

BIRMINGHAM CITY COUNCIL

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

12 APRIL 2017
ALL WARDS

PROSECUTIONS AND CAUTIONS – FEBRUARY 2017

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

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3. Results

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

- Two Licensing cases resulted in fines of £745. Prosecution costs of £681 were awarded with a total of 30 penalty points and a driving disqualification for 2 years. Four simple cautions were administered as set out in Appendix 1.
- Thirty-one Environmental Health cases resulted in fines of £9,275 and prosecution costs of £6,489 were awarded. Two simple cautions were administered as set out in Appendix 2.
- There were no Trading Standards cases finalized in January 2017 and no simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in February 2017 and cases finalised by district April-February 2017.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team from April 2016-January 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 2016 to February 2017 the following costs have been requested and awarded:

Licensing

£24,691 has been requested with £17,833 being awarded (72%)

Environmental Health

£225,803 has been requested with £192,117 being awarded (85%).

Trading Standards

£56,840 has been requested with £27,534 being awarded (48%).

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

Licensing

£681 has been requested with £681 being awarded (100%) and £964 received.

Environmental Health

£7,797 has been requested with £6,489 being awarded (83%) and £18,497 received.

Trading Standards

No costs have been requested and £320 has been received.

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

	Name & Address	Date Case Heard	Legislation	Fine/Penalty	Costs	Offence details
1	Asif Mahmood 152 Willes Road Winson Green Birmingham B18 4PX	2/2/17	Equalities Act 2010	£85	£250 (£250 requested)	Pleaded guilty to one offence of being the driver of a taxi which had been hired by a disabled person accompanied by an assistance dog, for a booking from Queen Alexandra College, Court Oak Road, Birmingham to New Street Station, and refusing to carry the disabled person's dog.
2	Mohammed Aslam 200 Wright Road Alum Rock Birmingham B8 1PD	24/2/17	Road Traffic Act 1988 Local Government (Miscellaneous Provisions) Act 1976	£660 (1 st no insurance offence) + Total of 30 penalty points + Disqualified from driving for 2 years No separate penalty x remaining offences	£431 (£431 requested)	Pleaded guilty to five offences: four of using a black London taxi in Birmingham city Centre between 6th and 18th May 2016 without valid insurance and one offence of failing to produce a copy of the insurance certificate for the vehicle when requested to do so by an authorized officer

LICENSING SIMPLE CAUTIONS

During the period of February 2017, four simple cautions have been administered.

Local Government (Miscellaneous Provisions) Act 1976

Section 54(2) Two cautions were issued for failing to wear a private hire driver's badge in a manner as to be plainly and distinctly visible

Byelaw 26 of the Birmingham City Council Hackney Carriage Byelaws 2008 made under section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1875

One caution was issued for failing to produce upon request a copy of the Hackney Carriage Byelaws for inspection

Licensing Act 2003 Section 136(1)(a) One caution was issued for carrying on a licensable activity otherwise than in accordance with an authorisation

ENVIRONMENTAL HEALTH CASES**FOOD HYGIENE OFFENCES**

	Name & Address	Date Case Heard	Legislation	Fine/Penalty	Costs	Offence details
1	Javed Iqbal 168 Lea Village Birmingham B33 9SL Bilal Aziz 95 Prince Albert Street Birmingham B9 5AH	2/2/17	Food Safety and Hygiene (England) Regulations 2013	Total £4,400 Iqbal - £350 x 6 (offences 1-6) £50 x 2 (offences 7-8) Aziz - £350 x 6 (offences 1-6) £50 x 2 (offences 7-8)	£1,584 (£792 each) (£1584 requested)	Each owner pleaded guilty to eight offences: six relating to the condition of Lifestyle Express, 194 St Vincent Street West, Birmingham, there was evidence of mouse activity throughout the premises allowing contamination of food, surfaces and equipment and there were holes and gaps in the structure of the premises allowing the ingress of mice. Chocolates and boxes of sweets had been gnawed by mice and the external waste bin was full and could not be closed. Piles of loose waste on the ground at the rear of the premises were identified as belonging to the business. Two offences related to cooked ham and bacon being found on display for sale past their use by dates.

WASTE OFFENCES

1	Wayne Paul Dixon 82 Hernefield Road Birmingham B34 6PN	2/2/17	Environmental Protection Act 1990	Total £200 (£100 x 2)	£300 (£983 requested)	Pleaded guilty to two offences of failing to depositing controlled waste, namely tree branches, grass debris and soil on a public space located at the rear of 82 Hernefield Road, Birmingham.
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ANIMAL WELFARE OFFENCES

	Name & Address	Date Case Heard	Legislation	Fine/Penalty	Costs	Offence details
1	Michelle White 89 Grillscroft Road Shard End Birmingham B33 9PN	2/2/17	Dogs on Leads Order 2014 made under the Clean Neighbourhoods and Environment Act 2005	£220	£255 (£255 requested)	Pleaded guilty to one offence of being in charge of a dog and failing to ensure that the dog was kept on a lead on the footpath adjoining a public road on North Roundhay, Shard End, Birmingham.
2	Ricardo Thomas 48 Bayston Road Kings Heath Birmingham B14 5AN	2/2/17	The Fouling of Land by Dogs Order 2014 made under the Clean Neighbourhoods and Environment Act 2005	£330	£250 (£250 requested)	Pleaded guilty to one offence of being in charge of a dog who defecated in the Longmeadow playing area in Longmeadow Crescent, Shard End, Birmingham and failing to remove the faeces.

LITTERING OFFENCES

	Name & Address	Date Case Heard	Legislation	Fine/Penalty	Costs	Offence details
1	Ken Bong 78 Norfolk Road Wolverhampton WV3 0JA	2/2/17	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.

2	Jake Holdcroft 64 Moorfields Stafford ST16 1NQ	2/2/17	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.
3	Ellen Lloyd Flat 73 2 Bagot Street Birmingham B4 7AX	2/2/17	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
4	Brandon Reintjes 40a Knights Avenue Wolverhampton WV6 9QA	2/2/17	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
5	Andrew Wright 9 Boden Street Manchester M34 2BD	2/2/17	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
6	Robert Burrows 20 Banbury Road Altringham WA14 5BD	2/2/17	Environmental Protection Act 1990	£95	£100 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.

7	Shi Ming Yang 122 Clay Lane Coventry CV2 4LT	2/2/17	Environmental Protection Act 1990	£145	£50 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
8	Stephanie Westbrook 6 Dinchope Drive Telford TF3 2ES	2/2/17	Environmental Protection Act 1990	£105	£100 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
9	Joshua Collins 100 Orchard Road Erdington Birmingham B24 9JD	2/2/17	Environmental Protection Act 1990	£80	£100 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
10	Jade Fryer 251 Brandwood Park Road Birmingham B14 6QR	10/2/17	Environmental Protection Act 1990	£40	£85 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in High Street, Kings Heath, Birmingham.
11	Chivonne Henry 127 All Saints Road Wolverhampton WV2 1EJ	10/2/17	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.

12	Benjamin Howells 77 Hansby Drive Liverpool L24 9LW	10/2/17	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.
13	Dwaine Jones 89 Gibbons Hill Road Dudley DY3 1QB	10/2/17	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
14	Simon Murphy 25 Tanhouse Avenue Great Barr Birmingham B43 5AB	10/2/17	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
15	Michael Francis Mullan 21 St Matthews Street Burton-On-Trent DE14 3DT	10/2/17	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Temple Street, Birmingham.
16	Paul Bird 10 Kenneth Close Liverpool L30 3SL	10/2/17	Environmental Protection Act 1990	£145	£175 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.

17	Adar Hassan Kudir 56 Weston Street Walsall WS1 4ET	10/2/17	Environmental Protection Act 1990	£115	£175 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
18	Kayleigh Box 74 Dickens Road Wolverhampton WV10 8SD	24/2/17	Environmental Protection Act 1990	£120	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Bull Street, Birmingham.
19	Lauren Frew 44 Binswood Avenue Leamington Spa CV32 5SG	24/2/17	Environmental Protection Act 1990	£120	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.
20	Christian Ghile 76 Saint Georges Road London E10 5RQ	24/2/17	Environmental Protection Act 1990	£120	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.
21	David Gunter 26 Selborne Road Birmingham B20 2DW	24/2/17	Environmental Protection Act 1990	Total £240 (£120 x 2)	£175 (£175 requested)	Found guilty in his absence of two offences of dropping cigarette butts on the pavement in New Street, Birmingham on two separate occasions.

22	Tofiq Nazari 47 Roderick Road Birmingham B11 1UE	24/2/17	Environmental Protection Act 1990	£120	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in High Street, Birmingham.
23	Kerry Rowe 18 Shawbrook Grove Birmingham B14 4RG	24/2/17	Environmental Protection Act 1990	£120	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Edgbaston Street, Birmingham.
24	Alisha Rose-Ann Swords 105 Coulthwaite Way Rugeley WS15 1SG	24/2/17	Environmental Protection Act 1990	£120	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.
25	Andrew Butterworth 55 Crowswood Drive Stalybridge SK15 3RJ	24/2/17	Environmental Protection Act 1990	£80	£145 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
26	Neel Patel Flat 9 Linnet House Skylark Avenue Greenhithe DA9 9TT	24/2/17	Environmental Protection Act 1990	£80	£175 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.

27	Eve Wale 44 Ashton Road Birmingham B25 8NZ	24/2/17	Environmental Protection Act 1990	£80	£20 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Corporation Street, Birmingham.
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ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

Two simple cautions were administered during February 2017.

Food Safety and Hygiene (England) Regulations 2013

Two cautions were issued for failing to comply with food hygiene regulations

TRADING STANDARDS

No Trading Standards cases were finalized during February 2017.

TRADING STANDARDS SIMPLE CAUTIONS

No simple cautions were administered during February 2017.

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – FEBRUARY 2017

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	0	0	1	0	0	0	0	0	0	2
Environmental Health (FPNs) Not paid and prosecuted	0	0	1	0	26	0	0	0	0	0	0	27
Environmental Health (non FPNs)	0	0	0	3	1	0	0	0	0	0	0	4
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

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

	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	0	0	0	0	2
Environmental Health (FPNs) Not paid and prosecuted	0	1	1	0	1	0	1	2	0	1	20	27
Environmental Health (non FPNs)	0	0	0	3	0	0	0	1	0	0	0	4
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	4	3	4	0	25	0	0	1	0	0	0	37
Environmental Health (FPNs) Not paid and prosecuted	0	3	2	1	485	0	0	0	0	0	0	491
Environmental Health (non FPNs)	3	8	16	14	33	6	12	10	2	4	0	108
Trading Standards	1	2	0	0	6	0	0	0	1	2	1	13

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	2	0	10	4	6	0	8	0	0	1	6	37
Environmental Health (FPNs) Not paid and prosecuted	24	35	25	19	54	25	21	11	3	19	255	491
Environmental Health (non FPNs)	1	4	10	13	25	5	10	11	1	7	21	108
Trading Standards	1	3	0	0	2	0	0	0	1	1	5	13

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2016 – JANUARY 2017

	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Total 2016/2017
Waste Investigation Outcomes											
Investigations into commercial waste disposal suspected offences and offences	22	44	69	62	66	96	38	63	28	72	560
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	14	95	64	53	25	71	24	50	25	37	458
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	7	2	15	34	26	14	4	29	13	16	160
<u>Section 87 Environmental Protection Act.</u> Fixed Penalty notices issued for commercial and residential litter offences (£80)	4	13	10	11	8	7	10	6	0	2	71
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)									11	11	22
Prosecutions											
Number of prosecution files submitted to legal services (number produced quarterly)			11			17			17	45	

