

BIRMINGHAM CITY COUNCIL

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

23 October 2019
ALL WARDS

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
August 2019

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 August 2019

	Magistrates'	Crown
Total	2	
Allowed		
Dismissed		
Appeal lodged at Crown		
Upheld in part	1	
Withdrawn pre-Court		
Consent Order		
Remitted back to the Sub Committee	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 August 2019 no costs were requested.
- 4.3 For the fiscal year thus far, April 2019 to August 2019, costs associated to appeal hearings have been requested to the sum of £7354.25 so far with reimbursement of £6158.25 so far (83.73%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2019 to August 2019, costs contra Birmingham City Council associated to appeal hearings, £0.00.

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.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Prosecution files and computer records in Legal Proceedings team.

MAGISTRATES' COURT – HACKNEY CARRIAGE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Safdar Hussain	07.08.2019	Upheld in Part	£0.00	£0.00	The appeal was against the decision of the Sub Committee to revoke Mr Hussain's hackney carriage driver's licence on 13.02.2018 due to him accumulating five speeding endorsements in a period less than 18 Months. The District Judge heard that Mr Hussain was driving at 34 mph and that 3 of the offences had been incurred at almost the same time. The Judge noted the length of time which had elapsed since the decision and was told that although Mr Hussain had appealed within the statutory time limit the Court had not progressed his appeal and had not listed it for a prompt hearing .He said that it was Mr Hussain's good fortune that the Court did not deal with it in a prompt manner as he would not otherwise have had 2 years since the last offence in which to demonstrate a clean driving record to the Court. The judge said that he was able to consider that additional evidence which the Sub Committee could not. He said that he had given considerable weight to the Sub Committee decision and been slow to interfere. Had the appeal been heard last year Mr Hussain would have lost his licence for good but there were new factors and he considered that a suspension of 6 weeks was appropriate.

MAGISTRATES' COURT – LICENSING ACT 2003

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
2	Mr Imran Saghir in respect of Costcutter Unit D1 26 Ryland Street Birmingham B16 8FW	12.08.19 and 13.08.19	Remitted back to the Sub Committee	£0.00	£0.00	The appeal was against the decision of the Sub Committee to revoke the premises licence on 07.01.2019 following an application for review submitted by West Midlands Police. Both the appellant and the respondent agreed to compromise the appeal and commended this to the court, however two members of the public attended court who had not made representations or been offered as witnesses prior. They were allowed to address the court, they were not aware of the compromise agreement. District Judge Strongman considered his options and decided that he would not approve a compromise in these circumstances where there were continuing objections by local residents. He could not say the compromise was right. It would be remitted to the Licensing Committee with no order as to the costs of the appeal.