

**BIRMINGHAM CITY COUNCIL**

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

**19 DECEMBER 2018**  
**ALL WARDS**

**PROSECUTIONS AND CAUTIONS – OCTOBER 2018**

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

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### 3. Results

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

- Three Licensing cases were finalised resulting in fines of £2,955 and prosecution costs of £4,517. 18 penalty points were issued. 15 simple cautions were administered as set out in Appendix 1.
- 65 Environmental Health cases resulted in fines of £15,619 and prosecution costs of £19,173 were awarded. Three conditional discharges together with a Community Order with curfew and 230 hours of unpaid work were also imposed. No simple cautions were administered as set out in Appendix 2.
- Two Trading Standards cases were finalised resulting in three Community Orders and a total of 400 hours unpaid work. Prosecution costs of £5,516 were awarded. Two simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in October 2018 and cases finalised by district April – October 2018.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team in April - September 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 October 2018 the following costs have been requested and awarded:

#### Licensing

£18,601 has been requested with £15,302 being awarded (82%).

#### Environmental Health

£224,268 has been requested with £172,816 being awarded (77%).

#### Trading Standards

£39,793 has been requested with £15,791 being awarded (40%).

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

Licensing

£5,673 has been requested with £4,517 being awarded (80%).

Environmental Health

£26,158 has been requested with £19,173 being awarded (73%).

Trading Standards

£6,793 has been requested with £5,516 being awarded (81%).

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**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
1	25/10/18	Jayed Ahmed Choudhury Saltley Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded guilty to two offences: one of plying for hire in John Bright Street, Birmingham and one of consequently having invalid insurance.	£140 – no insurance  + 6 penalty points  No separate penalty for plying  £513 costs (£513 requested)	Alum Rock	Ladywood
2	25/10/18	Farrukh Naveed Witton Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded guilty to two offences: one of plying for hire in Bristol Road, Selly Oak, Birmingham and one of consequently having invalid insurance.	£515 – no insurance  + 6 penalty points  No separate penalty for plying  £504 costs (£504 requested)	Aston	Bournbrook & Selly Park

3	29/10/18	<p>Mohammed Amin Balsall Heath Birmingham</p> <p>Wasim Hussain Yardley Birmingham</p> <p>Mustasam Abbasi Egbaston Birmingham</p> <p>Muniba Khan Edgbaston Birmingham</p>	<p>Town Police Clauses Act 1847 &amp; Road Traffic Act 1988 Local Government (Miscellaneous Provisions) Act 1976</p> <p>All defendants pleaded <u>not guilty</u>; two offences against Amin: one of plying for hire at Turtle Bay Restaurant on John Bright Street and one of consequently having invalid insurance; two against Hussain one of willfully obstructing an officer by providing journey records that were adulterated and one of accepting a booking for a journey from a driver which is prohibited, one offence against Abbasi of providing adulterated journey records and one against Khan of being the licensed operator and accepting a booking from a driver</p> <p>All defendants found guilty after trial</p>	<p>Amin Fine £350 – Plying £250 – No Insurance + 6 penalty points Costs £500</p> <p>Hussain Fine £600 (£300 x 2) Costs £500</p> <p>Abbasi Fine £500 Costs £500</p> <p>Khan Fine £600 Costs £2,,000</p> <p>Total costs requested £4,656</p>	Balsall Heath West	Ladywood
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## **LICENSING SIMPLE CAUTIONS**

During the period of October 2018, 15 simple cautions have been administered

### **Local Government (Miscellaneous Provisions) Act 1976**

**Section 48(6)** Eight cautions were issued for failing to display a private hire vehicle licence plate

**Section 54(2)** One caution was issued for failing to wear the drivers badge in a position and manner as to be plainly and distinctly visible

**Section 48(6) & 54(2)** One caution was issued for failing to display a private hire vehicle licence plate and failing to wear the drivers badge in a position and manner as to be plainly and distinctly visible

**Section 64(3)** Three cautions were issued for waiting on a Hackney Carriage stand when not a Hackney Carriage

### **Licensing Act 2003**

**Section 136(1)** One caution was issued for carrying on a licensable activity, namely selling alcohol when not licensed to do so

**Section 141(1)** One caution was issued for allowing the sale of alcohol to a person who was drunk

**APPENDIX 2****ENVIRONMENTAL HEALTH CASES****WASTE OFFENCES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
1	9/10/18	Vasile Farcas Sparkbrook Birmingham	Environmental Protections Act 1990  Pleaded guilty to two offences; one offence of depositing controlled waste, namely papers, black bags and cardboard on land on Lilac Avenue, Sparkbrook and one offence of failing to comply with a notice requiring he provide the written details of the person in charge of the vehicle on the date offence.	80 hours unpaid work  £1,148 costs (£1,148 requested)	Sparkhill	Sparkbrook & Balsall Heath East
2	11/10/18	Mohamad Idris Handsworth Birmingham	Environmental Protections Act 1990  Pleaded guilty to one offence of depositing controlled waste, namely plastic pots and cardboard, onto land at the junction of Whateley Road and Dawson Road, Handsworth, Birmingham.	6 month conditional discharge  £250 costs (£594 requested)	Birchfield	Handsworth
3	11/10/18	Mohammed Sohail Zaffar Smethwick	Environmental Protections Act 1990  Pleaded guilty to one offence of knowingly causing or permitting controlled waste, namely one black bag of cushions, one black bag of rubble and an empty suitcase, to be deposited from a Ford Fiesta motor vehicle on Abberley Street, Birmingham.	6 month conditional discharge  £1,032 costs (£1,032 requested)	Out of area	Soho & Jewellery Quarter

4	11/10/18	Jane Graham- Whitehouse Hollywood	Environmental Protections Act 1990  Pleaded guilty to one offence of failing to take all reasonable measures as a producer of controlled waste that waste from Woody's Treats, 341 Stockfield Road was transferred to an authorised person in that waste from the business was found on Mansfield Road at the junction with Stockfield Road, Yardley, Birmingham.	6 month conditional discharge  £250 costs (£838 requested)	Out of area	South Yardley
5	11/10/18	Castle Vale Fish Bar Ltd 492 Bearwood Road Smethwick B66 4HB	Environmental Protections Act 1990  Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Castle Vale Fish Bar, 30 High Street, Birmingham was disposed of within 7 days.	£300  £300 costs (£368 requested)	Out of area	Castle Vale
6	11/10/18	Raad Asmael Oxford	Environmental Protections Act 1990  Pleaded guilty to one offence of depositing controlled waste, namely household furniture, on land on Dugdale Street, Winson Green, Birmingham.	£200  £500 costs (£1,442 requested)	Out of area	Soho & Jewellery Quarter
7	19/10/18	Ilie Farcas Birmingham	Environmental Protections Act 1990  Pleaded guilty to one offence of depositing controlled waste, namely a fridge and other items, on Warstock Lane, Birmingham.	£1,200  £952 costs (£952 requested)	Moseley	Billesley



8	19/10/18	George Anderson Great Bridge Dudley	Environmental Protections Act 1990  Pleaded guilty to two offences; one offence of knowingly causing or permitting controlled waste, namely a metal cabinet, to be deposited from a vehicle on Scribes Lane, Hall Green Birmingham and one offence of refusing to provide the keys to the vehicle which was being seized.	£180 fine + 150 hours unpaid work  £3,440 costs (£3,440 requested)	Out of area	Hall Green South
9	25/10/18	Amir Kaser Baz Hall Green Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of depositing controlled waste, namely approximately 15 tonnes of soil, onto Selly Hill Road, Selly Oak, Birmingham.	£615  £737 costs (£737 requested)	Hall Green North	Bournbrook & Selly Park
10	25/10/18	Kayleigh D'Caccia Northfield Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of depositing controlled waste, namely a sofa, mattress and fridge, on grass adjacent to the pavement in Trippleton Avenue, Birmingham.	£320  No officer/legal costs awarded (£603 requested)  £100 towards clean-up costs (£160.50 requested)	Longbridge & West Heath	Bartley Green
11	25/10/18	Nemat Ghahremani Erdington Birmingham	Environmental Protection Act 1990  Pleaded <u>not guilty</u> to one offence of failing to comply with a demand issued requiring written information of how waste from H&N Tailors, 217 High Street, Erdington, Birmingham was disposed of within 7 days.  Found guilty after trial.	£60  £220 costs (£1,201 requested)	Erdington	Erdington

### **ANTI-SOCIAL BEHAVIOUR OFFENCES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
1	25/10/18	Shirley Smith Birmingham	Anti-Social Behaviour, Crime & Policing Act 2014  Found guilty in her absence of one offence of failing to comply with a Community Protection Notice requiring her to cease scattering and placing food to feed the birds in the front and rear gardens in an area of Birmingham.	£660  £1,424 costs (£1,424 requested)	Glebe Farm & Tile Cross	Glebe Farm & Tile Cross

### **ANIMAL WELFARE OFFENCES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
1	22/10/18	Anna Marie Evans Birmingham	Animal Welfare Act 2006  Found guilty in her absence of two offences; one offence of causing a Staffordshire Bull Terrier unnecessary suffering at a property in Birmingham, by failing to obtain veterinary treatment in relation to a skin infection and one offence of failing to ensure that the needs of the animal were met.	£400 fine  3 month community order with a curfew between 7am & 7pm.  £315 costs (£1,074 requested)	Rubery & Rednal	Rubery & Rednal

### **FOOD HYGIENE OFFENCES**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	25/10/18	Zahir Mohammed Birmingham	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to two offences relating to conditions at Gino's Pizza Parlour, 757 Alum Rock Road, Birmingham. There were no adequate procedures in place to control pests, mouse droppings were found on shelves used to store food and takeaway containers and inside the pizza oven. Food takeaway containers were found gnawed by mice and there were a number of gaps along wall/floor junctions through which mice could gain access. The premises was not kept clean, there was an accumulation of mouse droppings, dirt and food debris.	£692 – offence 1  No separate penalty - offence 2.  £2,380 costs (£2,380 requested)	Ward End	Glebe Farm & Tile Cross

### **LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE**

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
12/10/18	30	£6,372	£2,550	£5,250
26/10/18	21	£4,620	£3,675	£3,675

### **ENVIRONMENTAL HEALTH SIMPLE CAUTIONS**

No simple cautions were administered during October 2018.

**TRADING STANDARDS CASES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
1	15/10/18 at Birmingham Crown Court	Najibullah Asakzai Dudley	Trade Marks Act 1994  Pleaded guilty to four offences relating to the possession of 26 pouches of hand rolling tobacco and 184 packets of cigarettes at International Supermarket, 117 Villa Road, Birmingham which bore registered trademarks, namely golden Virginia, Amber Leaf, Mayfair and Richmond, without the consent of the trade mark holders	12 month Community Order with 150 hours unpaid work  £1,000 costs (£2,277 requested)	Out of area	Lozells & East Handsworth
2	22/10/18	Nawzad Khidr Howla Birmingham  Sywash Mashkhaty Birmingham	Trade Marks Act 1994 Tobacco and Related Products Regs 2016  Both pleaded guilty to five offences; four relating to the possession of 26 pouches of hand rolling tobacco and 184 packets of cigarettes at International Supermarket, 117 Villa Road, Birmingham which bore registered trademarks, namely Golden Virginia, Amber Leaf, Mayfair and Richmond, without the consent of the trade mark holders and one offence of supplying 1308 packets of cigarettes of various brands which did not carry the required health warnings.  Originally listed for trial	Howla 12 month Community Order with 100 hours unpaid work  Mashkhaty 12 month Community Order with 150 hours unpaid work  Each ordered to pay £2,258 costs (£4,516 requested)	Perry Barr	Lozells & East Handsworth

## **TRADING STANDARDS SIMPLE CAUTIONS**

Two simple cautions were administered during October 2018

### **Trade Marks Act 1994 Section 92(1)(c) & Section 12 of the Consumer Protection Act 1987**

Two cautions were issued for having in possession “Apple” USB cables, “Apple” ear pods and “Samsung” Adaptors which bore signs identical to or likely to be mistaken for a registered trademark and having in possession for supply “Nokia” phones that were unsafe.

**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – OCTOBER 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	2	0	0	1	0	0	0	<b>3</b>
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	51	0	0	0	0	0	0	<b>51</b>
Environmental Health (non FPNs)	1	2	2	2	2	1	1	2	0	1	0	<b>14</b>
Trading Standards	0	0	0	0	0	0	2	0	0	0	0	<b>2</b>

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	1	1	0	0	1	0	0	0	0	<b>3</b>
Environmental Health (FPNs) Not paid and prosecuted	2	2	2	4	7	1	1	3	0	1	28	<b>51</b>
Environmental Health (non FPNs)	0	1	3	2	0	2	1	0	0	0	5	<b>14</b>
Trading Standards	0	0	0	0	0	0	1	0	0	0	1	<b>2</b>

### **CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL-OCTOBER 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	18	0	0	5	1	0	0	<b>24</b>
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	432	0	0	0	0	0	0	<b>432</b>
Environmental Health (non FPNs)	4	11	16	14	38	2	6	5	2	17	1	<b>116</b>
Trading Standards	1	1	2	1	2	0	2	1	0	0	0	<b>10</b>

### **CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL-OCTOBER 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	2	0	4	0	0	2	7	<b>24</b>
Environmental Health (FPNs) Not paid and prosecuted	16	14	22	34	65	20	30	10	3	19	199	<b>432</b>
Environmental Health (non FPNs)	3	10	15	17	26	5	4	6	1	9	20	<b>116</b>
Trading Standards	0	1	4	1	1	0	1	1	0	0	1	<b>10</b>

**WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY**  
**APRIL 2018 – MARCH 2019**

	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Total 2018/2019
<b>Waste Investigation Outcomes</b>							
Duty of Care inspections into the waste disposal arrangements of commercial premises	125	120	156	82	112	128	<b>723</b>
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	105	102	122	71	111	74	<b>585</b>
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	30	41	50	35	62	80	<b>298</b>
<u>Section 87 Environmental Protection Act.</u> Fixed Penalty notices issued for commercial and residential litter offences (£80)	0	2	0	0	0	0	<b>2</b>
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)	4	5	3	7	6	3	<b>28</b>
<b>Prosecutions</b>							
Number of prosecution files submitted to legal services (number produced quarterly)			43			24	<b>67</b>