

BIRMINGHAM CITY COUNCIL

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

20 JANUARY 2016
ALL WARDS

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
NOVEMBER 2015**

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 November 2015

	Magistrates'	Crown
Total	7	3
Allowed	1	
Dismissed	5	2
Appeal lodged at Crown		
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Withdrawn pre-Court	1	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 November 2015 costs have been requested to the sum of £3,702 with reimbursement of £3,452 (93.2%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2015 to November 2015, costs associated to appeal hearings have been requested to the sum of £28,344.48 with reimbursement of £26,934.48 (95%) 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	Jamshed Miah	13.11.2015	Allowed	0 (against BCC)	0	On 22 September 2015 information was received that the driver was being investigated for an offence of sexual assault by touching. Authority was sought and received from the Chair to suspend the licence with immediate effect. The appeal was allowed because Mr Miah "had not been given the opportunity to explain the allegation" before being suspended. Mr Miah gave evidence saying "the female passenger was in the passenger seat and she was struggling with the seatbelt, he asked if he should help her and she said go on. He lifted the seatbelt buckle so she could get her seatbelt in. He did not touch her." An appeal to Crown Court is being actively pursued by Birmingham City Council.
2	Mohammed Sohail	02.11.2015	Dismissed	£250	£250	On 1 September 2015, as the result of a conditional discharge for an offence of violence Committee considered and resolved to refuse the grant of a licence.
3	Ghazanfar Ali	12.11.2015	Dismissed	£350	£100	On 14 September 2015, as the result of complaints received that Mr Ali had been working in the Birmingham area whilst licensed by Milton Keynes, Committee considered and resolved to refuse the grant of a licence.
4	Eid Mujeeb	13.11.2015	Dismissed	£250	£250	On 14 September 2015, as the result of conviction for two separate offences of failing to provide information as to the driver of a vehicle, the vehicle having activated traffic cameras, Committee considered and resolved to revoke the licence.

5	Majid Ur Rehman	20.11.2015	Dismissed in absence	£150	£150	On 14 September 2015, as the result of several recent motoring convictions, none of which were reported as required by the conditions of licence, Committee considered and resolved to suspend / refuse the renewal of the licence for a period of six months. The appellant failed to attend Court and matters proceeded in his absence.
6	Mohammed Qayum	25.11.2015	Dismissed	£390	£390	On 14 September 2015, as the result of conviction for two offences of perverting the course of justice (falsely nominating drivers of vehicles), which resulted in a term of imprisonment and disqualification from driving, Committee considered and resolved to revoke the licence. DJ Crane summed up by stating "The appellant has not persuaded me the decision was wrong and in fact it is the right decision. This was a serious offence and the policy is appropriate and well thought through. This was the right decision related to these matters."

MAGISTRATES' COURT – LICENSING ACT 2003

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Rodzinny Product, Holyhead Road, Handsworth	n/a	Withdrawn pre-Court	£1000 agreed	£1000	In spite of warnings given to the designated premises supervisor after quantities of smuggled tobacco products and alcohol had been found on the premises in September 2013 and February 2014, on 22 January 2015 further large quantities of smuggled tobacco products and alcohol were again found on the premises, which resulted in the submission by the Chief Inspector of Weights & Measures for a review of the premises licence. On 18 May 2015 Committee considered and resolved to revoke the premises licence issued to Khalid Ahmed Saeed.

CROWN COURT – PRIVATE HIRE DRIVER’S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Abdul Hamid	06.11.2015	Dismissed	£500	£500	On 27 May 2015, as the result of conviction for plying for hire and using a vehicle while uninsured, Committee considered and in accordance with the relevant policy resolved to revoke the licence. The appeal to the Magistrates’ Court was dismissed on 23 July 2015 with costs of £250 being requested and ordered.
2	Haytham Abdelkarem	20.11.2015	Allowed in part	0	0	On 4 March 2015, as the result of conviction for plying for hire and using a vehicle while uninsured, Committee considered and in accordance with the relevant policy resolved to revoke the licence. The appeal to the Magistrates’ Court was dismissed on 22 July 2015 with costs of £480 being requested and ordered. On 20 November 2015 the appeal was heard before a Crown Court Judge and two Justices, who accepted the appellant’s evidence that he had stopped to buy food, and that he had not set out to ply on purpose but had instead exercised a serious momentary misjudgement. They thought that this “mitigation” combined with his good record and the effect that his evidence had upon them was such that they should apply the policy in his favour, that is, apply the proviso for assessing each case on its own merits. The original revocation was substituted by suspension for six months. No order was made as to costs.
3	Wajid Ali	27.11.2015	Dismissed	£812	£812	On 20 January 2015, as the result of conviction for plying for hire and using a vehicle while uninsured, Committee considered and in accordance with the relevant policy resolved to revoke the licence. The appeal to the Magistrates’ Court was dismissed on 8 June 2015 and although requested, no costs order was made by the Magistrates given Mr Ali’s loss of livelihood and restricted financial circumstances.