

BIRMINGHAM CITY COUNCIL

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

13 FEBRUARY 2019
ALL WARDS

PROSECUTIONS AND CAUTIONS – DECEMBER 2018

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

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3. Results

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

- Four Licensing cases were finalised resulting in fines of £650. 18 penalty points were issued and prosecution costs of £895 were awarded. No simple cautions were administered as set out in Appendix 1.
- 64 Environmental Health cases resulted in fines of £16,866 and prosecution costs of £7,393 were awarded. A vehicle involved in fly-tipping was also forfeited. One simple caution was administered as set out in Appendix 2.
- No Trading Standards cases were finalised and no simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in December 2018 and cases finalised by district April – December 2018.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team in April - November 2018.

4. Consultation

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

5. Implications for Resources

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

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

Licensing

£20,865 has been requested with £16,197 being awarded (78%).

Environmental Health

£261,623 has been requested with £197,392 being awarded (75%).

Trading Standards

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

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

Licensing

£2,264 has been requested with £895 being awarded (40%)

Environmental Health

£14,873 has been requested with £7,393 being awarded (49%).

Trading Standards

No costs have been requested or awarded.

- 5.4 Since the start of the financial year until the end of December 2018 the following income has been received from the courts:-

Licensing

£11,873 has been received.

Environmental Health

£142,465 has been received including Waste Enforcement cases.

Trading Standards

£52,970 has been received.

(Total £207,308)

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

6. Implications for Policy Priorities

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

7. Public Sector Equality Duty

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

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

LICENSING CASES**APPENDIX 1**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	6/12/18	Faysal Ahmed Nechells Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in Bristol Road, Birmingham and one of consequently having invalid insurance.	£140 – No Insurance offence + 6 penalty points No separate penalty for plying £150 costs (£534 requested)	Nechells	Bournbrook & Selly Park
2	7/12/18	Arshad Mahmood Kings Heath Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in Broad Street, Birmingham and one of consequently having invalid insurance.	£350 – Plying for hire + 6 penalty points No separate penalty for No Insurance £135 costs (£816 requested)	Billesley	Ladywood
3	20/12/18	Rana Naeem-Ul- Hassan Walsall	Town Police Clauses Act 1847 Pleaded guilty to one offence of plying for hire in Birmingham Road, Sutton Coldfield.	£40 £410 costs (£410 requested)	Out of area	Sutton Mere Green
4	20/12/18	Adnan Mohammed Abdullah Hussein Weoley Castle Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in Alcester Road, Moseley, Birmingham and one of consequently having invalid insurance.	£120 – no insurance + 6 penalty points No separate penalty for plying £200 costs (£504 requested)	Weoley & Selly Oak	Moseley

LICENSING SIMPLE CAUTIONS

During the period of December 2018, no simple cautions were administered

ENVIRONMENTAL HEALTH CASES**WASTE OFFENCES**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	5/12/18	Mashid Sharif Dorani Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of failing to comply with a notice requiring written information of how waste from Amir Supermarket, 247 Dudley Road, Birmingham was disposed of within 7 days. Originally listed for trial	£2,500 No costs awarded or requested.	North Edgbaston	North Edgbaston
2	6/12/18	Hoor Qasim Ltd 75 Alum Rock Road Birmingham B8 1LY	Environmental Protection Act 1990 Pleaded guilty to two offences; one offence of failing to take all reasonable measures to prevent a contravention under Section 33 of the Environmental Protection Act 1990, in that bags of waste from Hoor Qasim, 75 Alum Rock Road were found on the pavement at the junction of Ralph Road and Alum Rock Road, Birmingham, and one offence of failing to comply with a notice requiring written information of how waste from the business was disposed of within 7 days.	£345 – offence 1 No separate penalty for offence 2 £700 costs (£1,012 requested)	Alum Rock	Alum Rock
3	6/12/18	SA Express Ltd 235 Witton Road Aston Birmingham B6 6NU	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from SA Express, 235 Witton Road, Aston, Birmingham was disposed of within 7 days.	£200 £200 costs (£368 requested)	Aston	Aston

4	6/12/18	Charlie Roden Handsworth Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of being the registered keeper of a vehicle and failing to provide information required by an authorised officer, within 7 days, in relation to the details of the driver and/or person in control of the vehicle which had been involved in a fly tipping incident.	£120 No costs awarded (£617 requested)	Birchfield	Birchfield
5	20/12/18	Muhammed Ashraf Birmingham	Environmental Protection Act 1990 Scrap Metal Dealers Act 2013 Pleaded guilty to two offences; one of depositing controlled waste, namely a fridge, onto land on Radstock Avenue, Birmingham and one offence of operating as a scrap metal dealer without a licence.	£320 – offence 1 No separate penalty for offence 2 No costs awarded (£1,063 requested) Forfeiture of vehicle	Ward End	Bromford & Hodge Hill
6	20/12/18	Soyful Hussain Birmingham	Environmental Protection Act 1990 Pleaded guilty to two offences; one offence of knowingly causing or permitting waste, namely black bags containing waste from Aarong Clothing, 520 Coventry Road, Birmingham, to be deposited on the pavement near 526 Coventry Road, Birmingham and one offence of failing to comply with a notice requiring written information of how waste from the business was disposed of within 7 days.	£1,065 – offence 1 No separate penalty for 2 nd offence £733 costs (£733 requested)	Bordesley Green	Small Heath
7	20/12/18	Imran Farooq Smethwick	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely 10 bags of garden waste, on Abberley Street, Birmingham.	£933 £1,000 costs (£1,105 requested)	Out of area	Soho & Jewellery Quarter

ANIMAL WELFARE OFFENCES – SINGLE JUSTICE PROCEDURE

1	14/12/18	Michelle While Birmingham	The Microchipping of Dogs (England) Regulations 2015 Found guilty in her absence of one offence of being the keeper of a Staffordshire Bull Terrier type dog and failing to comply with a notice requiring that the microchip details recorded on the database were updated with the keeper's full name, address and contact number.	£220 fine £85 costs (£175 requested)	Sheldon	Sheldon
2	14/12/18	Erica Enica Kidd Birmingham	The Microchipping of Dogs (England) Regulations 2015 Found guilty in her absence of one offence of being the keeper of a Husky cross type dog and failing to comply with a notice requiring that the microchip details recorded on the database were updated with the keeper's full name, address and contact number.	£220 fine £85 costs (£175 requested)	Erdington	Erdington

LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
14/12/18	55	£10,943	£4,590	£9,625

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

One simple caution was administered during December 2018.

Food Safety and Hygiene (England) Regulations 2013

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

TRADING STANDARDS CASES

No Trading Standards prosecutions were finalised during December 2018

TRADING STANDARDS SIMPLE CAUTIONS

No simple cautions were administered during December 2018

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	1	0	1	0	0	1	1	0	0	4
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	55	0	0	0	0	0	0	55
Environmental Health (non FPNs)	0	1	0	4	3	0	1	0	0	0	0	9
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	1	1	0	1	0	0	1	4
Environmental Health (FPNs) Not paid and prosecuted	3	3	1	1	9	3	2	1	3	1	28	55
Environmental Health (non FPNs)	0	1	0	3	3	0	1	0	0	0	1	9
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	1	0	19	0	0	6	2	0	0	28
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	553	0	0	0	0	0	0	553
Environmental Health (non FPNs)	4	12	16	23	44	2	7	5	2	18	1	134
Trading Standards	1	1	4	1	2	0	2	1	0	0	0	12

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	3	6	3	1	4	1	0	2	8	28
Environmental Health (FPNs) Not paid and prosecuted	20	19	27	44	84	25	33	15	6	23	257	553
Environmental Health (non FPNs)	3	11	16	24	31	6	5	6	1	9	22	134
Trading Standards	0	1	4	1	1	0	1	1	0	1	2	12

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2018 – MARCH 2019

	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Total 2018/2019
Waste Investigation Outcomes									
Duty of Care inspections into the waste disposal arrangements of commercial premises	125	116	157	81	135	128	104	64	910
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	105	100	122	70	127	74	67	32	697
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	30	41	50	35	62	80	83	21	402
<u>Section 87 Environmental Protection Act.</u> Fixed Penalty notices issued for commercial and residential litter offences (£80)	0	2	0	0	0	0	1	0	3
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)	4	5	3	7	6	3	6	9	43
Prosecutions									
Number of prosecution files submitted to legal services (number produced quarterly)			43			24			67