

BIRMINGHAM CITY COUNCIL

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

14 FEBRUARY 2018
ALL WARDS

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE
DECISIONS TAKEN DURING DECEMBER 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.

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3. Summary of Appeal Hearings for December 2017

| | Magistrates' | Crown |
|------------------------|--------------|-------|
| Total | 3 | |
| | | |
| Allowed | | |
| Dismissed | 1 | |
| Appeal lodged at Crown | | n/a |
| Upheld in part | | |
| Withdrawn pre-Court | | |
| Consent order | 2 | |

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 December 2017 costs have been requested to the sum of £225 with reimbursement of £225 (100%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2017 to December 2017, costs associated to appeal hearings have been requested to the sum of £27,253.05 with reimbursement of £20,884.30 (76.6%) 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 | Mohammed Dhyal Uddin | 11.12.2017 | Dismissed | £225 | £225 | On 19 September 2017, as the result of a complaint submitted by a hackney carriage driver alleging plying for hire on the part of Mr Uddin, Committee considered and also gave consideration to two previous, similar complaints, and resolved to suspend the licence for a period of three months. Mr Uddin's legal representative has indicated an appeal to Crown Court. |

MAGISTRATES' COURT – LICENSING ACT 2003

| | Name | Date Case Heard | Result | Costs Requested | Costs Ordered | Comments |
|---|--|-----------------|------------------|-----------------|---------------|---|
| 1 | TMR 2016 Ltd in respect of Soirée Lounge, Unit 2, 5-11 Fleet Street, Birmingham B3 1JP | 04.12.2017 | Consent order | Nil | Nil | Representation was received from West Midlands Police expressing concern that the applicant for a premises licence was closely related to a previous premises licence holder whose licence in respect of premises at the same location was revoked following the discharge of a firearm outside the premises, that conditions suggested by the applicant were vague and unenforceable, and that conditions had been suggested, not all of which had been agreed by the applicant. On 22 August 2017 Committee was mindful of the promotion of the licensing objectives in the Act, particularly the prevention of crime and disorder, public safety and the prevention of public nuisance, and refused the application. The appeal was dealt with by way of a consent order signed on 4 December 2017 by the Head of Licensing and Counsel for the Appellant, the premises licence to contain conditions agreed with West Midlands Police. |

| | | | | | | |
|---|--|------------|------------------|-----|-----|--|
| 2 | Costcutter Unit 2, 492 Sheldon Heath Road, Birmingham B26 2RU | 04.12.2017 | Consent Order | Nil | Nil | <p>Representation was received from Cllr Sue Anderson (Sheldon Ward) objecting to the application and expressing concerns that late opening and the selling of alcohol would adversely affect local elderly residents. A 16-page petition from local traders expressing concern that the opening hours would cause problems in the area and would result in an increase of crime in the area. On 2 October 2017 Committee was mindful of the prevention of public nuisance and the protection of children from harm objectives in the Act and granted the premises licence, subject to certain conditions to promote the said objectives in the Act.</p> <p>The appellant was aggrieved by the imposition of these conditions; the appeal was dealt with by way of a consent order signed on 4 December 2017 by the Head of Licensing and a representative of Costcutter, which required the deletion or amendment of conditions imposed by the Sub Committee.</p> |
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