

**BIRMINGHAM CITY COUNCIL**

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

**15 JUNE 2016**  
**ALL WARDS**

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS**  
**MARCH AND APRIL 2016**

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 March and April 2016

	Magistrates'	Crown
Total	6	5
Allowed	1	2 (1 to Birmingham City Council)
Dismissed	5	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Withdrawn pre-Court		1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 March 2016 costs have been requested to the sum of £2574.25 with reimbursement of £1746.25 (67.8%) ordered by the Courts.
- 4.3 For the fiscal year April 2015 to March 2016, costs associated to appeal hearings have been requested to the sum of £34,042.73 with reimbursement of £30,614.73 (89.9%) ordered by the Courts.
- 4.4 In April 2016 costs have been requested to the sum of £1162 with reimbursement of £700 (60%) ordered by the Courts.
- 4.5 In April 2016 costs of £750 have been requested against Birmingham City Council with reimbursement of £0 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	Amar Yaqoob	08.03.2016	Dismissed	£250	£150	On 19 January 2016, as the result of conviction for a sexual-related offence, Committee considered and in line with relevant policy resolved to refuse a licence.
2	Makhan Singh	09.03.2016	Dismissed	£906.25	£906.25	On 12 October 2015, as the result of receipt of two separate complaints regarding the appellant's behaviour, Committee considered and resolved to revoke the licence.
3	Mohammed Ghauri	06.04.2016	Allowed	£750 (contra BCC)	0	On 27 October 2015, as the result of conviction for an offence of violence, Committee considered and resolved to revoke the licence. The Magistrates allowed the appeal in full. In giving their decision they said that Mr Ghauri had been licensed as a private hire driver since 2005 and other than the offence considered by the Sub Committee there had been no other complaints and he had an excellent driving history. The domestic incident for which he had been convicted was not in any way connected to his work. They considered that too much weight had been given to the restraining order as such orders are made as a matter of course in domestic cases. They considered that the decision was disproportionate and that Mr Ghauri is a fit and proper person in light of his lack of previous convictions save for the one considered by Committee.
4	Mohammed Nurul Islam	15.04.2016	Dismissed	£300	£300	On 19 January 2016, as the result of conviction for plying for hire and using a vehicle while uninsured, Committee considered and in line with relevant policy resolved to revoke the licence.

### MAGISTRATES' COURT – HACKNEY CARRIAGE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Habib Ur Rehman	14.03.2016	Dismissed	£540	£540	On 27 July 2015, as the result of having been the driver of a vehicle that was involved in two separate accidents, which resulted in injuries sustained by a total of 12 fare-paying passengers, the licence was revoked with immediate effect on grounds of public safety. On each occasion the driver was described by passengers as "falling asleep at the wheel".
2	Mahmood Ali	04.04.2016	Dismissed	£412	£200	On 8 December 2015, as the result of conviction for an offence of fraud by false representation, and numerous motoring offences, which had led to the appellant's hackney carriage driver's licence being revoked in May 2014, Committee considered and resolved to refuse a licence. The appellant had nominated his son as the driver after activating a speed camera; the son accepted the penalty. The matter was heard before District Judge Zara, who considered the Committee's decision to be not outside the range of what is reasonable.

### CROWN COURT – PRIVATE HIRE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
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1	Birmingham City Council v Jamshed Miah	11.03.2016	Allowed to Birmingham City Council	£878.00	£50.00	On 22 September 2015 information was received from West Midlands Police, which warranted immediate suspension of the licence on grounds of public safety. On 13 November 2015 the appeal to the Magistrates was allowed because Mr Miah “had not been given the opportunity to explain the allegation” before being suspended. The appeal by Birmingham City Council to Crown Court was allowed and the original suspension on grounds of public safety stands until further notice.
2	Majid-Ur Rehman	18.03.2016	Withdrawn		£100	On 14 September 2015, as the result of having committed motoring offences within a period of 13 months that resulted in his driving licence being endorsed with a total of 12 points, Committee considered and resolved to suspend the licence for a period of six months. On 20 November 2015 the appeal to the Magistrates was dismissed with costs of £150 being ordered.

3	Mohammed Miah	29.04.2016	Allowed		0 (contra BCC)	On 27 October 2015, as the result of conviction for benefit fraud and failure to report the conviction for over a year, Committee considered and resolved to refuse the renewal of the licence. The appeal to the Magistrates' Court was dismissed on 18 January 2016 with costs of £250 requested and ordered against the appellant. The Crown Court considered the decision not to renew Mr Miah's licence as a consequence of his benefits conviction was wrong. It was plainly a factor they were right to consider, but the Court considered it was outweighed by the appellant's good driving history, good history as a driver, and the facts of the conviction itself, which was not a dishonesty offence but as the result of an inheritance and failure to act. Thus they allowed the appeal. The Judge went out of his way to say this was a specific case decision and that each case turned on its facts, and just because this appeal was successful it did not mean the next would be. A costs application was made by the appellant but refused.
4	Mohammed Jahanshahi	29.04.2016	Dismissed	£450	£200	On 11 November 2015, as the result of a recent conviction for an offence of violence, Committee considered and resolved to refuse the grant of a licence. The appeal to the Magistrates' Court was dismissed on 8 February 2016 with costs of £250 requested and ordered against the appellant. The Crown Court heard evidence from the Appellant. He changed his story again and gave a different account about the common assault. He was not convincing in evidence and the Bench and the Judge had no hesitation in dismissing his appeal.

#### **CROWN COURT – HACKNEY CARRIAGE DRIVER'S LICENCE**

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
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1	Eid Mujeeb	18.03.2016	Upheld in part	0	0	On 14 September 2015, as the result of convictions for two separate offences of failing to provide driver details, Committee considered and resolved to revoke the licence. On 13 November 2015 the appeal to the Magistrates was dismissed with costs of £250 being ordered. The appeal to Crown Court was upheld in part, revocation of the licence being substituted by six months' refusal to renew. The Court had a fuller picture of the facts as Mr Mujeeb was now represented by Counsel and expressed the opinion that Committee may have come to a different decision had it been in possession of material that was now before the Court.
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