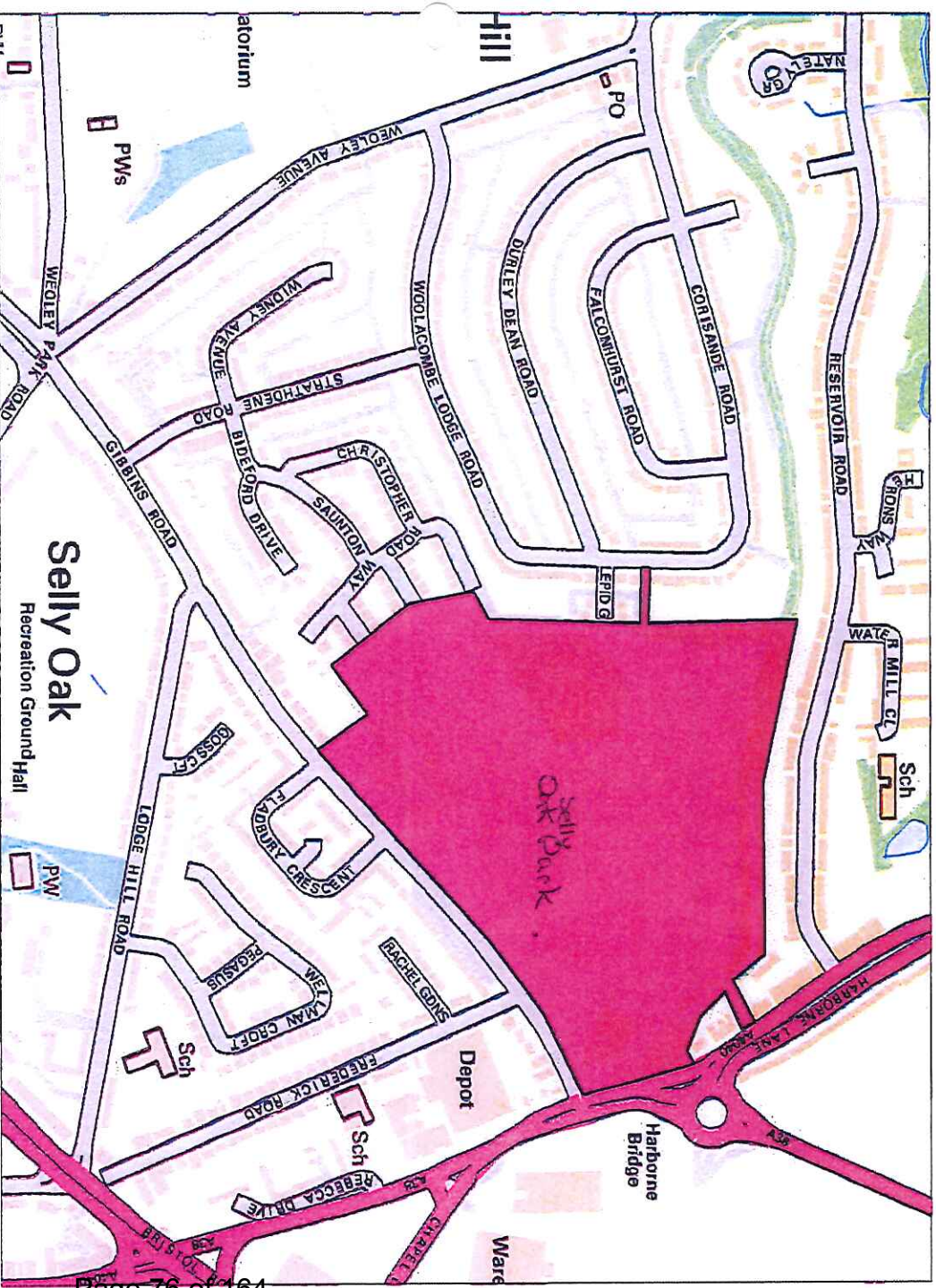
**If you do not fully understand this Order you should go to a solicitor, Legal Advice Centre or Citizens’ Advice Bureau.**

[MAP]

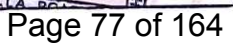
**SCHEDULE 1**

**SCHEDULE 1**

# Selly Oak Park



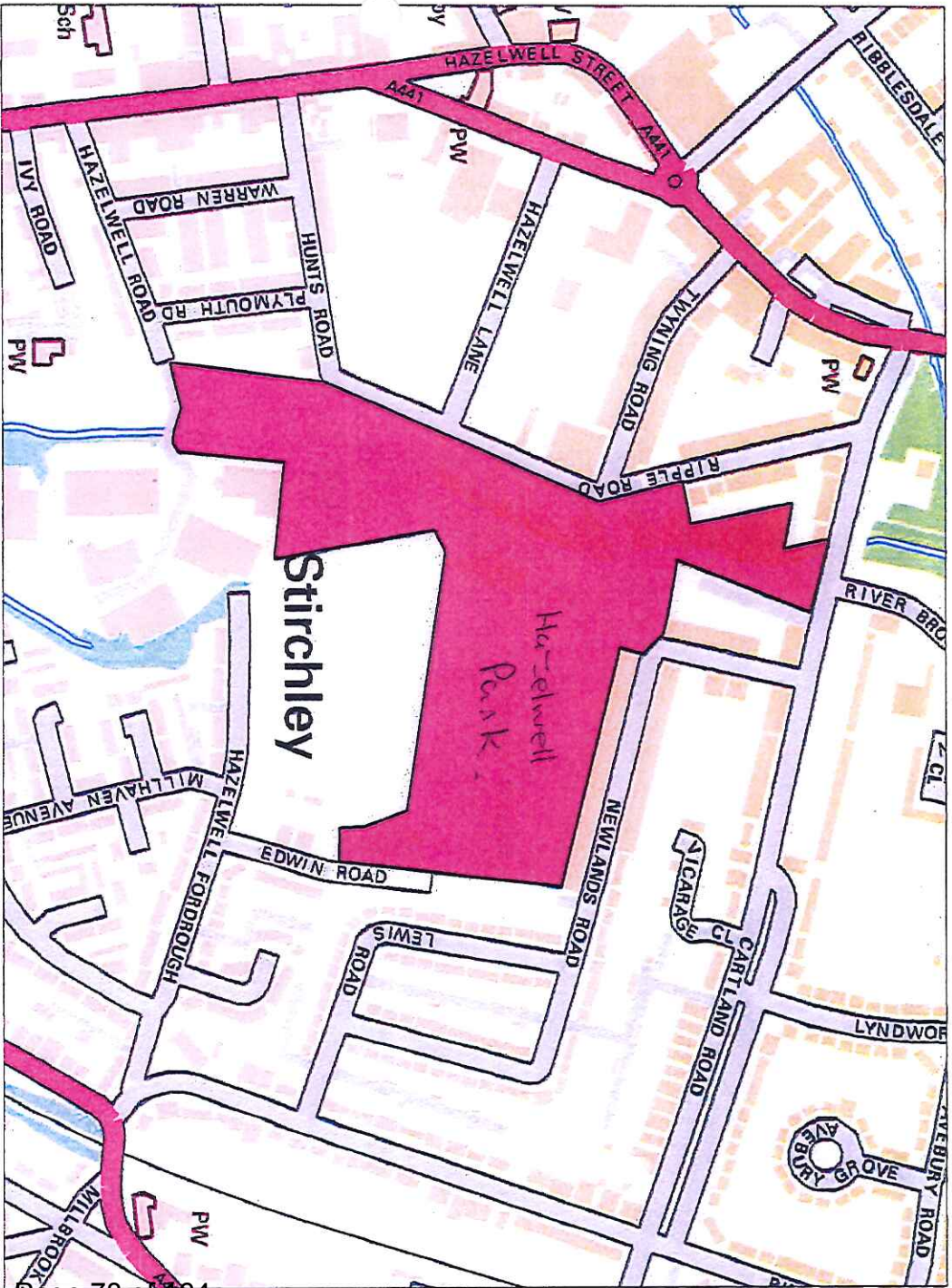






schedule 1

# Hazelwell Park





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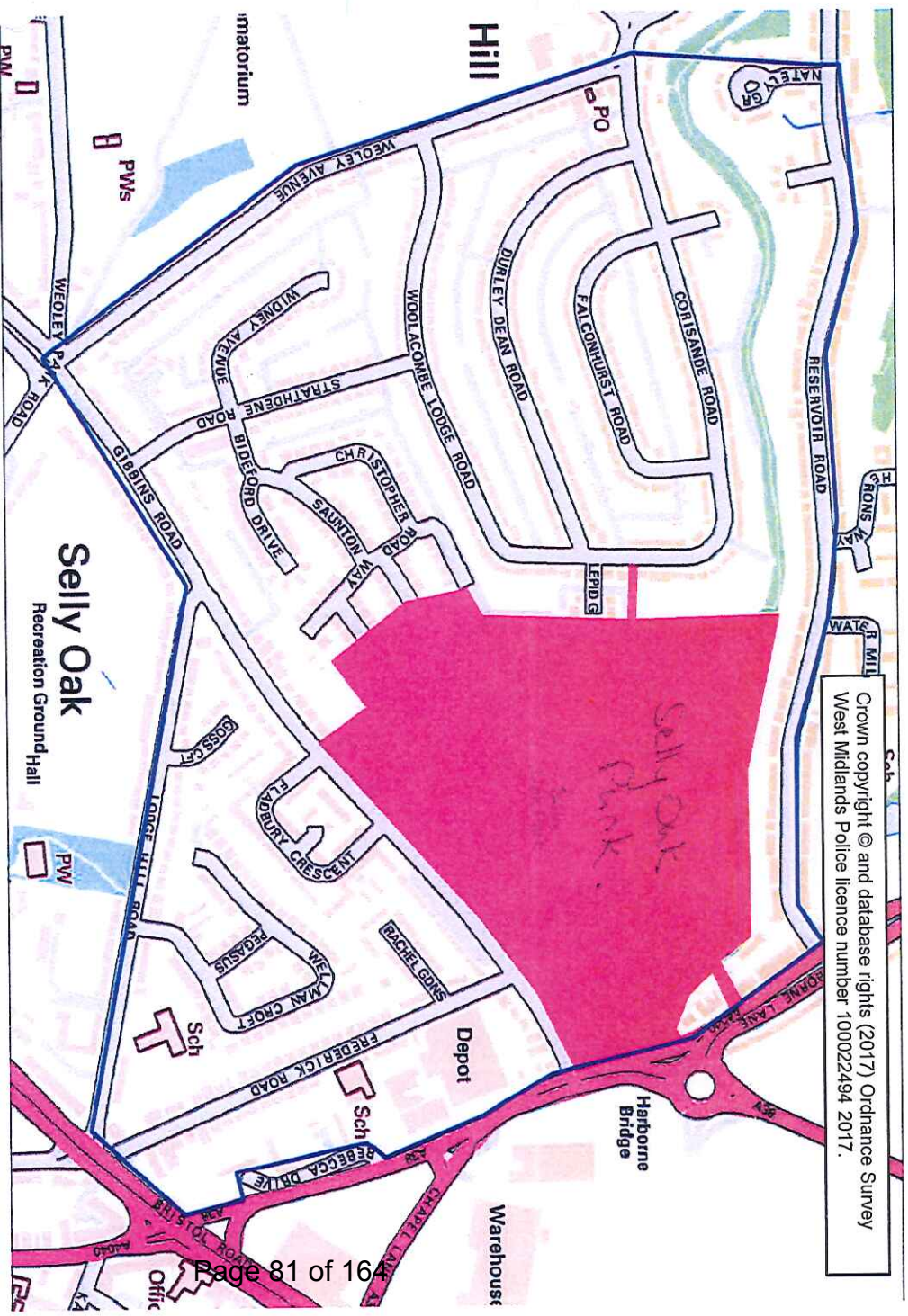


[MAP]

**SCHEDULE 2**

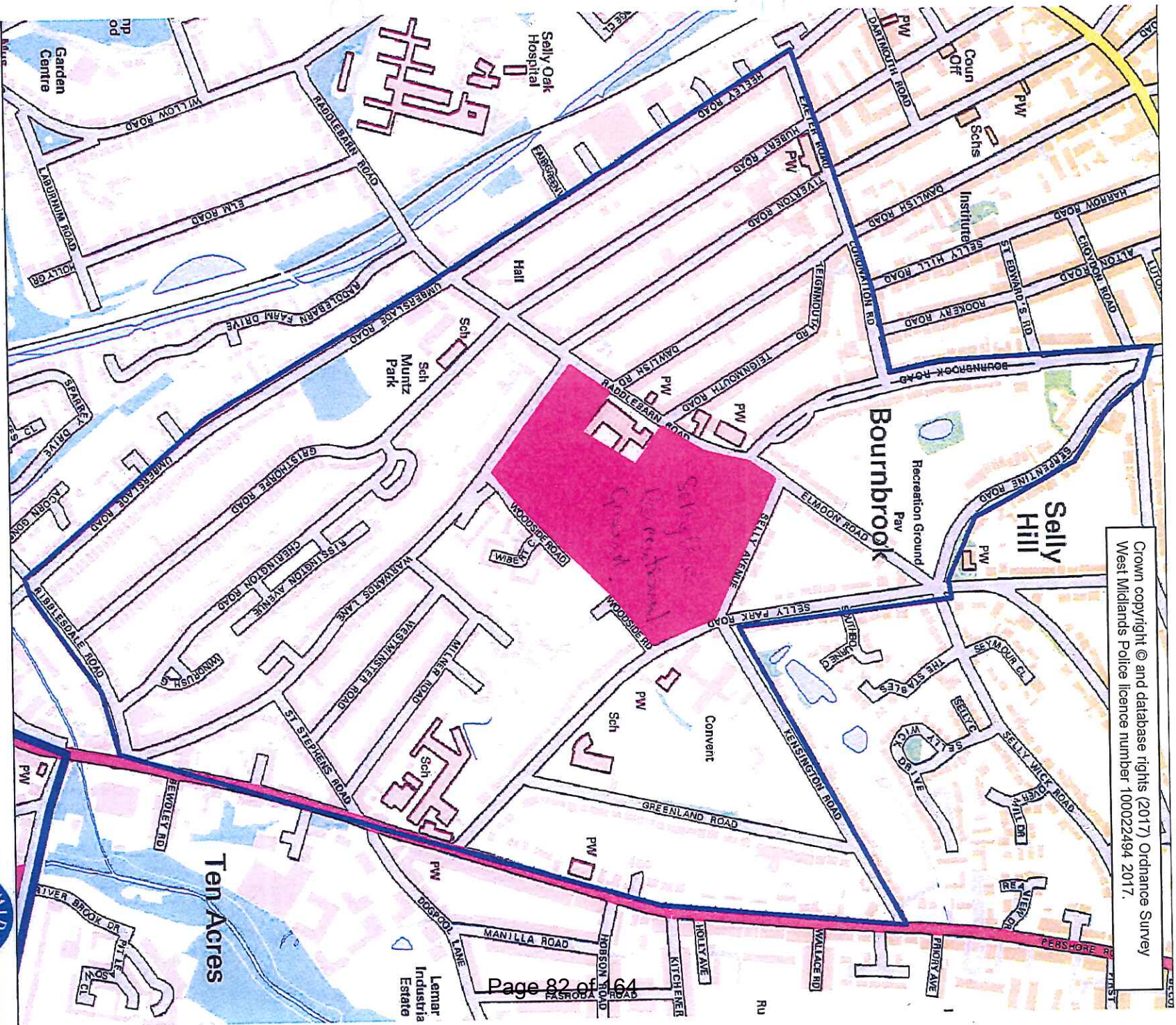


## Selly Oak Park





# Selly Park Recreational Ground

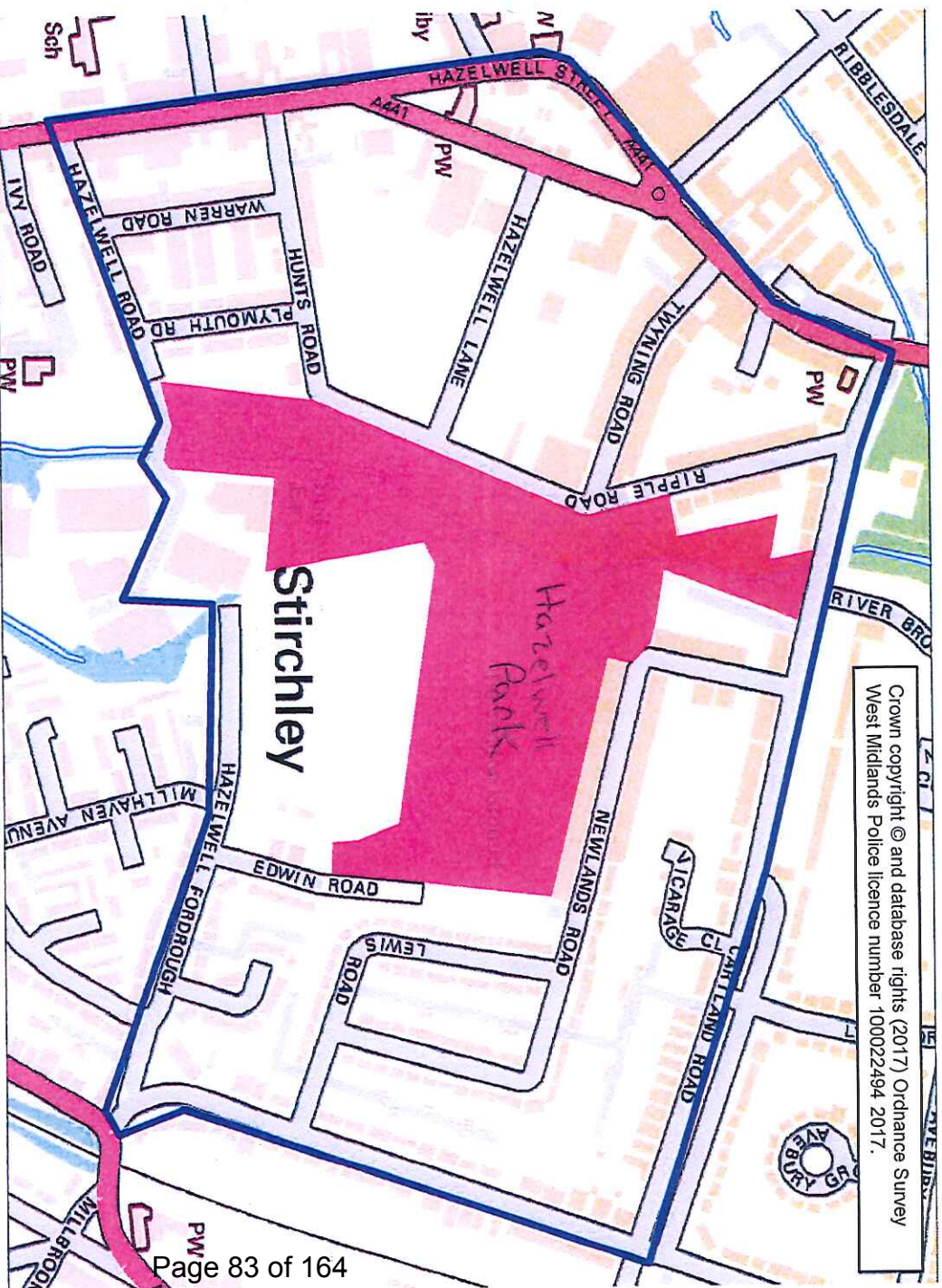




Schedule 2.

Restricted

## Hazelwell Park







### **SCHEDULE 3**

#### ***“Encampment”***

1. “Encampment” means one or more household, using or occupying land, whether temporarily or otherwise, for residential purposes, including by occupying or stationing on the land any caravan, mobile home, other vehicle or structure, or any item or thing ancillary to such use or occupation including (but not limited to) electricity generators, motor-cycles, quad bikes or livestock.

#### **SCHEDULE 4**

1. Service of this Order shall be effected by
  - (i) placing signs informing people of this the Order and the area in which it has effect in prominent locations throughout the Claimant's local government area and particularly in the locations referred to at paragraph 20 of the Particulars of Claim herein,
  - (ii) placing a public notice or advertisement prominently in at least two newspapers circulating weekly in the Claimant's area;
  - (iii) posting a copy of the Order on its website, and publicizing it using the Claimant's facebook page and twitter account, and posting on other relevant social media sites including YouTube, and local police facebook and twitter accounts.
  - (iv) any other like manner as Claimant may decide to use in order to bring the Order to the attention of persons likely to be affected by it.
2. If the Claimant intends to take enforcement proceedings against any person in respect of this Order, the Claimant shall, no later than the time of issuing such proceedings, serve on that person,
  - (i) a copy of the Claim Form and all supporting documents relied on to obtain this Order; and
  - (ii) a copy of this Order.The Claimant shall not, however, be required to divulge to the person served the names or addresses of the lay witnesses whose statements are served in accordance with this paragraph.
3. The Court will consider whether to join the person served to the proceedings as a named Defendant and whether to make any further Order.

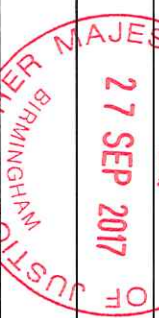


**SECTION 222 LOCAL GOVERNMENT ACT 1972 INJUNCTION - POWER OF ARREST**

**Under section 27, Police and Justice Act, 2006.**

**IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
BIRMINGHAM DISTRICT REGISTRY**

Claim no: C90 BM 148

|                         |   |           |
|-------------------------|---|-----------|
| Birmingham City Council |  | Claimant  |
| Persons Unknown         |   | Defendant |

The court orders that a power of arrest under section 27, Police and Justice Act 2006, applies to the following paragraph of an order made on 14<sup>th</sup> July 2017 and varied on the 27<sup>th</sup> day of September 2017.

*(Here set out those provisions of the order to which this power of arrest is attached and no others)*

**1. All persons are forbidden to enter or remain on any part of the land which is hatched in red on the plan attached to this Order at Schedule 1, situated at and known as:**

- (i) Selly Oak Park**
- (ii) Selly Park Recreation Ground,**
- (iii) Hazelwell Park, or**
- (iv) Swanshurst Park**

*(Where marked \* delete as appropriate)*

for the purpose of establishing, joining or being part of an encampment on that land.

**2. All persons who are part of any encampment referred to at paragraph 1 above are also forbidden to perform any the following acts on any part of the land the boundaries of which are marked in blue on the map attached to this Order at Schedule 2:**

- (i) threatening, abusing or distressing any other person (including by permitting animals for which they are responsible to do so);**
  - (ii) urinating or defecating other than in a lavatory provided for the purpose;**
  - (iii) allowing any animal for which they are responsible to defecate without properly disposing of the faeces;**
  - (iv) fly-tipping;**
  - (v) dropping litter;**
- damaging any property belonging to the claimant or to any other person (including, but not limited to trees and plants).

**3. The term Encampment” has the meaning set out at Schedule 3 to this Order:**

**“Encampment” means one or more household, using or occupying land, whether temporarily or otherwise, for residential purposes, including by**

occupying or stationing on the land any caravan, mobile home, other vehicle or structure, or any item or thing ancillary to such use or occupation including but not limited to) electricity generators, motor-cycles, quad bikes or livestock.

## Power of Arrest

The court thinks that—

there is a significant risk of harm to a person.

A power of arrest is attached to the order whereby any constable may (under the power given by section 27 Police and Justice Act 2006) arrest without warrant a person if he or she has reasonable cause to suspect that the person is in breach of the provision.

## This Power of Arrest

Shall continue until midnight on 14<sup>th</sup> July 2019.

## Note to the Arresting Officer

Where a person is arrested under the power given by section 27, Police and Justice Act 2006, the section requires that:

- A constable who arrests a person for breach of the injunction must inform the person who applied for the injunction.
- A person arrested for breach of the injunction must, within the period of 24 hours beginning with the time of the arrest, be brought before—
  - (a) a judge of the High Court or a judge of the county court, if the injunction was granted by the High Court;
  - (b) a judge of the county court, if—
    - (i) the injunction was granted by the county court, or
    - (ii) the injunction was granted by a youth court but the respondent is aged 18 or over;
  - (c) a justice of the peace, if neither paragraph (a) nor paragraph (b) applies.
- In calculating when the period of 24 hours ends, Christmas Day, Good Friday and any Sunday are to be disregarded.
- The judge before whom a person is brought under subsection (3)(a) or (b) may remand the person if the matter is not disposed of straight away.
- The justice of the peace before whom a person is brought under subsection (3)(c) must remand the person to appear before the youth court that granted the injunction.

Ordered by

His Honour Judge McKenna

On

27<sup>th</sup> September 2017



**BIRMINGHAM CITY COUNCIL**

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

**15 NOVEMBER 2017**  
**ALL WARDS**

**ENFORCEMENT POLICY REVIEW**  
**REGULATION AND ENFORCEMENT**

1. Summary

- 1.1 On 6 April 2014 the Regulators Code came into force which had implications for all Local Authority Enforcement Policies. On 17<sup>th</sup> June 2015 a revised enforcement policy was agreed by this Committee following consultation and an equality impact assessment.
- 1.2 The new policy introduced a new risk assessment framework to improve standardisation of approach and assure the potential for inconsistency of enforcement decision making is minimised.
- 1.3 We are required to keep our Enforcement Policy under regular review. This report proposes that, subject to a minor clarification, the policy requires no further changes and the Committee is invited to approve it.

2. Recommendation

- 2.1 That Committee agree the Enforcement Policy which is attached at appendix 1.

Contact Officer: Alison Harwood, Acting Director Regulation and Enforcement  
Telephone: 0121 303 0201  
Email: [alison.harwood@birmingham.gov.uk](mailto:alison.harwood@birmingham.gov.uk)

Originating Officer: Tony Quigley, Head of Illegal Money Lending Team  
Telephone: 0121 303 0201  
Email: [tony.quigley@birmingham.gov.uk](mailto:tony.quigley@birmingham.gov.uk)

### 3. Background

- 3.1 The Regulation and Enforcement Division's Enforcement Policy is a document that provides officers with guidance in the application of enforcement decisions. It is as important for officers as it is for those against whom enforcement action might be taken as it helps to provide clarity and encourages consistency in the decision making process. As a Local Authority regulator, we are obligated to publish a policy by the Regulator's Compliance Code of 2014. It requires us to have regard to certain principles when constructing our own policy, which are repeated for convenience below.
- 3.2 The Regulators' Code attempts to improve the way regulation is delivered at the front line. It sets out a clear framework for transparent and accountable regulatory delivery and establishes clear principles for how local authorities should interact with those they are regulating. The Code is underpinned by the statutory principles of good regulation, which provide that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.
- 3.3 At the meeting of the Licensing and Public Protection Committee on 17<sup>th</sup> June 2015 the Regulation and Enforcement Division's Enforcement Policy was presented having been reviewed and updated under the duty on the Local Authority to have regard to the Regulator's Code in developing the principles and policies which guide their regulatory activities as well as the views of the members of the Licensing and Public Protection Committee. This is a review of that policy to ensure the information remains up to date with the code.

### 4. Regulators' Code

- 4.1 The Code places certain specific obligations upon regulators. Those obligations are set out below.
- 4.2 **Regulators should carry out their activities in a way that supports those they regulate to comply and grow.** Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.
- 4.3 **Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.** Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.
- 4.4 **Regulators should base their regulatory activities on risk.** Regulators should take an evidence based approach to determining the priority risks in

their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks.

- 4.5 **Regulators should share information about compliance and risk.** Regulators should collectively follow the principle of “collect once, use many times” when requesting information from those they regulate. When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.
- 4.6 **Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.** Regulators should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.
- 4.7 **Regulators should ensure that their approach to their regulatory activities is transparent.** Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.

## 5. Changes to the Policy

- 5.1 The Policy is reviewed routinely through the Regulation & Enforcement Quality Management System, accredited by BSI. Quality Management Meetings, under which our system is administered, provide the opportunity for any interpretation issues to be discussed. Only one matter that has arisen has warranted a change to the Policy and is explained below.
- 5.2 The changes include reflecting that the Better Regulation Delivery Office (BRDO) is now Regulatory Delivery (RD). Further changes appear at paragraph 7.2.3 which relates to the introduction of the Enforcement Management Model (EMM) which is used in assessing further action for health & safety interventions; and paragraphs 7.5.1, 7.8.3 and 7.14.1 are changed. It corrects an omission from the previous Policy to make clear that prosecution may result from non-compliance with notices served and non-payment of a Fixed Penalty Notice. In making this change we are merely reflecting the legal consequence of either, non-compliance with notices issued and non-payment of FPN's. Before making a decision to prosecute for non-compliance or non-payment, officers will still apply all the other tests applicable to prosecution that are contained in the Policy.

## 6. Consultation

- 6.1 When our current Enforcement Policy was created in 2015 we consulted through the Council's website to enable anyone with an interest to make comment. The consultation ran from 13 March 2015 to 24 April 2015. Unfortunately there were no responses to the consultation.

6.2 A business focused event for the Greater Birmingham and Solihull LEP area was arranged and although widely promoted there was little interest in attending from businesses. The planned event was, therefore, cancelled and the people who had expressed an interest in attending directed to the website consultation.

6.3 In view of the very minor changes that officers have made to the policy, and in view of the fact that since its adoption we have not registered any formal complaints or concerns about our interpretation or application of the policy, we have not consulted externally.

## 7. Implications for Resources

7.1 No specific implications have been identified. The Policy guides the decision making process and there are no additional associated costs linked to it.

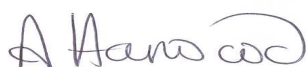
## 8. Implications for Policy Priorities

8.1 The issues addressed in this report underpin the City Council Vision, 'A city of growth where every child, citizen and place matters' and City Council Priorities, 'Children; Housing; Jobs and Skills; and Health'. They also support the Regulation and Enforcement Mission Statement: Locally accountable and responsive fair regulation for all - achieving a safe, clean, green and fair trading city for residents, business and visitors.

## 9. Public Sector Equality Duty

9.1 An initial Equality Analysis was completed in 2014 when the Policy was first drafted. The Equality Analysis is attached as Appendix 2. It has not been changed since 2014 given that the Policy has not changed significantly.

9.2 One of the benefits of an enforcement policy is to ensure consistency and fairness of enforcement throughout all communities and the commercial sector in Birmingham. The purpose of this Policy is to ensure that decisions are made transparently and to eliminate unfair or inequitable decisions. By its nature it should not have an adverse impact on anyone with protected characteristics.



**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Regulators Code 2014

## **REGULATION AND ENFORCEMENT**

### **ENFORCEMENT POLICY**

#### **1. INTRODUCTION**

- 1.1 The Regulatory Enforcement and Sanctions Act 2008 established The Local Better Regulation Office (LBRO). LBRO has now evolved into the Better Regulation Delivery (RD) which is part of the Department for Business, Energy and Industrial Strategy (BEIS). The Act also imposed upon Regulation and Enforcement a duty to: (a) have regard to any guidance given to a Local Authority by RD, (b) a duty to comply with guidance where we are directed to do so by RD, and (c) a duty to have regard to any list of enforcement priorities published by RD. We are committed to doing so.
- 1.2 The regulators compliance code has now been replaced by the Regulator's Code (RC) and provides a set of principles for Regulator's to consider.
- (a) Regulators should carry out their activities in a way that supports those they regulate to comply and grow.
  - (b) Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.
  - (c) Regulators should base their regulatory activities on risk.
  - (d) Regulators should share information about compliance and risk.
  - (e) Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
  - (f) Regulators should ensure that their approach to their regulatory activities is transparent.
- 1.3 Section 6 of the Regulator's Code sets out an expectation that local authorities will ensure that their approach to their regulatory activities is transparent. This means we will publish our policy on how we intend to deliver regulation and what those affected can expect. We believe that our enforcement policy is clear, concise, transparent and fit for purpose. Included in our enforcement policy is the way we will deal with issues and what those regulated can expect.
- 1.4 The RC indicates that it is for each Local Authority to determine an approach to service standards that will work best for those it regulates and itself.
- 1.5 This policy commits Birmingham city Council's Regulation and Enforcement to good enforcement practice with effective procedures and clear policies.
- 1.6 This document has been prepared with regard to the current principal legislation and statutory guidance including:

- The Regulatory Enforcement and Sanctions Act 2008 (The RES Act).
- Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009 SI665/2009 (The CRE Enforcement Order).
- Co-ordination of Regulatory Enforcement (Procedure for References to RD) Order 2009 SI670/2009 (The CRE BRDO Order).
- Legislation and Regulatory Reform Act 2006 (LRRRA).
- Legislative and Regulatory Reform (Regulatory Functions) Order 2007 Regulators' Code (RC).

1.7 This Policy has also been prepared having regard to:

- The Enforcement Concordat: Good Practice Guide for England and Wales and the Principles of Good Enforcement: Standards; Openness; Helpfulness; Complaints; Proportionality and Consistency; the Human Rights Act 1988 and the Code for Crown Prosecutors.
- The LRRRA Part 2 requires us also to have regard to the Principles of Good Regulation (we recognise that our regulatory activities should be carried out in a way which is (i) proportionate; (ii) accountable; (iii) consistent; (iv) transparent; and (v) targeted to situations which need action) when we exercise a regulatory function which for local authorities includes: environmental health, trading standards and licensing. We have had regard to the RC in the preparation of this policy.
- The former Licensing Committee approved the Enforcement Policy on 17 March 2010 with amendments approved on 16 March 2011 and 21 March 2012. The former Public Protection Committee approved the Enforcement Policy on 19 March 2010 with amendments approved on 18 March 2011 and 16 March 2012. On 12 December 2012, a new consultation process commenced and a report was presented and approved at the Licensing and Public Protection Committee on 20 March 2013.

## **2. WHAT THIS POLICY IS FOR**

- 2.1 Regulation and Enforcement's primary function is to achieve regulatory compliance in order to protect the public, legitimate business, the environment and groups such as consumers and workers. However, we reserve the right to take enforcement action in some cases after compliance has been achieved if it is in the public interest to do so.
- 2.2 We recognise that prevention is better than cure, but where it becomes necessary to take formal enforcement action against a business, or member

of the public, we will do so. There is a wide range of tools available to us as an enforcement agency. The actions we may take include:

- (a) No action.
- (b) Informal Action and Advice.
- (c) Fixed Penalty Notices.
- (d) Penalty Charge Notices.
- (e) Formal Notice.
- (f) Forfeiture Proceedings.
- (g) Seizure of goods/equipment.
- (h) Injunctive Actions and other Civil Sanctions.
- (i) Refusal/Suspension/Revocation of a licence.
- (j) Simple Caution.
- (k) Prosecution.
- (l) Proceeds of Crime Applications.

- 2.3 When considering formal enforcement action, Regulation and Enforcement will, where appropriate and where reasonably practicable, discuss the circumstances with those suspected of a breach and take these into account when deciding on the best approach. However, it must also be noted that legal processes dictated by statute will be applied in many instances where contraventions of legislation have been detected. Further this paragraph does not apply where immediate action is required to prevent or respond to a potential breach/contravention or where to do so is likely to defeat the purpose of the proposed enforcement action.
- 2.4 If you are a business operating in more than one Local Authority and you have chosen to have a registered Primary Authority Partnership under The RES Act we will, where required, comply with the agreement provisions for enforcement and notify your Primary Authority of the enforcement action we propose to take. We may under that Act also refer the matter to BRDO if appropriate.
- 2.5 This policy is intended to provide guidance for Enforcement Officers, businesses, consumers and the public.

### **3. SCOPE OF THE POLICY**

- 3.1 This Policy, where appropriate, applies to all the legislation enforced by Officers with delegated enforcement powers employed by Regulation and Enforcement. These delegated powers are listed and reproduced within the Councils constitution. These can be found at [www.birmingham.gov.uk](http://www.birmingham.gov.uk).
- 3.2 'Enforcement' includes any criminal or civil action taken by Enforcement Officers aimed at ensuring that individuals or businesses comply with the law.
- 3.3 For the purposes of The RES Act the term 'enforcement action' has been given a general statutory definition, which is:

- (a) Action to source compliance with a restriction, requirement or condition in relation to a breach of supposed breach;
  - (b) Action taken in connection with imposing a sanction for an act or omission; and
  - (c) Action taken in connection with a statutory remedy for an act or omission.
- 3.4 A list of specific 'enforcement actions' is provided in Section 2 of this Policy. This means that if you are a business or organisation registered with the Primary Authority Principal; we are proposing to take action against you and that action is one of those listed then, unless one of the permitted exceptions applies, we will be required to contact your Primary Authority and give notice of the enforcement action we propose to take against you.
- 3.5 By this document Regulation and Enforcement intends to enable Enforcement Officers to interpret and apply relevant legal requirements and enforcement policies fairly and consistently between like-regulated entities in similar situations. Regulation and enforcement also aims to ensure that its own Enforcement Officers interpret and apply their legal requirements and enforcement policies consistently and fairly.
- 3.6 In certain circumstances we will seek to raise awareness and increase compliance levels by publicising unlawful trade practices or criminal activity. Where appropriate the results of specific court cases may also be published. Court results are placed on our website on the Traders Prosecuted page, which can be found at: <http://www.birmingham.gov.uk/traders>.

#### **4. HOW TO OBTAIN A COPY OF THE POLICY OR MAKE COMMENTS**

- 4.1 This Policy is available on the Birmingham City Council website at:

<http://www.birmingham.gov.uk/regulatoryenforcementpolicy>

If you would like a paper copy of the Policy and/or you would like to comment on the Policy, please contact us by:

- (a) E-mailing [publichealth@birmingham.gov.uk](mailto:publichealth@birmingham.gov.uk)
  - (b) E-mailing [tradingstandards@birmingham.gov.uk](mailto:tradingstandards@birmingham.gov.uk)
  - (c) Emailing [licensing@birmingham.gov.uk](mailto:licensing@birmingham.gov.uk)
  - (d) Writing to the Service Director Regulation and Enforcement, PO Box 15908, 1 Lancaster Circus, Birmingham, B2 2UD.
  - (e) Telephoning 0121 303 6121.
- 4.2 On request, this Policy will be made available on tape, in Braille or large type.



## **5. OUR APPROACH**

- 5.1 Our principles are informed by a number of codes of practice and statute as well as the Regulators' Code, Enforcement Concordat and the Guidance of BRDO as to how to apply these documents.
- 5.2 We recognise that prevention is better than cure and our role, therefore, involves actively working with businesses to advise on and assist with compliance. However, where it becomes necessary to take formal enforcement action against a business, or member of the public, we will do so.
- 5.3 Where we consider that formal enforcement action is necessary each case will be considered on its own merits.
- 5.4 However, there are general principles that apply to the way each case must be approached. These are set out in this Policy.
- 5.5 The approach of Regulation and Enforcement to the sanctions and penalties available to it will aim to:
  - (a) Change the behaviour of the offender;
  - (b) Change attitudes in society of offences which may not be serious in themselves but which are widespread;
  - (c) Eliminate any financial gain or benefit from non-compliance;
  - (d) Be responsive and consider what is appropriate for the particular offender and regulatory issue which can include punishment and the public stigma that should be associated with a criminal conviction;
  - (e) Be proportionate to the nature of the offence and the harm caused;
  - (f) Restore the harm caused by regulatory non-compliance, where appropriate; and
  - (g) Deter future non-compliance.
- 5.6 All enforcement decisions will be fair, independent and objective. They will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Such decisions will not be affected by improper or undue pressure from any source.
- 5.7 We will take into account the views of any victim, injured party or relevant person to establish the nature and extent of any harm or loss and its significance in making the decision to take formal action. This may include actual or potential harm or loss or the impact on the well-being of individuals or potential or actual harm to communities or the environment.
- 5.8 We will endeavour to ensure that those regulated can seek advice from the service about potential non-compliance without automatically triggering enforcement action. Each matter will be considered on its own merits and will determine the action by the service.

- 5.9 Birmingham City Council is a public authority for the purposes of the Human Rights Act 1998. We will, therefore, apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- 5.10 All enforcement activities, including investigations and formal actions, will always be conducted in compliance with the statutory powers of the officer and all other relevant legislation, including but not limited to the Police and Crime Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 and the Criminal Justice and Police Act 2001, and in accordance with any formal procedures and codes of practice made under this legislation in so far as they relate to enforcement powers and responsibilities.
- 5.11 This Policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the code. In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

## **6 NOTIFYING ALLEGED OFFENDERS**

- 6.1 If we receive information (for example from a complainant) that may lead to formal enforcement action against a business or individual we will notify that business or individual as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to those concerned or the general public.
- 6.2 During the progression of enforcement investigations/actions, business proprietors or individuals and witnesses will be kept informed of progress. Confidentiality will be maintained and personal information about individuals will only be released to a Court when required and/or in accordance with the Data Protection Act 1998.

## **7 ENFORCEMENT ACTION**

### **7.1 An Overview of the enforcement actions available**

7.1.1 There are a large number of potential enforcement options. The level of the action taken varies from no action through to proceedings in Court. Examples of the main types of action that may be considered are shown below:

- (a) No action.
- (b) Informal Action and Advice.
- (c) Fixed Penalty Notices.
- (d) Penalty Charge Notices.

- (e) Formal Notice.
- (f) Forfeiture Proceedings.
- (g) Seizure of goods/equipment.
- (h) Injunctive Actions and other Civil Sanctions.
- (i) Refusal/Suspension/Revocation of a licence.
- (j) Simple Caution.
- (k) Prosecution.
- (l) Proceeds of Crime Applications.

7.1.2 The order in which the enforcement actions are listed above is not necessarily in absolute order of escalating seriousness relative to each other. Regulation and Enforcement reserves the right to escalate its level of enforcement action, having regard to the criteria in paragraph 7.2 of this policy.

## **7.2 Deciding what level of action is appropriate**

7.2.1 In assessing what enforcement action is necessary and proportionate, consideration will be given to, amongst other things:

- (a) The seriousness of the compliance failure.
- (b) The past and current performance of any business and/or individual concerned.
- (c) Any obstruction on the part of the offender.
- (d) The risks being controlled.
- (e) Statutory guidance.
- (f) Codes of Practice.
- (g) Any legal advice.
- (h) Policies and priorities of Government, Birmingham City Council and Birmingham City Council's Licensing and Public Protection Committee.
- (i) A person's age in relation to young people (termed 'juveniles') aged under 18.
- (j) The existence of a Primary Authority agreement.

7.2.2 Certain enforcement action, such as the decision to Caution and/or the decision to prosecute, is further and specifically informed by those matters set out below at paragraphs 7.13 and 7.14.

7.2.3 The Risk Matrix in appendix 1 to this policy will be used as a framework to standardise decision making and improve consistency of approach. This will improve transparency in decision making and remove potential for bias. For workplace health and safety the Enforcement Management Model (EMM) is used to ensure that enforcement decisions are consistent.

## **7.3 An explanation of the enforcement action options**

### **7.3.1 No Action**

7.3.2 In certain circumstances, contraventions of the law may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention, or the cost of the required enforcement action to Birmingham City Council outweighs the detrimental impact of the contravention on the community. A decision of no action may also be taken where formal enforcement is inappropriate in the circumstances, such as where the offender is elderly and frail or is suffering from mental health issues or serious ill health, and formal action would seriously damage their wellbeing. In such cases we will advise the offender of the reasons for taking no action.

#### **7.4 Informal Action and Advice**

7.4.1 For minor breaches of the law we may give verbal or written advice. We will clearly identify any contraventions of the law and give advice on how to put them right, including a deadline by which this must be done. The time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance.

7.4.2 Sometimes we will advise offenders about ‘good practice’ but we will clearly distinguish between what they must do to comply with the law and what is advice only.

7.4.3 Failure to comply could result in an escalation of enforcement action.

#### **7.5 Fixed Penalty Notices**

7.5.1 Certain offences are subject to fixed penalty notices where prescribed by legislation. They are recognised as a low-level enforcement tool and enable a defendant to avoid a criminal record by “buying off” their liability to a prosecution for the original offence. Where legislation permits an offence to be dealt with by way of a Fixed Penalty Notice (FPN), we may choose to administer a FPN on a first occasion, without issuing a warning. Failure to pay the FPN may lead to a prosecution.

#### **7.6 Penalty Charge Notices**

7.6.1 Penalty Charge Notices (PCN) are prescribed by certain legislation as a method of enforcement by which the offender pays an amount of money to the enforcer in recognition of the breach. Failure to pay the PCN will result in the offender being pursued in the County Court for non-payment of the debt. A PCN does not create a criminal record and we may choose to issue a PCN without first issuing a warning.

#### **7.7 Failure to accept a FPN and/ or a PCN**

7.7.1 In circumstances where a person or body corporate fails to accept or pay a FPN, then in order to maintain the integrity of these legislative

regimes, Regulation and Enforcement will consider an escalation of enforcement action. This will include consideration of a prosecution for the original offence under the primary legislation.

7.7.2 In circumstances where a person or body corporate fails to accept to pay a PCN, then in order to maintain the integrity of this legislative regime, Regulation and Enforcement will consider an escalation of enforcement action. This will include consideration of civil action to recover the debt.

7.7.3 A failure to pay a FPN or PCN is a material consideration for the purposes of deciding whether a prosecution will be taken or civil debt recovery commenced.

## **7.8 Formal Notice**

7.8.1 Certain legislation allows notices to be served requiring offenders to take specific actions or cease certain activities. Notices may require activities to cease immediately where the circumstances relating to health, safety, environmental damage or nuisance demand. In other circumstances, the time allowed will be reasonable, take into account the seriousness of the contravention, the implications of the non-compliance and the appeal period for that notice.

7.8.2 All notices issued will include details of any applicable Appeals Procedures.

7.8.3 Certain types of notice allow works to be carried out at default. This means that if a notice is not complied with [a breach of the notice] we may carry out any necessary works to satisfy the requirements of the notice ourselves. Where the law allows, we may then charge the person/business served with the notice for any cost we incur in carrying out the work. Notwithstanding the default power, non-compliance with notices may lead to a prosecution.

## **7.9 Forfeiture Proceedings**

7.9.1 This procedure may be used in conjunction with seizure and/or prosecution whether there is a need to dispose of goods in order to prevent them re-entering the market place or being used to cause a further problem. In appropriate circumstances, we will make an application for forfeiture to the Magistrates Courts.

## **7.10 Seizure**

7.10.1 Certain legislation enables authorised Enforcement Officers to seize goods, equipment or documents, for example, unsafe food, sound equipment that is being used to cause a statutory noise nuisance, unsafe products or any goods that may be required as evidence for

possible future court proceedings. When we seize goods we will give the person from whom the goods are taken an appropriate receipt.

## **7.11 Injunctive Actions and Other Civil Sanctions**

7.11.1 In certain circumstances, for example, where offenders are repeatedly found guilty of similar offences or where it is considered that injunctive action is the most appropriate course of enforcement, then injunctive actions may be used to deal with repeat offenders; dangerous circumstances; or consumer/environmental/public health detriment.

7.11.2 Action under the Enterprise Act 2002; proceedings may be brought where an individual or organisation has acted in breach of community or domestic legislation with the effect of harming the collective interests of consumers. In most circumstances action will be considered where there have been persistent breaches or where there is significant consumer detriment. Action can range from:

- (a) Informal undertakings.
- (b) Formal undertakings.
- (c) Interim Orders.
- (d) Court Orders.
- (e) Contempt Proceedings.

7.11.3 Anti-Social Behaviour Orders and Criminal Anti-Social Behaviour Orders:

Where the non-compliance under investigation amounts to anti-social behaviour such as persistent targeting of an individual or a group of individuals in a particular area then, following liaison with the Council's Anti-Social Behaviour Unit where appropriate, an ASBO or CRASBO will be sought to stop the activity. (ASBO's and CRASBO's are currently under review by the Government.)

## **7.12 Suspension and Revocation of a Licence**

7.12.1 **Hackney Carriage and Private Hire Drivers** – the grounds for refusing to renew a licence, or for suspending or revoking a licence, are based on whether the driver has:

- (i) Been convicted of an offence involving dishonesty, indecency, drugs or violence;
- (ii) Been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976;
- (iii) Failed to comply with a requirement of the Local Government (Miscellaneous Provisions) Act 1976; or
- (iv) Any other reasonable cause.

7.12.2 A Hackney Carriage or Private Hire Drivers' licence may also be suspended or revoked with immediate effect if such a decision is deemed necessary in the interests of public safety.

**7.12.3 Premises Licences (Licensing Act 2003)** – where a review of a Premises Licence is sought under Section 51 of the Act the options available to the Licensing and Public Protection Committee are:

- (i) Modification of the conditions of the Licence.
- (ii) Exclusion of licensable activity from the scope of the Licence.
- (iii) Removal of the Designated Premises Supervisor.
- (iv) Suspension of the Licence for a period not exceeding three months.
- (v) Revocation of the Licence.
- (vi) Issue of a Warning Letter.
- (vii) No Action.

**7.12.4 Premises Licences (Gambling Act 2005)** – where a review of a Premises Licence is sought under Section 202 of the Act, the options available to the Licensing and Public Protection Committee are:

- (i) Revocation of the Licence.
- (ii) Suspension of the Licence for a specified period not exceeding three months.
- (iii) Exclusion of a condition attached to the Licence, under Section 168, or removal or amendment of an exclusion.
- (iv) Additions, removal or amendment of a condition under Section 169.

**7.12.5 General Licensing** – where there is a breach of condition of Licence or Permit, upon hearing evidence, the Licensing Committee has the power to suspend, revoke or refuse to renew the Licence/Permit subject to the provisions of the legislation.

**7.12.6 Correctional Training Courses** – where a driver of a hackney carriage or a private hire vehicle has committed an offence that would be considered suitable for disposal by way of administering a Simple Caution or a FPN, we may offer the driver the opportunity of attending a correctional training course at the driver's expense as an alternative to receiving the Simple Caution or FPN in appropriate circumstances. The acceptance of a training course will not be cited as a formal sanction by the Authority in the event of future legal proceedings against the individual.

## **7.13 Simple Caution**

**7.13.1** In appropriate circumstances, where a prosecution would otherwise be justified, a Simple Caution may be administered with the consent of the offender. In 2005, Home Office Circular 30/2005 replaced the term Formal Caution with the term Simple Caution, to distinguish it from a Conditional Caution. Although the description changed, the significance of the sanction remained the same.

**7.13.2** A Simple Caution is an admission of guilt, but is not a form of sentence, nor is it a criminal conviction.

7.13.3 For a Simple Caution to be issued a number of criteria must be satisfied:

- (a) Sufficient evidence must be available to prove the case.
- (b) The offender must admit the offence.
- (c) It must be in the public interest to use a Simple Caution.
- (d) The offender must be 18 years or over.

For details on the Home Office guidance (Circular 30/2005) visit:  
<http://www.homeoffice.gov.uk/>

7.13.4 We will also take into account whether the offender has received a simple caution within the last 2 years when determining whether a simple caution is appropriate for any subsequent offending.

7.13.5 If during the time the Simple Caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the Caution may be cited in court, and this may influence the severity of the sentence that the court imposes.

7.13.6 The refusal of an offender to be cautioned does not preclude the matter being passed for prosecution. In fact, any such failure will be a material consideration when deciding whether the offender should then be prosecuted for that offence.

7.13.7 We take the view that offences of selling age restricted products to minors have such a serious and adverse impact on the safety and wellbeing of the community that our presumption will always be to deal with them by way of formal action, meaning simple caution or prosecution and/or licence reviews. Where a sale of alcohol is made by someone who is not a personal licence holder, consideration will be given to administering a simple caution for a first offence. Where a sale of alcohol is made by someone who is a personal licence holder, consideration will be given to dealing with the case by way of prosecution for a first offence. In every case we will consider the individual circumstances before making our decision.

## **7.14 Prosecution**

7.14.1 In circumstances where none of the other forms of enforcement action are considered appropriate or a defendant failed to comply with a notice issued or failed to pay a fixed penalty notice issued to them, a prosecution will be considered and may ensue.

7.14.2 When deciding whether to prosecute, Regulation and enforcement applies the Code for Crown Prosecutors as issued by the Director of Public Prosecutions.



7.14.3 The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases.

7.14.4 The Code for Crown Prosecutors has two tests:

- Is there enough evidence against the defendant? When deciding whether there is enough evidence to prosecute, Regulation and Enforcement must consider what evidence can be used in Court and is reliable. Regulation and Enforcement must be satisfied there is enough evidence to provide a “realistic prospect of conviction” against each defendant.
- Is it in the public interest for Regulation and Enforcement to bring the case to Court?
- Has the defendant failed to comply with a statutory notice or failed to pay a fixed penalty notice issued to them.

7.14.5 A prosecution will usually take place unless the public interest factors against prosecution clearly outweigh those in favour of prosecution.

7.14.6 For a copy of the Code for Crown Prosecutors visit:

[http://www.cps.gov.uk/publications/code\\_for\\_crown\\_prosecutors/index.html](http://www.cps.gov.uk/publications/code_for_crown_prosecutors/index.html)

7.14.7 The results of prosecution cases are published on our website for a period of six months visit:

<http://www.birmingham.gov.uk/traders-prosecuted>

## **7.15 Proceeds of Crime Applications**

7.15.1 Regulation and Enforcement either through its own Officers or in co-operation with the Police may make application under the Proceeds of Crime Act 2002 to restrain and/or confiscate the assets of an offender. The purpose of any such proceedings is to recover the financial benefit that the offender has obtained from his criminal conduct. Proceedings are conducted according to the civil standard of proof.

## **8. DECISIONS ON ENFORCEMENT ACTION**

8.1 Decisions about the most appropriate enforcement action to be taken are based upon those matters set out in Section 7 above.

8.2 Where appropriate, decisions about what enforcement action to take may involve consultation between:

- (a) Investigating Officer(s).
- (b) Senior managers from Regulation and Enforcement.
- (c) Birmingham City Council Solicitors.
- (d) Chair of the City Council’s Licensing and Public Protection Committee.

8.3 The decision to prosecute a case will be taken by those with authority to do so in accordance with the Birmingham City Council Scheme of Delegations.

#### 8.4 **Enforcement Policy – Appeals and Complaints**

8.4.1 **Appeals through the Council's Corporate Complaints Procedure.**  
A complaint about the service provided by an officer may be made through the Council's Corporate Complaints Procedure.

8.4.2 **What is a complaint?** A complaint is an expression of dissatisfaction. It can be about the standard of service we have provided, or actions we have, or have not taken, which affect someone using our service.

8.4.3 **Are there any exceptions?** There are a number including:

- The Corporate Complaints Procedure cannot be used to determine whether or not an offence has been committed and legal proceedings will not normally be suspended whilst a complaint is investigated. There are appeal procedures within the criminal justice system and a statutory right to be tried for an offence. Following the outcome of legal proceedings the relevant options for lodging an appeal can be explained by your Solicitor or legal counsel.
- A complaint that has already been settled in another way, for example, by the Courts, a tribunal, the Ombudsman, or the Data Protection Commissioner, or if there is a more appropriate procedure for settling the problem.
- For information on other examples which fall outside the scope of this document please see the Birmingham City Council website – Your Views section.

#### 8.4.4 **Who will investigate?**

- If you make a complaint about a specific officer then this will be investigated by a manager within Regulation and Enforcement who was not involved in the original decision making process. If the complaint is about a manager then an equivalent grade officer or more senior manager within the service will investigate.
- If you make a complaint about action that has been taken against you during the course of an investigation then this will be investigated by a manager within Regulation and Enforcement (Place Directorate).
- Where a criminal investigation is underway, the investigation will not be put on hold whilst your complaint is considered. Further, your complaint may be staid whilst the outcome of any criminal proceedings is concluded.

8.4.5 **What if I am still not satisfied?** Upon receiving the outcome of your complaint if you are still not satisfied then you can ask that the decision can be reviewed. This will be carried out by a manager from another department within Regulation and Enforcement. A response to this

complaint will be given 20 days following receipt of a request for a review.

**8.4.6 Can I appeal that decision?** Following the review of your complaint if you are still not satisfied we will tell you what you can do next. This may include an appeal to the Government Ombudsman.

**8.4.7 Is there anything the Government Ombudsman will not look at?**  
There are a number of matters including:

1. Court proceedings including:
  - Evidence given to the Court.
  - Actions and decisions by the Council and court staff in those proceedings.
2. Something you could appeal about to a tribunal, or go to Court about, unless the Ombudsman feels there is a good reason why you should not be expected to do so.
3. Something about which you have already appealed to a tribunal, government minister, or have taken Court action against the Council.

**8.4.8** For more information about the role of Government Ombudsman please see the Ombudsman's own website.

## **8.5 Enforcement of Illegally Dumped Waste**

**8.5.1** The mission statement for Regulation and Enforcement Services is "Fair Regulation for All - achieving a safe, healthy, clean, green and fair trading city for residents, businesses and visitors". A clean and green Birmingham is therefore one of the City Council's main priorities.

**8.5.2** Amongst many steps to achieve a cleaner city have been the roll out of a wheel bin services and a task force specifically set up to tackle the illegal dumping of waste. In order for the task force to be as effective as possible the legislation around the illegally dump waste need to be strictly enforced. This may be anything from a visit from a team member advising the person who dumped the waste, or the person whose land it is on, of their duties and the consequences if this is not removed to criminal prosecution in more severe cases.

**8.5.3** The usual threshold for prosecution is set out in the matrix above. However, due to the nature of the crime of illegal waste dumping and the impact it has on our community as a whole then there are instances when the described threshold may not be met, but it is still felt advisable to take punitive action. However any matters which are dealt with in this manner will still have the usual legal protections afforded.

## **9. PRIMARY AUTHORITY PARTNERSHIP SCHEME AND ITS ENFORCEMENT PROVISIONS**

9.1 When we have come to the decision to take enforcement action against you and:

1. You are a business operating in more than one Local Authority and you have chosen to have a registered Primary Authority Partnership under The RES Act; and
2. The enforcement action we propose to take is covered by the definition of enforcement action for the purposes of Part 2 of The RES Act.

9.2 We will, where required to do so by that Act, comply with the agreement provisions for enforcement and notify your Primary Authority of the action we propose to take.

9.3 Your Primary Authority has the right to object to our proposed action in which circumstances either they or we may refer the matter to BRDO.

## **10. LIAISON WITH OTHER REGULATORY BODIES AND ENFORCEMENT AGENCIES**

10.1 In addition to the duties imposed upon us by The RES Act in respect of co-operating and working with Primary Authorities and the BRDO; we will, where appropriate, co-operate and co-ordinate with any relevant regulatory body and/or enforcement agency to maximise the effectiveness of any enforcement.

10.2 Where an enforcement matter affects a wide geographical area beyond the City boundaries, or involves enforcement by one or more other local authorities or organisations, where appropriate all relevant authorities and organisations will be informed of the matter as soon as possible and all enforcement activity co-ordinated with them.

10.3 Regulation and enforcement will share intelligence relating to wider regulatory matters with other regulatory bodies and enforcement agencies, including:

- (a) Government Agencies.
- (b) Police Forces.
- (c) Fire Authorities.
- (d) Statutory Undertakers.
- (e) Other Local Authorities.

## **11. CONSIDERING THE VIEWS OF THOSE AFFECTED BY OFFENCES**

11.1 Regulation and Enforcement undertakes enforcement on behalf of the public at large and not just in the interests of any particular individual or group. However, when considering the public interest test, the consequences for those affected by the offence, and any views expressed by those affected will,

where appropriate, be taken into account when making enforcement decisions.

## **12. PROTECTION OF HUMAN RIGHTS**

- 12.1 This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

## **13. REVIEW OF THE ENFORCEMENT POLICY**

- 13.1 This Policy will be reviewed annually. A copy of this Policy is available at: <http://birmingham.gov.uk/regulatoryenforcementpolicy>

- **END OF DOCUMENT** -

## APPENDIX 1

### RISK MATRIX FOR REGULATION AND ENFORCEMENT'S ENFORCEMENT POLICY

| <b><u>REGULATION AND ENFORCEMENT ACTIVITY</u></b>                 | <b><u>ACTIVITY</u></b>  | <b><u>SCORE</u></b> |
|---|---|---------------------|
| Does the activity involve breaches of criminal legislation?       | YES – continue to matrix.   |                     |
|   | NO – then this matrix is not an appropriate method for decision making in relation to the matter.   |                     |
| <b>People are safe and their wellbeing and safety are assured</b> | No safety or health and wellbeing implications.   | 0                   |
|   | Limited possibility of risk to safety and wellbeing.  | 1                   |
|   | A high probability that illness or injury will occur or has occurred. Any injuries or illness should be restricted in nature (i.e. not require hospital treatment).                     | 2                   |
|   | Death, illness, injury (requiring hospital treatment for more than three days sickness absence from work) or has occurred or is likely to occur.  | 3                   |
| <b>Economic implications to legitimate businesses</b>             | No implications for legitimate businesses.  | 0                   |
|   | Limited consequences to a very small number of legitimate businesses.   | 1                   |
|   | A large part of the legitimate business sector will be affected, for example all of those in a particular geographic area or businesses supplying a particular market.                  | 2                   |
|   | All of the legitimate business sector will be affected.   | 3                   |
| <b>Economic loss to the consumer</b>                              | No economic loss to consumers.  | 0                   |
|   | The economic loss was very small (or was likely to be very small) or to a small group of individuals and the amount of economic loss was very small (or was likely to be very small).   | 1                   |
|   | The economic loss was restricted (or was likely to be restricted) to a group of individuals and the amount of economic loss was limited (or was likely to be limited).                  | 2                   |
|   | High level of economic loss to an individual or the economic loss or the probability of such or the amount of economic loss could have potentially affected a high number of consumers. | 3                   |

|  |  |   |
|--|--|---|
| <b>Reputation (risk to the local authorities reputation in taking no action)</b>   | No reputational risk.  | 0 |
|  | Low reputational risk.   | 1 |
|  | Medium reputational risk.  | 2 |
|  | High reputational risk.  | 3 |
| <b>Likelihood that the infringing activity could have been easily ascertained (for example: the size of the business may be a factor when making this assessment or using a reasonable test; the persons should have known it was wrong.</b> | Not applicable.  | 0 |
|  | Very difficult to ascertain.   | 1 |
|  | Could be ascertained with a limited amount of activity on behalf of the business.  | 2 |
|  | Easy to ascertain even with limited knowledge of the subject area.   | 3 |
| <b>Has the business or person taken reasonable precautions and due diligence to prevent the activity from occurring?</b>   | Not applicable.  | 0 |
|  | High level of precautions, training and systems in place and followed the systems.   | 1 |
|  | Some precautions and systems in place and followed but not comprehensive.  | 2 |
|  | No training and systems in place or followed.  | 3 |
| <b>What is the history of the business in relation to regulatory compliance (if the business is national then a national picture can be taken if appropriate)</b>  | Not applicable.  | 0 |
|  | The business has a good history of proactive work with the Local Authority to achieve compliance in its sector. Previous inspections have found no issues.                                     | 1 |
|  | Previous inspections have found issues, however, these have been rectified within a reasonable time frame.   | 2 |
|  | The business has a poor history of Local Authority engagement and/or previous instructions have been disregarded and/or a high level of non-compliance has been found on previous inspections. | 3 |

|  |  |   |
|--|--|---|
| <b>Aggravating features (i.e. length of time activity has been happening for; was the activity purposely covert etc.; was the victim vulnerable)</b> | Not applicable.  | 0 |
|  | Low level of aggravating features.   | 1 |
|  | Some level of aggravating features, however, limited by time or amount of aggravation. | 2 |
|  | High level of aggravation.   | 3 |

| <b><u>KEY</u></b> | <b><u>ASSESSMENT</u></b>  | <b><u>SCORE RATING</u></b> |
|-------------------|---|----------------------------|
| 3 – high risk     | If an activity results in three or more level HIGH RISK scores then formal action should be considered. | Score 12 and above.        |
| 2 – medium risk   | Consider informal action.   | Score 2 to 11.             |
| 1 – low risk      | No action.  | Score 1.                   |

This matrix is new and to avoid perverse decisions to take or not take enforcement action based on the outcome of this assessment the following is to be applied.

Where the score falls between 2 and 11 and the investigating officer and/or the operations manager believe the matter should be referred for formal proceedings the case must be reviewed by two Heads of Service. Where they conclude the matter should go forward they will keep a paper record of their review and the decision to proceed.

Similarly where the score is 12 and above and the recommendation is not to refer for formal proceedings, the case must be reviewed by two Heads of Service. Where they conclude the matter should not go forward they will keep a paper record of their review and the decision not to proceed.

Any reviews and conclusions by the two heads of service will be acted upon.

The records of the reviews should be used to review the matrix in 12 months' time and to ensure it is fit for purpose.



# Equality Analysis

## Birmingham City Council Analysis Report

|                                |  |
|--------------------------------|--|
| <b>EA Name</b>                 | Regulation And Enforcement Division Enforcement Policy   |
| <b>Directorate</b>             | Place  |
| <b>Service Area</b>            | Regulation & Enforcement   |
| <b>Type</b>                    | Amended Policy   |
| <b>EA Summary</b>              | The Enforcement Policy sets out what businesses and others being regulated can expect from Birmingham City Council's Regulatory Services in the performance by it of its regulatory and enforcement functions. It commits Regulatory Services to good enforcement practice with effective procedures and clear policies. In particular it ensures that our actions are compliant with the Human Rights Act 1998. |
| <b>Reference Number</b>        | EA000348   |
| <b>Task Group Manager</b>      | jenny.mainwaring@birmingham.gov.uk   |
| <b>Task Group Member</b>       | Chris.Neville@birmingham.gov.uk  |
| <b>Senior Officer</b>          | jacqui.kennedy@birmingham.gov.uk   |
| <b>Quality Control Officer</b> | PlaceEAQualityControl@birmingham.gov.uk  |

### Introduction

The report records the information that has been submitted for this equality analysis in the following format.

#### **Overall Purpose**

This section identifies the purpose of the Policy and which types of individual it affects. It also identifies which equality strands are affected by either a positive or negative differential impact.

#### **Relevant Protected Characteristics**

For each of the identified relevant protected characteristics there are three sections which will have been completed.

- Impact
- Consultation
- Additional Work

If the assessment has raised any issues to be addressed there will also be an action planning section.

The following pages record the answers to the assessment questions with optional comments included by the assessor to clarify or explain any of the answers given or relevant issues.

## 1 Activity Type

The activity has been identified as a Amended Policy.

## 2 Overall Purpose

### 2.1 What the Activity is for

|   |  |
|---|--|
| What is the purpose of this Policy and expected outcomes? | <p><b>Aims:</b> This Equality Assessment accompanies the 2014 revision of the Enforcement Policy that is applicable to the work of Trading Standards, Environmental Health and Licensing (Regulatory Services) in Birmingham City Council.</p> <p><b>Objectives:</b> The Enforcement Policy sets out what businesses and others being regulated can expect from Birmingham City Councils Regulatory Services in the performance by it of its regulatory and enforcement functions. It commits Regulatory Services to good enforcement practice with effective procedures and clear policies. In particular it ensures that our actions are compliant with the Human Rights Act 1998.</p> <p><b>Outcomes:</b> Our Enforcement Policy helps us to deliver our Mission Statement, which is Locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors. In turn, our mission statement and the objectives of the Enforcement Policy support the vision, priorities and outcomes contained in the Council Business Plan.</p> |
|---|--|

For each strategy, please decide whether it is going to be significantly aided by the Function.

|  |     |
|--|-----|
| Public Service Excellence  | Yes |
| <u>Comment</u><br>It is a legal requirement for Regulatory Services to publish an Enforcement Policy. Therefore the publication of this policy will ensure that we meet our legal obligations. Regulatory Services holds the Cabinet Office Customer Service Excellence Award, part of which requires services to make their customers aware of the standards of service delivery that can be expected and this policy will contribute to this objective.  |     |
| Fairness   | Yes |
| <u>Comment</u><br>The Policy will address the above Equality Duties by creating a level playing field between businesses to enable them to compete fairly and to ensure that all members of the public are protected from unfair or unscrupulous trading practices. In addition, it details what private individuals may expect from Regulatory Services in exercising all of its powers, whether they visit, reside or work in Birmingham, if they were to commit an offence enforced by Regulatory Services. The policy is based upon a number of principles one of which includes that all enforcement decisions are fair, independent and objective and will not be influenced by issues such as ethnicity, national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, witness, victim or offender. |     |
| Prosperity   | Yes |
| <u>Comment</u><br>The enforcement policy seeks to ensure that reputable businesses are protected from unfair competition from businesses that knowingly or inadvertently fail to comply with regulatory requirements. In so doing it helps businesses to flourish and succeed.   |     |
| Democracy  | No  |

### 2.2 Individuals affected by the policy

|   |     |
|---|-----|
| Will the policy have an impact on service users/stakeholders? | Yes |
|---|-----|

|  |     |
|--|-----|
| <u>Comment</u>   |     |
| In this context the term 'Service Users' is interpreted to mean those people against whom enforcement action is taken. By its very nature, the policy is specifically designed to provide information for people or businesses that fall into that category. It will therefore affect them to the extent that decisions to take enforcement action will be influenced by the content of the policy, however the policy is a tool to protect them from illegal discrimination and is therefore for their benefit. |     |
| Will the policy have an impact on employees?   | Yes |
| <u>Comment</u>   |     |
| Employees are affected by the policy to the extent that they use the policy to assist them to arrive at decisions about whether to take enforcement action against individuals and businesses,   |     |
| Will the policy have an impact on wider community?   | Yes |
| <u>Comment</u>   |     |
| The wider community will be affected by the policy in that they may be the direct victims of the people or businesses against whom enforcement action is taken, or they may indirectly benefit from our enforcement action as a result of the protection that the apprehension of criminals affords the wider community because it prevents further harm being done to other people.   |     |

## 2.3 Analysis on Initial Assessment

One of the main reasons for the policy is to reduce the possibility for unfair or inequitable decisions to be made. However, the policy is intrinsically linked to City Council priorities and these need to be understood to fully understand the policy. As a direct result the policy will be published and be available alongside the annual Regulation & Enforcement Service Plan.

The effective and efficient application of enforcement powers is reliant upon the integrity of the officers involved. There will always be a potential for inappropriate enforcement arising from bias however this should be mitigated during the checks and balances of more senior officers and solicitors who vet files and oversee enforcement decisions. There is also the potential for enforcement work that should occur not to have been taken by the officer due to bias and this is more difficult to spot and rectify. Audits of files, joint visits and process control of officers work loads are all in place to reduce this possibility.

We have identified that the policy does not discriminate, however the targeting of proactive enforcement may affect only a particular community within the city for justifiable reasons, particularly in business sectors where there is over-representation of groups from particular ethnic backgrounds.

For example, checking compliance with hallmarking offences targets Asian owned jewellers who have been found previously to be non-compliant. It does however protect their customers (who are largely from the same community) from the sale of jewellery that is of a lesser standard than claimed at the point of sale (e.g. a ring sold as 24 carat which is in fact 22 carat).

If the policy works it should protect people, businesses and the environment. There will always be adverse and positive impacts and we believe the positive outcomes outweigh the negative. We are increasingly seeking to use any relevant powers to appropriately intervene. e.g. Civil powers are being used to remedy an injustice or compensate; criminal powers are there to penalise. By using both sanctions we are seeking to increase the positive impacts of enforcement and decrease the negative. e.g. If an elderly person has been subject to a scam, we may not only penalise the offender but may also be able to recover monies for vulnerable service users.

The Enforcement Policy is a document designed to ensure that enforcement decisions are fair, proportionate and consistent. The decision to take enforcement action against an individual will by its nature have an adverse effect on that individual, however the impact that that decision has on the individual is not of itself an Equalities issue. This Equality Assessment does not require further analysis.

### **3 Concluding Statement on Full Assessment**

The Enforcement Policy is a document designed to ensure that enforcement decisions are fair, proportionate and consistent. The decision to take enforcement action against an individual will by its nature have an adverse effect on that individual, however the impact that that decision has on the individual is not of itself an Equalities issue. This Equality Assessment does not require further analysis.

### **4 Review Date**

01/09/17

### **5 Action Plan**

There are no relevant issues, so no action plans are currently required.

Work In Progress

**BIRMINGHAM CITY COUNCIL**

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

**15 NOVEMBER 2017**  
**ALL WARDS**

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS  
TAKEN DURING SEPTEMBER 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 6920  
E-mail: [chris.Neville@birmingham.gov.uk](mailto:chris.Neville@birmingham.gov.uk)

3. Summary of Appeal Hearings for September 2017

|                        | Magistrates' | Crown |
|------------------------|--------------|-------|
| Total                  | 3            |       |
|                        |              |       |
| Allowed                |              |       |
| Dismissed              | 1            |       |
| Appeal lodged at Crown |              | n/a   |
| Upheld in part         | 1            |       |
| Withdrawn pre-Court    | 1            |       |

4. Implications for Resources

- 4.1 The details of costs requested and ordered in each case are set out in the appendix below.
- 4.2 In September 2017 costs have been requested to the sum of £2,200 with reimbursement of £2,050 (93.2%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2017 to September 2017, costs associated to appeal hearings have been requested to the sum of £22,238.55 with reimbursement of £18,395.30 (82.7%) ordered by the Courts.

5. Implications for Policy Priorities

- 5.1 The contents of this report contribute to the priority action of providing an efficient and effective Licensing service to ensure the comfort and safety of those using licensed premises and vehicles.

6. Public Sector Equality Duty

- 6.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Regulation and Enforcement Division, which ensures that equality issues have been addressed.

7. Consultation

- 7.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and the business community in terms of the regulatory duties of the Council. Any enforcement action taken as a result of the contents of this report is subject to that Enforcement Policy.

**ACTING 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 | Waqar Ajmal    | 13.09.2017      | Allowed in part | £300            | £150          | On 22 May 2017, as the result of a complaint that Mr Ajmal had been observed using a hand-held mobile phone while driving, and had become verbally abusive to a member of the public when remonstrated with, Committee considered and resolved to suspend the licence for a period of six months. The period of suspension was reduced to five months on appeal to the Magistrates' Court: the Bench agreed that the Council was right to suspend the licence for the behaviour Mr Ajmal had displayed towards the complainant, but considered the suspension period to be excessive. |
| 2 | Muhammed Afzal | 22.09.2017      | Dismissed       | £300            | £300          | On 1 August 2017, as the result of receipt of information received from Mr Afzal's operator relating to an allegation of sexual misconduct towards a fare-paying passenger, in consultation with the Chair of your Committee the licence was revoked with immediate effect as this course of action was deemed necessary in the interests of public safety. Notice was hand delivered to Mr Afzal's home address by PC Humpherson, seconded to the Licensing Section from the West Midlands Police. An appeal to Crown Court has been indicated.                                      |

**MAGISTRATES' COURT – LICENSING ACT 2003**

|   |  |     |                        |       |       |   |
|---|--|-----|------------------------|-------|-------|---|
| 1 | Dayfor Limited<br>iro<br>Second City<br>Suite,<br>100 Sherlock St,<br>Birmingham<br>B5 6LT | n/a | Withdrawn<br>pre-Court | £1600 | £1600 | As the result of an incident on 4 February 2017 where a firearm had been discharged, on 7 February 2017 a notice for the expedited review of the premises licence was submitted by West Midlands Police on grounds that the crime and disorder Licensing objective within the Act was not being promoted. On 6 March 2017 the Committee considered and resolved to revoke the premises licence in order to promote the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm objectives in the Act. The appeal was abandoned on or about 30 August 2017, having been listed for hearing on 6 September 2017. Payment was made in settlement of legal costs. |
|---|--|-----|------------------------|-------|-------|---|



**BIRMINGHAM CITY COUNCIL**

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

**15 NOVEMBER 2017**  
**ALL WARDS**

**FIXED PENALTY NOTICES ISSUED SEPTEMBER 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 September 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](mailto: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 September 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.

# **ACTING 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   |     |     |     |     |     |     | 1     |
|                  | Edgbaston                   | 0   | 0   | 0   | 0   | 3   | 0   |     |     |     |     |     |     | 3     |
|                  | Harborne                    | 0   | 0   | 0   | 0   | 3   | 1   |     |     |     |     |     |     | 4     |
|                  | Quinton                     | 0   | 0   | 0   | 0   | 0   | 0   |     |     |     |     |     |     | 0     |
| ERDINGTON        | Erdington                   | 0   | 1   | 0   | 1   | 0   | 0   |     |     |     |     |     |     | 2     |
|                  | Kingstanding                | 0   | 1   | 0   | 0   | 2   | 0   |     |     |     |     |     |     | 3     |
|                  | Stockland Green             | 0   | 0   | 2   | 0   | 1   | 0   |     |     |     |     |     |     | 3     |
|                  | Tyburn                      | 0   | 1   | 1   | 1   | 0   | 1   |     |     |     |     |     |     | 4     |
| HALL GREEN       | Hall Green                  | 0   | 1   | 0   | 0   | 0   | 0   |     |     |     |     |     |     | 1     |
|                  | Moseley And Kings Heath     | 2   | 0   | 0   | 0   | 0   | 0   |     |     |     |     |     |     | 2     |
|                  | Sparkbrook                  | 0   | 1   | 1   | 0   | 6   | 0   |     |     |     |     |     |     | 8     |
|                  | Springfield                 | 0   | 0   | 0   | 0   | 0   | 1   |     |     |     |     |     |     | 1     |
| HODGE HILL       | Bordesley Green             | 0   | 0   | 0   | 1   | 1   | 0   |     |     |     |     |     |     | 2     |
|                  | Hodge Hill                  | 0   | 1   | 0   | 0   | 1   | 0   |     |     |     |     |     |     | 2     |
|                  | Shard End                   | 1   | 4   | 0   | 0   | 0   | 0   |     |     |     |     |     |     | 5     |
|                  | Washwood Heath              | 1   | 0   | 0   | 1   | 7   | 17  |     |     |     |     |     |     | 26    |
| LADYWOOD         | Aston                       | 0   | 2   | 0   | 1   | 1   | 0   |     |     |     |     |     |     | 4     |
|                  | Ladywood                    | 459 | 436 | 264 | 358 | 399 | 365 |     |     |     |     |     |     | 2,281 |
|                  | Nechells                    | 5   | 3   | 0   | 0   | 6   | 6   |     |     |     |     |     |     | 20    |
|                  | Soho                        | 5   | 1   | 2   | 13  | 28  | 10  |     |     |     |     |     |     | 59    |
| NORTHFIELD       | Kings Norton                | 0   | 0   | 4   | 3   | 0   | 0   |     |     |     |     |     |     | 7     |
|                  | Longbridge                  | 0   | 1   | 0   | 0   | 0   | 0   |     |     |     |     |     |     | 1     |
|                  | Northfield                  | 2   | 0   | 1   | 0   | 0   | 0   |     |     |     |     |     |     | 3     |
|                  | Weoley                      | 2   | 0   | 0   | 0   | 0   | 0   |     |     |     |     |     |     | 2     |
| PERRY BARR       | Handsworth Wood             | 0   | 0   | 1   | 0   | 0   | 0   |     |     |     |     |     |     | 1     |
|                  | Lozells And East Handsworth | 0   | 2   | 2   | 0   | 1   | 6   |     |     |     |     |     |     | 11    |
|                  | Oscott                      | 0   | 1   | 1   | 2   | 0   | 0   |     |     |     |     |     |     | 4     |
|                  | Perry Barr                  | 1   | 0   | 1   | 0   | 0   | 0   |     |     |     |     |     |     | 2     |
| SELLY OAK        | Billesley                   | 1   | 1   | 0   | 0   | 0   | 0   |     |     |     |     |     |     | 2     |
|                  | Bournville                  | 0   | 0   | 2   | 0   | 0   | 0   |     |     |     |     |     |     | 2     |
|                  | Brandwood                   | 0   | 0   | 0   | 0   | 0   | 0   |     |     |     |     |     |     | 0     |
|                  | Selly Oak                   | 0   | 0   | 1   | 2   | 2   | 0   |     |     |     |     |     |     | 5     |
| SUTTON COLDFIELD | Sutton Four Oaks            | 0   | 0   | 0   | 0   | 0   | 0   |     |     |     |     |     |     | 0     |
|                  | Sutton New Hall             | 0   | 0   | 0   | 0   | 0   | 0   |     |     |     |     |     |     | 0     |
|                  | Sutton Trinity              | 0   | 0   | 0   | 0   | 0   | 0   |     |     |     |     |     |     | 0     |
|                  | Sutton Vesey                | 0   | 0   | 0   | 0   | 3   | 0   |     |     |     |     |     |     | 3     |
| YARDLEY          | Acocks Green                | 6   | 6   | 1   | 0   | 2   | 0   |     |     |     |     |     |     | 15    |
|                  | Sheldon                     | 0   | 1   | 0   | 0   | 1   | 0   |     |     |     |     |     |     | 2     |
|                  | South Yardley               | 1   | 1   | 3   | 0   | 2   | 0   |     |     |     |     |     |     | 7     |
|                  | Stechford And Yardley North | 1   | 0   | 1   | 0   | 0   | 0   |     |     |     |     |     |     | 2     |
| TOTAL            |                             | 487 | 465 | 288 | 383 | 470 | 407 | 0   | 0   | 0   | 0   | 0   | 0   | 2,500 |



**BIRMINGHAM CITY COUNCIL**

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

**15 NOVEMBER 2017**  
**ALL WARDS**

**PROSECUTIONS AND CAUTIONS – SEPTEMBER 2017**

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

Contact Officer: Alison Harwood, Acting Director of Regulation and Enforcement  
Telephone: 0121 303 0201  
E-Mail: [Alison.harwood@birmingham.gov.uk](mailto:Alison.harwood@birmingham.gov.uk)

### 3. Results

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

- Two Licensing cases resulting in fines of £470. Prosecution costs of £752 were awarded with a total of 12 penalty points and a driving disqualification for a period of 28 days. Five simple cautions were administered as set out in Appendix 1.
- 84 Environmental Health cases resulted in fines of £21,700, two suspended sentence orders and two conditional discharges. Prosecution costs of £20,299 were awarded together with clean-up costs in the sum of £1,055. One simple caution was administered as set out in Appendix 2.
- Two Trading Standards cases were finalised resulting in fines of £2,923. Prosecution costs in the sum of £10,242 were awarded. No simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in September 2017 and cases finalised by district April - September 2017.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team in April - August 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 September 2017 the following costs have been requested and awarded:

#### Licensing

£11,700 has been requested with £7,183 being awarded (61%)

#### Environmental Health

£174,229 has been requested with £142,732 being awarded (82%).



Trading Standards

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

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

Licensing

£1,311 has been requested with £752 being awarded (57%)

Environmental Health

£25,797 has been requested with £20,299 being awarded (79%).

Trading Standards

£10,242 has been requested with £10,242 being awarded (100%).

6. Implications for Policy Priorities

- 6.1 The contents of this report contribute to the priority action of ensuring business compliance with legislation to protect the economic interests of consumers and businesses as contained in the Council Business Plan 2015+.

7. Public Sector Equality Duty

- 7.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Licensing and Public Protection Committee which ensures that equality issues have been addressed.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil

**LICENSING CASES****APPENDIX 1**

|   | <b>Date<br/>Case<br/>Heard</b> | <b>Name &amp; Address</b>  | <b>Offence details (including Legislation)</b>  | <b>Fine/Penalty &amp;<br/>Costs</b>  | <b>Ward of<br/>defendant</b> | <b>Ward - Offence<br/>committed</b> |
|---|--------------------------------|--|---|--|------------------------------|-------------------------------------|
| 1 | 14/9/17                        | Soizadur Rahman<br>48 Drummond Road<br>Bordesley Green<br>Birmingham<br>B9 5XL | Town Police Clauses Act 1847 & Road Traffic Act 1988<br><br>Pleaded guilty to two offences: one of plying for hire in Ladywell Walk, Birmingham and one of consequently having invalid insurance.         | £235 x no insurance<br><br>+ 6 penalty points<br><br>No separate penalty x plying<br><br>£300 costs<br>(£534 requested)  | Bordesley Green              | Ladywood                            |
| 2 | 26/9/17                        | Jahangir Hussain<br>239 Charles Road<br>Small Heath<br>Birmingham<br>B10 9EH   | Town Police Clauses Act 1847 & Road Traffic Act 1988<br><br>Pleaded guilty to two offences; one of plying for hire in Birmingham Road, Sutton Coldfield and one of consequently having invalid insurance. | £235 x no insurance<br><br>+ 6 penalty points<br>+ disqualified from driving for 28 days<br><br>No separate penalty x plying<br><br>£452 costs<br>(£452 requested) | Bordesley Green              | Sutton Trinity                      |

**LICENSING SIMPLE CAUTIONS**

During the period of September 2017, five 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 57** One caution was issued for omitting a material particular on a licence application.

**Section 64(3)** One caution was issued for waiting on a Hackney Carriage stand without being licensed as Hackney Carriage.

FOOD HYGIENE OFFENCES

|   | Date<br>Case<br>Heard | Name & Address   | Offence details (including Legislation)   | Fine/Penalty &<br>Costs  | Ward of<br>defendant | Ward - Offence<br>committed |
|---|-----------------------|--|---|--|----------------------|-----------------------------|
| 1 | 14/9/17               | Mudasar Ahmed<br>138 Clements Road<br>Yardley<br>Birmingham<br>B25 8TS | Food Safety and Hygiene (England) Regulations 2013<br><br>Pleaded guilty to six offences relating to conditions at Sami's Takeaway, 1108 Coventry Road, Birmingham. Cockroaches at all stages of their life cycle were found throughout the premises. Inadequate controls were in place to prevent access and harbourage of cockroaches. The food premises was not kept clean, chopping boards in use were damaged and dirty. Sponges used to clean surfaces were excessively dirty and in poor condition. Food was not kept in appropriate conditions to prevent harmful deterioration, in that food was stored in the chiller uncovered, food was stored in open tins and containers used to store food were dirty. | £1,615 x 1<br><br>No separate penalty for remaining offences<br><br>£500 costs<br>(£859 requested) | South Yardley        | South Yardley               |
| 2 | 22/9/17               | Muhammed Ejaz Chughtai<br>15 Bramble Dell<br>Birmingham<br>B9 5FE      | Food Safety and Hygiene (England) Regulations 2013<br><br>Pleaded guilty to three offences relating to conditions at Cho Cho Chicken, 147 Ladypool Road. Mouse droppings were found throughout the premises and there was a dead mouse under a chill display unit in the front serving area. There were live and dead cockroaches throughout the premises. There was an open drain in the rear preparation area and gaps in the coving in the floor/wall junctions that could provide access to pests.  | £435 x 1<br><br>No separate penalty for remaining offences.<br><br>£300<br>(£1,315 requested)      | Bordesley Green      | Ladywood                    |

|   |         |   |  |  |               |          |
|---|---------|---|--|--|---------------|----------|
| 3 | 28/9/17 | Nazam Hussain<br>8 Park Grove<br>Wordsworth Road<br>Birmingham<br>B10 0EF | Food Safety and Hygiene (England) Regulations 2013<br><br>Pleaded guilty to three offences relating to conditions at Roti Mahal, 351 Ladypool Road. There were mouse droppings on the floor throughout the premises. There was a window pane missing to the back of the premises and a large gap in the shutters behind this. There was a build-up of dirt at floor to wall junctions. | £320 x 1<br><br>No separate penalty for remaining offences<br><br>£250 costs<br>(£1,261 requested) | South Yardley | Ladywood |
|---|---------|---|--|--|---------------|----------|

### **WASTE OFFENCES**

|   | Date Case Heard | Name & Address  | Offence details (including Legislation)  | Fine/Penalty & Costs   | Ward of defendant | Ward - Offence committed |
|---|-----------------|---|--|--|-------------------|--------------------------|
| 1 | 11/9/17         | Yousef Khan<br>27 Pritchard Close<br>Smethwick<br>B66 3PT                                   | Environmental Protection Act 1990<br><br>Pleaded <u>not guilty</u> to one offence of failing to comply with a statutory demand requiring written information relating to the transfer of controlled waste from the business at Star Car Wash, Manor Road, Witton, Birmingham to be provided within 7 days.<br><br>Found guilty after trial.  | 12 month conditional discharge<br><br>£300 costs<br>(£576 requested)   | Out of area       | Perry Barr               |
| 2 | 11/9/17         | Family Fashions Ltd<br>Unit 15<br>56 Parliament Street<br>Nechells<br>Birmingham<br>B10 0QJ | Environmental Protection Act 1990<br><br>Found guilty in absence of five offences; two offences of knowingly causing or permitting controlled waste, namely cardboard and a bag of waste, to be deposited on land in Parliament Street, Small Heath, Birmingham on two separate occasions. Two offences of failing to take measures to prevent waste from the premises being deposited | £2,000<br>(£1,000 x 2)<br><br>No separate penalty for remaining offences<br><br>£1,089 costs<br>(£1,089 requested) | Nechells          | Nechells                 |

|   |         |   |  |   |                |                 |
|---|---------|---|--|---|----------------|-----------------|
|   |         |   | on land, in that they did not have a lawful means to dispose of their waste. One offence of failing to comply with a statutory demand requiring written information relating to the transfer of waste from the business to be provided within 7 days.  | £160 clean-up costs awarded.  |                |                 |
| 3 | 13/9/17 | Curry in a Hurry Ltd<br>8 St Stephens Road<br>Birmingham<br>B29 7RP   | Environmental Protection Act 1990<br><br>Pleaded guilty to one offence of depositing controlled waste, namely a sack containing wrapping, documents and food on Milner Road, Birmingham.   | £1,800<br><br>£833 costs (£833 requested)   | Selly Oak      | Selly Oak       |
| 4 | 22/9/17 | Mariusz Szlachtowicz<br>8 Lyall Grove<br>Birmingham<br>B27 7QN  | Environmental Protection Act 1990<br><br>Pleaded guilty to two offences; one offence of failing to ensure that waste was transferred to an authorised person, in that a box was found in the garage area off Blechers Lane and Cotterills Lane, Washwood Heath, Birmingham and one offence of knowingly causing or permitting the waste to be deposited on land without a permit.  | £120 x 1<br><br>No separate penalty for 2 <sup>nd</sup> offence<br><br>£80 (£727 requested)   | Washwood Heath | Bordesley Green |
| 5 | 22/9/17 | Sunil Kumar<br>3 End Hall Road<br>Wolverhampton<br>WV6 8HA<br><br>Ravi Kumar<br>3 End Hall Road<br>Wolverhampton<br>WV6 8HA | Environmental Protection Act 1990<br><br>Sunil Kumar pleaded guilty to two offences: one of failing to ensure that an adequate procedure was in place to handle and dispose of asbestos containing materials that contaminated skips provided by Bogan Skip Hire and one of failing to ensure adequate training and supervision of employees in relation to overloaded skips. Ravi Kumar pleaded guilty to one offence of depositing three tonne bags of asbestos containing materials on land at Truckstop, Wharf Road, Tyseley, Birmingham | Suspended sentence order of 4 months custody x each defendant<br><br>£2,545 costs (Sunil £1,522.50 Ravi £1,022.50) (£2,545 requested)<br><br>Clean-up costs £895 (to be split equally between defendants) | Out of area    | South Yardley   |

|   |         |  |   |   |                           |                           |
|---|---------|--|---|---|---------------------------|---------------------------|
| 6 | 25/9/17 | Adisson Ali Hussain<br>143 Brandwood Park Road<br>Kings Heath<br>Birmingham<br>B14 6QX | Environmental Protection Act 1990<br><br>Pleaded <u>not guilty</u> to two offences; one offence of depositing controlled waste, namely one black bag containing waste, in the vicinity of Rookery Road, Handsworth, Birmingham without a permit and one offence of failing to comply with a statutory demand for written information relating to the transfer of controlled waste from the business at Kurd Internet Shop, 73 Rookery Road, Handsworth, Birmingham to be provided within 7 days.<br><br>Found guilty after trial. | £100 x 1<br><br>No separate penalty for 2 <sup>nd</sup> offence<br><br>£900 costs<br>(£1,805 requested) | Brandwood                 | Handsworth Wood           |
| 7 | 28/9/17 | Maden Lal<br>Flat above<br>110A Lozells Road<br>Birmingham<br>B19 2TB                  | Environmental Protection Act 1990<br><br>Pleaded guilty to one offence of failing to comply with a statutory demand requiring written information relating to the transfer of controlled waste from the business at Annu Fashions, 110A Lozells Road, Birmingham to be provided within 7 days.  | £300<br><br>£378 costs<br>(£378 requested)  | Lozells & East Handsworth | Lozells & East Handsworth |

### **PEST OFFENCES**

|   |         |  |  |  |            |            |
|---|---------|--|--|--|------------|------------|
| 1 | 22/9/17 | Robert Anthony Denham<br>228 Ryde Park Road<br>Rednal<br>Birmingham<br>B45 8RJ | Prevention of Damage by Pests Act 1949<br><br>Pleaded guilty to one offence of failing to comply with a notice requiring the removal of an accumulation of rubbish, to cut back and remove all overgrowth and eradicate all pests from the rear garden of 228 Ryde Park Road, Rednal, Birmingham within two weeks. | £440<br><br>£699 costs<br>(£699 requested) | Longbridge | Longbridge |
|---|---------|--|--|--|------------|------------|

**ANIMAL WELFARE OFFENCES**

|   | <b>Date<br/>Case<br/>Heard</b> | <b>Name &amp; Address</b>  | <b>Offence details (including Legislation)</b>  | <b>Fine/Penalty &amp;<br/>Costs</b>                                     | <b>Ward of<br/>defendant</b> | <b>Ward - Offence<br/>committed</b> |
|---|--------------------------------|--|---|---|------------------------------|-------------------------------------|
| 1 | 15/9/17                        | Robert Grey<br>34 Greenford House<br>Faulkners Farm Drive<br>Birmingham<br>B23 7XJ | The Fouling of Land by Dogs Order 2014<br><br>Pleaded guilty to one offence of being in charge of a dog and failing to remove dog faeces from land at the rear of Greenford House, Faulkner's Farm Drive, Birmingham.   | £80<br><br>£100 costs<br>(£315 requested)                               | Kingstanding                 | Kingstanding                        |
| 2 | 25/9/17                        | Joanne Oliver<br>28 Admington Road<br>Sheldon<br>Birmingham<br>B33 0RT             | The Clean Neighbourhoods and Environment Act 2005<br>The Microchipping of Dogs (England) Regs 2015<br><br>Pleaded guilty to two offences of being in charge of a dog in Mickleton Avenue, Sheldon, Birmingham; one of failing to provide a name and address when required to do so in order to issue a fixed penalty and 1 of obstructing an authorised officer from seeking to take possession of a dog for the purpose of checking whether it was microchipped.<br>Originally listed for trial. | 12 month conditional<br>discharge<br><br>£280 costs<br>(£970 requested) | Sheldon                      | Sheldon                             |

**LITTERING OFFENCES**

|   | <b>Date<br/>Case<br/>Heard</b> | <b>Name &amp; Address</b>                                    | <b>Offence details (including Legislation)</b>   | <b>Fine/Penalty &amp;<br/>Costs</b>        | <b>Ward of<br/>defendant</b> | <b>Ward - Offence<br/>committed</b> |
|---|--------------------------------|--|--|--|------------------------------|-------------------------------------|
| 1 | 8/9/17                         | Fiona Wilkinson<br>29 Clark Road<br>Wolverhampton<br>WV3 9NP | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Out of area                  | Ladywood                            |

|   |        |  |  |  |                              |          |
|---|--------|--|--|--|------------------------------|----------|
| 2 | 8/9/17 | Jacqui Temperley<br>1 Defiance Mill<br>Queen Street<br>Macclesfield<br>SK10 5PS                    | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Out of area                  | Ladywood |
| 3 | 8/9/17 | Krzysztof Swieczkowski<br>71 Woltanm Close<br>Redditch<br>Worcestershire<br>B98 0NT                | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Out of area                  | Ladywood |
| 4 | 8/9/17 | Shahmir Sanni<br>114 Welford Road<br>Solihull<br>B90 3HD   | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.       | £220<br><br>£175 costs<br>(£175 requested) | Out of area                  | Ladywood |
| 5 | 8/9/17 | Riky Phillips<br>8 Milverton Hill<br>Leamington Spa<br>CV32 5HY                                    | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Out of area                  | Ladywood |
| 6 | 8/9/17 | Mitch Mi<br>Apartment 810 The<br>Litmus Building<br>195 Huntington Street<br>Nottingham<br>NG1 3NY | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.       | £220<br><br>£175 costs<br>(£175 requested) | Out of area                  | Ladywood |
| 7 | 8/9/17 | Joshua Jones<br>51 Villa Road<br>Lozells<br>Birmingham<br>B19 1BH                                  | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.        | £220<br><br>£175 costs<br>(£175 requested) | Lozells & East<br>Handsworth | Ladywood |



|    |         |  |  |  |                   |          |
|----|---------|--|--|--|-------------------|----------|
| 8  | 8/9/17  | Jack Hancock<br>4b South Road<br>Hockley<br>Birmingham<br>B18 5NB                      | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Soho              | Ladywood |
| 9  | 8/9/17  | Joseph Clarke<br>294 Oxhill Road<br>Handsworth<br>Birmingham<br>B21 8EU                | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Upper Bull Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Handworth<br>Wood | Ladywood |
| 10 | 8/9/17  | Darren Brooks<br>241 Park Lane<br>Castle Vale<br>Birmingham<br>B35 6LR                 | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Tyburn            | Ladywood |
| 11 | 14/9/17 | Mikolaj Wisniewski<br>Flat 2<br>47a Station Road<br>Erdington<br>Birmingham<br>B23 6UE | Environmental Protection Act 1990<br><br>Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.           | £65<br><br>£175 costs<br>(£175 requested)  | Erdington         | Ladywood |
| 12 | 14/9/17 | Shaharyar Farrukh<br>22 Rushwood Close<br>Walsall<br>WS4 2HS                           | Environmental Protection Act 1990<br><br>Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.              | £65<br><br>£175 costs<br>(£175 requested)  | Out of area       | Ladywood |
| 13 | 14/9/17 | Dick Lima Ni N Hada<br>26 Churchill Parade<br>Sutton Coldfield<br>B75 7LD              | Environmental Protection Act 1990<br><br>Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Corporation Street, Birmingham.             | £85<br><br>£175 costs<br>(£175 requested)  | Sutton Trinity    | Ladywood |

|    |         |  |   |  |                 |            |
|----|---------|--|---|--|-----------------|------------|
| 14 | 14/9/17 | Jeremy Powell<br>Apartment 421 Snow Hill<br>86 Old Snow Hill<br>Birmingham<br>B4 6GE | Environmental Protection Act 1990<br><br>Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.                        | £5<br><br>No costs<br>(£175 requested)     | Ladywood        | Ladywood   |
| 15 | 14/9/17 | Ali Hussain<br>1 Church Square<br>Oldbury<br>B69 4DX                                 | Environmental Protection Act 1990<br><br>Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.              | £50<br><br>£125 costs<br>(£175 requested)  | Out of area     | Ladywood   |
| 16 | 14/9/17 | Zafeer Younis<br>15 Stewart Crescent<br>Glasgow<br>G78 1UU                           | Environmental Protection Act 1990<br><br>Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Pershore Road South, Kings Norton, Birmingham. | £145<br><br>£175 costs<br>(£175 requested) | Out of area     | Bournville |
| 17 | 14/9/17 | Maria Preston<br>11 Crestway<br>Blackpool<br>FY3 8PA                                 | Environmental Protection Act 1990<br><br>Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.                 | £135<br><br>£175 costs<br>(£175 requested) | Out of area     | Ladywood   |
| 18 | 14/9/17 | Joshua Bannister<br>11 Herbert Street<br>West Bromwich<br>B70 6HY                    | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.          | £220<br><br>£175 costs<br>(£175 requested) | Out of area     | Ladywood   |
| 19 | 14/9/17 | Greta Kowalik<br>47 Crowther Road<br>Birmingham<br>B23 7DL                           | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.    | £220<br><br>£175 costs<br>(£175 requested) | Stockland Green | Ladywood   |

|    |         |   |  |  |                 |            |
|----|---------|---|--|--|-----------------|------------|
| 20 | 14/9/17 | Diana Pietruszka<br>29 Hemington Way<br>Kirton<br>Boston<br>PE20 1EA              | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Out of area     | Ladywood   |
| 21 | 14/9/17 | Artur Popielec<br>29 Hemington Way<br>Kirton<br>Boston<br>PE20 1EA                | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Out of area     | Ladywood   |
| 22 | 14/9/17 | Lucian Claudiu Popescu<br>32 Bordesley Green East<br>Birmingham<br>B9 5SD         | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.        | £220<br><br>£175 costs<br>(£175 requested) | Bordesley Green | Ladywood   |
| 23 | 14/9/17 | Mihaela Antoanela David<br>366 Harborne Lane<br>Harborne<br>Birmingham<br>B17 0NY | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.        | £220<br><br>£175 costs<br>(£175 requested) | Harborne        | Ladywood   |
| 24 | 14/9/17 | Sandel Craciun<br>52 Fourth Avenue<br>Bordesley Green<br>Birmingham<br>B9 5RQ     | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Watford Road, Kings Norton.    | £220<br><br>£175 costs<br>(£175 requested) | Bordesley Green | Bournville |
| 25 | 14/9/17 | Julia Downer<br>10 Basil Road<br>Frankley<br>Birmingham<br>B31 5PS                | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in High Street, Birmingham.       | £220<br><br>£175 costs<br>(£175 requested) | Weoley          | Ladywood   |

|    |         |  |   |  |                 |          |
|----|---------|--|---|--|-----------------|----------|
| 26 | 14/9/17 | Connor Foster<br>96 Overstone Road<br>Sywell<br>Northampton<br>NN6 OAW               | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.    | £220<br><br>£175 costs<br>(£175 requested) | Out of area     | Ladywood |
| 27 | 14/9/17 | Alexandru Gheorghe<br>81 Blakeland Street<br>Bordesley Green<br>Birmingham<br>B9 5XQ | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.           | £220<br><br>£175 costs<br>(£175 requested) | Bordesley Green | Ladywood |
| 28 | 14/9/17 | Stephen Grimes<br>23 Brandwood Park<br>Road<br>Kings Heath<br>Birmingham<br>B14 6QY  | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.          | £220<br><br>£175 costs<br>(£175 requested) | Brandwood       | Ladywood |
| 29 | 14/9/17 | Radu Ionica<br>40 Avon Road<br>Worcester<br>WR4 9AG                                  | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bennetts Hill, Birmingham.        | £220<br><br>£175 costs<br>(£175 requested) | Out of area     | Ladywood |
| 30 | 14/9/17 | Shofiquil Islam<br>10 Jinnah Close<br>Highgate<br>Birmingham<br>B12 0SU              | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Nechells        | Ladywood |
| 31 | 14/9/17 | Jonathan Wyatt<br>28 York Close<br>Bicester<br>Oxford<br>OX26 4XE                    | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.           | £220<br><br>£175 costs<br>(£175 requested) | Out of area     | Ladywood |

|    |         |   |   |  |                 |           |
|----|---------|---|---|--|-----------------|-----------|
| 32 | 14/9/17 | Patricia Walker<br>18 Clarkson Street<br>Barnsley<br>S70 4SJ                      | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.    | £220<br><br>£175 costs<br>(£175 requested) | Out of area     | Ladywood  |
| 33 | 14/9/17 | Ahmed Joya<br>77 Kings Road<br>Stockland Green<br>Birmingham<br>B23 7JN           | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.           | £220<br><br>£175 costs<br>(£175 requested) | Stockland Green | Ladywood  |
| 34 | 14/9/17 | Romeo Lacatus<br>147 James Turner Street<br>Winson Green<br>Birmingham<br>B18 4NF | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bristol Road, Birmingham.         | £220<br><br>£175 costs<br>(£175 requested) | Soho            | Edgbaston |
| 35 | 14/9/17 | Ethes Lakatos<br>12 Park Street<br>Smethwick<br>B67 6AY                           | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette box on the pavement in Moor Street Queensway, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Out of area     | Ladywood  |
| 36 | 14/9/17 | Debbie Logan<br>74 Pineapple Road<br>Stirchley<br>Birmingham<br>B30 2TL           | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.           | £220<br><br>£175 costs<br>(£175 requested) | Bournville      | Ladywood  |
| 37 | 14/9/17 | Daisd Raban<br>103 Unett Street<br>Smethwick<br>B66 3TA                           | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.           | £220<br><br>£175 costs<br>(£175 requested) | Out of area     | Ladywood  |

|    |         |  |  |  |                              |          |
|----|---------|--|--|--|------------------------------|----------|
| 38 | 14/9/17 | Constantin Marginean<br>98 Brunswick Road<br>Handsworth<br>Birmingham<br>B21 9AB                             | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.       | £220<br><br>£175 costs<br>(£175 requested) | Lozells & East<br>Handsworth | Ladywood |
| 39 | 14/9/17 | Imran Noor<br>4 Holder Road<br>Sparkbrook<br>Birmingham<br>B11 1PU   | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Navigation Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Sparkbrook                   | Ladywood |
| 40 | 14/9/17 | Doru Alexander Preda<br>23-24 Bright Street<br>Wolverhampton<br>WV1 4AT                                      | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Hinckley Street, Birmingham.   | £220<br><br>£175 costs<br>(£175 requested) | Out of area                  | Ladywood |
| 41 | 14/9/17 | Iona Badea<br>17 Astbury Avenue<br>Smethwick<br>B67 6JD  | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bennetts Hill, Birmingham.     | £220<br><br>£175 costs<br>(£175 requested) | Out of area                  | Ladywood |
| 42 | 14/9/17 | Louise McClusky<br>28 Bromford Crescent<br>Erdington<br>Birmingham<br>B24 9RL                                | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.        | £220<br><br>£175 costs<br>(£175 requested) | Tyburn                       | Ladywood |
| 43 | 14/9/17 | Aran Srikumar<br>Apartment 225c<br>The Recordings Room<br>Bristol Road<br>Selly Oak<br>Birmingham<br>B29 6AU | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bristol Road, Birmingham.      | £220<br><br>£175 costs<br>(£175 requested) | Selly Oak                    | Ladywood |

|    |         |   |  |  |                              |          |
|----|---------|---|--|--|------------------------------|----------|
| 44 | 14/9/17 | Eduard Timingeri<br>18 Brixham Road<br>Edgbaston<br>Birmingham<br>B16 0JY   | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.        | £220<br><br>£175 costs<br>(£175 requested) | Soho                         | Ladywood |
| 45 | 28/9/17 | Muhammed Tahir<br>127 Whitehall Road<br>Handsworth<br>Birmingham<br>B21 9AX | Environmental Protection Act 1990<br><br>Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.           | £80<br><br>£20 costs<br>(£175 requested)   | Lozells & East<br>Handsworth | Ladywood |
| 46 | 28/9/17 | Ionela Miruna Ana<br>608 Bristol Road<br>Birmingham<br>B29 6BQ              | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.        | £220<br><br>£175 costs<br>(£175 requested) | Selly Oak                    | Ladywood |
| 47 | 28/9/17 | Kelsey Aston<br>278 Walsall Road<br>Perry Barr<br>Birmingham<br>B42 1UB     | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Perry Barr                   | Ladywood |
| 48 | 28/9/17 | John Bishop<br>222 Bordesley Green<br>Birmingham<br>B9 4SU                  | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bull Street, Birmingham.       | £220<br><br>£175 costs<br>(£175 requested) | Nechells                     | Ladywood |
| 49 | 28/9/17 | Miku Florin Catacin<br>62 Hurst Road<br>Smethwick<br>B67 6ND                | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Cannon Street, Birmingham.     | £220<br><br>£175 costs<br>(£175 requested) | Out of area                  | Ladywood |

|    |         |   |   |  |             |          |
|----|---------|---|---|--|-------------|----------|
| 50 | 28/9/17 | David Collins<br>Black Lion Hotel<br>North Street<br>Rhayader<br>Wales<br>LD6 5BU | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Out of area | Ladywood |
| 51 | 28/9/17 | Natasha Egan<br>93 Hanover Road<br>Rowley Regis<br>B65 9EE                        | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.          | £220<br><br>£175 costs<br>(£175 requested) | Out of area | Ladywood |
| 52 | 28/9/17 | Matthew Gibson<br>7 Crew Drive<br>Tipton<br>DY4 7SS                               | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.          | £220<br><br>£175 costs<br>(£175 requested) | Out of area | Ladywood |
| 53 | 28/9/17 | Zaneta Anna Gornicka<br>276 Hillmorton Road<br>Rugby<br>CV2 1GB                   | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.           | £220<br><br>£175 costs<br>(£175 requested) | Out of area | Ladywood |
| 54 | 28/9/17 | Ionel Prtica Ionita<br>14 Kernthorpe Road<br>Kings Heath<br>Birmingham<br>B14 6RA | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.           | £220<br><br>£175 costs<br>(£175 requested) | Brandwood   | Ladywood |
| 55 | 28/9/17 | Katy Sadler<br>193 Parkfields<br>Wolverhampton<br>WV4 6ER                         | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.    | £220<br><br>£175 costs<br>(£175 requested) | Out of area | Ladywood |



|    |         |  |   |  |             |          |
|----|---------|--|---|--|-------------|----------|
| 56 | 28/9/17 | Dean Simms<br>15 Edale Road<br>Great Barr<br>Birmingham<br>B42 2DL                           | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.    | £220<br><br>£175 costs<br>(£175 requested) | Perry Barr  | Ladywood |
| 57 | 28/9/17 | Robert Luke Simpson<br>Flat 32 Chilton House<br>Coleman Street<br>Southend on Sea<br>SS2 5AE | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Out of area | Ladywood |
| 58 | 28/9/17 | Matthew Spencer<br>Flat 5c Highfield Road<br>Edgbaston<br>Birmingham<br>B15 3EF              | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bull Street, Birmingham.          | £220<br><br>£175 costs<br>(£175 requested) | Edgbaston   | Ladywood |
| 59 | 28/9/17 | Madaline Tarca<br>18 Parker Street<br>Warrington<br>WA1 1LT                                  | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.    | £220<br><br>£175 costs<br>(£175 requested) | Out of area | Ladywood |
| 60 | 28/9/17 | Claire Ward<br>22 Marlborough Road<br>Coventry<br>CV2 4EP                                    | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Place, Birmingham.     | £220<br><br>£175 costs<br>(£175 requested) | Out of area | Ladywood |
| 61 | 28/9/17 | Carl Williamson<br>8 Hilleys Croft<br>Chelmsley Wood<br>Solihull<br>B37 5BW                  | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.           | £220<br><br>£175 costs<br>(£175 requested) | Out of area | Ladywood |

|    |         |  |  |  |               |                       |
|----|---------|--|--|--|---------------|-----------------------|
| 62 | 28/9/17 | Muhammed Khan<br>199 Malmesbury Road<br>Small Heath<br>Birmingham<br>B10 0JJ         | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Moor Street, Birmingham.             | £220<br><br>£175 costs<br>(£175 requested) | South Yardley | Ladywood              |
| 63 | 28/9/17 | Jamie Lattimer<br>655 Yardley Wood Road<br>Billesley<br>Birmingham<br>B13 0HN        | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Kings Heath High Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Billesley     | Moseley & Kings Heath |
| 64 | 28/9/17 | Alice Lavery<br>Flat 8<br>Lisle House<br>Clarence Square<br>Cheltenham<br>GL50 4JR   | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.    | £220<br><br>£175 costs<br>(£175 requested) | Out of area   | Ladywood              |
| 65 | 28/9/17 | Christian Limban<br>147 James Turner Street<br>Winson Green<br>Birmingham<br>B18 4NF | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bristol Road, Birmingham.            | £220<br><br>£175 costs<br>(£175 requested) | Soho          | Edgbaston             |
| 66 | 28/9/17 | Daria Magdalena<br>Matachowska<br>276 Hillmorton Road<br>Rugby<br>CV2 1GB            | Environmental Protection Act 1990<br><br>Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.              | £220<br><br>£175 costs<br>(£175 requested) | Out of area   | Ladywood              |
| 67 | 28/9/17 | Thomas McDonald<br>350 Marsh Lane<br>Bootle<br>Liverpool<br>L20 2BX                  | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.       | £220<br><br>£175 costs<br>(£175 requested) | Out of area   | Ladywood              |

|    |         |   |  |  |                          |          |
|----|---------|---|--|--|--------------------------|----------|
| 68 | 28/9/17 | Marin Mihia<br>210 Bacchus Road<br>Winson Green<br>Birmingham<br>B18 4RD              | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.        | £220<br><br>£175 costs<br>(£175 requested) | Soho                     | Ladywood |
| 69 | 28/9/17 | Alistair Page<br>Apartment 2<br>1 Harlequin Drive<br>Moseley<br>Birmingham<br>B13 8NU | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Moseley &<br>Kings Heath | Ladywood |
| 70 | 28/9/17 | Andrei Alin Pop<br>71 Norfolk Road<br>London<br>E6 2NH                                | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.        | £220<br><br>£175 costs<br>(£175 requested) | Out of area              | Ladywood |
| 71 | 25/9/17 | Murad Jalal Qadri<br>462 Porters Avenue<br>Dagenham<br>RM8 2EE                        | Environmental Protection Act 1990<br><br>Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Navigation Street, Birmingham. | £220<br><br>£175 costs<br>(£175 requested) | Out of area              | Ladywood |

### **ENVIRONMENTAL HEALTH SIMPLE CAUTIONS**

One simple caution was administered during September 2017.

### **Health & Safety at Work etc. Act 1974**

One caution was issued for failing to ensure the workplace is in a condition that is safe and without risks to prevent employees falling from two mezzanines.

**TRADING STANDARDS**

|   | Date Case Heard | Name & Address   | Offence details (including Legislation)   | Fine/Penalty & Costs   | Ward of defendant | Ward - Offence committed |
|---|-----------------|--|---|--|-------------------|--------------------------|
| 1 | 11/9/17         | <p>Qamar Ashfaq<br/>12 Bankes Road<br/>Small Heath<br/>Birmingham<br/>B10 9PR</p> <p>James Hudson Motors Ltd<br/>189-203 Formans Road<br/>Sparkhill<br/>Birmingham<br/>B11 3AX</p> | <p>Road Traffic Act 1988 &amp; Consumer Protection from Unfair Trading Regulations 2008.</p> <p>Each defendant pleaded guilty to 42 offences; 17 of exposing vehicles for sale which were in a dangerous and unroadworthy condition from James Hudson Motors Ltd, 189-203 Formans Road, Sparkhill, Birmingham. 17 offences of placing misleading advertisements stating that the vehicles were in excellent condition which was false in that they were poorly maintained and unroadworthy. Seven offences of advertising vehicles for sale on the company website and omitting to state that the vehicles were Category C insurance write offs and were damaged. One offence of advertising motor vehicles for sale without first carrying out a basic inspection to ascertain whether the vehicle was safe, roadworthy, of satisfactory quality or economical repair.</p> <p>Originally listed for trial.</p> | <p>Director fined £1,000 x 1</p> <p>No separate penalty for remaining offences</p> <p>Disqualified from being a Director for 5 years.</p> <p>Company fined £1,000 x 1</p> <p>No separate penalty for remaining offences</p> <p>Director £3,000 costs<br/>Company £6,000 costs<br/>(£9,000 requested)</p> <p>Forfeiture of all 17 vehicles granted.</p> | Bordesley Green   | Springfield              |

|   |         |   |  |   |          |          |
|---|---------|---|--|---|----------|----------|
| 2 | 14/9/17 | <p>Tahir Mahmood<br/>351-355 Coventry Road<br/>Small Heath<br/>Birmingham<br/>B10 0SN</p> <p>Amsons TM Ltd<br/>351-355 Coventry Road<br/>Small Heath<br/>Birmingham<br/>B10 0SN</p> | <p>Consumer Protection Act 1987</p> <p>Each defendant pleaded guilty to one offence of having 25 incense burners in possession for supply at Amsons, 351-355 Coventry Road. which were unsafe in that they failed to comply with the Electrical Equipment (Safety) Regulations 1994.</p> | <p>Director fined £923</p> <p>No separate penalty for the company</p> <p>£1,242 costs (£1,242 requested)</p> <p>Forfeiture of seized items granted.</p> | Nechells | Nechells |
|---|---------|---|--|---|----------|----------|

#### **TRADING STANDARDS SIMPLE CAUTIONS**

No simple cautions were administered during September 2017.

**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – SEPTEMBER 2017**

| <b><u>WARDS &amp; CONSTITUENCIES<br/>FINALIZED BY OFFENCE</u></b> |                         |   |   |                                 |
|---|-------------------------|---|---|---------------------------------|
|   | <b><u>Licensing</u></b> | <b><u>Environmental Health -<br/>Non FPNs</u></b> | <b><u>Environmental Health -<br/>FPNs</u></b> | <b><u>Trading Standards</u></b> |
| <b>EDGBASTON</b>  |                         |   |   |                                 |
| Bartley Green   |                         |   |   |                                 |
| Edgbaston   |                         |   | 2   |                                 |
| Harborne  |                         |   |   |                                 |
| Quinton   |                         |   |   |                                 |
| <b>ERDINGTON</b>  |                         |   |   |                                 |
| Erdington   |                         |   |   |                                 |
| Kingstanding  |                         | 1   |   |                                 |
| Stockland Green   |                         |   |   |                                 |
| Tyburn  |                         |   |   |                                 |
| <b>HALL GREEN</b>   |                         |   |   |                                 |
| Hall Green  |                         |   |   |                                 |
| Moseley & Kings Heath   |                         |   | 1   |                                 |
| Sparkbrook  |                         |   |   |                                 |
| Springfield   |                         |   |   | 1                               |
| <b>HODGE HILL</b>   |                         |   |   |                                 |
| Hodge Hill  |                         |   |   |                                 |
| Washwood Heath  |                         |   |   |                                 |
| Bordseley Green   |                         | 1   |   |                                 |
| Shard End   |                         |   |   |                                 |
| <b>LADYWOOD</b>   |                         |   |   |                                 |
| Aston   |                         |   |   |                                 |
| Ladywood  | 1                       | 2   | 66  | 1                               |
| Nechells  |                         | 1   |   |                                 |
| Soho  |                         |   |   |                                 |
|   |                         |   |   |                                 |

|                           |   |    |    |   |
|---------------------------|---|----|----|---|
| <b>NORTHFIELD</b>         |   |    |    |   |
| Kings Norton              |   |    |    |   |
| Longbridge                |   | 1  |    |   |
| Northfield                |   |    |    |   |
| Weoley                    |   |    |    |   |
|                           |   |    |    |   |
| <b>PERRY BARR</b>         |   |    |    |   |
| Lozells & East Handsworth |   | 1  |    |   |
| Handsworth Wood           |   | 1  |    |   |
| Oscott                    |   |    |    |   |
| Perry Barr                |   | 1  |    |   |
|                           |   |    |    |   |
| <b>SELLY OAK</b>          |   |    |    |   |
| Billesley                 |   |    |    |   |
| Bournville                |   |    | 2  |   |
| Brandwood                 |   |    |    |   |
| Selly Oak                 |   | 1  |    |   |
|                           |   |    |    |   |
| <b>SUTTON COLDFIELD</b>   |   |    |    |   |
| Sutton Four Oaks          |   |    |    |   |
| Sutton New Hall           |   |    |    |   |
| Sutton Trinity            | 1 |    |    |   |
| Sutton Vesey              |   |    |    |   |
|                           |   |    |    |   |
| <b>YARDLEY</b>            |   |    |    |   |
| Acocks Green              |   |    |    |   |
| Sheldon                   |   | 1  |    |   |
| South Yardley             |   | 2  |    |   |
| Stechford & North Yardley |   |    |    |   |
|                           |   |    |    |   |
|                           |   |    |    |   |
|                           |   |    |    |   |
| <b>TOTAL</b>              | 2 | 13 | 71 | 2 |
|                           |   |    |    |   |

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

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



|                           |   |    |    |   |
|---------------------------|---|----|----|---|
| <b>NORTHFIELD</b>         |   |    |    |   |
| Kings Norton              |   |    |    |   |
| Longbridge                |   | 1  |    |   |
| Northfield                |   |    |    |   |
| Weoley                    |   |    | 1  |   |
|                           |   |    |    |   |
| <b>PERRY BARR</b>         |   |    |    |   |
| Lozells & East Handsworth |   | 1  | 3  |   |
| Handsworth Wood           |   |    | 1  |   |
| Oscott                    |   |    |    |   |
| Perry Barr                |   |    | 2  |   |
|                           |   |    |    |   |
| <b>SELLY OAK</b>          |   |    |    |   |
| Billesley                 |   |    | 1  |   |
| Bournville                |   |    | 1  |   |
| Brandwood                 |   | 1  | 2  |   |
| Selly Oak                 |   | 1  | 2  |   |
|                           |   |    |    |   |
| <b>SUTTON COLDFIELD</b>   |   |    |    |   |
| Sutton Four Oaks          |   |    |    |   |
| Sutton New Hall           |   |    |    |   |
| Sutton Trinity            |   |    | 1  |   |
| Sutton Vesey              |   |    |    |   |
|                           |   |    |    |   |
| <b>YARDLEY</b>            |   |    |    |   |
| Acocks Green              |   |    |    |   |
| Sheldon                   |   | 1  |    |   |
| South Yardley             |   | 2  | 1  |   |
| Stechford & North Yardley |   |    |    |   |
|                           |   |    |    |   |
| <b>OUT OF AREA</b>        |   | 2  | 36 |   |
|                           |   |    |    |   |
| <b>TOTAL</b>              | 2 | 13 | 71 | 2 |
|                           |   |    |    |   |

**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – SEPTEMBER 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          | 1        | 0          | 0          | 0         | 1                | 0       | 0           | <b>2</b>  |
| Environmental Health (FPNs) Not paid and prosecuted | 2         | 0         | 1          | 0          | 66       | 0          | 0          | 2         | 0                | 0       | 0           | <b>71</b> |
| Environmental Health (non FPNs)                     | 0         | 1         | 0          | 1          | 3        | 1          | 3          | 1         | 0                | 3       | 0           | <b>13</b> |
| Trading Standards                                   | 0         | 0         | 1          | 0          | 1        | 0          | 0          | 0         | 0                | 0       | 0           | <b>2</b>  |

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

|   | Edgbaston | Erdington | Hall Green | Hodge Hill | Ladywood | Northfield | Perry Barr | Selly Oak | Sutton Coldfield | Yardley | Out of Area | Total     |
|---|-----------|-----------|------------|------------|----------|------------|------------|-----------|------------------|---------|-------------|-----------|
| Licensing   | 0         | 0         | 0          | 2          | 0        | 0          | 0          | 0         | 0                | 0       | 0           | <b>2</b>  |
| Environmental Health (FPNs) Not paid and prosecuted | 2         | 5         | 2          | 3          | 8        | 1          | 6          | 6         | 1                | 1       | 36          | <b>71</b> |
| Environmental Health (non FPNs)                     | 0         | 1         | 0          | 2          | 1        | 1          | 1          | 2         | 0                | 3       | 2           | <b>13</b> |
| Trading Standards                                   | 0         | 0         | 0          | 1          | 1        | 0          | 0          | 0         | 0                | 0       | 0           | <b>2</b>  |

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

|   | Edgbaston | Erdington | Hall Green | Hodge Hill | Ladywood | Northfield | Perry Barr | Selly Oak | Sutton Coldfield | Yardley | Out of Area | Total      |
|---|-----------|-----------|------------|------------|----------|------------|------------|-----------|------------------|---------|-------------|------------|
| Licensing   | 1         | 0         | 2          | 0          | 10       | 2          | 0          | 1         | 1                | 2       | 0           | <b>19</b>  |
| Environmental Health (FPNs) Not paid and prosecuted | 2         | 0         | 2          | 0          | 296      | 1          | 0          | 5         | 0                | 0       | 0           | <b>306</b> |
| Environmental Health (non FPNs)                     | 0         | 8         | 7          | 6          | 32       | 3          | 12         | 3         | 1                | 9       | 0           | <b>81</b>  |
| Trading Standards                                   | 1         | 0         | 2          | 1          | 4        | 0          | 0          | 0         | 0                | 2       | 0           | <b>10</b>  |

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

|   | Edgbaston | Erdington | Hall Green | Hodge Hill | Ladywood | Northfield | Perry Barr | Selly Oak | Sutton Coldfield | Yardley | Out of Area | Total      |
|---|-----------|-----------|------------|------------|----------|------------|------------|-----------|------------------|---------|-------------|------------|
| Licensing   | 1         | 0         | 4          | 6          | 2        | 1          | 1          | 0         | 0                | 0       | 4           | <b>19</b>  |
| Environmental Health (FPNs) Not paid and prosecuted | 11        | 11        | 10         | 21         | 38       | 10         | 21         | 22        | 6                | 5       | 151         | <b>306</b> |
| Environmental Health (non FPNs)                     | 3         | 8         | 6          | 10         | 18       | 2          | 9          | 4         | 3                | 9       | 9           | <b>81</b>  |
| Trading Standards                                   | 0         | 0         | 2          | 0          | 5        | 0          | 0          | 0         | 0                | 1       | 2           | <b>10</b>  |

**WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY**  
**APRIL 2017 – MARCH 2018**

|   | Apr-17 | May-17 | Jun-17 | Jul-17 | Aug-17 | Total<br>2017/2018 |
|---|--------|--------|--------|--------|--------|--------------------|
| Waste Investigation Outcomes  |        |        |        |        |        |                    |
| Investigations into commercial waste disposal suspected offences and offences   | 23     | 35     | 83     | 101    | 88     | 330                |
| <u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)   | 20     | 32     | 75     | 85     | 75     | 287                |
| <u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)  | 11     | 13     | 25     | 29     | 89     | 167                |
| <u>Section 87 Environmental Protection Act.</u> Fixed Penalty notices issued for commercial and residential litter offences (£80)                           | 5      | 0      | 5      | 0      | 3      | 13                 |
| <u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)  | 4      | 9      | 7      | 1      | 6      | 27                 |
| <u>Section 52 Anti Social Behaviour Crime and Policing Act</u> fixed penalty notices issued for failing to comply with a community protection notice (£100) |        |        |        |        | 1      | 1                  |
| Prosecutions  |        |        |        |        |        |                    |
| Number of prosecution files submitted to legal services (number produced quarterly)   |        |        | 15     | 15     |        |                    |

**BIRMINGHAM CITY COUNCIL**

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

**15 NOVEMBER 2017**  
**ALL WARDS**

**ACTIONS TAKEN BY THE CHAIR OF THE LICENSING  
AND PUBLIC PROTECTION COMMITTEE DURING OCTOBER 2017**

1. Summary
  - 1.1 This report advises the Committee of an action taken by the Chair under authority from the Licensing and Public Protection Committee, together with an explanation as to why this authority was used.
2. Recommendation
  - 2.1 That the report be noted.

Contact Officer: Chris Neville, Head of Licensing  
Telephone: 0121 303 6920  
E-mail: [chris.neville@birmingham.gov.uk](mailto:chris.neville@birmingham.gov.uk)

### 3. Background Information

- 3.1 On 16 March 2007 Section 52 of the Road Safety Act 2006 came into force. This has had the effect of enabling a licensing authority to suspend or revoke a hackney carriage or private hire driver's licence with immediate effect – meaning that the suspension or revocation takes effect immediately once notice of the authority's decision has been given to the driver – where this decision is considered necessary in the interests of public safety.

### 4. Summary of Action Taken for October 2017

- 4.1 On 9 October 2017 authority was sought to revoke with immediate effect the hackney carriage driver's licence held by driver reference 672. On 9 October 2017 an allegation was received from the West Midlands Police: driver 672 was alleged to have touched a female passenger in an inappropriate manner.
- 4.2 The interests of public safety being considered paramount, an authorisation of the Director of Regulation and Enforcement, acting in consultation with the Chair, was obtained and on 10 October 2017 driver 672 was contacted advising that his hackney carriage driver's licence was revoked with immediate effect, in accordance with Sections 61(1)(b) and 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976. Driver 672 has returned his badge and vehicle identification plate to the Licensing Office.

### 5. Cross Border Taxi and Private Hire Issues

- 5.1 Section 11 of the Deregulation Act 2015, entitled 'Private Hire Vehicles – Sub Contracting', was enacted in October 2015. It permits a private hire operator in a 'controlled district', e.g. Birmingham, to sub contract a booking from a passenger to any other private hire operator in another controlled district e.g. Wolverhampton, Sandwell, or anywhere else in the country. The taxi and private hire trade responded to this Act by opening offices in more than one local authority. A number of Birmingham operators have opened offices in other local authorities' controlled districts. This enables them to send drivers and vehicles that have not been licensed by Birmingham to jobs booked through their Birmingham office.
- 5.2 A high percentage of private hire drivers working in Birmingham are not licensed by this city. At weekends when our enforcement officers have carried out stop-checks up to 50% of vehicles they stop are licensed elsewhere. Birmingham licensed drivers have reported to us the tension that this can create between them and drivers licensed by other local authorities. It also undermines our ability to impose standards on our drivers or vehicles when they have the option of obtaining a licence in another authority whilst still continuing to work in Birmingham. It also inhibits the ability of Birmingham licensing officers to enforce licence contraventions against drivers and vehicles that we have not licensed.

- 5.3 The practice is not illegal, but our concerns are shared by some other local authorities. In recognition of our serious public safety concerns that the practice lends itself to and in the light of concerns raised by the taxi and private hire trade in Birmingham, your officers invited the seven West Midlands Licensing Authority Chairs and their corresponding Heads of Service to a meeting in Birmingham on 24<sup>th</sup> July 2017. At that meeting there was a general consensus that cross border hire is problematic and that one of the factors that encourages drivers to obtain licences from other authorities is that we all work to different sets of conditions and have different licence application processes. The meeting was attended by all authorities apart from Walsall.
- 5.4 The group met again on 21<sup>st</sup> September 2017 and agreed on the wording of a letter to The Rt. Hon. John Hayes CBE MP, Minister of State for Transport Legislation and Maritime, with specific responsibility for taxi and private hire licensing, to raise our shared concerns about the Deregulation Act. A copy of that letter is attached as an Appendix to this report. The group has also agreed to sign a Memorandum of Understanding (MOU) to allow our enforcement and compliance officers to work in each other's areas to carry out compliance checks on the vehicles and drivers that they have licensed. We are obtaining legal advice on the terms of the MOU before it is signed.
- 5.5 Solihull has carried out a benchmarking exercise that has identified some of the differences between authorities in terms of licence conditions. A sub-group of officers are going to start work on identifying opportunities for us to adopt common standards and processes to reduce the demand for drivers to move around the West Midlands.
6. Implications for Resources
- 6.1 No specific implications have been identified, however, drivers retain the right to appeal through a Magistrates' Court, which may result in the imposition of costs either to or against the City Council.
7. Implications for Policy Priorities
- 7.1 The contents of the report contribute to the City Council's published policy priority of improving the standards of licensed vehicles, people and premises in the City.
8. Implications for Equality and Diversity
- 8.1 The actions identified in this report were taken in accordance with the Regulatory Services enforcement policy, which ensures that equality issues have been addressed.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**



**Councillor Barbara Dring** **APPENDIX**  
**Chair - Licensing and Public Protection**  
**Committee**  
Council House  
Victoria Square  
Birmingham B1 1BB  
Tel: 0121-303 2039  
E-mail: Barbara.Dring@birmingham.gov.uk

Our Ref: CN/RW1235

31<sup>st</sup> October 2017

The Rt. Hon. John Hayes CBE MP  
Minister of State for Transport Legislation and Maritime

House of Commons  
London  
SW1A 0AA

Dear Mr Hayes

**Cross-Border Taxi and Private Hire Matters of Concern**

We, the undersigned, represent the Licensing Committees of six local authorities in the West Midlands, namely Birmingham, Coventry, Dudley, Sandwell, Solihull and Walsall. Wolverhampton has indicated that it will write to you separately.

We write to you in your capacity as the Government Minister with responsibility for taxi policy to highlight our concerns about the impact that the Deregulation Act 2015 is having on the ability of local authorities to ensure public safety.

The Deregulation Act 2015 has given private hire drivers the ability to work across local authority boundaries. We are seeing widespread cross border issues with drivers frequently working in local authorities that have not granted their licence. This not only creates feelings of resentment between drivers, but it raises questions about how local authorities can enforce licensing conditions that they have not imposed against drivers that they have not licensed.

Night Time Economies (NTEs) naturally attract taxis and private hire vehicles from other areas, but the Deregulation Act has legitimised the practice to the extent that in Birmingham, for example, almost 50% of the private hire vehicles at weekends are not licensed by that authority and are therefore not within the control of that authority. Such authorities are faced with the cost of managing vehicles for which they have received no licence fees, imposing a disproportionate burden on them.

The ability of drivers to work in local authorities that have not licensed them has highlighted more than ever the fact that each authority has different rules around taxi and private hire licensing with different conditions applicable to their licences and different application processes. This encourages drivers to seek out authorities that they perceive to be more lenient or that are able to process applications more quickly, but in so doing it undermines



each authority's own attempts to protect their own citizens. In the West Midlands we are addressing this by trying to harmonise our conditions and requirements to discourage this cross-border movement of drivers.

We are also proposing to share the responsibility for drivers and vehicles that we have licensed who work outside our respective authorities by sending officers to those authorities to carry out compliance checks. However, these steps would be unnecessary if it were not for the problems created by the Deregulation Act.

Whilst the harmonisation of standards in the West Midlands is desirable, it will not eradicate the movement of drivers who will still seek licences from even further afield if other authorities' conditions are less onerous or if other authorities licensing processes are faster, which will undermine our efforts to protect public safety. For instance, if authorities have different policies on whether to license drivers with the same criminal record a driver might be refused a licence by local Authority A, to be granted a Licence by Local Authority B, but still work in Authority A's area. We have examples of drivers with convictions for violence and sexual offences who have been refused a licence by one authority and yet another authority has granted them a licence.

We believe that the Government should introduce national guidance for Licensing Authorities which sets out the standards for drivers, vehicles and operators. This should also be used as an opportunity to update licensing legislation which does not adequately deal with modern communications technology that is widely used by taxi and private hire firms.

Daniel Zeichner, MP for Cambridge, is drafting a Private Members' Bill, to be given its Second Reading on 2<sup>nd</sup> February 2018 on this subject, entitled The Licensing of Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill. We have offered him our support.

We are encouraged to note that you have set up a working group to consider these issues over the autumn. If we can assist you by contributing to that group we would greatly appreciate the opportunity, but if you are not taking face to face evidence we ask that you take this letter into account as a demonstration of the harm that cross border sub-contracting is causing. Your reply can be sent to Christopher Neville, the Head of Licensing at Birmingham City Council, who will co-ordinate between the five other local authorities on their behalf. His email address is [chris.neville@birmingham.gov.uk](mailto:chris.neville@birmingham.gov.uk).

Yours sincerely



**Councillor Barbara Dring, Chair of Licensing and Public Protection Committee, Birmingham City Council, on behalf of:**

Councillor Jayne Innes, Cabinet Member for City Services, Coventry City Council  
Councillor Alan Hopwood, Chairman of Dudley MBC Taxi Committee  
Councillor Bob Piper, Chair of Sandwell MBC Licensing Committee  
Councillor Peter C.M. Hogarth MBE, Chairman of Licensing Committee, Solihull MBC  
Councillor Shaun Fitzpatrick, Chair of Licensing and Safety Committee, Walsall MBC

Copied to:

The Rt Hon Chris Grayling MP, Secretary of State for Transport  
Daniel Zeichner MP  
Councillor Simon Blackburn, Chair, Safer & Stronger Communities Board,  
Local Government Association

**Birmingham MPs:**

Andrew Mitchell - Sutton Coldfield  
Preet Gill - Edgbaston  
Jack Dromey - Erdington  
Jess Phillips - Yardley  
Khalid Mahmood - Perry Barr  
Liam Byrne - Hodge Hill  
Richard Burden - Northfield  
Mr Roger Godsiff - Hall Green  
Shabana Mahmood - Ladywood  
Steve McCabe - Selly Oak

**Coventry MPs:**

Coleen Margaret Fletcher – Coventry North East  
Geoffrey Robinson – Coventry North West  
James Cunningham – Coventry South

**Dudley MPs:**

Ian Austin – Dudley North  
Mike Wood – Dudley South  
Margot James - Stourbridge

**Sandwell MPs:**

[Rt Hon John Spellar](#) - Warley  
[Tom Watson](#) - West Bromwich East  
[Adrian Bailey](#) - West Bromwich West  
[James Morris](#) - Halesowen and Rowley Regis

**Solihull MPs:**

Julian Knight - Solihull  
Caroline Spelman - Meriden

**Walsall MPs:**

Eddie Hughes – Walsall North  
Valerie Vaz – Walsall South  
Wendy Morton – Aldridge and Brownhills

**BIRMINGHAM CITY COUNCIL**

**LICENSING AND PUBLIC PROTECTION COMMITTEE**

**15 NOVEMBER 2017**

**SCHEDULE OF OUTSTANDING MINUTES**

| <b>MINUTE NO./DATE</b>  | <b>SUBJECT MATTER</b>  | <b>COMMENTS</b>             |
|-------------------------|--|-----------------------------|
|                         |  |                             |
| 846<br>12/04/2017       | <b><u>Non-attendance of Drivers at Sub-Committees</u></b> –<br>The Acting Service Director of Regulation and Enforcement be requested to report on the options for charging drivers for non attendance.  | Report due in December 2017 |
|                         |  |                             |
| 866 (ii)<br>21/06/2017  | <b><u>'Brexit'</u></b> – That the Acting Director of Regulation and Enforcement report on how 'Brexit' may affect the Committees work, especially around legislation that is currently European legislation and may have no effect after 'Brexit'.   | Report due in December 2017 |
|                         |  |                             |
| 882 (ii)<br>12/07/2017  | <b><u>Update Report On Unauthorised Encampments</u></b> –<br>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.  | See Agenda Item No.6        |
|                         |  |                             |
| 23/10/2017<br>916 (iii) | <b><u>Emissions Policy beyond 31 December 2019</u></b><br>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    |
|                         |  |                             |
| 23/10/2017<br>916 (iv)  | <b><u>Absolute Age Policy in respect of Hackney Carriage and Private Hire Vehicles.</u></b><br><br>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    |
|                         |  |                             |
| 23/10/2017<br>920       | <b><u>Card Payments in Hackney Carriage Vehicles</u></b><br><br>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 |

