

# **BIRMINGHAM CITY COUNCIL**

## **LICENSING AND PUBLIC PROTECTION COMMITTEE**

**WEDNESDAY, 20 JUNE 2018 AT 10:00 HOURS**  
**IN COMMITTEE ROOMS 3 & 4, COUNCIL HOUSE, VICTORIA**  
**SQUARE, BIRMINGHAM, B1 1BB**

### **A G E N D A**

#### **1 NOTICE OF RECORDING/WEBCAST**

The Chairman to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

#### **2 DECLARATIONS OF INTERESTS**

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

#### **3 APOLOGIES**

To receive any apologies.

#### **4 APPOINTMENT OF LICENSING AND PUBLIC PROTECTION COMMITTEE**

To note the appointment by the City Council of the Committee and Chairman for the Municipal Year 2018/2019 as follows:-

##### **Labour Group (10)**

Councillor Olly Armstrong  
Councillor Nicky Brennan  
Councillor Barbara Dring (**Chairman**)  
Councillor Nagina Kauser  
Councillor Narinder Kaur Kooner  
Councillor Mike Leddy  
Councillor Mary Locke  
Councillor Hendrina Quinnen

Councillor Sybil Spence  
Councillor Martin Straker Welds

**Conservative Group (3)**

Councillor Bob Beauchamp  
Councillor Adam Higgs  
Councillor Bruce Lines  
Councillor Simon Morrall

**Liberal Democrat Group (1)b**

Councillor Neil Eustace

**5 ELECTION OF DEPUTY CHAIR**

To elect a Deputy Chair for the Municipal Year 2018/2019.

**6 FUNCTIONS, POWERS AND DUTIES**

To note that the City Council has agreed this Committee's Functions, Powers and Duties, as set out in the attached schedule.

**7 DATES OF MEETINGS OF LICENSING AND PUBLIC PROTECTION COMMITTEE**

The Committee is recommended to meet on the following Wednesdays at 1000 hours at the Council House, Birmingham:-

<b>2018</b>	<b>2019</b>
11 July	16 January
19 September	13 February
24 October	13 March
21 November	10 April
19 December	

**8 LICENSING SUB-COMMITTEES 2018/2019**

- (i) To note the membership of Sub-Committees A, B and C appointed by the City Council for the Municipal Year 2018/2019 as detailed below:-
- (ii) Each Sub-Committee comprises 3 Members (with a quorum of 3) and will determine matters relating to The Licensing Act 2003, The Gambling Act 2005, Hackney Carriage Licences, Private Hire Licences and such other business as may be referred to them by the Director of Regulation and Enforcement Services.
- (iii) Any Sub-Committee Member may appoint a nominee (substitute) from their own party group on the Licensing and Public Protection Committee to attend a meeting in their place.

### **Licensing Sub-Committee A - Mondays (0930 hours)**

Cllrs	Barbara Dring (Chairman)	Lab	Oscott Ward
	Martin Straker Welds	Lab	Moseley Ward
	Bob Beauchamp	Con	Perry Common Ward

### **Licensing Sub-Committee B - Tuesdays (0930 hours)**

Cllrs	Nagina Kauser (Chairman)	Lab	Aston Ward
	Nicky Brennan	Lab	Sparkhill Ward
	Adam Higgs	Con	Highters Heath Ward

### **Licensing Sub-Committee C - Wednesdays (0930 hours)**

Cllrs	Mike Leddy (Chairman)	Lab	Brandwood & Kings Heath Ward
	Olly Armstrong	Lab	Northfield Ward
	Neil Eustace	LD	Yardley East Ward

- |                         |    |   |  |
|-------------------------|----|---|--|
| <b><u>9 - 18</u></b>    | 9  | <b><u>MINUTES</u></b>   | To confirm and sign the Minutes of the meeting held on 18 April 2018.                  |
| <b><u>19 - 20</u></b>   | 10 | <b><u>SCHEDULE OF NOMINATIONS TO SERVE ON OUTSIDE BODIES</u></b>                          | To approve representation on various bodies.   |
| <b><u>21 - 26</u></b>   | 11 | <b><u>LICENSING AND PUBLIC PROTECTION OUTTURN 2017/2018</u></b>                           | REPORT OF ACTING DIRECTOR OF REGULATION AND<br>ENFORCEMENT AND CHIEF FINANCIAL OFFICER |
| <b><u>27 - 92</u></b>   | 12 | <b><u>REGULATION &amp; ENFORCEMENT ANNUAL REPORT 2017/2018</u></b>                        | REPORT OF ACTING DIRECTOR OF REGULATION AND<br>ENFORCEMENT                             |
| <b><u>93 - 144</u></b>  | 13 | <b><u>LICENSING AUTHORITY POLICIES AND PROCEDURES<br/>DELEGATIONS</u></b>                 | REPORT OF THE ACTING DIRECTOR OF REGULATION AND<br>ENFORCEMENT                         |
| <b><u>145 - 150</u></b> | 14 | <b><u>PROPOSAL FOR COMBINED HACKNEY CARRIAGE AND PRIVATE<br/>HIRE DRIVING LICENCE</u></b> | REPORT OF THE ACTING DIRECTOR OF REGULATION AND<br>ENFORCEMENT                         |

<b><u>151 - 154</u></b>	15	<b><u>CONSULTATION ON PRIVATE HIRE VEHICLE SIGNAGE</u></b>
		REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
<b><u>155 - 176</u></b>	16	<b><u>PROPOSED AMENDMENTS TO THE KNOWLEDGE TEST FOR PRIVATE HIRE DRIVERS</u></b>
		REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
<b><u>177 - 212</u></b>	17	<b><u>DETERMINING THE SUITABILITY OF APPLICANTS AND LICENSEES IN THE HACKNEY CARRIAGE AND PRIVATE HIRE TRADES</u></b>
		REPORT OF ACTING DIRECTOR OF REGULATION AND ENFORCEMENT.
<b><u>213 - 222</u></b>	18	<b><u>MODERNISING CONSUMER MARKETS CONSUMER GREEN PAPER</u></b>
		REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
<b><u>223 - 226</u></b>	19	<b><u>FIXED PENALTY NOTICES ISSUED MARCH AND APRIL 2018</u></b>
		REPORT OF ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
<b><u>227 - 230</u></b>	20	<b><u>OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS TAKEN DURING MARCH AND APRIL 2018</u></b>
		REPORT OF ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
<b><u>231 - 234</u></b>	21	<b><u>ACTIONS TAKEN BY THE CHAIR OF THE LICENSING AND PUBLIC PROTECTION COMMITTEE DURING APRIL 2018</u></b>
		REPORT OF ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
<b><u>235 - 264</u></b>	22	<b><u>PROSECUTION AND CAUTIONS MARCH AND APRIL 2018</u></b>
		REPORT OF ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
<b><u>265 - 266</u></b>	23	<b><u>SCHEDULE OF OUTSTANDING MINUTES</u></b>
		To consider the schedule of outstanding minutes.
	24	<b><u>OTHER URGENT BUSINESS</u></b>
		To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

25 **AUTHORITY TO CHAIRMAN AND OFFICERS**

Chairman to move:-

'In an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.



## 5.7 Licensing and Public Protection Committee

### *Functions*

To exercise the powers and duties of the Council with regard to licensing matters and, in particular, to:

- exercise and enforce the Council's local licensing powers;
- issue, renew or otherwise control any licences issued to any authorised caravan site(s); and
- approve the appearance and design of signs displayed in Hackney Carriages.

To exercise the licensing, regulatory and registration powers and duties of the Council under all relevant legislation relating to these matters.

To exercise the powers and duties of the Council with regard to public protection matters which are non-executive functions and, in particular, to:

- be accountable for working conditions in offices, shops and railway premises and in factories;
- exercise the powers and duties of the Council under all relevant legislation and relating to the non-executive functions of the Committee.





## **BIRMINGHAM CITY COUNCIL**

<b>LICENSING AND PUBLIC PROTECTION COMMITTEE 18 APRIL 2018</b>
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**MINUTES OF A MEETING OF THE LICENSING  
AND PUBLIC PROTECTION COMMITTEE HELD  
ON WEDNESDAY 18 APRIL 2018 AT 1000  
HOURS IN COMMITTEE ROOMS 3 AND 4  
COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:** - Councillor Barbara Dring in the Chair;

Councillors Bob Beauchamp, Alex Buchanan, Liz Clements,  
Lynda Clinton, Ian Cruise, Basharat Dad, Nagina Kauser,  
Chaman Lal, and Mike Leddy.

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**NOTICE OF RECORDING/WEBCAST**

- 1000 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site ([www.birminghamnewsroom.com](http://www.birminghamnewsroom.com)) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

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**APOLOGIES**

- 1001 Apologies were received from Councillors Nawaz Ali, Des Flood, Carol Griffiths, Changese Khan and Rob Sealey for non-attendance.

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**The business of the meeting and all discussions in relation to individual reports are available for public inspection via the web-stream.**

**MINUTES**

- 1002 The Minutes of the meeting held on 14 March 2018, having been previously circulated were confirmed as a correct record and signed by the Chairman.
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**REVIEW OF CHANGES FOR HIGHWAY SERVICES FOR 2018/2019**

The following report of the Assistant Director, Highways and Infrastructure was submitted:-

(See document No. 1)

Kamyar Tavassoli, Highways Service Manager, presented the report and whilst highlighting the key points made particular reference to 3.2 of the report which detailed the recipient of fees and charges.

The Chair put the recommendations to the meeting all were unanimously agreed:-

1003

**RESOLVED:-**

The Licensing and Public Protection Committee:-

That the fees and charges set out in Appendix 1 were approved as follows:-

City Council retained fees and charges with effect from 30 April 2018

Highways Maintenance and Management Private Finance Initiative (HMMPFI) Service Provider, Amey retained fees and charges with effect from 7 June 2018.

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**REGULATION AND ENFORCEMENT SERVICE PLANS 2018/2019**

The following report of the Acting Director of Regulation and Enforcement Was submitted:-

(See Document No. 2)

Chris Neville, Acting Director of Regulation and Enforcement made introductory comments to the report and subsequently detailed the services that were covered by Regulation and Enforcement Division. He referred to the service plans that were attached to the report and highlighted that each demonstrated how improvements in the services would be delivered.

Joyce Amadedon, Head of Operations and Bereavement Services, provided a comprehensive breakdown of the service plan and in response to members comments the following points were made:-

Joyce made reference to the number of deaths notified to the Coroner and whilst highlighting that she was not aware of all the reasons why there had been an increase over the last 3 years, subsequently detailed the various causes for referrals.

She confirmed that there was a significant impact on the Coroners Court and that the Coroner was making greater use of the facility at Solihull in order to improve on managing the death referrals and in addressing the increased

demand, they were looking at opening an additional Court which may be in Solihull and that £1.6m of the budget was contributed by Solihull Metropolitan Borough Council.

Joyce made reference to the 14 day turnaround time for GPs in signing of the death certificate and that it was part of the legislation and therefore unfortunately nothing could be done locally to reduce the time. She highlighted that Senior Coroners did have regular meetings with hospitals and GPs encouraging them to sign off the death certificates more promptly.

She referred to the IT Services and confirmed they were working closely with the Senior Coroner to try and meet the requirements in order to ensure that all works more effectively with hospitals, GPs and funeral directors, and it was highlighted that they were working towards some significant improvements.

Chris Neville, Acting Director of Regulation and Enforcement made reference to the IT System and stated that one of the improvements they were trying to put in place was an internal portal, whereby hospitals and GPs would be able to upload documents directly into the Coroner's system which in turn would help speed up the process.

He made reference to the improved reduction in time in releasing bodies, highlighting that the Coroner was working hard to make all the processes as fast and efficient as possible. He added that they were also discussing with the Coroner, the creation of a part-time assistant Coroner's post as a means to provide better consistency and more efficiency.

Joyce agreed to provide the requested statistics relating to other local authorities and the scanner service. With regard to the scanner service, she confirmed that the Coroner ensured that the service was available however the issue was the cost to the deceased family. She added that as part of the service bodies had to be transported to other parts of the region which could create problems for families in terms of time delays.

Chris explained about the two facilities that existed, whereby one was based in Sandwell and the other in Oxford. He reported that the cost was in the region of £500 which was payable by the family and that it was somewhat of a lengthier process. He added that generally, families would rather have a faster traditional post mortem than a CTPM Scan. He did state however, that discussions were ongoing at the moment with a local hospital, for the potential of one to be installed there and how that should be funded.

Chris confirmed that not all deaths were suitable for CTPM scanning, as it was dependent upon the cause of death which had to be taken into account by the coroner whether they could allow the scan to take place.

Joyce confirmed that with regard to additional provision, they were looking at the possibility of providing a full weekend service within the next 6 months and would involve the recruitment of additional staff.

Mark Croxford, Head of Environmental Health provided a comprehensive breakdown of the service plan and in response to members comments the following points were made:-

Mark confirmed that officers were working around the study of the clean air zone and that they were trying to meet the deadline by 15 September 2018.

Mark referred to the consultation on the proposal to introduce dog licences and stated that although those holding licences already received renewals, the concern was with those dog owners that were unlicensed. He stated the advantage of all dog owners holding a licence was that it set a standard which had to be met by all.

Mark made reference to the puppy farms and confirmed that although there had been a number of complaints, he was not aware of any significant complaints and therefore agreed to provide an update and circulate to the committee.

Chris highlighted that there would not be another meeting of this committee before submitting a response to the consultation and therefore suggested that a response be agreed by the Chair of this committee before the deadline, which was agreed by the committee.

Mark made reference to the dedicated team that were responding to the fly-tipping and associated issues and confirmed that they continued to target 'hot spots', undertake investigations and follow up on the leads.

He confirmed that they were publishing statistics around prosecution convictions in order try and dissuade people from fly-tipping. He stated that by enlarge, prosecutions were on the increase and that people were being imprisoned, significant fines were being administered and vehicles were being seized in order to help prevent people from re-offending.

Mark referred to civil and criminal penalties and subsequently explained the differences, highlighting that civil penalties were harder to enforce however due to the change in legislation, these could now lead to prosecution.

Mark confirmed that a great deal of work within Environmental Health had moved to reactive rather than proactive. He stated that the forthcoming boundary changes would make little difference to the work that was being undertaken in tackling issues. He confirmed that they were receiving a great deal more complaints and referrals from the public due to them seeing greater enforcement action being taken.

Chris confirmed that with the re-organisation of the wards, they had identified for the Place directorate with Regulation and Enforcement, a named officer for every ward in an effort to assist councillors with a point of contact to report issues that failed to be resolved on a daily basis.

Mark referred to nursing homes and confirmed that if they did not reach the required standard they would be investigated. He emphasised the importance

of ensuring that standards were met and maintained. He added that this also applied to the food inspections undertaken in these establishments.

He made reference to the Food Standards Agency (FSA) and stated that they were considering the way in which inspections were undertaken and who would undertake them. He confirmed that having written to the FSA, it was hoped that they discontinued using the existing structures for carrying out the regulation with regard to star rating.

Emma Rohomon, Acting Head of Licensing, provided a comprehensive breakdown of the Licensing Service Plan 2018/2019.

Joyce Amadedon, Head of Operations and Bereavement Services, provided a comprehensive breakdown of the Register Office Service Plan 2018/2019.

Sajeela Naseer, Head of Trading Standards provided a comprehensive breakdown of the Trading Standards Service Plan 2018/19 and in response to the Chair and members comments the following points were made:-

Sajeela made reference to the consultation relating to offensive dangerous weapons and confirmed that The Association of Chief Trading Standards officers had responded on behalf of all trading standards sections within the Country. She however agreed to provide the written response and circulate to the committee.

The Chair commented that it would have been wise not just for this committee but other committees across the Country to have been given the opportunity to comment on the consultation. She subsequently thanked Sajeela for agreeing to provide and circulate the response to the committee.

Sajeela referred to the difficulty in monitoring corrosive substances due to them being used in many household goods. She stated that it had been muted that there could be some sort of licensing system which may include substances and agreed to update at a later stage.

She referred to fires caused by faulty white goods and stated that they could liaise with the Fire Service to see whether they were aware of any fires that had arisen as a result of this, and furthermore, investigate if there was the appropriate legislation in place to progress to enforcement action being taken with the supplier.

Chis Neville explained the use of pact testing and where the service would take place highlighting that it had little significance in terms of sales of goods.

Sajeela made reference to the Intelligence Analyst they were looking to recruit and stated that they had been using intelligence in targeting work for a number of years. She reported that the post holder would not only work for Trading Standards but also with the Police and their intelligence in order to obtain a more accurate picture of where the consumer criminality lay within the city.

Sajeela made reference to the Financial Abuse officer and whilst explaining the role provided a brief overview of the area of work that it covered which did

not just include scams, rogue traders but other areas of work which were open to abuse.

Sajeela made reference to postal scams and confirmed that the team at Sussex had taken responsibility for this area of work. She highlighted that Trading Standards received information from them on a number of potential victims every month and subsequently explained the process in how this was dealt with. She added, that they still had a local officer and a rapid response team, that when necessary, go out and provide a service in order to protect against financial abuse and criminality.

Sajeela confirmed that they continued to undertake their annual survey of the travel agents within Birmingham and that they did have an improved picture due to the enforcement that had been introduced in the past. She made reference to the National Campaign that they had led and confirmed that they were now part of the All Parliamentary Group Harje and made reference to the improvements they were hoping to achieve as a result of the membership.

Sajeela highlighted that although they had done quite a lot of work with faith healers, they were unable to introduce any specific licensing scheme or limit their activity except the way in which they were trying to promote the services they were providing. She added that a major problem was that victims were reticent in coming forward with their statements and also in coming forward as part of the evidence, which did restrict the ability of the city council in taking enforcement action.

The Chair concluded by thanking all officers for presenting their service plans.

The Chair put the recommendations to the meeting all were unanimously agreed:-

1004

**RESOLVED:-**

The Licensing and Public Protection Committee considered and approved the service plans as presented for 2018/2019, namely:

Appendix 1	Coroners and Mortuary
Appendix 2	Environmental Health
Appendix 3	Licensing
Appendix 4	Register Office
Appendix 5	Trading Standards

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At this juncture there was a short comfort break

**LICENSING AND PUBLIC PROTECTION MEMBER TRAINING PROPOSALS**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 3)

Emma Rohomon made introductory comments relating to the report and in response to members' comments the following points were made:-

Emma referred to the first training session that would be taking place which would cover members' rights for voting and would fall under the basic principles of decision making.

Chris Neville made reference to the similarities of the wording of the amendment and the application of the code of conduct, highlighting that members that failed to attend the training would be excluded from meetings where a decision was being taken.

At this juncture, a brief adjournment took place where legal advice was sought.

Emma highlighted that they had not proposed any alternative training for sub-committee members and that all members of the committee would receive the same training. She added that it was important that all received the same training in order to avoid any confusion regarding decision-making by the sub-committees and it also helped in determining any substitutes for sub-committees. With regard to training prior to committee, she stated that they would try and ensure training was provided appropriately however did explain why this could not always be the case.

The Chair highlighted the importance of training and suggested that it was implemented as soon as possible after the Annual General Meeting.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

1005

**RESOLVED:-**

That the Licensing and Public Protection Committee agreed that the amendment to the Code of Conduct for Licensing and Public Protection Committee Members identified in Paragraph 4.1 and that officers be requested to make the appropriate arrangements for this to be effected.

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**PROSECUTIONS AND CAUTIONS – FEBRUARY 2018**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 4)

Chris Neville, Acting Director of Regulation and Enforcement made introductory comments relating to the report and subsequently referred to various prosecutions and cautions.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

1006 **RESOLVED:-**

That the report be noted.

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**FIXED PENALTY NOTICES ISSUED FEBRUARY 2018**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 5)

Mark Croxford, Head of Environmental Health made introductory comments relating to the report and highlighted the cases therein.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

1007 **RESOLVED:-**

That the report be noted.

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**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS TAKEN DURING FEBRUARY AND MARCH 2018**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 6)

Emma Rohomon, Acting Head of Licensing made introductory comments relating to the report and highlighted some of the cases therein.

The Chair thanked Emma for reporting.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

1008 **RESOLVED:-**

That the report be noted.

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**ACTIONS TAKEN BY THE CHAIR OF THE LICENSING AND PUBLIC PROTECTION COMMITTEE DURING FEBRUARY AND MARCH 2018**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 7)



## **Licensing and Public Protection Committee – 18 April 2018**

Emma Rohomon, Acting Head of Licensing made introductory comments relating to the report and highlighted some of the cases therein.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

1009 **RESOLVED:-**

That the report be noted.

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### **SCHEDULE OF OUTSTANDING MINUTES**

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 8)

Chris Neville, Acting Director of Regulation and Enforcement, updated the dates for which reports would be forthcoming in relation to various Outstanding Minutes.

It was -

1010 **RESOLVED:-**

That Outstanding Minutes be continued.

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### **OTHER URGENT BUSINESS**

#### **Vote of Appreciation**

1011 The Chair thanked members and officers for their co-operation and made reference to the excellent work that had been undertaken throughout the year. She subsequently thanked Councillor Buchanan, Vice-Chair for his most valued support throughout the Municipal Year.

The Chair also thanked Councillor Clinton for all her hard work and support.

Councillor Leddy extended a vote of thanks on behalf of the Committee to Councillor Barbara Dring, Chair of Licensing and Public Protection Committee for all her hard work throughout the Municipal Year and subsequently wished her luck in the forthcoming election.

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### **DATE OF NEXT MEETING**

1012 The next meeting was scheduled for Wednesday, 20 June 2018 at 1000 hours in Committee Rooms 3 & 4, Council House.

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**AUTHORITY TO CHAIR AND OFFICERS**

1013

**RESOLVED:-**

In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

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The meeting ended at 1320 hours.

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CHAIRMAN

## **BIRMINGHAM CITY COUNCIL**

### **LICENSING AND PUBLIC PROTECTION COMMITTEE**

**20 JUNE 2018**

#### **NOMINATIONS TO SERVE ON OUTSIDE BODIES**

##### **Safety of Designated Sports Grounds – Advisory Groups**

The Committee is requested to appoint Members to serve on each of the 3 Advisory Groups which consider Ground Safety matters in respect of Aston Villa Football Club, Birmingham City Football Club and Warwickshire County Cricket Club.

Last year Membership was drawn from across the City Council.

##### **2017/2018 Representatives**

###### **Aston Villa Football Club**

Councillors Bob Beauchamp, Ian Cruise, Des Flood, Roger Harmer, Tony Kennedy (Chairman), Mike Leddy and Mike Sharpe.

###### **Birmingham City Football Club**

Councillors Nawaz Ali, Randal Brew, Lynda Clinton (Chairman), Zafar Iqbal and Mike Ward.

###### **Warwickshire County Cricket Club**

Councillors Robert Alden, Neil Eustace, Mahmood Hussain, Nagina Kauser, Ewan Mackey, Majid Mahmood (Chairman) and Habib Rehman.



<b>Report to:</b>	<b>LICENSING AND PUBLIC PROTECTION COMMITTEE</b>	
<b>Report of:</b>	<b>ACTING SERVICE DIRECTOR REGULATION AND ENFORCEMENT AND CHIEF FINANCIAL OFFICER</b>	
<b>Date of Decision:</b>	<b>20 JUNE 2018</b>	
<b>SUBJECT:</b>	<b>LICENSING AND PUBLIC PROTECTION – OUTTURN 2017/18</b>	

<b>1. Purpose of Report:</b>
<p>1.1 This report sets out the outturn income and expenditure for 2017/18 incurred on services that are the responsibility of the Licensing and Public Protection Committee.</p> <p>1.2 The Cabinet approved the City Council's Outturn Report for 2017/18 on 24 May 2018 although the figures are still subject to audit by the City Council's approved external auditors.</p>

<b>2. Decision(s) Recommended:</b>
<p>The Licensing and Public Protection Committee is requested to :</p> <p>2.1 Note the revenue outturn underspend of £0.309m as detailed in Appendix 1.</p> <p>2.2 Note the expenditure on grant funded programmes in Appendix 2.</p> <p>2.3 Note the position on Capital projects, as detailed in Appendix 3.</p> <p>2.4 Note the position on reserves, as detailed in Appendix 4.</p>

<b>Lead Contact Officer(s):</b>	<b>Sukvinder Kalsi, Assistant Director of Finance</b>
<b>Telephone No:</b>	0121 303 3834
<b>E-mail address:</b>	sukvinder.kalsi@birmingham.gov.uk

<b>3. Consultation</b>
<p data-bbox="86 156 1495 224"><b>3.1 <u>Internal</u></b></p> <p data-bbox="86 224 1495 425">The Revenue and Capital Outturn position for the City Council as a whole was considered by Cabinet on 24 May 2018. The Chair of Licensing and Public Protection Committee, the Acting Service Director of Regulation and Enforcement and the Chief Financial Officer have been consulted in the preparation of this report.</p> <p data-bbox="86 425 1495 492"><b>3.2 <u>External</u></b></p> <p data-bbox="86 492 1495 629">Not applicable.</p>

<b>4. Compliance Issues:</b>
<p data-bbox="86 707 1495 851"><b>4.1 <u>Are the recommended decisions consistent with the Council's policies, plans and strategies?</u></b></p> <p data-bbox="86 851 1495 940">The budget is integrated with the Council Business Plan, and resource allocation is directed towards policy priorities.</p> <p data-bbox="86 940 1495 1075"><b>4.2 <u>Financial Implications (Will decisions be carried out within existing finances and Resources?)</u></b></p> <p data-bbox="86 1075 1495 1164">This Licensing and Public Protection Financial Outturn report gives details of monitoring of service delivery within available resources of the Place Directorate.</p> <p data-bbox="86 1164 1495 1545"><b>4.3 <u>Legal Implications</u></b></p> <p data-bbox="86 1164 1495 1545">Section 151 of the Local Government Act requires the Interim Chief Financial Officer (as the responsible officer) to ensure proper administration of the City Council's financial affairs. This report forms the concluding part of the Council's budgetary control cycle for 2017/18. Budgetary control, which includes the regular monitoring of and reporting on budgets, is an essential requirement placed on Cabinet Members, Committees, and Members of Executive Team by the City Council in discharging this statutory responsibility. There are no specific implications in relation to other policies.</p> <p data-bbox="86 1545 1495 1915"><b>4.4 <u>Public Sector Equality Duty</u></b></p> <p data-bbox="86 1545 1495 1915">There are no additional specific Equality Duty or Equality Analysis issues beyond any already assessed and detailed in the budget setting process and monitoring issues that have arisen in the year to date. Any specific assessments will be made by the Directorates in the management of their services.</p>

## 5. Relevant Background/Chronology of Key Events:

### Revenue Budget

- 5.1 The City Council approved the overall budget for 2017/18 on 28 February 2017. Licensing and Public Protection Committee noted the original net revenue budget allocation of £7.553m (as detailed in Appendix 1) on 15 March 2017.
- 5.2 The budget was increased by a net £0.024m during the financial year. The major changes are summarised in the table below.

	£'m
<b>Original Budget 2017/18 Reported to LPPC 15 March 2017</b>	<b>7.553</b>
Allocation of Trade Union Facility	(0.016)
New External Funding – Operation Beorma (Counterfeiting) (£0.023m)	-
Adjustment for Apprenticeship Levy	0.040
<b>Approved Net Revenue Budget at Year End</b>	<b>7.577</b>

### Revenue Outturn

- 5.3 The provisional revenue outturn expenditure for the Licensing and Public Protection Committee is £7.268m, which represents an underspend of £0.309m against the annual net budget of £7.577m. This has been incorporated into the overall Place Directorate year end position.
- 5.4 The table below sets out a high level summary of the year end overspend by service (full details in Appendix 1) and how this is comprised of over the savings programme and base budget pressures.

Outturn Year End Variations				
Budget Head	Savings Programme	Base Budget (underspend) / Pressures	Total (underspend) / Pressures	Forecast (underspend) / Pressures at Month 10
	£'m	£'m	£'m	£'m
Environmental Health	-	(0.707)	(0.707)	(0.600)
Pest Control	-	0.440	0.440	0.600
Register Office	-	(0.010)	(0.010)	0.020
Mortuary and Coroners	-	0.234	0.234	0.180
Trading Standards	-	(0.197)	(0.197)	(0.090)
Licensing	-	(0.172)	(0.172)	0.000
Highways	-	0.102	0.102	0.000
<b>TOTAL</b>	-	<b>(0.309)</b>	<b>(0.309)</b>	<b>0.110</b>

5.5 The key components include:

- **Environmental Health (£0.707m underspend) and Pest Control (£0.440m)** – Pest Control continued to experience income related pressure from contracts on clearance although this was partly mitigated by increased focus on income toward the year end.

The two services are managed jointly and savings were managed within Environmental Health to more than mitigate this.

- **Registrars (£0.010m underspend)**  
Several pressures were identified during the year including premises budgets (increased costs for cleaning and utilities) and employees – these were offset by increased income generation in the latter half of the year.
- **Mortuary & Coroners (£0.234m pressure)** – pressure from 1974 Bombings Inquest is expected to be funded through Central Government, subject to final written confirmation of which an adjustment of £0.170m relating to 2016/17 to be included.

The pressure from autopsies and transport of bodies (due to the increased volume of referrals and post mortems) and increased contract costs had been highlighted throughout the year and the final outturn position is in line with those forecasts.

- **Trading Standards (£0.197m underspend)** – service received external funding for tobacco licensing and also to support an existing anti-counterfeiting initiative. Existing resources were focussed on these work-streams.
- **Licensing (£0.172m underspend)** – the ring fenced Hackney Carriage and Private Hire account has drawn on existing reserves in line with operational plans/expectations. The separate Entertainment and General licensing budget has generated a surplus which will be utilised in the Directorate outturn position.

### **Capital**

5.6 The Capital programme (Mortuary and Coroners) for planned essential health and safety works in the mortuary was extended to include a new roof.

5.7 A revised Business Case for the new project was in progress and some work did commence before the year end. However the majority of the project – including temporary ventilation and asbestos removal will be completed in 2018/19.

## **6. Grant Funded Programmes**

6.1 There are two grant funded programmes: Illegal Money Lending and Scambusters.

6.2 The expenditure and income for each is shown in Appendix 2



### **Illegal Money Lending**

- 6.3 The Illegal Money Lending Team (IMLT) England investigates and takes action against Illegal Money Lending or “Loan Shark” perpetrators across the whole of England.
- 6.4 The project in 2017/18 was to be funded through a single grant specific grant from National Trading Standards Board (NTSB) (in 2016/17 there was additional funding from Financial Conduct Authority).
- 6.5 The total funding for 2017/18 is £3.605m.
- 6.6 The revenue outturn for 2017/18 was £3.604m.

### **Scambusters**

- 6.7 The Scambusters team investigates and takes action against fraudsters operating across council boundaries in the central region.
- 6.8 Funding has been confirmed at £0.335m, similar to the amount allocated to this project during last financial year.
- 6.9 The revenue outturn for 2017/18 was £0.328m.

## **7. Balances and Reserves:**

- 7.1 The balances and reserves at the end of the financial year are shown in Appendix 4.
- 7.2 The balances at the start of the year (1 April 2017) totalled £1.837m and these are all specific ring-fenced resources.
- 7.3 The use of reserves of £0.233m for the Hackney Carriage and Private Hire Licensing service is in relation to licence fees for 2017/18 and this is in line with previous decisions to ensure a proportion of the Licensing reserve is fed back in to the service in both investment and maintaining low fees and charges.
- 7.4 Proceeds of Crime Act (PoCA) reserves have been utilised for both Trading Standards and for Illegal Money Lending. At the same time, both areas have increased the amount of income they receive through the Home Office PoCA system – an additional £0.935m in 2017/18.

This is a reflection of the completed successful prosecutions that both services have been involved in.

Reserves have increased during the year by a net £0.180m resulting in a closing balance of £2.017m.

<b>8. Evaluation of Alternative Option(s):</b>
8.1 This report sets out the Outturn position for 2017/18 and all the issues, financial risks and options were reported during the financial year to the Licensing and Public Protection Committee.

<b>9. Reasons for Decision(s):</b>
9.1 The Report informs the Licensing and Public Protection Committee of the Revenue Budget for 2017/18 and the outturn position at the year end.
9.2 The position in respect of the Licensing and Public Protection Committee's use of reserves, the Savings Programme and the risks are also identified.

<b>Signatures</b>	
Chris Neville Interim Service Director Regulation and Enforcement	.....
Clive Heaphy Interim Chief Financial Officer	.....
Date	.....

<b>List of Background Documents used to Compile this Report:</b>
Licensing & Public Protection - Revenue and Capital Budget 2017/18 – 15 March 2017 Licensing & Public Protection - Budget Monitoring 2017/18 (Month 02) - 12 July 2017 Licensing & Public Protection - Budget Monitoring 2017/18 (Month 04) - 13 September 2017 Licensing & Public Protection - Budget Monitoring 2017/18 (Month 06) - 15 November 2017 Licensing & Public Protection - Budget Monitoring 2017/18 (Month 08) - 17 January 2018 Licensing & Public Protection - Budget Monitoring 2017/18 (Month 10) - 14 March 2018

<b>List of Appendices accompanying this Report (if any):</b>				
1. Appendix 1 - Financial Performance Statement at Outturn 2. Appendix 2 - Summary of IMLT and Scambusters 3. Appendix 3 - Capital Programme 4. Appendix 4 - Balances and Reserves				
<table border="1"> <tr> <td><b>Report Version</b></td> <td>3.0</td> <td><b>Dated</b></td> <td>24 May 2018</td> </tr> </table>	<b>Report Version</b>	3.0	<b>Dated</b>	24 May 2018
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**BIRMINGHAM CITY COUNCIL**

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

**20 JUNE 2018**  
**ALL WARDS**

**REGULATION AND ENFORCEMENT**  
**ANNUAL REPORT 2017/2018**

1. Summary

- 1.1 The report advises on the work undertaken during the year April 2017 to March 2018 by the Regulation and Enforcement Sections: Environmental Health, Trading Standards, the Register Office, Licensing, the Coroners and Mortuary service and the England Illegal Money Lending Team which report to your Committee.

2. Recommendation

- 2.1 That the report be noted.

Contact Officer: Chris Neville, Acting Director of Regulation and Enforcement  
Telephone: 0121 675 2495  
Email: [chris.neville@birmingham.gov.uk](mailto:chris.neville@birmingham.gov.uk)

### 3. Background

3.1 The sections of Regulation and Enforcement that report to your Committee are:

- i. Environmental Health.
- ii. Trading Standards.
- iii. Register Office.
- iv. Licensing.
- v. Coroners and Mortuary Service
- vi. England Illegal Money Lending Service.

3.2 The Environmental Health section delivers services in the areas of: public health; food safety; health and safety at work; environmental protection; animal welfare; statutory nuisance; drainage; and pest control.

3.3 The Trading Standards section delivers consumer protection and business support services in the areas of: commercial investigations; product safety; underage sales; consumer credit; internet crime; proceeds of crime; metrology; and fair trading.

3.4 The Register Office Service is responsible for the registration of births, marriages and deaths, the legal preliminaries to marriages (other than those in the Church of England), the arranging and conducting of civil marriage ceremonies, the issuing of certified copies of register entries and the legal preliminaries to and registration of civil partnerships.

3.5 The Licensing Service consists of the General Licensing, Hackney Carriage and Private Hire Licensing and Licensing Enforcement teams.

3.6 The Coroners Service and the Public Mortuary provide support staff to the Senior Coroner for Birmingham and Solihull.

3.7 Birmingham City Council Regulation and Enforcement continue to host the National Illegal Money Lending Team for England and also the Regional Investigation Team (formerly known as 'Scambusters').

3.8 Administrative support, management information and the co-ordination of legal proceedings with the Chief Legal Officer is undertaken by staff who are (where appropriate) part of the council's wider Professional Support Services team.

3.9 The NHS Primary Care Teams were disbanded in April 2013 and the public health role was moved into the Local Authority. Officers have worked closely with the Director of Public Health to deliver significantly on public health outcomes in Birmingham.

#### 4. Implications for Resources

- 4.1 The activities detailed in this report were undertaken within the reduced resources available to your Committee.
- 4.2 The Illegal Money Lending project for England is funded by The Treasury and the Regional Investigation Team by the Department for Business, Energy and Industrial Strategy through a governance arrangement with the National Trading Standards Board. These resources are ring fenced for this specific activity and claimed through an expenditure invoicing procedure.
- 4.3 There has been a steady reduction in financial and people resources available to deliver services within Environmental Health, Licensing, the Register Office, the Coroners and Mortuary and Trading Standards over recent years, beginning in 2011/12, in order to deliver the efficiencies required.

#### 5. Implications for Policy Priorities

- 5.1 The services delivered through your Committee contribute to Birmingham City Council's Vision and Priorities 2017-2020.
- 5.2 Our aim is to create a sustainable, future-proof model of local public services – focused on supporting the needs of people, partnership working, empowered staff, and community engagement.
- 5.3 Our values are putting residents first; acting courageously; being true to our word, and achieving excellence.
- 5.4 The City's Vision is:
  - A city of growth where every child, citizen and place matters

Its Priorities are:

- Children – a great city to grow up in
- Housing – A great city to live in
- Jobs and skills – a great city to succeed in
- Health – a great city to grow old in

#### 6. Public Sector Equality Duty

- 6.1 The various actions identified in the report were undertaken in accordance with the Regulation and Enforcement's enforcement policies which ensure that equalities issues have been addressed.

7. Consultation

- 7.1 Consultation is undertaken with members of the public, traders and elected members wherever possible to ensure that our services are delivered and tailored to the needs of our customers and stakeholders.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background papers: Nil

**ENVIRONMENTAL HEALTH****Background**

Environmental Health provides a range of interventions at a local and city wide level with the principle aims of protecting public health and the environment as well as supporting businesses to succeed. The range of services includes food hygiene, health and safety, pest control, infectious disease control, noise nuisance, environmental protection, animal welfare, defective drains, dangerous trees, and environmental crime including fly tipping, littering, and fly posting. Most of our services are statutory i.e. the City Council has a legal obligation to deliver them and they are reported through the Licensing and Public Protection Committee.

All of Environmental Health's services contribute towards the public health agenda helping to protect the health of our residents, with the ultimate aim of reducing inequalities in health.

Officers deliver both reactive and pro-active services, e.g. delivering the food, health and safety and environmental protection inspection programmes as well as providing reactive services responding to requests for assistance from members of the public, elected Members and partner agencies. Our officers are highly skilled and ensure that work is prioritised according to public health risk, the impact on peoples' lives and our statutory responsibilities. There are a wide range of options available to officers to bring about improvements including the provision of education and advice or where necessary, taking proportionate enforcement action.

Officers are also responsible for initiating and managing projects aimed at improving identified problem areas. Proactive projects have been deployed on both a citywide basis focussing on specific topics, and at a local level tackling issues that have been raised through residents, community groups, forums and Ward Committee meetings. Officers are involved at all stages of project working from planning and consultation to co-ordination of partnership working and implementation. These projects have benefited greatly from partnership working with both internal departments and external partnership organisations including; the West Midlands Fire Service, Police and National Health Service. This joint working is in line with the city council's focus on integrated working and has proved efficient, effective and mutually beneficial to all of the participating organisations involved, to businesses, the residents of Birmingham and to the wider public.

The work undertaken by the Environmental Health Service is précised in the table below and more descriptive detail is given in the following pages:

All Environmental Health and Pest Control Requests for Assistance		
Total Jobs		60,234
	Env Health RFAs total	27,749
	Pest Control RFAs total	14,606
	All Inspection Total	14,458
	Other Jobs not RFAs	3,421

Environmental Health Breakdown		
Waste related enquiries	RFAs & Waste Incidents not subject to complaint	6847
Statutory nuisance	Noise	4,932
	All others	1,285
Animal Welfare	Dog Wardens	3,317
	Animal Welfare (not dogs)	145
Food complaints		3,965
Infectious diseases		1,173
Licensing enquiries		410
Health and Safety	Enquiries	466
	Incidents (Accidents)	538
Unauthorised encampments	On council land	765
Other		3,906
Source of RFAs	Cllr, MP, CX & SD	739
	Public	27,010

Pest Control Breakdown		
Rats	Rat in Garden	6,336
	Rat in House	4,169
	Mice reported as Rat in House	453
Pests other		3,648
Source of RFAs	Cllr, MP, CX & SD	78
	Public	14,528

Environmental Health Inspections Breakdown		
Inspections	Food Inspections	3,952
	Food Standards Inspections	2,232
	Health and Safety	2,206
	Environmental Protection	123
	No Smoking Compliance	2,356
	Duty of Care	3,477
	Animal Welfare	112



Number of Criminal Prosecutions undertaken by Environmental Health:

**CASES FINALISED BY LEGISLATION 2017/2018**

LEGISLATION	CASES	OFFENCES	FINES	COSTS AWARDED	OTHER PENALTY
Animal Welfare Act 2006	3	3	£120	£2,420	24mth community order, 60hrs unpaid work, disqualified from keeping an animal for 10yrs 12mths
Animal Boarding Establishments Act 1963	1	1	£440	£1,449	
Dogs on Leads Order 2014	4	6	£2,090	£1,115	
Environmental Protection Act 1990					
Section 33****	43	72	£51,927	£38,701	12mth community order, 80hrs unpaid work, 8mths imprisonment suspended, 200hrs community work, disqualified from driving for 12mths
Section 34	25	43	£22,346	£17,066	27mth Conditional Discharge
Section 59	1	1	£3,400	£4,115	
Section 71	1	1	£440	£900	
Section 80	2	11	£1,400	£1,000	
Section 87	1	1	£100	£175	
Section 110 (2)	2	2	£850	£870	
Fouling of Land by Dogs Order 2014*****	4	6	£595	£700	
Food Hygiene (England) Regs 2006 ***	51	303	£717,342	£107,660	12mth community order, 9mths imprisonment suspended for 18mths, 100hrs unpaid work
Health & Safety at Work ect Act 1974	3	5	£34,000	£11,724	
Microchipping of Dogs (England) Regs 2015	5	6	£480	£1,255	18mth conditional discharge
Prevention of Damage of Pests Act 1949	5	6	£3,173	£8,890	
<b>TOTALS</b>	<b>151</b>	<b>467</b>	<b>£804,703</b>	<b>£198,040</b>	

\*\*\* includes 1 H&S offence, 3 criminal damage offences, 1 EPA Sec 34 offence

\*\*\*\* includes 6 Sec 34 offences, 3 sec 71 offences, 3 scrap metal offences

\*\*\*\*\* includes 1 dog not on lead offence

**Total Submitted Prosecutions 205**

**Total Submitted Cautions 15**

## Litter Reduction Initiatives

During the year a programme to support continued reductions in litter levels was run across the city that involved anti-litter and free printed matter distribution scheme compliance patrols. Working with the support of West Midlands Police, a total of 5,873 Fixed Penalty Notices were issued which is a decrease of 433 over last year. During the year 602 criminal prosecutions were instigated against persons who committed litter offences and who declined to discharge their liability to prosecution by paying a fixed penalty amount. The average fines and court costs imposed by the court on conviction were £193.08 plus costs of an average £158.89.

Over the course of the year 187 consents were issued to permit the distribution of free printed matter in the City's designated control areas. These consent zones continue to be an effective tool in reducing defacement from discarded promotional material.

## Waste Enforcement Unit – (Commercial and Household Waste Enforcement)

The Waste Enforcement Unit received 6847 service requests during the year. Enforcement interventions were focused on offences involving fly-tipping and on the inappropriate disposal of commercial waste by business. The unit's activity is summarised in the table below:

<i><b>Investigations and statutory interventions</b></i>	
Waste related offences concluded through the court with convictions	79
Case files submitted to the council's solicitors for consideration of criminal proceedings for waste related offences	130
Waste related offenders dealt with through using Fixed Penalty fines as an alternative to court proceedings: <ul style="list-style-type: none"><li>• Small scale fly-tipping. [Car boot sized incident - £400 FPN]</li><li>• Very small scale fly-tipping. [Black sack sized incident - £80 FPN]</li><li>• Businesses failing to demonstrate arrangements /systems/ documents for trade waste</li></ul>	56 19 433
Duty of care investigations into commercial waste related offences	1087
Demand notices issued to businesses requiring production of trade waste disposal information	861
Investigation activity against fly-tippers: <ul style="list-style-type: none"><li>• Offenders arrest with police support and charged at police stations</li><li>• Fly-tippers given custodial sentences at court (2 suspended)</li><li>• Fly-tipping vehicles seized for examination and investigation</li></ul>	3 4 13

The WEU comprises 14 (full-time equivalent) officers drawn from a range of environmental health, licensing, trading standards and police backgrounds. The Unit received support from West Midlands Police on 16 operations during which arrests were required on 3 occasions.

Sanctions handed down by the courts continued to be aided by the Sentencing Council Guidelines which have toughened up penalties for waste offences. Notable cases where the Guidelines were significant included:

- RRB Birmingham Ltd; Alex & Yanis Bross Ltd; and Premier Retailing Ltd who were fined £9,000, £9,000 and £10,000 respectively for offences relating to inappropriate disposal of business waste.
- Solihull Skip Hire Ltd, fined £1,500 for the practice of 'skip skimming' where excess waste was pulled from an overloaded skips and left on the pavement.
- Jonathan Caines and Ion Stefan whose fly-tipping vehicles were seized; forfeited by the court crushed.

Enforcement interventions were supported through the work of the Waste Prevention Team. Under the council's 'Zero Hero' educational campaign the team held 77 school assemblies and 30 schools based litter picking events. To further encourage reuse and recycling the team issued 10,176 advice and information letters, made 3,237 visits to households and distributed 'striped sacks' to 753 properties to assist with refuse collection from residential accommodation above shops across the city.

### **Fly Posting and Placarding**

During the year awareness raising and enforcement activities were targeted at the most prolific businesses that were using fly-posting and placarding to avoid legitimate advertising costs. A total of 35 scheduling exercises were undertaken which required illegal operators to take down advertisements. Non-compliance renders offenders liable to prosecution under the Town & Country Planning Act 1990 and from the exercises one offender was reported for prosecution and convicted and investigations are ongoing against two further businesses.

A trial involving the use of Community Protection Notices as means of controlling illegal advertising was started in the latter part of the year. Statutory notices were issued against 11 operators under the Anti-Social Behaviour, Crime and Policing Act 2014. Non-compliance carries a penalty of a £100 fixed penalty fine or maximum £20,000 fine on conviction. The legislation allows 'ongoing requirements' to be imposed to prevent further offending and operator compliance continues to be monitored from the trial, which extended into 2018/19.

The removal of illegal advertisements attached to street furniture is a core activity for Amey under the terms of the PFI contract. A number of changes were made to the council's website and Contact Centre scripting which made it easier for members of the public to report incidents of fly-posting or placarding. Improvements in reporting mechanisms and better exchange of information between Amey and enforcement officers reduced the amount of double handling of reports and helped with focused action against repeat offenders.

In 2017/2018, Officers made representations regarding eight premises licence reviews, which resulted in specific conditions being imposed in order to control illegal advertising. During the year an in-depth audit was undertaken against one venue to ensure compliance with the new licensing conditions. Additionally, monitoring undertaken during the historic 'peak placarding' season, including the summer festival and New Year celebration period identified good compliance from licence holding venues with very low levels of offending.

### **Safety of Void Commercial Properties**

In 2017/2018 Officers continued to work with colleagues from West Midlands Fire Service, West Midlands Police and Acivico on tackling problems associated with void and insecure commercial buildings. During the year, action was taken to investigate and deal with the highest risk buildings that posed an imminent injury to both fire crews and persons who might enter the building (in particular rough sleepers). The work of Building Watch runs in parallel to the City Council's Empty Property Strategy, which targets interventions at void residential buildings.

### **Domestic Noise Complaints**

This section deals with noise problems impacting on residents caused by loud amplified music, intruder alarms, barking dogs, and mechanical noise, from either a domestic, industrial or commercial source.

During 2017/2018 a total of 4,932 noise complaints were received. Many of these were resolved through informal action. Where informal action proves unsuccessful and the noise is continuing, evidence of the noise is gathered from installing noise monitoring equipment into the complainant's property and/or by officers visiting the resident's property to listen to the noise during the day or at night. Environmental Health provides an out of hours service which operates between the hours of 19:00 hours until 01.00 hours Sunday to Thursday and from 20:00 hours until 03:00 hours on Friday and Saturday. This provides an invaluable service to residents to enable evidence of the noise to be gathered at unsociable hours.

59 noise abatement notices were served for noise offences affecting residents and 15 seizures of sound equipment took place following breaches of notices. After 28 days those who pay for the full costs incurred by the city in undertaking the seizure of the noise equipment, have their property returned. In cases where further breaches of notices occurs after seizure i.e. where new or returned equipment is used to create a further problem, criminal proceedings are taken against the offender.

This service continues to be an effective way of preventing noise nuisance, and our actions have a dramatic impact on those members of the community whose lives are impacted by noisy neighbours.

### **Smoke Free Birmingham**

Environmental Health and Trading Standards work closely with other partners to control illicit and counterfeit tobacco products, underage sale and inappropriate use

and sale of tobacco in Birmingham, including Shisha and E-cigs. Tobacco control requires an integrated approach with partners because as well as being more cost effective there are other factors that require consideration:

1. Reducing smoking prevalence reduces the harm to people's health and contributes to reducing health care and economic costs (worklessness) associated with early onset of morbidity and mortality from smoking related diseases.
2. Reducing the availability of tobacco products to young people under the age of 18 contributes to reducing the uptake and subsequent addiction to tobacco.
3. Securing tobacco control has a direct economic benefit to Birmingham which is directly linked to reducing/preventing the impact from counterfeit and non-duty paid tobacco on society.
4. A regulatory focus on responsible smoking and tobacco-use directly supports compliance and tackles unfair competitive advantage within businesses [smoke free] premises, and underpins community safety initiatives relating to reducing crime and increasing safety at venues and on public transport.

The core tobacco control activities that Trading Standards and Environmental Health contribute to are:

- Protecting people from harm (from illicit tobacco; second hand smoke).
- Helping people to quit (smoke free environments and policies; working with stop smoking services).
- Preventing people from starting smoking (underage sales, point of sale displays; smoke free).
- Smoke free workplaces and public places (businesses; services and travel).

Environmental Health has responsibilities for enforcing the smoke free provisions contained in the Health Act 2006. This prohibits smoking in public places that are indoors or publicly shared vehicles or commercial vehicles. To facilitate this during 2017/2018 we continued and implemented a number of targeted interventions which included:

- Proactive inspection of businesses and work vehicles to check compliance with smoke free legislation.
- Education and enforcement exercises involving the smoking of shisha, working extensively within a multi-agency setting.
- Raising awareness of shisha business compliance and public health associated issues with other agencies.
- Working with other West Midlands Local authorities and Public Health England to produce effective harm reduction messages and platforms to inform shisha users
- Maintained partnership working with planning to ensure Environmental Health is a consultee with planning applications with any proposed smoking shelter.

These activities were also supported by Trading Standards around the under-age sales and Health Warnings, and by Her Majesty's Revenues & Customs in relation to

illegal importation of tobacco based products. Planning, Public Health, West Midlands Fire Service and Police Service have also provided support.

Inspections in relation to checking compliance with no-smoking legislation have continued. During 2017/2018 2925 premises were inspected. 10 complaints were received and investigated regarding smoke free non-compliance. In total 1-person received fixed penalty notices for contravening the Health Act 2006, which required payment of the statutory fee of £50 or £30 if paid early. There has been one summons issued, relating to businesses not complying with the Smoke free regulations under the Health Act 2006 legislation.

### **Shisha Premises**

Shisha is a sweetened form of tobacco and involves the use of a pipe or hookah which is used to inhale the smoke once it has been passed through water. The list of health effects associated with tobacco shisha is similar to those associated with cigarettes. The tobacco used in the pipes or hookahs contain tar and nicotine, and results in exposure to much higher levels of carbon monoxide. The practice of smoking shisha is not in itself illegal. However, businesses are still required to comply with the same smoke free legislation that relates to smoking in any premises where the public have access to. There are a few shisha businesses in the city who use electronic shisha, which is similar in concept to electronic cigarette smoking and this activity does not fall within the provisions of the Health Act 2007 due to no smoke being produced.

Compliance and safety of Shisha premises in Birmingham has continued to be a priority. Working collectively with Trading Standards, Licensing, Public Health, West Midlands Fire Service, West Midlands Police Service and Planning, these agencies form a cohesive working partnership, working with both businesses and residents to increase the safety and compliance of the businesses and increase resident's confidence in their neighbourhood.

Last year, compliance inspections were undertaken of 17 shisha premises within the city. One health and safety prohibition notice was issued in respect of dangerous equipment and practices in these premises. The majority of these inspections have been undertaken with other agencies. Work in this area continues during 2018/2019.

### **City Centre Project**

Environmental Health continued in 2017/2018 to provide assistance with reducing impacts from noise levels and antisocial behaviour within the City Centre. Business, residents, buskers and entertainers have been provided with the guidance which includes advice on how noise and antisocial behaviour related issues are dealt with. Should these behaviours not be adhered to then this forms the basis for action against individuals under the Community Protection Notice (CPN) procedure (Anti-Social behaviour, Police and Crime Act 2014). To date no CPN has been served for this activity, however, a number of warning letters have been served on individuals. In November 2016 Environmental Health contracted two Anti-Social behaviour officers to assist with dealing a number of antisocial behaviour activities within a

defined footprint of the City Centre. This work continued into 2017/18. This activity includes assisting rough sleepers into support services, evidencing any criminal behaviours for further action; assisting with waste issues in alleyways; first actions around noise from buskers and preachers. The ASB officers work closely with West Midlands Police; Retail and Colmore BID's; Health related services; homelessness and support services.

## **Pest Control**

During 2017/2018, the Pest Control Section continued to offer a range of services to both domestic and commercial customers in the city. In domestic premises we continued to include free treatment for rats. The section also continued to provide free advice on the control of all other pests and supplied free poison for the treatment of mice. The latter is available through all Birmingham City Council Customer service Centre. In addition, between July and October the section offered a chargeable service for the treatment of wasps' nests to both domestic and commercial customers.

Commercially the section provided a wide range of competitively priced pest control services which are reported in the City Council's Fees and Charges Policy. The section has treated all pests (except rats at domestic properties) on a chargeable basis to all private non-food businesses and all City Council Departments. We have successfully obtained new contracts and continue to expand our portfolio of chargeable treatments. During 2017/2018 we continued to operate chargeable services for squirrels, ants, fleas, cockroaches and bed bugs. By far the greatest change has been with the continued expansion of the Land and Property Clearance Service. This has again helped to alleviate budgetary pressures. Officers continue to look for Pest Control opportunities by working closely with internal and external partners.

Furthermore, the section provided specialist support services to the Environmental Health Section and other City Council Departments. These included the clearing of 'filthy and verminous' premises and the disinfection and cleaning of areas which may have become contaminated with bodily fluids.

### ***Key achievements of the Pest Control section during 2017/2018 include:***

- The section has dealt with a total of 14,606 requests for assistance (RFA) from residents of Birmingham. Of these 10,505 were to resolve problems associated with rats either in gardens or within domestic properties.
- Pest Control has continued to liaise and promote our Property Clearance Service to internal and external partners. The role has grown in terms of capability, size of land and size of contracts. Work enquires for clearance work have increased from 363 enquires in 2014 to 721 enquires. Staff working in this area has increased from 15 to 25 full time equivalent officers working 5 days per week.
- The take up of pest control treatments from internal council departments has fallen; however, the Service has received very positive feedback from those contracts which we hold. This has resulted in more opportunities being

made available from existing income streams. We continue advertise and seek opportunities offered outside Birmingham City Council.

- 521 domestic premises were proactively approached to undertake an inspection for the presence of rats. Those premises in hotspot areas which were identified as having rat infestations were treated to eradicate the problem and others were given proofing advice to prevent problems in the future.
- Working with Environmental Health to remove flyposting/placarding across the City of Birmingham 1500 have been taken down.

Complaints relating to bedbugs have significantly increased. Each job is likely to take two to three times as long to complete as dealing with an average rat in garden job due to what is involved in delivering the treatment. In 2008 we received 249 requests for this service, in 2014/2015 this had increased to 816. Officers are now dealing with 458 requests for assistance in 2015/2016. A charge for bedbugs was introduced during April 2016/2017 and the requests for service were 358 which has fallen to 203 during 2017/2018.

### **Food Safety Inspections**

More than 3,900 food hygiene inspections and over 2,200 food standards inspections were carried out during 2017/2018. This represents 96% of the programmed inspections that were planned for the year. Items covered during inspections include hygiene of premises and practices, compositional standards, claims and advertising, traceability, food fraud, sampling and training.

### **Food Hygiene Rating Scheme**

Following the launch of the National Food Hygiene Rating Scheme in November 2012, the scheme has grown in popularity. The new ratings website where hygiene scores for businesses are displayed features over 6,200 Birmingham food businesses. As part of the scheme officers provide window stickers for all businesses in the scheme. The scheme, in addition to providing information to consumers, is seen as a useful tool to encourage businesses to improve. This is demonstrated by the increasing number of businesses applying for a rescore after making improvements, over 160 made such an application in 2017/2018.

### **Food Enforcement Action**

During 2017/2018, 81 premises were found to present an imminent risk to health and were closed immediately until all necessary works were carried out. This is significantly higher than the average number of closures which are normally carried out in Birmingham. Although this could be considered a large number, compared to the total number of inspections carried out, 3,952, it only represents 2% of premises which seriously failed to meet basic hygiene requirements and put their customers at risk.

Throughout 2017/2018, 51 prosecutions were finalised for food hygiene and food labelling related offences, with total fines amounting to £717,342 and costs recovered of over £100,000. In addition 13 businesses received a simple caution.



Officers have increased enforcement activity when dealing with allergen control, in response to poor compliance following the introductory period, and due to the increased number of incidents in this matter.

### **Primary Authority Partnerships**

Officers from the Food Lead Team and Health and Safety Team have been taking steps to improve business compliance through the promotion of the Primary Authority Partnership Scheme, in conjunction with the Better Regulation Delivery Office. Regardless of its size, a business operating across council boundaries can form a Primary Authority Partnership with a single Local Authority in relation to regulatory compliance. By working closely with the business, a Primary Authority can advise on the principles of the food regulations and health and safety regulations to the businesses specific circumstances. This provides robust and assured advice and this advice must be respected by all regulators enabling the business to operate with assurance and confidence. Any activities undertaken by the Local Authority as part of the Primary Authority Partnership are recharged to the business on a cost recovery basis (the scheme does not allow for an element of profit). Partnerships have been signed with:

For food safety and standards matters partnerships have been signed with: Mondelez, Handmade Burger Company, Virgin Trains, Interstate Hotels and Resorts, Valerie Patisserie Holdings, Thai Leisure Group, and Wing Yip, with further partnerships being developed with Cross Country Trains, Chiltern Trains, and Walter Smith Butchers.

For health, safety and welfare matters partnerships have been signed with: Marks & Spencer, The John Lewis Partnership, Claire's Accessories, Valerie Patisserie Holdings, Philpotts and Gala Bingo.

### **Sampling**

Complimentary to the inspection activity already detailed as part of the City Council's statutory responsibilities we also undertake a range of proactive food related surveys. These include investigations into the microbiological safety of food products as well as composition and labelling to check that food sold in Birmingham is safe to eat and meets the statutory requirements.

As part of this programme, 12 food and water surveys were carried out comprising of 291 samples in total; this is an increase from the 121 samples taken in the previous year. Of these 291 samples 36 were unsatisfactory, although we are awaiting results from a further 111 samples. All of the issues identified were raised with the companies concerned and their home or primary authorities and follow up action was taken to ensure that problems were rectified and where necessary food products removed from sale.

## **Infectious Diseases and Food Poisoning**

All sporadic cases and outbreaks of gastro-enteritis are investigated. During 2017/2018, 1,169 sporadic cases and 4 outbreaks were investigated. Investigations of outbreaks of gastro-intestinal disease includes the promotion of regular hand washing and disinfection of surfaces as well as other controls in order to reduce the spread of infection as quickly as possible. Officers work with the Health Protection Unit to ensure a joined up approach to controlling the spread of gastro-enteritis and food poisoning.

## **Outdoor Events**

Officers have worked in partnership with the Council's Events Division. An officer was appointed to offer specialist advice concerning food safety at the major outdoor events which took place in the City including the Christmas German Market, the Vaisakhi celebrations and the Carnival. Over 250 inspections were carried out of food premises at events to ensure that they are a success. The demand in this area of work is hugely increased and for 2017 included very high profile events in the city.

## **Health and Safety Regulation**

The City Council has the responsibility for enforcing health and safety law in approximately 21,000 commercial premises. During 2017/2018 there were 3,422 health and safety related interventions made, these included inspections; dealing with requests for assistance; investigating accidents, incidents and cases of occupational disease; and targeted interventions (project work).

### Inspections

During the 2017/2018, 336 premises received proactive inspections. These were undertaken in accordance with the National Local Authority Enforcement Code ('the Code'). Inspections comprised of: high-risk rated business sectors; activities identified nationally as high-risk by the Health and Safety Executive; and high risk sectors and activities identified using local intelligence. They included:

- Inspecting 38 warehouses and tyre fitting premises to ensure that risks from falls from height and workplace transport are controlled. This activity was a national priority as defined by the HSE.
- Carrying out interventions at 18 distribution premises to assess the controls in place to prevent employees and members of the public being struck by moving vehicles. Again this activity was a national priority as defined by the HSE.
- Undertake intervention work with all 9 of the cooling towers and 60 fitness centres , in Birmingham, for which the council has enforcement responsibility so as to ensure that the risk from legionella is being controlled.
- Inspections of Shisha bars have been undertaken to assess the risks to the health of employees and health and safety of members of the public. As a result of these inspections a number of prohibition notices were served.

- Checks of gas appliances and catering equipment identified a number of unsafe catering appliances.
- Further work has been undertaken to carry out inspection of machinery at all food businesses. Prohibition Notices were served where unsafe food machinery was found (e.g. safety guards were missing or not used). As a result of ongoing concerns and reported accidents this work will continue in the forthcoming year.

### Requests for Health & Safety Assistance

During 2017/2018 officers responded to 466 requests for assistance concerning working conditions or practices. These included concerns regarding staff welfare and dangerous work practices.

### Incident Investigations

There were 538 notifications of accidents, dangerous occurrences and cases of occupational disease reported during 2017/2018. Whilst not all of these required investigation, a number of investigations into serious incidents were either begun or continued during the year. Some of these investigations take a considerable investment of time and have included working with expert witnesses and other regulators.

This year, incident investigations included:

- Employee sustained life changing injury (fingers on left hand amputated) having used unguarded meat mincer. Formal action against Ltd recommended.
- Large ceiling collapsed onto members of the public (a number injured - thankfully not serious but could have been) at a banqueting hall.
- Large mirror fell onto customer at a restaurant (who sustained serious head injury). Investigation finished recommending legal action against ltd.
- Cinema customer fatality injured in connection with a powered foot rest. The seat and a similar model have gone to HSL for tests. The three "Gold" screens which have similar make of seats remain closed. Investigation on going.

### Enforcement Action

As a result of enforcement activities, 92 Prohibition Notices were served requiring the cessation of dangerous activities. These related to areas such as defective fork lift trucks, dangerous gas appliances, unguarded catering equipment, employees working at height without edge protection and dangerous electrical systems and 29 Improvement Notices were served, requiring improvements in safety standards.

### Role in National Health and Safety Agenda

Birmingham City Council continues to maintain a prominent role in the national health and safety agenda. On a regional and national level we have been prominent in representing local authorities on groups including:

- Officers representing the Council as chair of the West Midlands Health and Safety Liaison Group and member of the Midlands Health and Safety Regulators Group
- We continue to work closely with our Primary Authority Partners and have provided a positive impact through the generation of inspection plans and assured advice to reduce unnecessary inspections.
- Our officers contributed to the Primary Authority Supermarket Group which consists of local authority Primary Authority Partners who work with supermarkets. We have helped to direct consistent assured advice across the sector.
- Two business forums with local businesses to offer assistance and support in dealing with health and safety requirements.

## **Environmental Protection**

During 2017/2018 the Environmental Protection Unit (EPU) worked to safeguard public health and the environment from adverse emissions across all environmental media (land, air, and water), including emissions of noise / vibration and the control of waste. EPU comprises of four disciplines that contribute to this aim: Acoustics, Air Quality, Contaminated Land and Pollution Control.

### Acoustics

The development of policy and provision of services to address problems concerning both noise nuisance and environmental noise continued to play an important role in our work during 2017/2018. EPU continue to provide expert advice and noise monitoring services to support noise/vibration complaint investigations, planning and licensing consultation issues. The primary work delivered by the service for Environmental Health covered:

Receiving 421 requests for noise monitoring to support noise nuisance complaint investigations (a slight increase on the previous year) and installing equipment at 328 residential properties across the city. The waiting time for installation of noise monitoring equipment was maintained at 1 week throughout the year although this is increasing at year end due to an on-going long term absence.

Continuing to provide support to the wider Environmental Health on technically complex noise nuisance cases and noise reports presented in support of planning applications, and also provide support to the Licensing Section with regards to outdoor events.

The provision of advisory support to premises licence holders when setting noise limiters imposed as conditions on premises licences.

In addition EPU provided assistance to other Council departments, housing associations and local authorities on a fee paying basis.

During 2017/2018 this assistance brought in around £6,280, which can be broken down as follows.

EPU received requests for noise monitoring from other Council departments (including Housing Anti-Social Behaviour officers and Social Services). In these cases EPU install the equipment and provide analysis facilities. The investigating department then determined the appropriate level of enforcement action.

An EPU officer continues to provide acoustics support, on a fee-earning basis, to a nearby Local Authority. This support resulted in additional income of £1,190.

### Air Quality

The monitoring and improvement of air quality across the City has continued to be an important aspect of the role of the EPU with attention on local and national air quality being focussed by the European Commission issuing a Final Warning against the UK Government for ongoing breaches of the EU Air Quality Directive.

The work carried out during 2017/2018 focused on two pollutants, nitrogen dioxide (NO<sub>2</sub>) and particles [(coarse particles (PM<sub>10</sub>) and fine particles (PM<sub>2.5</sub>)]. During the year Government published updated Air Quality Plans and instructed via Ministerial Direction Birmingham (along with four other UK cities) to produce a full business case for development of a Clean Air Zone (CAZ) to deliver legislative compliance with the NO<sub>2</sub> standard by 15 September 2018

Officers from the service have worked closely with colleagues from a range of other Council services, specifically within Transportation, to progress the Clean Air Zone obligations, including supporting the modelling work, assessing technical submissions and attending meetings with Defra / DfT. By the end of the financial year the CAZ Team were working towards finalising the modelling which would identify the preferred option to deliver compliance in the shortest possible time. Once this work is complete the outputs will be shared with Members and ultimately the public via formal consultation.

In order to demonstrate the quality of the air in Birmingham the service maintained the following monitoring network:

- Air quality was continuously monitored at four locations across the City whilst four further sites were identified for development; one to replace the site at Tyburn Road (due to closure of the building); two to support the developing CAZ study. Challenges arising from sickness to key staff members and technical issues with relocating the sites meant that none of the four were fully brought on line during the year.
- Officers from the service undertook non-continuous monitoring of nitrogen dioxide using diffusion tubes at around 90 sites around the city. Unfortunately, issues arising from staff sickness and pressures on the real time network (bullet point above) impacted on on-going tube deployment.
- Birmingham continues to support the national polycyclic aromatic hydrocarbon and Black Carbon monitoring networks for which the Council receives payment. These networks were mothballed due to the relocation of the Tyburn site and are due to come back on line in early summer 2018.

The outputs from the monitoring are used to demonstrate compliance (or otherwise) with legislative limits.

### Contaminated Land

The work carried out by the Contaminated Land function includes fulfilling the Council's obligations in respect of Part 2A of the Environmental Protection Act 1990. This involves implementation of the Contaminated Land Inspection Strategy, and ensuring that the legacy of historic land contamination is addressed during the regeneration of the City.

- A revised Contaminated Land Inspection Strategy has been drafted but challenges relating to financing as a result of the loss of Government funded grants require consideration before this can be formally progressed. There has been no progression on this from the previous year.
- During the year officers continued to review site assessments and/or remediation strategies in response to applications for planning consent. The majority of these related to the redevelopment of brownfield sites.
- There were 62 formal requests for environmental information to support conveyancing reports. This work is income generating and resulted in revenue of over £5,208 (a reduction of £800 on the previous year).

### Pollution Control

The work of the Pollution Control Officers covers the proactive regulation of emissions from industrial processes, the investigation of complaints relating to environmental emissions from industrial and construction sites and licensed entertainment premises in the city centre, and providing consultation responses to both Planning Management and Licensing on environmental matters. Significant achievements in 2017/2018 included:

The emissions produced by 220 industrial and commercial processes were regulated, ranging from petrol stations to the Jaguar car manufacturing plant. During 2017/2018 we aimed to conduct 123 inspections, but due to resources only achieved 91% completion of the planned inspection programme. The remaining processes will be inspected in the next financial year.

The prevention of future environmental problems is also an important element of work. During 2017/2018 Planning Management consulted us in relation to the environmental consequences of proposed developments relating to 2,298 requests for comment on specific planning applications. These included major developments which can have significant consequences within the city.

Officers are asked to comment on applications made under the Licensing Act 2003. They assessed 175 licence applications for new Premises Licences or variations of existing licences. Officers also assisted in assessing Temporary Event Notifications. Officers regularly raised representation and attended the relevant Committee to explain their concerns. This further assists in preventing future noise problems. Pollution Control Officers were also been involved in the investigation of nuisances arising from industrial premises and from licensed entertainment premises within the

city centre and also assisted the Environmental Agency in investigations pertaining to permitted waste installations.

### Unauthorised Encampments

Environmental Health leads on the response to notifications of illegal or unauthorised encampments, principally due to travelling families. In 2017/2018 officers dealt with 130 such encampments on Council land. This year was especially challenging with the number of encampments increasing on that of the previous year (which was a record high in itself) and this produced significant challenges for the service and for affected citizens.

In order to deal with the increasing pressures Environmental Health have sought injunctions through the courts to protect parks where there have been regular encampments. To date five injunctions have been granted covering Perry Park & the Alexander Stadium, Hazelwell Recreation Ground, Selly Oak Park, Selly Park Recreation Ground and Swanshurst Park. These preclude the creation of unauthorised encampments and are enforceable by West Midlands Police as each carries the power of arrest in the event of a breach.

Officers from the service continue to seek options for a transit site and work is underway to bring Tameside Drive back into use, whilst developing the sites identified in the BDP, these being Aston Brook Street and Proctor Street. It is envisaged that all three sites will come on line in the 2018-19 financial year. Effort will then turn to identifying larger plots of land that can be used as 'over-flow' sites in the event of larger numbers of groups or larger groups.

The service has also undertaken a procurement contract to provide enforcement agent support (bailiffs), to follow on from the existing contract. At year end this is in the final stages and the award is anticipated in late spring 2018.

### **Animal Welfare**

The Animal Welfare Team is responsible for a wide range of inspection and enforcement activities and includes the Dog Warden Service. The team respond to enquiries involving a variety of pet animal and livestock keepers, including licensed premises such as dog breeders, commercial kennels and catteries, pet shops, horse riding establishments, exotic and dangerous wild animal keepers, people who use and train performing animals, zoos and animal transporters. Significant achievements in 2017/2018 included:

#### Dog Warden Service

- The Dog Warden service responded to **3,291** requests for assistance and advice, regarding stray and lost dogs, dog fouling and dog welfare issues.
- A total of **665** stray dogs were seized, of which **570** were impounded at kennels and **95** returned directly to their owners. A total of **236** dogs were claimed by owners, which resulted in additional income in respect of claim

charges of **£5,325**. A further **£1,530** was recovered by the DWEO, from those dog owners whose dogs were returned to them direct.

- In February 2018, the DWEO became responsible for the stray dog collection service for Solihull Metropolitan Council, having secured a 1 year contract.
- Concerns over the fouling of public areas by dogs resulted in **728** complaints. A total of **40** proactive dog fouling surveillance enforcement exercises were undertaken and **9** Fixed Penalty Notices being issued to owners who failed to clear up after their pets and some **50,000** poop-scoop bags were handed out to dog owners.
- Other initiatives to deal with dog fouling nuisances, involve the use of anti-dog fouling stencils, spraying dog faeces with high visibility chalk based paint with associated posters displayed on lamp posts and the use of posters produced by Keep Britain Tidy, depicting eyes that glow in the dark.
- The DWEO worked in partnership with housing associations, residents groups, schools, West Midlands Police and other residents groups to promote responsible dog ownership and support dog fouling initiatives.
- The DWEO assisted with **45** eviction and forced entry processes. This assisted the Council's Housing Department, Housing Associations, estate agents, and private landlords. This support resulted in additional income of **£3,913.00**
- The DWEO continued to be part of the 'dogs at risk' scheme sponsored by the Dogs Trust. The scheme aims to reduce the numbers of unwanted puppies being produced by the distribution of discounted dog neutering vouchers. The team were able to obtain further vouchers and a total of **82** vouchers were issued.

#### Dog Control Orders – Now Public Space Protection Orders

- The 5 Dog Control Orders (DCO) were transferred to Public Space Protection Orders (PSPO) following a public consultation and came into effect on 20 October 2017. The legal requirements remain the same and the Orders continue to be effective in tackling irresponsible dog owners who fail to control and clean up after their pets. The Orders have been implemented by the DWEO through educational and enforcement means.
- Some 12,000 signs have been affixed to lamp posts across the city and **635** warning letters sent to dog owners.
- Under the provisions of these Orders (DCO or PSPO) the DWEO have issued a total of **16** Fixed Penalty Notices, **9** for dog fouling offences, **5** for **dogs** seen straying off **the lead** on **a** public road, 1 for a dog being on land it was not permitted to be and a further Notice **issued to** an individual who was found walking more than the permitted 4 dogs on public land.

#### Compulsory Dog Microchipping

- The DWEO continue to promote and enforce the compulsory dog micro chipping regulations, through discussions with and visits to dog owners and through proactive exercises in parks.
- A total of **56** Notices were issued to keepers of dogs, where it was discovered that their dog was not micro chipped in accordance with the regulations. Of



these Notices **37** were complied with, **6** were withdrawn as the keeper no longer had the dog, **9 people** was reported for prosecution and a further **4** are pending.

- In line with the compulsory micro chipping a new process was established to ensure that all cats and dogs found deceased across the city are scanned for a microchip. Officers in the Animal Welfare Team continue to collate and retain any information on these animals and will also notify the animal's owner.

#### Animal Related Complaints and Other Activities

- A total of 103 licences were issued to animal establishments following inspection and a further 1 performing animal certificate issued.
- Disease restrictions continued to affect the transport of farm animals and a total of **1,477** activities involving inspections and enquiries. Some 11 animal transport vehicles were inspected, of which 3 were found to be defective.
- A total of 108 visits were made to the five abattoirs in the city to ensure compliance with animal movement controls and the safe disposal of animal by-product waste.
- Dog cruelty and neglect is an emotive and high profile issue and officers investigated a total of **176** requests for assistance, which related to poor living conditions, abandonment, lack of veterinary treatment or the malnourishment of dogs. As a result of these enquires, **3** persons were reported for prosecution for **3** offences of animal cruelty.
- Fulfilling the service level agreement with the Children, Young People and Families Directorate to effect an assessment of a dog when kept by a prospective adoptive or foster parent, resulted in **85** assessments being carried out and reports being submitted. This resulted in additional income of **£8,928.54**.
- A new process was put into place in May 2017 regarding the emergency removal and boarding of animals should their owners be taken to hospital, or detained under the Mental Health Act. This is a significant service improvement involving vulnerable people, often in difficult circumstances. The Animal Welfare team take the lead on such matters and liaise with Social Services, Funerals and Protection of Property, hospital staff, police and private kennels and catteries. A total of 19 referrals were dealt with, involving a variety of animals. This resulted in additional income of approximately £2,800.
- The importation of dogs and puppies continues to be an issue of concern. Officers investigated 7 enquiries regarding dogs illegally imported into the UK. Six puppies were found to fail the import rules and were therefore seized and placed into quarantine kennels as required by legislation. All expenses incurred being paid by the dogs' owners.
- Officers also investigated 9 reports of commercially imported dogs, which had been referred by Defra. The necessary additional requirements for commercially imported dogs were found to be in place.

**TRADING STANDARDS SERVICE**

The Trading Standards Service deal with a wide range of enforcement activities. They also offer support to vulnerable consumers. Business advice is offered on a first line basis but more bespoke advice can be offered through the development of a Primary Authority Partnership (PAP). Details of our priority areas are provided below.

**Age Restricted Products**

The prevention of the supply of age restricted products to minors remains a priority for the Service. Prevention work includes advisory visits to retailers where complaints may have been received or to those who may have applied for a licence to supply alcohol. The majority of this work is reactive rather than proactive due to resources. Intelligence-led test purchase exercises with the assistance of young volunteers are still undertaken. Where sales are made, enforcement action as well as licence reviews would be considered.

Last year a total of 38 complaints were received for a whole range of age restricted products. This is an increase of 21 on the previous year. All premises where complaints have been made will be visited by officers and advised of their duties and obligations under the law. These premises are usually subject to a test purchase in due course. Whilst there has been an increase in complaints since the previous year, the total number of complaints is still considered to be low in view of how many retail premises sell age restricted products across the City. This could be due to the amount of work undertaken over the years to advise businesses, but also the firm approach we take when sales have been made. However, we must also consider that incidents may well be under reported.

**Alcohol**

Thirteen complaints were received relating to the alleged sale of alcohol to under-18s. All premises that were subject to a complaint received a visit from an officer. Advice, along with a warning notice and information pack would be issued reminding retailers of their obligations. Five of these premises were subject to an attempted test purchase; this resulted in two sales. One case resulted in a caution and a review of the Premises Licence; consequently the licence was suspended for 3 months with additional conditions added. The other case resulted in a caution and also a continued prosecution against the Premises Licence Holder; in the meantime the Premises Licence was reviewed and revoked.

**Tobacco**

21 complaints were received relating to the alleged sale of tobacco products to under-18s; this is usually combined with allegations about illicit tobacco. All would have been visited by an officer and advised in the same way as those subject to alcohol complaints. One case was dealt with in court from the previous financial year, which resulted in a guilty plea. The defendant received a £400 fine and £1606 costs were awarded.

## **Fireworks**

The number of specialist premises selling fireworks continues to decline as most fireworks are sold through larger supermarkets. West Midlands Fire Service is responsible for registration of premises to sell fireworks/explosives. We do, however, continue to engage with both the Fire Service and the Police during 'Firework Season' and they have a point of contact should any issues arise. We have also provided an input to advisory information that the Fire Service have produced.

Trading Standards only received one complaint about firework sales to under-eighteens. However in this case, the trader who supplied the firework did so correctly. That is he checked the ID, followed the store's procedures and called a manager to attend before the sale took place. It was the subsequent misuse of the firework by suspected persons under 18 years old that caused the concern. This complaint came via West Midlands Police.

## **Knives and other products**

Two complaints concerning underage knife sales were received. We had one complaint in relation to tattooing; this was referred appropriately.

In April, a joint evening exercise was carried out with the Police in the South of the city where 3 premises were visited and information and advisory notices were issued. Controlled drugs were found on the premises and the Police subsequently had the alcohol licence removed via the expedited review process.

In May, as part of the police **Operation Sceptre 7**, an officer accompanied West Midlands Police and visited eight retailers in the City who were selling knives. The purpose of the exercise was to raise awareness regarding items that could be considered offensive weapons and to check the businesses procedures. In-depth advice was given on the legislation.

In late June 2017, twenty-two off-licences were visited in the South of the City by officers after a general enquiry was received concerning youths drinking in a local park. The traders were all checked for compliance and given advice on underage sales.

## **Used Car Crime**

Buying a vehicle remains one of the single most expensive purchases a consumer will make (apart from property). Consumers are entitled to know 'material information' regarding a vehicle's condition and history before making a decision to buy. They need to be assured that the vehicle is correctly described and most importantly safe. Unfortunately it is common for unscrupulous traders to mislead consumers when describing vehicles in advertisements. This can occur whether they appear on business websites, or advertisements that are placed on specialist websites such as Autotrader, Gumtree or Piston Heads, or even on vehicles that are advertised at the roadside. Trading Standards have a crucial role in identifying

vehicles that may have been mis-described. The Service received 494 complaints in relation to used car sales, ranging from minor issues through to allegations that vehicles were sold in an unroadworthy state. The Trading Standards Service advises businesses on how they can ensure they meet their obligations when selling vehicles and will also investigate incidents where vehicles have been allegedly mis-described. Officers also participate in sharing intelligence and developing joint initiatives on a regional basis in relation to used car sales, as buyers will often travel across boundaries to make a purchase.

**Successful outcomes (also see under Intelligence Led Approach below):**

1. The family of an 87-year-old man contacted Birmingham Trading Standards Service after he had purchased a Ford Focus motor vehicle for £10,500. The man had seen the car advertised on the website of KRC WM Motors Limited. The car was described as being "HPI clear" and as having "No accident damage". Shortly after purchase, the victim experienced mechanical faults with the vehicle and so complained to the trader in order to get the problems resolved. However KRC WM Motors Limited refused to assist the victim and so the victim's family complained to trading standards. Examination of the vehicle by an independent expert vehicle examiner and enquiries made into the vehicle's history revealed that the vehicle had been in an accident and was in fact a Category D insurance write off.

KRC WM Limited pleaded guilty to two offences by virtue of the Consumer Protection from Unfair Trading Regulations 2008 and were fined £2,000 and ordered to pay a victim surcharge of £175, plus costs of £2,425 (total £4,595).

Company Director Mr Hawdam Khalis Jabbar was find £265, ordered to pay a victim surcharge of £30 (total £295).Both were ordered to pay within 28 days

2. Jahangir Alam, a Birmingham car trader, received a 12 month conditional discharge after pleading guilty to one offence under the Road Traffic Act 1988 for supplying a consumer with a vehicle that was in an unroadworthy condition. He was ordered to pay £2,080 costs and £1,600 pounds in compensation to the victim.
3. **Saif Motors Limited** supplied a BMW Roadster motor vehicle to a consumer. Shortly after purchase the consumer was involved in a minor road traffic accident. The consumer then discovered that although the vehicle had looked cosmetically sound when he purchased it, it had actually been supplied to him in an unroadworthy and dangerous condition. The consumer contacted Saif Motors Limited to tell them about the problems with the vehicle but the trader refused to help. The consumer then contacted Birmingham Trading Standards Service who investigated the matter. As a result, Saif Motors Limited pleaded guilty to one offence contrary to s.75 of the Road Traffic Act 1988. They received a fine of £2,100 which was reduced to £1,400 after the court took into account their previous good character and early guilty plea. The court ordered the company to pay a victim surcharge of £140 and costs of £750. The total sum payable was therefore £2,290.

## **Hallmarking and the Jewellery Trade**

Trading Standards enforce the provisions of the Hallmarking Act 1973.

Trading Standards have been investigating a complex jewellery fraud case involving the supply of gold bangles which were found to be of a lesser carat value than claimed. Warrants were executed at two businesses as well as other premises being used to manufacture the bangles. A number of defendants have been interviewed and charged with fraud offences. One of the defendants was remanded in custody to await trial. The case will be heard in Birmingham Crown Court later this year. Trading Standards has worked closely with Birmingham Assay Office over this matter.

## **Intelligence Led Approach**

The service works closely with Central England Trading Standards Authorities (CEntSA) and is a member of its Regional Intelligence Group. The group is used to identify emerging criminal threats and prolific offenders who operate across the CEntSA region and allows authorities within the region to pool resources in order to tackle serious and organised crime.

The service continues to receive referrals from the Citizens' Advice Consumer Service (CACS) about potential scams, many of which relate to on-line transactions. Many of these scams emanate from outside the EU and are virtually impossible to trace. However, intelligence is logged and referrals are made to Action Fraud and the National e-Crime Unit.

Last year we reported on an initiative taken to review all intelligence relating to two used car traders whom we suspected were failing to adhere to the requirements of the Consumer Rights Act 2015. Whilst this was an extremely resource intensive process, we were able to use the information that we had gathered to tackle these prolific offenders and bring them to justice. We are now able to report on these cases, as follows:

### **Operation Fiesta - Car Place Limited**

An inspection was conducted that resulted in six vehicles being seized after they were found to be in a dangerous and unroadworthy condition. The company subsequently pleaded guilty to all alleged offences. These were 8 offences of supplying unroadworthy vehicles, contrary to the Road Traffic Act 1988 and 15 offences contrary to the Consumer Protection from Unfair Trading Regulations 2008, relating to unfair commercial practices. The company was fined a total of £33,120.

A director of the company, Mr Mohammed Tuffail, was also fined £575, plus £57 victim surcharge. He was ordered to pay £3,294 in compensation to victims and £7,418 in costs (total £11,344).

The other director, Mr Mohammed Umair, was fined £1,800 and ordered to pay £170 victim surcharge. He was also ordered to pay £4,283.50 in compensation to victims and £2,472.92 in costs (total £8,726.42).

The court also ordered forfeiture of the six seized vehicles for destruction.

### **Operation Escort - James Hudson Motors**

A forecourt inspection was carried out on 8th November 2016 resulting in the seizure of 17 vehicles that were exposed for sale in an unroadworthy condition.

A total of 84 offences were alleged against the company, which included supplying unroadworthy vehicles contrary to sections 75 (1) and (5) of the Road Traffic Act 1988 and offences contrary to the Consumer Protection from Unfair Trading Regulations 2008.

Mr Ashfaq and James Hudson Motors Ltd. were each fined £1,000 on charge 1, with no separate penalty given on the remaining offences.

Mr Ashfaq was disqualified as a director for 5 years which was the maximum period available to the Magistrates' Court.

The Court ordered the forfeiture of all of the vehicles that had been seized, which equated to a value of £31,235.

Mr Ashfaq was also ordered to pay £3,000 in costs and the company was ordered to pay costs of £6,000.

During both inspections, officers from Birmingham Trading Standards were accompanied by officers from West Midlands Police and an independent expert vehicle examiner.

We aim to continue this approach to tackling the supply of dangerous and unroadworthy used cars and continue to work with colleagues across the Central England region.

### **Consumer advice and assistance**

The Service no longer provides general consumer advice.

Members of the public requiring consumer advice are referred to the Citizens' Advice Consumer Service (CACS).

CACS provide consumers with advice about their rights and what actions are open to them to resolve their civil disputes.

Referrals will be made to our Service by CACS where it is considered that there may be a criminal element to the complaint or where the consumer is considered to be vulnerable.

A total of 4,307 requests for assistance were received by the service last year.

## **Product Safety**

Trading Standards enforce the provisions of the Consumer Protection Act 1987 and the General Product Safety Regulations 2005, which are both aimed at ensuring all consumer products are safe to use. In addition to this there are a number of Regulations aimed at specific products.

The Trading Standards Service received 237 safety related enquiries over the year, an average of 20 per month. These related to various different product types but the highest number of complaints were about electrical goods, toys/games and then cosmetics.

## **Cosmetics and Products Containing Chemicals**

In recent years, Birmingham Trading Standards has discovered non-compliant cosmetics particularly aimed at the Asian and Afro Caribbean market. A number of inspections were carried out this year where the main issues related to non-compliant labelling under the Cosmetic Products Enforcement Regulations 2013.

1. At one inspection at a business on Witton Road, various cosmetics were found not to comply with The Cosmetic Products Enforcement Regulations 2013. 586 cosmetic products were seized by the officers. Samples were sent to Birmingham City Laboratories (BCL) to be tested. The cosmetics failed to comply with varying labelling requirements of the above Regulations. Many of the products did not bear the name of a responsible person in the EEA, had no dates of minimum durability, no batch number or reference to identify the product and inadequate ingredients lists on the packaging. In addition, some of the products seized were found to be unlicensed medications and therefore not authorised to be sold in the UK. This was confirmed following liaison with The Medicines Healthcare Products Regulatory Agency (MHRA). The importer in this case has been interviewed and the matter is on-going.
2. An inspection at a business on Lozells Road highlighted further non-compliant cosmetics. 97 products were seized and then samples tested by BCL. They also failed to comply with varying labelling requirements of the above Regulations. In addition, one product was listed as containing the substance 'carbolic acid', which is another name for 'phenol'. Phenol is included in the list of substances prohibited in cosmetic products. The directors of the business are due to be interviewed and the matter is on-going.
3. Officers assisted in a joint visit with brand representatives of 'Bio Oil' at a business suspected to be selling counterfeit versions of the product. Fortunately, only a small amount of counterfeit product was identified (31 in total) and was subsequently seized. The brand representatives then took up their concerns with the London supplier of the counterfeit product. Trading Standards Officers continued to carry out a full inspection at the premises and in doing so seized a further 185 cosmetic products. Test reports received back from BCL showed that the samples tested failed on labelling issues, such as no durability information,

inappropriate wording of conditions of use and safety warnings and incorrectly formatted ingredients lists.

4. An investigation was conducted into an eBay seller based in Birmingham. The trader was selling a range of cosmetic goods that were suspected to be non-compliant in a number of aspects including chemical make-up and labelling. On 14th December 2017, warrants were executed at two addresses. A large quantity of products were found at one of the addresses. These included skin lightening products, suspected medicinal products, various cosmetics and a number of car mobile telephone chargers. Thirty cosmetic products were sent off for further analysis. Subsequent results showed that fifteen of these cosmetics contained banned substances and all thirty were labelled incorrectly. None of these products had been registered on the 'Notification Portal' as they are required to be prior to any supply in Europe. A further fifteen products were sent off for examination by the MHRA (Medicines Healthcare Products Regulatory Agency). From the information supplied back to us, fourteen of these were found to be products classed as medicines and had not been granted appropriate authorisation for sale, supply or advertisement in the UK. The case is currently being considered for prosecution.
5. An inspection was carried out at Worldwide Foods(Birmingham) Limited T/A Al Halal Supermarket based at 360 Coventry Road, Small Heath. During the inspection various cosmetics were seized and later found to be non-compliant with the Cosmetic Products Enforcement Regulations 2013 and the Consumer Protection Act 1987. The Company subsequently pleaded guilty to 5 charges. The Company was fined £3,150 on each charge (£3,500 reduced by 10% for plea on the day of trial). Costs of £6,500 were ordered to be paid by 31st December 2017.
6. In March 2018, a suspension Notice was issued to a wholesale cash and carry business in respect of soaps, hair creams and scalp creams imported from Nigeria, which appeared to have incorrect labelling. Test reports subsequently received confirmed that these products failed to meet the labelling requirements of the relevant Regulations. This matter is on-going and the owner of the business is due to be interviewed.

## **Electrical Goods**

In a case resulting from intelligence passed to us by Port Authorities, Officers visited Amsons on Coventry Road, Birmingham. They found a number of electric incense burners which were suspected of being unsafe. The burners were seized and one was sent for testing. The results confirmed they were dangerous and offered a risk of electric shock or injury to anyone using them. The company and its Director were prosecuted and fined a total of £2,165 including costs. The goods were forfeited for destruction.

## **National Consumer Week 27th November – 3rd December 2017**

This year's theme focused on and promoted the campaign '**Not What You Signed Up For?**'



The aim was to raise awareness and understanding amongst consumers about subscriptions and subscription traps, so that consumers can make informed choices and have a greater awareness of their rights and avenues of redress in cases where something has gone wrong.

The launch coincided with 'Cyber Monday', giving a particular focus on online subscription issues.

Birmingham Trading Standards held an event at the Library of Birmingham on the 29th November 2017. Information leaflets were given out to consumers with information from the Chartered Trading Standards Institute and the Citizens Advice Bureau about consumer rights in relation to subscriptions and subscription traps, as well as general consumer advice. A number of products including pens, pencils and key rings were donated by the Anti- Counterfeiting Group (ACG) to give out.

Officers interacted with over 90 consumers visiting the event. It is hoped that they will now be more aware of the problems associated with subscriptions issues and their rights in relation to cancelling online payments within a "cooling off" period under the Consumer Contracts (Information, Cancellation and Additional Payments) Regulations 2013.

In addition to this, our Twitter account (@bhamts) was updated on a daily basis with details of the event, and the council website, intranet and the Your Weekly News (in-house email platform) promoted the event. Operations Manager Vir Ahluwalia did a television interview on Made in Birmingham at the event.

This was a very successful event.

### **Rogue Traders - Rapid Response**

Trading Standards have continued to provide a rapid response service for consumers who are being targeted by rogue traders. This was initially provided for residents within the nominated No Cold Calling Zones; however we will respond to all citizens who are experiencing a live rogue trader incident.

5 such responses have been conducted by the service this year.

West Midlands Police are also aware that building complaints are not necessarily just civil matters and are starting to deal with these incidents as fraud themselves, as well as reporting concerns to Trading Standards.

During these responses, officers also use the opportunity to assess a householder's vulnerability to further bogus caller visits. Officers will provide practical advice on how to prevent such problems arising again and will supply the consumer with warning stickers and notices to deter any rogue traders from calling at their premises in the future. Officers will also gain information from any business cards or flyers that may be left and this is shared with the wider trading standards community. This helps to build an intelligence picture to enable appropriate targeting of resources. It is known that different groups of traders will work together and they are becoming

serious organised crime groups. Intelligence logs are now a priority and the numbers of logs have increased throughout the year.

We continue to revisit victims that are perceived to be particularly vulnerable in order to ensure no further incidents have occurred and to reiterate advice previously given, with the aim to increase their confidence in saying no at the door.

Victims that have come to our attention may have also been referred to Adults Safeguarding, as some victims are at risk of being financially abused by rogue traders and therefore need extra care and attention to help overcome these issues.

Rapid response can be generated by a call from concerned relatives, neighbours or even banks. The Banking Protocol is a partnership between financial institutions, the Police, Trading Standards and Victim Support organisations. Bank staff throughout the country have been trained on how to identify individuals who are tricked/conned into attending their local branch to withdraw or transfer funds to pass on to fraudsters.

In May 2017, a bank called through to Trading Standards offices to alert them that an elderly vulnerable customer had been trying to withdraw a large sum of money, which was unusual behaviour for that specific customer. Through the bank's intervention, the customer was not allowed the withdrawal and Trading Standards Officers immediately attended the customer's property. A trader was found at the resident's home and was advised by Trading Standards that he would not be receiving the money. He turned out to be a subcontractor, who knew nothing about the excess amount of money being claimed by his employer. Although Trading Standards were unable to locate the main trader, they saved the victim from a large financial loss. Trading Standards Officers stayed with the victim and provided guidance on how to protect himself from rogue traders in the future.

### **No Cold Calling Zones**

There are currently three established No Cold Calling Zones in Sparkhill, Yardley and Garretts Green/Sheldon. Residents have welcomed the No Cold Calling Signs put in place, as they felt that on average, the number of cold callers had reduced over the years. The majority indicated that they still did not want uninvited callers at their door and they supported the use of the signs. They felt safer being in a NCCZ and felt they had more confidence to say no to uninvited callers and therefore would not want the signs to be removed.

Since introducing the zones, resources have reduced significantly and less proactive work has been carried out within the zones. However we do still provide a reactive service to residents within a No Cold Calling Zone if an incident is reported to us. As protecting vulnerable residents is a priority, we will attempt in this coming year to raise the profile of the zones.

Residents living outside of these zones have also queried as to why their own area cannot be deemed a NCCZ. The same advice and guidance along with leaflets and stickers to deter Cold Callers is also provided to these residents.

## **Rogue Trader Cases**

Doorstep selling cases are logged under two categories on our database. The first is under household repairs, of which there have been 24 related to doorstep selling cases in the past year. The other is under the heading of consumer fraud, of which there have been 44 cases.

Traders are often difficult to locate in a doorstep crime situation, as the trader intentionally acts in a way that will make them almost impossible to trace. Through making consumers more aware, it has enabled Trading Standards to locate some of these fraudsters and bring them to justice.

### **1. Magical Kitchens and Builders**

Between April and June 2015, the service received 6 referrals from Action Fraud regarding Magical Kitchens and Builders. Action Fraud is the UK's national fraud and internet crime reporting centre.

The referrals were from homeowners who had paid large sums of money to Mr Devlin in order for building work to be carried out. In five referrals, work had been started but was never completed. In one referral, money had been paid for building work, but to date no work has ever been done. An investigation was undertaken and it became apparent that the owner of the business, Scott Devlin, had been made bankrupt. Due to the sums of money involved, with one homeowner paying over £100,000, we decided to pursue the matter.

On 27<sup>th</sup> June 2017, the Staffordshire based builder was given a 24 month prison sentence at Birmingham Crown Court. Scott Devlin (44), of Robinson Close, Tamworth, trading as Magical Kitchens and Builders, had pleaded guilty to five offences under the Fraud Act 2006 and one offence under the Theft Act 1968.

Craig Dunn (33), of Turchill Drive, Sutton Coldfield also pleaded guilty to two offences under the Proceeds of Crime Act 2002. He received a 12 month prison sentence, suspended for 18 months, was ordered to pay £4,000 costs and carry out 250 hours of unpaid work within 12 months.

Devlin admitted making dishonest representations, failing to disclose information legally required and not completing building work as agreed at properties in Selly Park Road, Selly Oak; Weymoor Road, Harborne; High Heath Close, Bournville and Linthurst Road, Barnt Green, between November 2013 and January 2015.

Devlin, who was made bankrupt in November 2013, no longer had a bank account so arranged for customers to make further payments into Dunn's (his nephew) account – which Dunn would withdraw for Devlin. Devlin's period of bankruptcy ended in November 2014. Homeowners had made payments ranging from £2,535 to £139,000.

## **2. John Casey**

A Birmingham builder who took more than £12,000 in payments for unfinished and unnecessary construction work on an Edgbaston property was ordered to pay £17,106 at Birmingham Magistrates Court on 3<sup>rd</sup> August 2017.

John Casey (59) of City Road, Edgbaston, pleaded guilty to three offences under the Consumer Protection from Unfair Trading Regulations 2008. He was fined £900 and also ordered to pay £1,818 in costs and £14,388 in compensation.

Birmingham City Council brought the case after Trading Standards were contacted by a neighbour, who reported concerns about the amount of building works being carried out on a house in Lyttleton Road, Edgbaston between 16th January 2016 and 6th February 2016.

The consumer, who believed their house had been damaged during bad weather, was approached by Casey who said he was doing building work in the area and noted there was a problem with the property's guttering.

After discussions, a series of works were agreed – including guttering around the property, tiles to be replaced on the laundry room, and one of the top floor windows to be replaced – for which a general price of £8,000-£10,000 was quoted. However, over a two-and-a-half week period, the homeowner wrote three cheques totalling £12,000.

A survey of the works carried out revealed the guttering and window repair to be defective, while the installation of eaves trays in the property was defective, incomplete and unnecessary. The tiling works on the laundry room were not carried out.

Casey had also claimed there was damp in three of the first floor bedrooms, requiring works to be done to the high level roof and the installation of eaves trays – but the survey found no evidence that the covering was defective nor of damp ingress.

## **Scams**

### **National Scam Awareness Month – July 2017.**

During Scam Awareness Month, Trading Standards Officers attended 7 venues in Birmingham with display material and leaflets. The venues were Tesco Springhill, Sainsbury's Longbridge, Sainsbury's Mere Green, Shard End Community Centre, NatWest Banks at Kings Heath and St Philips Place in the City Centre and Ward End Fire Station. In total, 452 people were given scam prevention advice.

We worked in partnership with the following organisations:- Citizens Advice Bureau, West Midlands Fire Service, NatWest Bank, West Midlands Police, The England Illegal Money Team, Birmingham Adult Safeguarding and Victim Support.

Through the road shows, we have built extra networks with other organisations including Age UK, Birmingham Alzheimer Society, Umbrella and Ageing Better.

Scam awareness Tweets were put on every day for the month of July, with the hash tag '#ScamAware'. These created 122,056 impressions (the total number of times a Tweet appears on Twitter) and 757 engagements (total interactions with a Tweet: link clicks, re-Tweets, replies and likes).

## **Scam Prevention**

Fifteen scam awareness/educational talks were delivered to various community groups, including elderly groups and a parents group held at an Academy. Over 400 consumers were given detailed scam awareness information, such as how to avoid and recognise them and what to do when caught by out by a scam. After each session there is always a lively question and answer session where many concerns, queries and experiences are shared and debated.

On 25<sup>th</sup> and 26<sup>th</sup> April 2017, one of our officers attended the National Trading Standards Scams Conference as a guest speaker, to talk about Harassment and Hope from an officer's point of view. The speech was well received.

We have supported Dementia week for Birmingham City Council's Learning and Development Department and Mental Health Week for NatWest Bank. At these venues we had a stall and staff were there to give advice on scam prevention.

We were invited to attend the Natwest Bank launch of 'One Million Friends Against Scams'. The idea was to make as many people as possible 'scam-aware' and to spread the word about various different scams in circulation. This is an initiative that the National Scams Team started and the bank has committed to recruit one million Scams Friends by 2020. We have supported this initiative by recruiting Friends Against Scams at talks, events and on social media.

Officers attended an Adult Safeguarding Practitioner Forum, having developed the case study for them to consider. The meeting was attended by over 40 individuals from across the care service areas. A Trading Standards scenario on scams and doorstep crime was discussed. This was received extremely well by all those who attended the forum.

Officers attended Birmingham Safeguarding Adults Board (BSAB) conference "Protecting Vulnerable Adults - Making Safeguarding Personal" at Tally Ho, Birmingham. There were some 80 partner organisations present including West Midlands Fire Service, Birmingham Community Safety Partnership, the Department of Work and Pensions, Focus, Forward for Life, West Midlands Police, Victim Support, Birmingham Carers Hub, Aquarius and Samaritans, with over 162 people in attendance. The day was a great success and gave officers the chance to issue scam prevention advice and build more networks for future partnership work, which will hopefully lead to further scam awareness input.

## **National Scams Hub Referrals**

The National Scams Hub (NSH) is a project that is being run on behalf of National Trading Standards by Surrey County Council. Although it started off as a small project aimed at raising awareness of scams and creating links between different

agencies to try to spot victims of scams, it has since increased its media profile through campaigns such as 'Think Jessica', which deals with postal scams and now refers increasing numbers of individuals to its partners for intervention work. The team also acts as a 'Knowledge Hub' for scam intervention work.

Postal scams in particular are highly addictive as they often feature bogus prize draws and lotteries, where the victim is living in the hope of winning one day. The scammers usually target victims who are lonely, elderly and/or housebound and will befriend them. The most common phrase mentioned to the officer is 'I feel so ashamed' and it is this emotion that the scammers play on.

65 postal scam referrals were received by the Trading Standards Service during the past year. They were subsequently followed up by officers through personal visits to the suspected victims, where information was given on how to stop being a scam victim and what to do with any new material received. This service is highly personalised and great skill is needed by the officers to deal with what is a very sensitive area of work.

Officers are working with Adults Safeguarding and a report was presented by the Head of Service to the Adults Safeguarding Board. The report set out the issues faced by scam victims with a view to services working more collaboratively to ensure that potentially vulnerable citizens were not overlooked and were protected from scams.

As a consequence, the lead officer for scams has carried out a number of joint visits with an officer from West Midlands Fire Service. This small project was seen as a great success and will provide a model for future operations; by working with partners we can ensure that the best service is provided to safeguard the citizen's wellbeing. Officers also carried out joint visits with Adult Safeguarding to 4 victims that were identified as having possible safeguarding issues. The victims and family were advised on scam prevention.

## **Illegal Alcohol**

This activity is primarily intelligence-led and visits are conducted at premises identified through consumer complaints or via intelligence received from other agencies.

Throughout the year, numerous consumer complaints were investigated and premises visited to ensure compliance, resulting in the seizure of over 200 bottles of illicit spirits from one shop that had both non-duty and counterfeit back label products in stock. A licence review and prosecution are in process for this haul.

Closer co-operation, joint working and sharing of intelligence with Her Majesty's Revenue and Customs (HMRC) has helped progress in this area this year. We have participated in HMRC led 'Operation Aerology' and continue to share intelligence with this agency.

Several operations have also been conducted with local police teams where their local knowledge has helped to target problem premises.

During Operation Beorma, a large amount of illicit vodka was found stored in a lock-up container, as well as several pallet loads of suspect beer in other containers. These have been seized and removed from circulation; investigations are ongoing with these items.

### **Role of Responsible Body under the Licensing Act 2003**

Trading Standards is designated as a Responsible Authority for the purposes of the Licensing Act 2003.

Applicants for new or varied Premises Licences must serve a copy of their application on Trading Standards as along with the other responsible authorities to enable them to raise objections or suggest measures for improvements. In 2017/2018, over 200 applications were received and reviewed; these included new applications and variation requests. Several were objected to due to previous enforcement activities.

This year, Trading Standards submitted four licence reviews to be heard before the Licencing Sub-Committee. Two were for premises that had failed underage test purchase exercises by selling alcohol to a 14-year-old volunteer. One shop had its licence revoked and the other had a three month suspension, along with more stringent conditions imposed. A third shop had its licence revoked for stocking illicit tobacco and a fourth one is awaiting a hearing after large amounts of illicit alcohol was found on the premises.

Trading Standards has made strong contacts with all of the other responsible bodies including the new centralised police licensing unit, to ensure that local knowledge and intelligence is shared by those who can best use it. Joint working with local neighbourhood policing teams has been beneficial in identifying problem premises and several joint exercises have been undertaken during the year. We have also undertaken several joint operations with HMRC this year.

A representative from Trading Standards also attends the responsible authorities meeting to discuss policy and issues around licensed premises.

### **Illicit Tobacco**

The Tobacco and Related Products Regulations 2016 (made under the Consumer Protection Act 1987) have now been in place for 2 years. The main noticeable change was the introduction of plain or standardised packaging. The intention of the legislation was to remove the glamour associated with tobacco branding and in doing so, discourage new and young smokers taking up the habit. However the change in legislation led to concerns from Trading Standards and HMRC that plain or standardised packaging could become easier for counterfeiters to copy and introduce into the market. It has taken slightly longer than anticipated, but we are now seeing counterfeit plain packaged cigarettes entering the market. Currently, only a few brands are affected, but this may well increase over the coming years. It has also been noted that there has been no real decrease in the amount of 'bogus' tobacco brands being found during inspections by Trading Standards. These include

brands such as Jin Ling, Minsk, Pect, L&M and NZ and have been deliberately produced for the illicit trade. The shops selling these products are resorting to ever increasing levels of sophistication to conceal their illicit products on the premises. In some cases the stock is mobile, meaning it is kept in the boot of cars or a van and will only be brought onto the premises when needed and can be easily driven away while the premise are being inspected by officers. In other cases, false walls and floors have been constructed to conceal the products and are often only found with the assistance of a tobacco detection dog.

There is a huge market for illicit tobacco, largely driven by price, which in most cases is less than half that of the legitimate tobacco products. This enables considerable sums of money to be made by those selling illicit tobacco, which is why it is proving difficult to stem the flow of illicit tobacco coming into the City.

Despite this, over the last year Birmingham Trading Standards has continued to carry out its activities in enforcing the law in relation to sales of illicit tobacco from retail premises.

During this period Trading Standards have received over 60 complaints alleging sales of illicit tobacco from retail premises. This has resulted in officers carrying out over 47 inspection/ advice visits in relation to intelligence received.

The advice visits have then been followed up by a number of joint operations working with West Midlands Police. Trading standards has seized 203,700 sticks of cigarettes which equates to 10,185 packets and 409 pouches of hand rolling tobacco, with a combined street value of approximately £55,000. There have also been a number of enforcement outcomes resulting in 5 prosecution cases, 3 simple cautions and a number of official warnings being issued.

All 5 cases have resulted in successful convictions and in a number of cases, a Proceeds of Crime Act (POCA) investigation has followed.

## **Khat**

Khat is a leafy green plant containing two main stimulant drugs that speed up your mind and body. Their main effects are similar to, but less powerful than, amphetamine ('Speed'). Khat is used mostly in North East Africa, and the Arabian Peninsula and by expatriate communities from these regions.

Khat is now a Class C drug:

During this period, Trading Standards carried out a number of targeted inspection visits with West Midlands Police at premises linked to the sale and supply of Khat. The inspections resulted in a number of arrests being made and the largest seizure of dry khat found in Birmingham since it was categorised as a Class C drug. A large quantity of illicit tobacco was also seized during the exercise.



## **Counterfeiting - Intellectual Property Theft**

Trading Standards work hard to combat the manufacture, sale and supply of counterfeit consumer goods. Counterfeiting is harmful to the economy and national research indicates that UK manufacturing loses £11 billion a year as a result of counterfeit products. Tackling the sale of counterfeit goods provides a level playing field for Birmingham businesses, which in turn supports local jobs and improves the local economy.

Anti-counterfeiting activities are intelligence-led and prioritised towards safety related matters. Where matters are not safety related, referrals are made to Trade Mark owners to investigate and take their own legal action.

Throughout the year, 186 complaints have been received in relation to various household products, including toys, electrical goods, clothing, alcohol, tobacco and cosmetics. Priority has been given to goods that may have an impact on consumer safety, in particular tobacco and alcohol.

A national online auction seller of alleged counterfeit and unsafe children's novelty costumes, including Spiderman, Frozen and Superman has been targeted and entry warrants executed at a residential address, where a quantity of goods were seized. The goods were voluntarily forfeited and the seller was cautioned following a formal interview.

In another case, intelligence led to a business supplying counterfeit Vaseline cream. Whilst at the premises, officers also discovered non-compliant cosmetics and prescription medicines. The company have been interviewed and were issued with a caution and the goods were forfeited for destruction.

Following intelligence from one of the Port Authorities, a local company Cell Solutions (West Midlands) Ltd was found to have over 2,500 counterfeit Samsung and Apple mobile phone accessories. These included counterfeit Samsung batteries and chargers. The company was prosecuted and fined a total of £2,700, including costs, and all the goods were forfeited for destruction.

A Fulfilment House in Birmingham was found to have counterfeit goods, including mobile phone accessories. Whilst consumers pay online to companies based in China, the goods are actually distributed from a business in Birmingham. Goods were seized and the case will be heard in court later this year.

A local distributor of household goods and toys had distributed some toys that were both counterfeit as well as not complying with safety legislation. The company has recalled the goods and has received a written warning.

## **Proceeds of Crime**

Trading Standards has two Accredited Financial Investigators who seek to confiscate money and assets under the Proceeds of Crime Act 2002, in order to prevent offenders from benefiting from their crimes.

All criminal cases taken by Trading Standards, along with the wider Regulation and Enforcement teams are assessed to decide whether a Proceeds of Crime confiscation investigation may apply. In addition, the Financial Investigators' powers and skills are also used to assist Trading Standards Officers and other enforcement teams in securing evidence and analysing financial data.

Throughout the past year, over 40 cases have been referred to the Financial Investigators from Trading Standards and other enforcement teams within the City Council and other Local Authorities. As a result, 18 applications were made for 63 Productions Orders to enable financial data and information to be obtained from banks, building societies, solicitors firms and other organisations. All applications for Production Orders were granted.

Although no Restraint Orders were obtained in this year, existing ones were managed to ensure the payment of previous Confiscation Orders.

During the period 2017/2018, there were 19 Proceeds of Crime Act Confiscation hearings at the Crown Court, involving 26 defendants. All 19 were found in favour of Birmingham City Council. In total, 26 Confiscation Orders were made, totalling £1,438,719.65.

Out of these Confiscation Orders, £291,228.00 was ordered to be paid as compensation to victims who gave evidence as part of their respective cases. Two of these cases related to rogue builders, who were ordered to pay a total of £106,858.00 to their victims, one related to a falsely described Hajj pilgrimage costing £16,150.00, one was a £148,220.00 'faith healer' fraud and £20,000.00 was ordered to be repaid to Birmingham City Council by way of compensation for fraudulently obtained council housing stock.

During the same period, over £500,000.00 was paid in by various defendants as a result of Confiscation Orders made this year and previous years.

All funds that are confiscated during these investigations are reinvested into the criminal justice system, with Trading Standards receiving 37.5% under the 'Asset Recovery Incentivisation Scheme'.

## **Hajj**

For the Muslim community, the Hajj pilgrimage to Mecca in Saudi Arabia is one of the most important and spiritual experiences in their lifetime.

The Saudi authorities control the amount of pilgrims that can attend from each country through a quota and visa system, in the UK this being 25,000 annually. Anyone wishing to undertake a pilgrimage, however, has to book a package through specialist Hajj and Umrah travel operators who can typically charge individuals between £3,000 and £5,000 each.

Unfortunately there has been a prevalence of unscrupulous traders taking advantage of would-be pilgrims, giving misleading indications as to the quality of the travel and

accommodation and in some cases letting them down totally, having already taken their money.

Over the past 5 years, Birmingham Trading Standards has proactively sought to raise awareness of the issues amongst the Muslim community and to improve compliance amongst the Hajj and Umrah travel operators. In previous years, the work undertaken has attracted considerable publicity particularly amongst Asian satellite channels. Trading Standards has also continued liaison with the locally based Association of British Hujjaj.

Previously Birmingham had led a national campaign in conjunction with other partners. One of the cases instigated at the time with City of London Police came to a conclusion at Birmingham Crown Court. Holy Makkah Tours Ltd, based in London, and its Directors Mr Nozir and Mr Chowdry, were all found guilty of offences in relation to failure to have an Air Travel Organiser's Licence (ATOL). Holy Makkah Tours Limited and its director Mohammed Suba Ibn Nozir were ordered to pay a total of £71,417, which included fines and confiscation under POCA.

Officers also carried out visits to some local businesses supplying Hajj and Umrah packages in July with the City of London Police, to raise awareness and ensure compliance with consumer legislation.

In a recent case after receiving a complaint from Birmingham consumers who had not received their Umrah package as promised, officers investigated a company. The company were interviewed, the consumers were refunded and the Director of the company was issued with a caution for failing to comply with consumer legislation.

Another case is also under investigation following a complaint from a member of public who had booked an Umrah trip for a large group. Questions arose as to whether the trader had actually booked the hotels that had been promised and ultimately many of the group had to make alternative arrangements. The owner of the business has been interviewed and the case will go before the courts later this year.

Officers from Birmingham also represented Trading Standards at the launch of a new All-Party Parliamentary Group (APPG), which has been set up to look at issues around Hajj & Umrah and to raise industry standards delivered by service providers to British Pilgrims.

## **Weights and Measures**

There were 50 enquires and requests for assistance about weights and measures issues this year.

The majority of these related to short measure fuel complaints and Trading Standards Officers went out on several occasions with the petrol measuring equipment to ensure consumers were getting the correct measure.

There was an unusual request to test the accuracy of a weighing machine seized by the England Illegal Money Lending Team.

There was also a significant complaint made about short measure beer at a large restaurant chain. Investigations found that the particular brand of glass had been made too small to contain a full pint. This prompted a nationwide recall of the glasses after large numbers were seized from two premises in Birmingham.

We also had a significant increase in the number of queries passed to us from the National Measurement Office in London, from local businesses needing technical assistance with weights and measures queries.

As usual, officers inspected stalls at the Frankfurt Christmas Market in the City Centre, to ensure their compliance with UK legislation. Officers tested a wide range of weighing and measuring equipment, including spirit measures and beer dispensers.

The service continues to maintain a variety of test equipment that is used by officers to investigate weights and measures complaints such as weights, both small and large from 0.1g up to 150kg, as well as weighing machines, measures for beer, wine and spirits and a variety of length measures including one used to measure the size of shops for Sunday trading law compliance.

The officers from the previous CEnTSA metrology group have decided to keep in contact so that expertise is still shared and not lost. An officer continues to liaise with the Trading Standards Institute and the National Measurement Office, so that we are kept up-to-date with national issues.

Weights and measures work also provides an income generation service through testing and verification of weighing and measuring equipment for businesses. This year we saw an increase in the number of petrol stations asking us to test and verify their petrol pumps. In total, officers tested and stamped 30 petrol pumps, generating an income of just under £2,000. An officer also attended a weighbridge test which netted a £245 income.

### **NoRogueTradersHere.com**

Trading Standards continues to support the NoRogueTradersHere.com service that seeks to promote reputable traders. Traders joining the scheme have to agree to be vetted by Trading Standards and checks are made to ensure that the trader is complying with consumer protection legislation and that there are no unresolved, justified complaints against them.

We will continue to promote this scheme at rogue trader awareness events and provide information about the scheme to identified victims of rogue trader crimes so that they can enlist the help of a reputable trader to put right any poor or incomplete works. The scheme continues to expand and has recently taken on traders from across the wider region.

### **Frankfurt Christmas Market**

On 16<sup>th</sup> November 2017, Trading Standards Officers carried out joint partnership inspections of the Christmas Market on its first day of opening. Trading Standards inspected 16 alcohol stalls, tested weighing machines at 12 stalls, checked 38 craft

stalls to ensure there were no safety issues with child-appealing products and inspected 38 food stalls for food safety and labelling issues with Environmental Health Officers.

Inspections of non-food stalls by Trading Standards Officers found very good general compliance. Those stalls selling alcohol were found to be displaying the correct notices and stallholders were found to have a good working knowledge of all aspects relating to avoiding under-age sales. A few minor non-compliance issues were dealt with and resolved during the inspections. It was noted that there was a high standard of clarity of price indications this year.

Prior to the event opening, an information pack compiled by Trading Standards was provided to the event organisers for the stall holders. This covered a variety of consumer protection legislation such as those relating to weights and measures, product safety and pricing. It was felt that this information really helped the traders to ensure that they were compliant prior to being open for business.

This is a key event for the City and plans begin very early on in the year to ensure that visitors to the market are safe and that only safe products are available for sale. For the year 2017 there were 4,399,513 visitors to the Christmas Market.

### **Working with Partners – Events**

Officers attend a number of Safety Advisory Group meetings for key events that are facilitated by the Council. This is a collaboration of interested parties that include Licensing, West Midlands Police, West Midlands Fire Service, transport services, Central Safety Services, St Johns Ambulance, Events Team and the event organisers. We ensure that consideration is given to the safety of products being sold at events and information packs are provided to any potential stall holders.

We also inspect at events especially ensuring that goods being offered for sale are safe and where alcohol is being sold, to ensure systems are in place to prevent young people having access.

Due to resources issues we cannot attend all events, but always have an input to the Safety Advisory Group and the Events Team where there may be trading standards concerns. We have attended the Vaisakhi, Frankfurt Christmas Market, St Patricks Day Parade and Pride.

These events bring thousands of visitors into the City and so it is important that they are well run and that goods being provided are compliant. By engaging with our partners both from within the authority and other organisations, we are ensuring the safety of visitors.

### **Trading Standards BSI Accreditation**

Birmingham Trading Standards are externally accredited with British Standards to ISO 9001:2015 for Quality Critical Services with exclusion to design and development, as these elements are not an integral factor to Regulation and

Enforcement. We are externally audited by BSI twice a year (June and December) to ensure that we comply with the Standards and maintain our accreditation.

The Golden Thread running through the European Foundation for Quality Management (EFQM) knits together both the new standards and the Council's values (amongst others) to put citizens first and achieve excellence. This demonstrates our commitment to customer focus, which is at the forefront of everything we do.

Our Quality system is fully supported by senior management who strongly believe the system must be embedded within the culture of the organisation. Internal audits are conducted twice yearly (March and September) to ensure the system is operating efficiently and to identify any areas of non-conforming services. We have a service plan encompassing the Council's strategic outcomes with the leader's objectives, and it includes customers' and partners' views in determining our Key Performance Indicators for the future. Review of our procedures are identified through the forward planning process and discussed prior to conclusion at quarterly senior management meetings.

### **Trading Standards Website**

The Trading Standards website consists of 20 pages within the Birmingham.gov.uk website. The pages cover a variety of subjects and include useful information and links for consumers and businesses. The pages and content are regularly updated by the Trading Standards editor. Currently the content management system is Jaddu, which was implemented in July 2016. The total number of views of the Trading Standards website was 41,470 in the last year, which is an increase of 7,296 views from last year. On the landing page there is a live Twitter feed, which was created so that our latest Tweets appear on the page.

### **Twitter**

The @bhamts Twitter account has 2,315 followers, which is an increase of 355 followers from last year. Many advisory tweets are put on each day covering mainly scam awareness, doorstep crime, electrical safety, weights and measures, hallmarking and any other current issues. A total of 2,173 Tweets were put on for this year and 1,519,022 impressions created. This equates to 9 tweets a day and 6,027 impressions a day. There were 914 link clicks and 3,047 re-Tweets. In July 2017, during National Scams Month, one #ScamAware Tweet alone generated 3,142 impressions. Trading Standards support various campaigns on Twitter such as Gas Safety Week, Gas Safe Don't Cut Corners, National Consumer Week, Scams Awareness Month, Safer Internet Day, Anti-counterfeit Group on Counterfeits, National Scams Team's One Million Scam Champions, Child Safety Week, Child Sexual Exploitation Awareness Day, Burns Night, Buy Real for Valentine's Day, Business Start-Ups and the TSBN CEnTSA Business Newsletter.

The TS Twitter account also supports the main Birmingham City Council Twitter account on various campaigns such as cleaner streets, Brum Budget, voting, Inspiring Women, Birmingham Pride, Commonwealth Games Brum Bid,

Commonwealth Games Handover, Be Winter Ready, NHS Staywell Summer Campaigns and numerous other events and projects taking place within the City.

### Trading Standards Outputs 2017/18

The work of Trading Standards positively impacts the entire 1,073,045 Birmingham residents, 30,380 businesses and 33,000,000 visitors to the City each year.

A total of 4,307 requests for assistance were received by the Service last year. 139 of these were requests for advice from businesses. The Service supported or intervened for consumers to enable the return of £78,728 in redress for poorly delivered goods or services.

15 successful prosecutions and 8 cautions were concluded. Total fines amounted to £114,041, with community orders for a total of 48 months and 720 hours of unpaid work being made. A conditional discharge for 12 months was also ordered. Five defendants were disqualified from being directors. We were also successful in being awarded 86% of our costs, totalling £62,262.

### Trading Standards Cases Heard 2017/2018

Legislation	Cases	Offences	Fines	Costs	Other Penalty
Consumer Protection from Unfair Trading Regs 2008*	7	176	£91,318	£41,782	Total of 36 months community order. Total of 600 hours unpaid work. Director disqualifications for a total of 16 years.
General Product Safety Regs 2005/ Cosmetic Products Enforcement Regs 2013	1	20	£13,000	£2,802	
Tobacco Products (Manufacture, Presentation & Sale) (Safety) Regs 2002**	2	10	£2,500	£7,000	A total of 12 months community order. Total of 120 hours unpaid work.
Children & Young Persons Act 1933	1	1	£400	£1,606	
Trade Marks Act 1994	1	6	£4,500	£5,000	
Road Traffic Act 1988	2	2	£1,400	£2,830	12 months conditional discharge

Consumer Protection Act 1987/ Electrical Equipment (Safety) Regs 1994	1	2	£923	£1,242	
<b>Totals</b>	<b>15</b>	<b>217</b>	<b>£114,041</b>	<b>£62,262</b>	

\* includes RTA offence

\*\* includes Licensing & TMA offences



## **REGISTER OFFICE**

The Registration Service is a statutory function which Birmingham City Council is required by law to provide in terms of accommodation and adequate staffing to register all civil events within a specified national time frame. These events include the registration of births, deaths, stillbirths, marriages and civil partnerships, conversions of civil partnership to marriage, attesting the legal preliminaries to marriages, civil partnerships and conversions, the provision of a certificate service and the provision of citizenship ceremonies. All events to be registered are those which occurred within the boundary of the City. In discharging these functions, registration employees officiate at ceremonies at the Register Office in addition to approximately 60 approved premises. They also attend and register marriages taking place at religious buildings. The service also provides the statutory citizenship ceremonies, a Nationality Checking Service, other non- statutory civil ceremonies. The Service is directed by the Registrar General, whose General Register Office is part of HM Passport Office. It is administered locally by Birmingham City Council and the Proper Officer for Registration Matters is Jacqui Kennedy, Corporate Director of Place Directorate.

### **Service Events**

<b>Event</b>	<b>2016/17</b>	<b>2017/18</b>	<b>% Difference</b>
Birth registrations	24,534	23,950	-5.4
Still –birth registrations	157	113	-28
Death registrations	10,265	10,391	+1.23
Birth re-registrations	584	598	+ 2.45
Marriages	1855	1596	-14
New British Citizens	2760	2485	-9.99

In total 1596 marriages were celebrated and registered in the city, comprising of 1189 marriages at the Register Office and the Ceremony Suite. Staff attended 5 marriages at religious buildings and 393 at the City's approved venues. There have been 9 marriages under the Registrar General's Licence Act which allows a person who is terminally ill, and cannot be moved to a place where marriages take place, to get married wherever they are.

30167 correspondents were responded to.

5 civil partnership ceremonies took place in the City over the year, with 172 same sex notices of marriage reflecting the increasing trend of same sex customers choosing to marry rather than form a civil partnership. 18 civil partnerships have been converted to marriages.

6633 notices of marriage and 10 notices of civil partnership were given during the year.

94,811 certificates of birth, marriage, death and civil partnership were issued to the public at first time registrations an increase of 7982 on the previous year.

132,675 certificates were issued to the public over the year.

21,140 certificates were issued which date back to 1837 and registration staff made 230 S24 reports of possible offences relating to sham marriages during the year.

The Nationality Checking Service has assisted 651 customers with their applications to become a British Citizen. Provision of this service by local registration service will cease in October 2018.

Over the financial year ending 31<sup>st</sup> March 2018, the service made a £10,000 surplus.

In addition officers have:

- Attended Faith Advocacy and NHS Bereavement Group meetings.
- Assisted the General Register Office in changing national Registration policy.
- Attended various homes, hospitals, and secure units to obtain a birth or death registration in emergency circumstances.
- Participated in valuable partnership working with central government bodies such as UKBA, DWP and the General Register Office.
- Participated in more local partnership working with organisations such as Gateway Family Services, BCC Children Centres, Approved Premises and religious bodies as well as supported MacMillan Nurses as the staff member's nominated charity.
- Continued to report suspected Sham marriages and Civil Partnerships and fraudulent applications for certificates

The Registration Service has continued to provide the Emergency Bereavement Service to enable families to bury their deceased relatives or to repatriate the body to a Country outside of England and Wales within a very short period of time when required by religion or culture.

Furthermore, the Service has provided a 365 day service for marriages and civil partnerships, where one party is terminally ill, in accordance with the Registrar General's Licence Act.

The Registration Service continued to help students make their first step into the working environment by accommodating work experience students from Birmingham-based schools and colleges.

Customer satisfaction for the year is 98%.

### **Challenges to Service Provision**

The continuing heavy workload of the Registration Service caused by the requirement to undertake none Birmingham resident registrations resulting from the closure of non Birmingham maternity hospitals and the presence of specialist hospitals, continues to put great pressure on the service. This has been compounded by the reduced employee resource, a consequence of additional savings imposed on the service. In order to respond to the high volumes of registrations an extensive review of the birth and death appointment system took

place providing considerably more appointment slots. This intervention has brought the average birth appointment waiting time down by over three weeks and the service has significantly improved its' statutory Key Performance Targets (KPT) percentage figures.

The Service introduced a Performance Improvement Plan working in conjunction with the General Register Office in response to its' inability to meet KPTs such as availability of birth, death and notice of marriage appointments and timeliness of registrations. Measures introduced under the plan have seen an improvement in birth registrations within 42 days of birth by 25%, however it should be noted that the General Register Office have concluded that without additional staffing resource the service will continue to fail to meet its statutory KPTs.

As a Designated Register Office (DRO) Birmingham Register Office is one of only two districts in the West Midlands which deal with citizens who are subject to immigration control. These particular customers are required to attend a Designated Register Office regardless of where they reside. Birmingham is the largest and most central DRO in the country and consequently the ceremony service area continually deals with customers and telephone calls from all over England and Wales, and from British and non-British subjects all over the world who wish to marry in England and Wales.

Service managers have strengthened partnership working with faith advocacy groups, GPs and hospitals to help reduce factors which delay the death registration process.

An in depth exercise was conducted over the winter to determine the reasons for delays in death registrations and as a consequence appropriate measures were implemented to reduce delays.

The Service experienced a significant reduction in marriage ceremonies over the year, and following a market research exercise has determined that the continued building development in the centre of the city and reduced parking availability in the locality have significantly contributed to the decline in bookings. The lack of ability to customize a wedding ceremony was also a factor. In response a range of wedding packages has been introduced from April 2018.

## **Improvements**

In reply to service users questionnaires responses, service managers reviewed marriage ceremonies and the ceremony rooms. This review resulted in improvements to the ceremony suite ie the decoration of the ceremony suite, introduction of high end floral arrangements in the marriage rooms, reintroduction of the bridal room and floral enhancements in the ceremony courtyard. In addition a range of ceremony options were also developed during the winter to offer more choice and better meet the requirements of couples ready for launch in April.

70% of birth registration appointments are now available online.

The availability of private citizenship ceremonies first introduced in 2016/17 was increased in response to customer demand.

The European Passport Return Service was introduced in January to assist residents of Birmingham.

The telephone system was updated in January.

A consultation strategy has been introduced which includes consultation with service users in all areas of service delivery together with regular communication and consultation as appropriate with employees.

An extensive review of training requirements for the service took place and a targeted training has been plan implemented in order to improve the resilience of the service and to improve the KPTs.

A review of the role of the security/ usher team has resulted in a redesign of the role in order to address gaps in service provision caused by reduction in headcount.

### **Income Generation**

The extension of private citizenship ceremonies generated an additional £62,000 income for the service.

The sale of keepsakes has generated an additional £20,000.

As the fees are mainly of a statutory nature it is difficult to achieve additional income from this source however, following a government lead review of the funding of the local registration service, in November a number of statutory fees were introduced and the free short birth certificates were withdrawn, which resulted in additional £34,000 income to the service.

The fees and charges were reviewed in response to budget pressures and following a benchmarking exercise a number of none statutory fees were revised and new ones introduced which helped improve the services' financial position.

The Register Office also delivered its first conference and is looking to build on room hire as an additional income stream.

## **LICENSING**

### **Background**

The Licensing Service consists of the General Licensing, Hackney Carriage and Private Hire Licensing and Licensing Enforcement teams.

All three teams are located at Ashted Lock, Building 1-3, Birmingham Science Park, Dartmouth Middleway, Birmingham, B7 4AZ. The service moved to its new location from its former premises at Crystal Court on 7<sup>th</sup> December 2015.

The Licensing Service operates to an ISO 9001 BSI accredited Quality Management System, is an Investors in People employer and in 2015/2016 we retained the Customer Service Excellence award that recognises high standards of customer care.

### **General Licensing**

The General Licensing Team is responsible for administering over 15,500 licences registrations and permits across a wide range of licensing functions, which includes amongst others, sales of alcohol, late night refreshment, regulated entertainment, sex establishments, charitable collections, amusement machines, gambling premises, skin piercers and scrap metal dealers.

The number of licences, registrations and permits issued by the team during the year 1<sup>st</sup> April 2017 until 31<sup>st</sup> March 2018 can be broken down as follows:

<b>FUNCTION</b>	<b>LICENCE TYPE</b>	<b>NUMBER ISSUED</b>
Licensing Act	Premises New	194
	Variation	68
	Variation DPS	561
	Transfer	211
	Provisional	0
	TENs	1316
	Personals	545
	Minor Variation	74
	Club Premises New	0
	Club Premises Variation	0
	Club Premises Minor Variation	1
Gambling Act	Premises New	0
	Premises Transfer	2
	Premises Re-Instatement	0
	Premises Variation	3
	Gaming Machines Alcohol New	46
	Gaming Machines Alcohol Transfer	7
	Gaming Machines Alcohol Variation	3
	Prize Gaming Permit	0
	Gaming Machines Club Fast Track Conv.	0

<b>FUNCTION</b>	<b>LICENCE TYPE</b>	<b>NUMBER ISSUED</b>
	Gaming Machines Club New	1
	Provisional Licence	0
	TUNs	0
	OUNs	1
<b>Sex Establishments</b>		
Sex Shop/Cinema	Grant	0
	Renewal	8
	Transfer	0
	Variation	0
	Short Term	0
Sexual Entertainment Venue	Grant	0
	Renewal	8
	Transfer	1
	Variation	0
	Minor Variation	0
Massage & Special Treatments		
1 level	Grant	30
	Renewal	66
2+ levels	Grant	12
	Renewal	24
	Variation (Additional Treatments)	0
	Transfer	0
Societies Lotteries	Grant	33
Street Collections	Grant	197
House to House Collections	Grant	20
Skin Piercers	Grant	180
Scrap Metal - Collectors	Grant	22
	Renewal	17
Scrap Metal - Sites	Grant	6
	New Site Manager	0
	Renewal	29
	Minor Variation	0
<b>Total for year</b>		<b>3686</b>

The figures shown do not reflect the number of current licences, registrations or permits at any given time, but detail the number of applications completed during the period 1 April 2017 – 31 March 2018.

### **Hackney Carriage and Private Hire Licensing**

The Hackney Carriage and Private Hire Licensing Team issued 7,984 licences during 2017/2018, and conducted a further 2,071 transactions, when replacement, transfer and other sundry transactions are taken into account.

The number of licensed operators fluctuated throughout the course of the year but at the end of March 2018 the number was 86 (compared to 89 in 2016/2017).

The team is responsible for the Hackney Carriage Driver Knowledge Test which incorporates the Verbal Communication Test (VCT) as well as the combined verbal communication and knowledge test for private hire drivers.

Licences are required for Hackney Carriage and Private Hire drivers, Hackney Carriage and Private Hire vehicles and Private Hire operators.

Licence holders' details are shared with the City Council's Data Warehouse to prevent and detect benefit fraud and to cross reference information about individual licence holders to verify its accuracy.

## **Licensing Policy**

During 2017/18 the Licensing & Public Protection Committee consulted on:

- Emission Standards for Taxi and Private Hire Vehicles
- Private Hire Operator Rating Scheme
- Signage and Advertising on Private Hire Vehicles

## **Licensing Enforcement**

The Licensing Enforcement Team is responsible for the inspection of licensed vehicles and premises, as well as dealing with requests for assistance in respect of general licensing, hackney carriage and private hire matters.

In addition to the team's own Licensing Enforcement Officers, a Police Officer is seconded to the team as Taxi Liaison Officer. PC David Humpherson joined Licensing early in January 2013.

PC Humpherson has recruited and trained a team of Special Constables to assist our officers on plying for hire investigations. They have been trained in taxi and private hire legislation and to act as evidence gatherers by taking un-booked journeys in private hire vehicles. The additional resource that these officers provide adds to the impact that our own officers can make in respect of dealing with illegal plying for hire. It also addresses the problem that most drivers recognise our own officers. This year officer Humpherson has installed a number of warning signs on street furniture in the Night Time Economy areas of the city to warn private hire drivers that it is illegal to ply for hire and that they are being watched by CCTV cameras, the evidence of which can be used in court. A number of investigations are underway based on the results of evidence from CCTV cameras.

The team undertakes regular exercises to combat the persistent problem of illegal plying for hire, as well as conducting targeted stop check exercises to check compliance with vehicle and driver conditions. Where non-compliance is discovered, the team takes appropriate legal action according to the circumstances and whether the non-compliance relates to a breach of a licence holder's conditions of licence or amounts to a criminal offence, in accordance with Regulation and Enforcement's approved Enforcement Policy.

The team also investigates more complex issues including unlicensed vehicles, false insurance documents, false insurance claims, and applicants making false or misleading representations on application forms.

Apart from the routine matters of illegal plying for hire and driving without insurance, the following are some examples of cases that were concluded in 2017/2018:

- Six private hire drivers were separately prosecuted under the Equality Act 2010 for failing to carry a passenger because the passenger was accompanied by an assistance dog.
- A Sandwell hire driver was prosecuted for parking on a Hackney carriage rank and following a successful court case was fined £400 with £475 costs.
- One private hire driver pleaded guilty for failing to notify the City Council of a change of address and subsequently made a false statement on an application form. He was fined £250 and ordered to pay £250 costs

One of the primary duties and responsibilities of the team is to ensure all requests for assistance received are investigated fully and fairly. This is carried out in accordance with the Regulation and Enforcement BSI accredited management system and published service standards.

Requests for Assistance (RFAs) are categorised and coded in order to identify possible trends. This also makes it possible to identify repeat offenders and take proportionally more severe enforcement action if appropriate.

During the period of 1 April 2017 to 31 March 2018, the team dealt with 901 requests for assistance. In accordance with our Enforcement Policy, based on a risk approach, we routinely inspect Private Hire Operators, sex establishments and premises licensed for sexual entertainment and Massage and Special Treatments. Hackney carriage and private hire vehicles are inspected at unannounced stop-check exercises. In addition 260 licensed premises were inspected in response to either a request for assistance (RFA) from a member of the public or other business or as part of an ongoing assessment of risk.

During the year 19 high visibility stop check exercises were conducted across the city in conjunction with officers from West Midlands Police. Officers from the Central Motorways Patrol Group frequently assisted our officers. At a stop check, vehicles and drivers are inspected to ensure compliance with our conditions of licence. Licensed drivers caught committing non-licensing offences such as not wearing seat belts or other road traffic offences are dealt with by the police. Motorway patrol officers (and the Licensing service's own police officer) are approved vehicle inspectors who are authorised to inspect vehicles to determine their condition under the Road Traffic Act 1988. Ten of the stop checks also incorporated a plying for hire exercise in which the team of special constables are deployed.

The overall compliance rate during 2017/2018 for safety critical conditions when measured at roadside stop-checks was 80.9% for private hire vehicles and 84.0% for hackney carriage vehicles. This measure was introduced at the beginning of 2012/2013. The greatest single reason for non-compliance was for lights.



The tables below record the percentage of vehicles which were compliant with safety critical conditions when inspected in stop-checks year by year since 2012.

	<b>Hackney Carriage Vehicles % Fully Compliant with Safety Critical Conditions</b>	<b>No of Vehicles Checked</b>	<b>Private Hire Vehicles % Fully Compliant with Safety Critical Conditions</b>	<b>No of Vehicles Checked</b>
<b>2012/2013</b>	83.2%	191	72.7%	959
<b>2013/2014</b>	86.1%	273	78.7%	1213
<b>2014/2015</b>	85.4%	426	81.6%	1307
<b>2015/2016</b>	83.6	390	80.2	1165
<b>2016/2017</b>	85.4	471	78.5	971
<b>2017/2018</b>	84.0%	269	80.9%	763

During the operational year all licensed private hire operators' businesses inspected. At inspection, the most common failing was the requirement to keep copies of up to date insurance certificates for drivers.

## **Prosecutions**

### Numbers of Cases

In 2017/2018 Licensing Officers submitted prosecution reports against 34 defendants and administered 99 simple cautions. During the same period 28 prosecution cases were finalised at Court. The majority of the prosecutions were for plying for hire offences, although six were taken under the Equality Act 2010 for refusing to take passengers with assistance dogs.

### Costs and Fines

Fines totalling £8758 were imposed and costs of £11,024 were awarded to the City Council against requests totalling £15,990 (68%). Offenders received sentences ranging from fines and disqualification, detailed below:

- 115 penalty points.
- 13 months disqualification.

<b>LEGISLATION</b>	<b>CASES</b>	<b>OFFENCES</b>	<b>FINES</b>	<b>COSTS AWARDED</b>	<b>OTHER</b>
Equalities Act 2010	6	6	£2,200	£3,767	
Local Government (Miscellaneous Provisions) Act 1976					
Section 57	1	1	£250	£250	
Section 64	1	1	£400	£475	
Road Traffic Act 1988***	1	4	£165	£100	24 points & 12 months disqualification
Town Police Clauses	19	38	£5,743	£6,742	115 penalty points, 28

Act 1847 (plying)					days disqualification
<b>TOTALS</b>	<b>42</b>	<b>75</b>	<b>£8,578</b>	<b>£11,024</b>	

### Appeals against Sub Committee Decisions

The following tables list the number of cases proceeding to Court during the period 1 April 2017 to 31 March 2018, together with outcomes and costs recovery:

### Appeals against Sub Committee Decisions April 2017-March 2018

<b>Outcome</b>	<b>Magistrates' Court</b>	<b>Crown Court</b>	<b>Total</b>
Dismissed	24	3	27
Allowed	3	1 + 1 to BCC	4 + 1 to BCC
Allowed in part	4	1	5
Withdrawn pre- or at Court	6		6
Other	2 x Consent Order		2

<b>Appeal Costs</b>	<b>Requested</b>	<b>Ordered</b>	<b>Percentage</b>
PH/HC	£15,892.80	£9,685.80	61%
Licensing Act	£34,353.42	£25,360.42	73.8%

### Work of the Licensing Sub-Committees

Sub Committees also considered 62 applications under the Licensing Act, these were for:

- Grant of Licence 34
- Variation 8
- Temporary Event Notice 5
- Personal 1
- Expedited Review 11
- Review 3
- Transfer 0

***N.B. The above figures do not include interim steps meetings. Interim Steps meetings (including reps back to interim steps): 14***

## Service Delivery Plan 2017/2018 – Outturn

The Service Delivery Plan identifies targets and levels of performance. In order to ensure the delivery of quality services, the Licensing Service operates within the Regulation and Enforcement ISO9001 accredited management system (REMS).

The Licensing Service is committed to a programme of activities designed to ensure that our Service Provision and Service Standard targets are met.

Service Provision	Acceptable Quality Level	Annual Outturn
We will respond to all General Licensing applications in a timely manner: Percentage of applications processed within 60 days* *Subject to tests and Committee timetable	90%	96.2%
We will respond to all HC & PH Licensing applications in a timely manner:	90%	100%
We will respond to Requests for Assistance (RFA's): Percentage of RFA's responded to within 5-day target	97.5%	89.8%
Percentage of successful licensing prosecutions	95%	87.9%
Percentage of personal callers to Licensing seen within 15 minutes of their appointment time	97%	100%

## **CORONERS AND MORTUARY ANNUAL REPORT**

### **Background**

The Coroner's and Mortuary Service provide the Coroner's service for Birmingham (and Solihull) together with the Public Mortuary facilities for the city. The service is supported by guidance from the Chief Coroner for England and Wales.

### **Statutory Requirements**

The Coroners and Justice Act 2009 places a statutory duty on the city council to appoint and pay a Senior Coroner and where appropriate an Area Coroner together with self employed Assistant Coroners to discharge the functions of the Coroner. The Senior Coroner's statutory duty is to establish the cause of and circumstances of deaths in their area where deaths were violent or unnatural, the cause was unknown, or the deceased died in custody

The Senior Coroner orders Post Mortems, conducts investigations and enquiries into the death which are presented at inquests in the Coroner's Court, authorises bodies to be taken out of England and makes recommendations based on their findings with a view to improving health and wellbeing.

The statutory duties on the city council under the Public Health Act 1936 include, the provision of the mortuary for the reception and storage of bodies of people who have died in Birmingham and Solihull where the Senior Coroner orders a Post Mortem, and additionally the Human Tissue Act 2004 regulates how these Post Mortems are conducted and the security of the bodies and associated tissues.

### **Service Developments**

Work has been ongoing to respond to developments in respect of the use of non-invasive post mortem services for the bereaved where appropriate and to make increasingly effective use of the service's new IT case management system, CIVICA, to reduce the need for paper and to produce lean processes.

Approval has been given for a portal system will be introduced during 2018 enabling hospitals and Doctors to enter death notifications directly onto the Civica system reducing the need for double entry.

To improve the effectiveness of the provision of the weekend and bank holiday Out of England Service for bereaved people who want to repatriate  
Bodies rapidly, a business plan has been put in place and the Coroner has agreed to the way forward

A second court at Solihull is up and running. This is to ensure that the increasing number of inquests (and the increasing number of long jury inquests) can be accommodated within the 6 month target for completion. Additional proceedings at the Solihull Court will be effective during this year as a result of an agreement with them in respect of the ongoing pressures on the Birmingham Court.

In terms of capital developments, work was concluded in May 2018 in respect of asbestos abatement work and a temporary ventilation system to conform to health and safety requirements set out by the Human Tissue Authority. Both equitant and specialist asbestos removal are expected to be completed within existing capital budget approvals

## **Organisational Assessment**

Whilst there was a further increase in death referrals and a significant increase in the number of post mortems during 2017 there was a steady reduction in the time taken to release bodies for families where no inquest was required.

## **Quantity of work**

The following tables indicate the workload of the service:

### **Number of deaths notified to the Coroner**

Year	Number of deaths notified to the Coroner	Year on Year increase	Increase on 2014 baseline
2014	4,284	-	-
2015	4,805	12.2%	12.2%
2016	5,080	5.7%	18.6%
2017	5,203	2.4%	21.5%

The number of deaths notified to the Coroner had shown a sharp increase over the last three years. The figure of 5,203 notified deaths represents 44% of all deaths registered in Birmingham and Solihull – in line with national figures.

### **Number of inquests completed**

Year	Number of inquests
2014	1,135
2015	601
2016	746
2017	810

The very high number of inquests completed in 2014 under the Senior Coroner was due to dealing with the backlog of cases that had built up in previous years. The 2015 figure represented a closer fit to expectation and the increases in 2016 and 2017 resulted from the increased number and complexity of referral to the service. The increase in the number of Deprivation of Liberty (DOLS) cases, all of which required inquests, in 2015 and 2016 was halted by a legislative change in April 2017 when they were no longer required to be inquested.

There has been an improvement in the time that the bereaved have had to wait for inquests to be held and this has been maintained. In 2013 only 46% of inquests were completed within 6 months of death, due to dealing with the backlog the figure fell to 43% in 2014 but in 2015 and 2016 93% of inquests were completed within the target 6 months a figure equalled in 2017.

Similar improvements were made in relation to the number of inquests that were completed more than 12 months from the death, this fell from 57% in 2014 (due to the backlog) to 1% in 2016 and remained very low at 2% in 2017.

#### The Number of Post Mortems carried out

Year	Number of Post Mortems	% of PMs with toxicology	% of PMs with histology
2014	1,562	19.2	12.9
2015	1,702	16.0	10.5
2016	1,542	20.3	14.4
2017	1,762	21.3	14.0

The number of Post Mortems being carried out increased in 2017 reflecting the increase in number of referrals and the percentage of referrals that required a Post Mortem to establish the cause of death. The percentage of reported deaths resulting in post mortem increased to 34%, below the 2016 national average of 36%, reflecting the desire of the Senior Coroner to conduct Post Mortems where no other avenue is available to establish the cause of death. In addition 7 minimally invasive CTPMs were carried out on the order of the Coroner, reflecting the low level of demand for this service from the bereaved.

#### The Number of Out of England Forms

Year	Number of Out of England Forms Issued
2014	141
2015	176
2016	227
2017	241 (22 for weekend OOE)

#### Percentage of Notified Deaths Resulting in Inquest

Year	% resulting in inquest	National average%
2014	14	14
2015	12	14
2016	15	16
2017	16	

## **Budget Issues**

There was significant pressure on the budget mainly due to additional costs in respect of the movement of bodies' contract and additional costs in respect of Post Mortems. With the current increasing number of referrals to the Coroner, these pressures are likely to continue. An additional £0.5m Revenue budget has been allocated to the Service for 2018/19 (ongoing) to acknowledge and help mitigate these pressures and was noted in the Revenue budget report to LPPC in March 2018

**ENGLAND ILLEGAL MONEY LENDING TEAM**

The England Illegal Money Lending Team is hosted by Birmingham City Council, tackling loan sharks across communities in England. The team moved under the governance of the National Trading Standards Board in 2012.

The team consists of 32 Investigators and Regional Liaise Officers that support individuals and communities being exploited by loan sharks.

The England team receives approximately 600 intelligence / information reports each year that are investigated and risk assessed. The risk assessment will include action to be taken as well as any perceived or real risk in respect of our duty of care to the complainant / victim.

Every intelligence report is investigated to ensure that any decision about further action is informed and considered. The process is underpinned by the requirement to continually review all information to ensure the team has not underestimated or failed to act on the information.

In 2017/2018 there were 50 interventions undertaken, culminating in 66 arrests and seizure of cash and documentation relating to illegal money lending.

Examples of completed cases include:

- Operation Witch Hazel (EAST MIDLANDS) – three loan sharks were sentenced at Leicester Crown Court on 03/05/2017 for their participation in an illegal money lending business, which operated across Leicester for a period of seven years. A 52 year old male was sentenced to 9 months imprisonment for his leading role in the illegal enterprise. Two other males were sentenced to terms of imprisonment, suspended, and 120 to 150 hours of unpaid work.
- Operation Zenith (NORTH WEST) – a 53 year old male who ran an illegal money lending business over a period of approximately 8 years and received over £1 million in loan repayments was jailed for 15 months at Preston Crown Court on 07/08/2017. His partner, aged 58, received a 9 month suspended prison sentence and 160 hours unpaid work after she was found guilty of laundering cash from her partner's loan shark business.
- Operation Hiking (SOUTH WEST) – a 58 year old male who operated an illegal money lending business over a period of 9 years and preyed on vulnerable people was jailed for two years and three months on 18/08/2018. The individual had previously worked as a self-employed agent for a legitimate loans company between October 2002 and April 2014. During this period he was made aware by his employer that he was not allowed to 'parallel lend' or conduct consumer credit activities personally unless he was authorised to do so. A financial investigation revealed over the period in question that there had been over £300,000 cash deposits into accounts held by him or his family.



The following Proceeds of Crime hearings recovered significant amounts of money as a consequence of the subject's criminal activities.

- Operation Boar (NORTH WEST) - A 43 year old male from Oldham was ordered to pay back £100,000 in proceeds of crime following a hearing at Minshull Street Crown Court on 12<sup>th</sup> May. The male was given 3 months to pay the lump sum of money or face a default sentence of 12 months in prison.
- Operation Lembata (TSSE) – Two males aged 57 and 46 years of age were ordered to pay back £195,000 in proceeds of crime money at a hearing at Portsmouth Crown Court on 19/09/2017. The defendants were given three months to pay back the lump sum of money.
- Operation Selhurst Park (GREATER LONDON) – A 67 year old male was ordered to pay back £450,000.00 at a hearing at Snaresbrook Crown Court on 02/02/2018. He was ordered to pay back the sum in full within two months or face four and a half years in prison.

### **Victim Statistics**

- There were 839 contacts with victims in 2017-18. A lot of these were to offer emotional support and safety advice, but there were also referrals to credit unions, housing, debt advice and mental health services.
- The team dealt with £923,703.00 of new victim debt in quarter 2017-18.

### **Stop Loan Sharks Week**

The 5<sup>th</sup> national Stop Loan Sharks week was run in December 2017. Members of the public were asked to guess the location of Sid the Shark around the country and agencies were encouraged to retweet key stop loan sharks messages. The reach of the campaign was over 300,000 people, with a significant increase in followers on both Facebook and Twitter.

### **Stop Loan Sharks Awards 2017**

The winners of the Stop Loan Sharks awards 2017 were announced in March. 3 winners will each receive £3,000 proceeds of crime money to help spread the Stop Loan Sharks message in their area. They are:

- Cheltenham Borough Homes
- Aspire Housing
- Whitehaven, Egremont and District Credit Union

As well as the overall winners, 6 organisations received a Highly Commended award for the work they had undertaken to protect their communities from illegal money lenders. They were:

- Bradford District Credit Union,
- The Diocese of Rochester,
- Citizen's Advice Telford,
- Holdfast Credit Union,
- Unify Credit Union,
- Bolton Safeguarding Adults Board

### **Credit Union Incentives**

Over 100 incentive schemes have taken place in 2017-18, with credit unions across the country. The figures are still coming in. One example, with NE First Credit Union, saw 6 areas targeted and 312 accounts opened which met the savings criteria. From this the total savings so far are £41,008, with loans issued totalling £15,490. As part of this scheme 125 young saver accounts were opened and 103 qualified for £10 incentive paid for by Livin Housing Association.

### **Credit Union Guaranteed Loans Pilot**

In April 2018 a new project will be launched with 6 credit unions. The IMLT will use proceeds of crime money to "guarantee" up to £50,000 of loans with each credit union, to allow them to reduce their lending criteria so that people who would currently "just miss" out on being able to access a loan will be able to get one.

The credit unions taking part are:

- Holdfast Credit Union, Essex
- Wyvern Credit Union, Dorset
- Whitehaven Credit Union, Cumbria
- Croydon, Merton and Sutton Credit Union
- Citysave Credit Union, Birmingham
- Leeds Credit Union

The project will be closely monitored with a view to rolling it out in 2018-19

### **Proceeds of Crime**

A large number of proceeds of crime projects from 2016-17 have come to fruition during 2017-18. Examples are:



A mosaic at a shopping centre in Tameside



Artwork on a Stop Loan Sharks sofa art project



Stop Loan Sharks Mural



Stop Loan Shark comic put together by young people with mental health issues



## **BIRMINGHAM CITY COUNCIL**

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

**20 JUNE 2018**  
**ALL WARDS**

#### **LICENSING AUTHORITY POLICIES, PROCEDURES AND DELEGATIONS**

##### **1. Summary**

- 1.1 This report outlines the policies, procedures and delegations, which have been built up over a number of years in relation to licensing and registration issues, allowing the Licensing Authority to delegate the bulk of the administration associated with the licensing regime to be carried out by Officers.
- 1.2 It also ensures that the Committee itself acts in a manner which is as open and consistent as circumstances allow.
- 1.3 The report consolidates existing policy, procedures and delegations and updates those policies in line with current working practices.
- 1.4 The report also details the process followed in the event of an immediate suspension or revocation of a driver's licence. This is not a new process, but the documentation of an existing system for transparency.
- 1.5 The report proposes alterations to the scheme of delegations in relation to General Licensing matters.

##### **2. Recommendations**

- 2.1 That the Committee notes the policies approved by City Council:
  - relating to the Gambling Act 2005 and approved in 2016;
  - regarding Sexual Entertainment Venues and approved in 2014;
  - relating to the Licensing Act 2003 and approved in 2015.
- 2.2 That the Committee approves the Hackney Carriage and Private Hire Policy (including delegations) at Appendix 1.
- 2.3 That the Committee approves the General Licensing Policy (including delegations) at Appendix 2.

Contact Officer: Emma Rohomon, Acting Head of Licensing  
Telephone: 0121 303 6111  
E-mail: [emma.rohomon@birmingham.gov.uk](mailto:emma.rohomon@birmingham.gov.uk)

### 3. Background

- 3.1 The City Council has a number of licensing, regulatory and registration powers and duties and the exercise of these powers and duties is delegated to the Licensing and Public Protection Committee. The granting and issuing of specific licences, permits and registrations is delegated to the Director of Regulation and Enforcement on the understanding that any applications giving rise to concern or difficulty may be referred to the Licensing and Public Protection Committee or its sub-committees for determination where appropriate.
- 3.2 The Licensing Service is responsible for the administration of grants, renewals and transfers as appropriate of hackney carriage and private hire vehicles, drivers and operators licences and for issuing licences under the Licensing Act 2003 and Gambling Act 2005, sex establishment and animal welfare legislation, and issuing permits for charitable collections and massage and special treatments etc. as well as the associated variations, amendments and transfers, which are carried out under policies delegated by your Committee.
- 3.3 The office of the Licensing Service is situated at 1-3 Ashted Lock, Birmingham Science Park, Dartmouth Middleway, Birmingham, B7 4AZ.

### 4. Licensing and Public Protection Committee

- 4.1 The licensing function of the City Council is disposed of through the processes and procedures of the Licensing and Public Protection Committee, sub-committees and officers by virtue of the Local Government Acts and other relevant statutory provisions.
- 4.2 The Court of Appeal stated in the “Hope and Glory” case (2011) that the licensing function of the licensing authority is an administrative function, by contrast with the function of the magistrates, which is a judicial function. The Court of Appeal said this:

*“The licensing authority has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure, but the decision itself is not a judicial or quasi-judicial act. It is the exercise of power delegated by the people as a whole to decide what the public interest requires.”*

This means that it must act in accordance with the two rules of natural justice. These are firstly that everyone has a right to be heard and secondly the rule against bias.

- 4.3 The right to be heard requires that a person directly affected by the matter under consideration must be given a fair opportunity both to state his/her case and to know of and to respond to any objections.

- 4.4 The rule against bias prohibits members participating in any decision if they have a financial or other interest in the outcome. Members will be familiar with this requirement from their general duties as Councillors.
- 4.5 Further guidance on the determination of matters concerning licensing appears at Annexe 1.
- 4.6 In September 2016 Members of the Licensing and Public Protection Committee agreed a Code of Conduct for its members, when sitting as the Licensing Committee. A copy of this code is attached at Annexe 2.
- 4.7 The provisions as set out in the appendices to this report summarise your Committee's policies in respect of the activities it licences.

## 5. General Licensing – Delegations to Sub-Committees

- 5.1 It is proposed that some of the decisions currently assigned to full committee be delegated to sub-committee for consideration. These are issues relating to sex establishments and charitable collections. The amendments are identified within the
- 5.2 Delegating these matters to sub-committee brings them in line with other legislative regimes such as the Licensing Act 2003 and Gambling Act 2005.
- 5.3 The move to sub-committees will enable much greater flexibility for both officers and applicants in terms of scheduling matters for determination, and will enable applications to be dealt with in a more efficient and timely manner.

## 6. Consultation

- 6.1 This report seeks to reproduce in one document a number of policies which have been implemented over a number of years. It does not seek to introduce any new policies, nor revise any existing policies.

## 7. Implications for Resources

- 7.1 It is the responsibility of the Committee Chairman and the Director of Regulation and Enforcement to ensure the services provided by the Committee are contained within the approved budget.
- 7.2 The proposals to delegate certain decisions to sub-committees will enable applications to be dealt with in a more expedient manner and will reduce the administrative burden.

8. Implications for Policy Priorities

- 8.1 The issues addressed in this report relate to the City Council priorities associated with creating a cleaner, greener and safer city and providing excellent services.

9. Public Sector Equality Duty

- 9.1 This report seeks to reproduce in one document a number of policies which have been implemented over a number of years. It does not seek to introduce any new policies, nor revise any existing policies. Therefore, no new equality analyses have been produced.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: nil



**APPENDIX 1**

<b>HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING</b>	
<b>Policy Document</b>	
<p>This document details the policies of the Licensing and Public Protection Committee applicable to Hackney Carriage and Private Hire.</p> <p>Policies are codified for ease of reference, and legislative requirements are also cited for completeness and clarity.</p>	
The legislation impacting on hackney carriage and private hire vehicles is the Town Police Clauses Act 1847, Birmingham City Council Hackney Carriage Byelaws 2008, the Local Government (Miscellaneous Provisions) Act 1976, Transport Act 1985, and the Equalities Act 2010.	TPCA 1847, LGMPA 76, TA 85, EA 2010
Although both hackney carriages and private hire vehicles are licensed to carry passengers, there is a distinct difference in the way vehicles can be made available for hire.	TPCA s45
Hackney carriages (“black cabs”) are the only vehicles licensed to ply for hire, which means that they may stand on taxi ranks, respond to a flag down in the street, and are generally available for immediate hiring.	TPCA s45
Private hire vehicles must be pre-booked in advance, through a licensed private hire operator and may not use taxi ranks, respond to a flag down in the street, or be offered for immediate hiring.	TPCA s45
Hackney carriage vehicles must be fitted with a taximeter which calculates the fare according to time and distance travelled.	TPCA s68
The meter is tested and sealed to ensure accuracy and compliance with the fare structure agreed by the Licensing and Public Protection Committee.	(byelaw 6)
The current table of fares must be displayed in the vehicle.	TPCA s68 (byelaw 10)
There is no power for the licensing authority to control the fares charged for private hire journeys, the fare structure for each company being set by the licensed operator.	
Conditions of licence require the operator’s table of fares to be displayed inside each private hire vehicle.	Conditions (Vehicle 23)
Although both hackney carriages and private hire vehicles are commonly referred to as taxis, the word “taxi” has a statutory definition, by virtue of the Transport Act 1985, and may only be applied to a licensed hackney carriage.	TA 1985 s13
For this reason Birmingham’s licensing conditions prevent private hire operators, vehicles or drivers from using the words “taxi” or “cab” in relation to their business.	Conditions (Operator 21)
The hackney carriage fleet is made up exclusively of purpose-built cabs, all of which are equipped for wheelchair accessibility.	Policy HCV1
At present there is a moratorium on the issue of new hackney carriage vehicle licences which was agreed by the former Licensing Committee in September 2008. This moratorium was reviewed in September 2010 and again in September 2014 whereupon it was extended for a further three years. The Committee has the authority to revert to the previous arrangements, whereby no limits were imposed, if that is considered appropriate. Officers are presently in the process of procuring a further survey for 2017.	Policy HCV2

In addition to the requirements for an annual vehicle inspection and meter test, vehicle owners must also produce insurance for the vehicle, covering its use for public or private hire as appropriate before a licence can be issued. Further, the insurance for licensed vehicles must be maintained continuously throughout the duration of the licence.	Policy Veh1
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Licensing Hackney Carriage and Private Hire Drivers	
Individuals must satisfy the authority that they are fit and proper to be licensed drivers.	LGMPA 76 s51
<p>The following application process is designed to ensure services delivered within the City are of a good standard and is subject to the appropriate fees being paid:</p> <ul style="list-style-type: none"> <li>• application received</li> <li>• entitlement to drive in the UK checked</li> <li>• entitlement to work in the UK checked</li> <li>• knowledge test</li> <li>• criminal record check</li> <li>• medical</li> <li>• driving test</li> <li>• disability and safeguarding awareness course ('The awareness course')</li> <li>• licence fee paid</li> <li>• licence issued</li> <li>• (It may be necessary for an application to be referred to Committee at any stage of this process.)</li> </ul>	
Application Received:	
The application form will be checked and details entered onto the Licensing Service computer system.	
Entitlement to drive in the UK Checked:	
An EU or EEA licence is acceptable as long as the counterpart licence issued by DVLA (for EU and EEA drivers) accompanies it. However, vocational drivers may not drive indefinitely on an EU or EEA licence and must produce a United Kingdom DVLA driving licence if they have been resident in the UK for five years or more. An applicant for a hackney carriage or private hire driver's licence must have held a full DVLA driver's licence for at least two years.	Policy DVLA1

Entitlement to work in the UK checked	
The Immigration Act 2016 (the 2016 Act) amended existing licensing regimes in the UK to seek to prevent illegal working in the private hire vehicle (PHV) and taxi sector. With effect from 1 December 2016, the provisions in the 2016 Act prohibit any licensing authorities across the UK from issuing to anyone who is disqualified by reason of their immigration status. This duty is discharged by conducting immigration checks. Birmingham City Council has been checking a new applicant's right to live and work in the UK since 2009, so the impact of this new legislation has been minimal.	IMMIGRATION ACT 2016
Knowledge Tests	
Knowledge folders are prepared annually for hackney carriage licences and should remain current for three years from the date of first issue (in exceptional circumstances it may become necessary to amend this duration).	Policy KT1
An applicant may take the test associated with a knowledge folder at any time after issue, up to and including the expiry date subject to test appointment availability.	Policy KT2
Candidates failing to attend or making a third test cancellation without an adequate and evidenced reason should be required to wait twelve months before being allowed to take the test.	Policy KT3
Candidates absent or cancelling, within five clear working days, without an adequate and evidenced reason will forfeit their test fees.	Policy KT4
Knowledge folders contain a combination of legal, licence condition, route and two point location questions applicable to the licence type. Candidates must identify and memorise the answers to those questions and answer a selection of questions as detailed below.	Policy KT5
Knowledge Test - Hackney Carriage	
The hackney carriage knowledge test is conducted in-house and under normal test conditions (no communication with another person except the examiner, no reference to any material during the test except the test paper).	PolicyHCKT1
The test must be completed within two hours if conducted verbally, and three hours if written. (If a candidate wishes to take a written knowledge test, they must also complete the verbal communications test (VCT).)	PolicyHCKT2
The test consists of 106 questions (6 legal, 80 two-point locations and 20 routes) selected at random from the relevant knowledge folder.	PolicyHCKT3
All six legal questions must be answered fully and correctly.	PolicyHCKT4
The applicant must answer 90% of the remaining routes and two point location questions correctly in order to pass the test.	PolicyHCKT5
The applicant must pass this test to progress their application and is allowed three attempts.	PolicyHCKT6
The application process is terminated if the applicant fails the third test. The applicant can re-apply after a period of twelve months from the date of the last failed knowledge test.	PolicyHCKT7

Knowledge Test Private Hire	
The private hire knowledge test is conducted in-house and under normal test conditions (no communication with another person except the examiner, no reference to any material during the test except the test paper and A to Z).	Policy PHKT1
The test is intended to check basic English and communication skills and understanding of Law and licence conditions applicable to a private hire driver. The test does not require any geographical knowledge. The test consists of an A to Z based navigation test, twenty questions on The Law, conditions of licence and customer service and a further four questions about plying for hire.	Policy PHKT2
The test must be completed within 25 minutes and must be taken verbally.	Policy PHKT3
There are twenty questions forming the main part of the test, These are divided into three sections, The Law, conditions of licence and customer service. A candidate must attain a minimum 80% pass mark requiring a candidate to score 16 out of a possible 20, However, no more than two wrong answers are allowed for any single section and a candidate giving three wrong answers in a single section will fail the test outright.	Policy PHKT4
The A to Z based navigation exercise must be answered correctly. Failure to do so is an outright failure of the test.	Policy PHKT5
The four plying for hire questions must be answered correctly. Failure to do so is an outright failure of the test.	Policy PHKT6
An applicant is allowed three attempts at a test.	Policy PHKT7
The application process is terminated if the applicant fails the third test. The applicant can re-apply after a period of twelve months from the date of the last failed knowledge test.	Policy PHKT8
Criminal Record Check	
All applicants and drivers are required to undertake an enhanced Disclosure and Barring Service (DBS) check. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974 by virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002 and convictions are, therefore, never spent.	PolicyDBS1
On initial application, and every three years thereafter, where a licence is granted a driver will be subject to a criminal record check facilitated by the DBS.	PolicyDBS2
Where the DBS check reveals cautions or convictions relating to drugs, dishonesty, violence, or offences of a sexual nature, or reveals any information giving cause for concern, the applicant, or licensed driver will be referred to the Licensing Sub-Committee where the individual's fitness to hold a licence will be considered, unless those matters have already been taken into consideration and passed by Committee.	PolicyDBS3
All new applicants who have been resident abroad as adults must produce evidence of good conduct in that country or the equivalent of a DBS disclosure before their application can be considered. Any matters revealed will be dealt with in the same way as any revealed by the DBS check.	PolicyDBS4
An applicant who has fled an oppressive regime or has other reasonable grounds to believe that obtaining such documentation would be impossible or dangerous may apply to the Licensing Sub-Committee for an exemption and should support that application with a Statutory Declaration and a verifiable character reference from an individual employed in a Prominent 'Regulated Occupation'. Further details in this respect are available on request.	PolicyDBS5
Drivers' licences are currently renewed at the choice of the licensee for one, two or three years, to coincide with the DBS check.	

On renewal, applicants are required to show their current DVLA driving licence for any possible endorsements. This is done by producing their (valid) photocard AND a check code issued by DVLA. This can be obtained at <a href="https://www.gov.uk/view-driving-licence">https://www.gov.uk/view-driving-licence</a>	Policy DVLA1
Where a DVLA driving licence check reveals matters or information that gives cause for concern the application can be referred to the Licensing Sub Committee for determination (unless previously considered and passed by Committee).	Policy DVLA2
<b>Medical</b>	
All applicants for the grant of a driver's licence are required to undertake and pass a Group II medical examination for vocational drivers before a licence can be issued. The medical is conducted at Birmingham City Council's Occupational Health Service.	Policy Med1
Once licensed, drivers remain subject to further medical checks as follows: <ul style="list-style-type: none"> <li>• Drivers aged 45 and under - every 5 years</li> <li>• Drivers between 45 and 64 - every 3 years</li> <li>• Drivers 65+ - every year.</li> </ul> (unless otherwise specified by Occupational Health)	Policy Med2
<b>Driving Test</b>	
Qualified examiners based within the City Council's Driver Training Service conduct the driving test.	Policy DT1
The applicant must pass the test in order to progress their application and is allowed three attempts.	Policy DT2
The application process is terminated if the applicant fails the third test.	Policy DT3
The applicant is eligible to re-apply after a period of twelve months from the date of the last driving test.	Policy DT4
<b>Disability and Safeguarding Awareness Training</b>	
All new applicants for the grant of a driver's licence must undergo the Birmingham City Council approved awareness training. The course is mandatory and subject to a fee, payable by the applicant.	Policy AT1
<b>Fee Paid and Licence Issued</b>	
An application will not be considered complete until such time as all fees have been paid. A licence is issued with attached conditions and the licensee is considered to have accepted those conditions unless appealed to Magistrate's Court within 21 days of issue, or granted exemption /alternative by a Licensing Sub-Committee.	LGMPA 76 s53
Whilst an application for the grant of a licence is pending the applicant will undertake such tests and checks as the Licensing and Public Protection Committee deem appropriate and this may include new tests introduced whilst the application is in progress.	Policy APP2
An incomplete application on which there has been no activity for a period of twelve months or more, will be deemed abandoned and treated as withdrawn. Where an applicant returns to the Licensing Service to pursue an application deemed abandoned they will be required to submit new forms and undertake all tests with the exception of the awareness course if already taken.	Policy APP3
<b>Driver Licence- Renewal</b>	
A driver's licence is eligible for renewal from a date ten weeks prior to the expiry of the licence. The renewal of a licence will be subject to the policies relating to medicals, DBS checks, outstanding enforcement issues, and DVLA licence checks. An expired driver's licence may be renewed up to one calendar month after the expiry date.	Policy DREN1

<b>Late renewal</b>	
The period of one month after the licence has expired is referred to as the “late renewal period” and any renewal application submitted within the late renewal period will attract the fee associated with the grant of a licence. Any application submitted more than one month after expiry will be considered a new application and will be required to include all tests and checks applicable to a new application. Where there are exceptional circumstances which may warrant an exemption from that requirement, Officers may refer the matter to the Licensing Sub Committee for determination or to agree a later renewal.	Policy DREN2
<b>Multiple Driver Licence Types</b>	
If a driver already holds one type of licence and applies for another type of licence they must undergo all the relevant tests that were either not applicable or not in force at the time the first licence was granted.	Policy MultiBadge 1
In any case where a medical or DBS check on the original licence is more than 12 months old, an applicant will be required to undertake another, the new check becoming current for both licences.	Policy MultiBadge 2
Driving test and Disability Awareness course passes can be carried over to the new application.	Policy MultiBadge 3
Knowledge test passes will not be carried over or exempted except where agreed by Committee.	Policy MultiBadge 4
Any person may request their application be referred to the Licensing Sub Committee for determination; however, the Head of Licensing or their nominated deputies, in consultation with the Chair of the Licensing and Public Protection Committee, may refuse such a request where the request is considered to be frivolous, vexatious or repetitious.	Policy- SubRefusal
<b>Lost or Stolen Driver Licence (Badge)</b>	
In the event a badge is lost or stolen this information must be reported to the Licensing office within three working days (not including Saturday and Sunday).	Policy LossBadge1
If the badge has been stolen the Police must be informed and a Police report number obtained.	Policy LossBadge2
If the badge has been lost a declaration to this effect must be made to the Licensing Offices.	Policy LossBadge3
A replacement badge will be issued on payment of a fee and production of a current DVLA driving licence.	Policy LossBadge4
A person may not legally work as a hackney carriage or private hire driver without being in possession of a current badge.	LGMPA 76 s54(2)(a)

<b>Licensing Hackney Carriage and Private Hire Vehicles</b>	
The Law states no-one can drive a hackney carriage or private hire vehicle licensed by Birmingham City Council unless they are licensed to do so i.e. they hold a current valid hackney carriage or private hire driver's licence, as appropriate, issued by Birmingham City Council.	LGMPA 76 s46
<b>Insurance</b>	
Vehicle proprietors must produce current, valid, insurance covering the use of the vehicle for public or private hire as applicable, before a licence can be issued.	LGMPA 76 s48(1)(b)
<b>Transfer of vehicle licence</b>	
Transfer of interest in a licence shall be completed only when the old identity plate(s) and licence are returned to the Licensing Office.	Policy Transfer1
If this cannot be done, the previous owner must sign a declaration informing the Licensing Office of the whereabouts of the vehicle identity plates or the reason the identity plates cannot be produced. This declaration will be used to assist in progressing with the transfer application.	Policy Transfer2
The transfer fee will be charged where interest in a vehicle licence is transferred to another proprietor. Where a renewal or replacement is conducted simultaneously both fees will be due.	Policy Transfer3
<b>Vehicle Replacement</b>	
The replacement fee will be charged when a vehicle is replaced during the life of a licence. Where a renewal or transfer is conducted simultaneously both fees will be due. If transfer, replacement and renewal transactions are conducted simultaneously the replacement fee will be waived.	Policy REP1
<b>Lost or Stolen Vehicle Licence (Plate)</b>	
In the event a vehicle identity plate is stolen the Police must be informed and a Police report number obtained. If the identity plate is lost a signed declaration must be made to this effect. This information must be reported to the Licensing Office within three working days. A replacement plate will be issued on payment of a fee and production of a valid insurance document and DVLA driving licence.	Policy LossPlate1
<b>Licensing a vehicle registered to another keeper:</b>	
Where an applicant for a vehicle licence provides a registration document indicating that the registered keeper is another individual, or legal entity, the applicant will be required to provide a letter from the registered keeper indicating that use of the vehicle as a hackney carriage or private hire vehicle by the applicant, is done with their full knowledge and consent.	Policy Keeper1
Where an applicant for a vehicle licence provides a registration document indicating that the registered keeper is another individual, or legal entity, the applicant will be required to provide a letter from the insurers indicating that they are aware of the arrangement and content to provide appropriate insurance cover in those circumstances.	Policy Keeper2

<b>Expired Hackney Carriage Vehicle Licence</b>	
When a hackney carriage vehicle licence has expired and more than one calendar month has elapsed any attempt to re-licence the vehicle must be referred to the Licensing Sub Committee for determination.	Policy ExpHack1
<b>Approved Vehicle Types – Hackney Carriage</b>	<b>LGMPA 76 s47</b>
The Licensing Authority has set down a series of specifications that a vehicle will need to comply with prior to it being accepted as a licensed vehicle:	
<ul style="list-style-type: none"> <li>Vehicles specifically adapted for wheelchair carriage which meet the M1 European standard.</li> </ul>	Policy HCVSpec1
<ul style="list-style-type: none"> <li>Any M1 vehicle adapted to be a hackney carriage where the adaptations are approved by the Vehicle Certification Agency (VCA) and the adaptations have VCA certification to European Whole Vehicle Type Approval (EWVTA) or G/B/ Low Volume (Small Series) Type Approval.</li> </ul>	Policy HCVSpec2
<ul style="list-style-type: none"> <li>The front seat of a hackney carriage vehicle will not be included in the seating capacity indicated on the vehicle licence.</li> </ul>	Policy HCVSpec3
<ul style="list-style-type: none"> <li>Any MPV or van derived M1 class vehicle to be licensed as a hackney carriage must be black in colour and must not be fitted with full-body advertising livery.</li> </ul>	Policy HCVSpec4
<ul style="list-style-type: none"> <li>Purpose built Hackney Carriage vehicles cannot be licensed for the purposes of private hire.</li> </ul>	LGMPA 76 s48(1)(a)(ii)
<b>Approved Vehicle Types – Private Hire</b>	<b>LGMPA 76 s48(1)</b>
The private hire licensing provisions apply to a variety of vehicles ranging from four-door saloon vehicles to people carriers, however, those vehicles should be:	
<ul style="list-style-type: none"> <li>built to M1 specification.</li> </ul>	Policy PHVSpec1
<ul style="list-style-type: none"> <li>have a minimum engine size of 1600cc (1500cc for second-generation Toyota Prius.)</li> </ul>	Policy PHVSpec2
<ul style="list-style-type: none"> <li>be capable of carrying a minimum of four average sized adults in comfort.</li> </ul>	Policy PHVSpec3
<ul style="list-style-type: none"> <li>All vehicles must be right hand drive and must not have fewer than four road wheels.</li> </ul>	Policy PHVSpec4
<ul style="list-style-type: none"> <li>Cars must have a minimum of four doors giving adequate access to and egress from the vehicle. The design of the car can be saloon, hatchback or estate.</li> </ul>	Policy PHVSpec5
<ul style="list-style-type: none"> <li>Larger vehicles (MPV, minibus, or people mover types) must have sufficient doors of sufficient size to allow passengers to get in and out quickly and safely.</li> </ul>	Policy PHVSpec6
<ul style="list-style-type: none"> <li>Where exit from the rear seats in vehicles equipped with three rows of seats requires operation of a tip seat mechanism, passengers must be able to exit from either side of the vehicle and the tip seats at either end of the middle row must be capable of independent operation.</li> </ul>	Policy PHVSpec7



<ul style="list-style-type: none"> <li>Where a vehicle is equipped with pop-up, or auxiliary seats intended for occasional use only, those seats must not be included in the licensed capacity of the vehicle.</li> </ul>	Policy PHVSpec8
<ul style="list-style-type: none"> <li>Where the vehicle configuration requires a whole bench seat to slide and/or tip for access/egress to the rear seats, the rear seats should not be included in the seating capacity and should be removed to avoid pressure from passengers to carry numbers in excess of the licensed capacity.</li> </ul>	Policy PHVSpec9
<ul style="list-style-type: none"> <li>All vehicles must have a wheelbase (when measured from the centre of the front wheel to the centre of the rear wheel) of at least 2540mm (100 inches).</li> </ul>	Policy PHVSpec10
<ul style="list-style-type: none"> <li>Cars must have a back seat width (when measured in a continuous line from edge to edge) of at least 1220mm (48 inches).</li> </ul>	Policy PHVSpec11
<ul style="list-style-type: none"> <li>Larger capacity vehicles (MPV, minibus, or people mover types) which are fitted with individual seats, or which do not have full width bench seats, must have a minimum 407mm (16 inches) of seat space per passenger across the width of the seat.</li> </ul>	Policy PHVSpec12
<ul style="list-style-type: none"> <li>Seat belts must be provided for all passengers according to the licensed capacity of the vehicle.</li> </ul>	Policy PHVSpec13
<ul style="list-style-type: none"> <li>Vehicles equipped with soft tops, removable hard tops and people carriers (MPV types) described as black on the log book, will not be licensed for the purpose of private hire.</li> </ul>	Policy PHVSpec14
<ul style="list-style-type: none"> <li>Vehicles fitted with darker tints and privacy glass can be licensed where the glass is to factory standard and vehicles are presented to licensing in an unmodified state, vehicles fitted with films, foils, or any other aftermarket tinting will be refused a licence, unless the tinting is removed and the vehicle returned to the manufacturer's standard specification.</li> </ul>	Policy PHVSpec15
<ul style="list-style-type: none"> <li>Vehicles identified as stretched limousines, or novelty vehicles will be considered outside the scope of this definition, in line with current practice.</li> </ul>	Policy PHVSpec16
<b>Transfer of Hackney Carriage Vehicle Licence</b>	
A proprietor of a hackney carriage vehicle may replace, swap or change their vehicle with another licensed hackney carriage vehicle of any age.	Policy HCVTran1
In this policy it is understood that the licence and its related vehicle will remain together and not be separated.	Policy HCVTran2
<b>Transfer of Private Hire Vehicle Licence</b>	
Private hire vehicle licences may only be transferred to a vehicle that is less than 8 years old.	Policy PHVTran1
The licence to be transferred into the proprietor's name must relate to a vehicle, that is less than 8 years old. Failure to comply with this policy will result in the private hire vehicle licence being transferred for the duration of the life of the licence; however, the Council will refuse to renew that licence when it expires.	Policy PHVTran2

<b>Replacement of Hackney Carriage Vehicle Licence</b>	
A hackney carriage vehicle licence may only be transferred to another vehicle (that is to say separated from its related vehicle and moved to another vehicle) that is younger/newer than the age of the vehicle currently licensed.	Policy HCVRep1
<b>Replacement of Private Hire Vehicle Licence</b>	
A licensed private hire vehicle can only be replaced, swapped or changed with a vehicle that is less than 8 years old.	Policy PHVRep1
Failure to comply with this policy will result in the vehicle or the private hire vehicle licence being transferred for the duration of the life of the licence, however, the Licensing Service will then refuse to renew this.	Policy PHVRep2
<b>Age Limit – Hackney Carriage Vehicles</b>	
No vehicle over the age of 14 years will be granted a licence.	Policy HCVAge1
No vehicle over the age of 14 years will have its licence renewed unless the vehicle is able to pass the Supplementary Test Plus, in which case the vehicle licence may be renewed on a year by year basis, subject to passing the Supplementary Test Plus on each occasion.	Policy HCVAge2
<b>Age Limit - Private Hire Vehicles</b>	
No vehicle over the age of 8 years will be granted a licence.	Policy PHVAge1
No vehicle over the age of 8 years will have its licence renewed unless the vehicle is able to pass the Supplementary Test Plus, in which case the vehicle licence may be renewed on a year by year basis, subject to passing the Supplementary Test Plus on each occasion.	Policy PHVAge2
<b>Vehicle Testing – ALL Vehicles</b>	
All vehicles are subject to a standard MOT test to determine its mechanical fitness and a more stringent supplementary test dealing with the vehicle's condition, appearance and suitability prior to licensing.	LGMPA 76 s48
An MOT certificate presented for the purpose of replacement of a vehicle or the renewal or granting of a licence must be less than ten weeks old at the time of the transaction, that time period to be calculated from the date of inspection.	Policy Veh2
The law provides that a private hire vehicle cannot, in its type, design or identification, lead anyone to believe that it is a hackney carriage.	LGMPA 76 s48(1)(a)(ii)
<b>Private Hire Operators</b>	
All Birmingham licensed operators must operate from premises within the City boundaries.	LGMPA 76 S46
Operators' fares are not regulated but each operator is required to ensure that their particular charges are displayed or available on request to each person travelling in a private hire vehicle.	Conditions (Vehicle 23)
An applicant for the grant of or renewal of an operator's licence will be asked to disclose details of any previous convictions and also an applicant for the grant of an operator's licence will be asked for details of any previous experience of working within the private hire industry including any other licences held, either currently or previously and whether any such licence has ever been revoked or suspended for any reason..	Policy Op1
Planning permission must be obtained for the premises where the operation is to be based, unless the applicant can provide confirmation from the Planning Department that such permission is not required.	Policy Op2

The records to be maintained include records of all journeys undertaken, and information and documentation relating to the vehicles and drivers operated, together with their "call signs".	LGMPA 76 s56
The fee payable for an operator's licence reflects the structure of the operation and the number of drivers and vehicles managed, in that it is set according to the officer time afforded to the licence. This fee is payable at the time the application is submitted.	Policy Op3
Renewal applications for operator licences must be submitted to the Licensing Office at least 14 days before expiry, fully completed and with all necessary accompanying paperwork.	Policy Op4
Failure to comply with this requirement may prevent a new licence from being issued on or before the expiry of the old licence.	Policy Op5
<b>Committee Policies Relating to Hackney Carriage and Private Hire Drivers</b>	
An applicant for a hackney carriage or private hire driver's licence must have held a full DVLA driver's licence for at least two continuous years.	Policy Dri1
<b>Disqualification from Driving</b>	
The Licensing Sub Committee will not be disposed to grant new applications or applications for renewal of hackney carriage or private hire driver's licences from persons who have been disqualified from driving until such time that such applicants have gained sufficient recent driving experience and become re-acquainted with driving conditions following reinstatement of DVLA licences; further that the period of further driving experience should be at least equivalent to the period of disqualification. For example, a driving disqualification of six months will mean a rehabilitation period of six months from the date the DVLA licence is reinstated. However, a rehabilitation period may be reduced at the discretion of the Committee where an applicant has successfully completed an approved driving course as part of the sentence.	Policy Dri2
<b>Driving Offences Associated with Drink or Drugs</b>	
The Licensing Sub Committee will not be disposed to grant or renew applications for licences to drive hackney carriage or private hire vehicles where the applicant has been convicted of a driving offence associated with drink or drugs under the Road Traffic Acts for the following periods, following reinstatement of the DVLA driving licence In the case of disqualification a minimum of two years if the period of disqualification is longer Policy Dri2 will apply. two years where there is no disqualification.	Policy Dri3

<b>Plying For Hire: First and Any Subsequent Offences</b>	
Drivers convicted of a first offence of plying for hire, and driving with no insurance should be revoked.	Policy Dri4
Drivers convicted only of plying for hire should be subject to suspension for a minimum period of six months for the first offence.	Policy Dri5
For any subsequent offence, consideration should be given to the ultimate penalty of revocation of a drivers licence.	Policy Dri6
<b>Refusal of Applicants with a Conviction for any Sexual Offence</b>	
An applicant with a conviction for any sexual offence should normally be refused.	Policy Dri6
<b>An Applicant Refused or Revoked by another Authority</b>	
Where an applicant has had a licence refused or revoked by another local authority, that application shall be referred to and determined by the Licensing Sub-Committee.	Policy Dri7
<b>Further Applications from Applicants or Drivers Refused or Revoked</b>	
An application for the grant of a hackney carriage or private hire driver's licence must be referred to the Licensing Sub-Committee for determination under any of the following circumstances:	Policy Dri8
<ul style="list-style-type: none"> <li>• application previously refused;</li> </ul>	Policy Dri9
<ul style="list-style-type: none"> <li>• licence previously revoked or refused upon renewal;</li> </ul>	Policy Dri10
Further, an application will not be considered within 12 months of the date of refusal, revocation or unsuccessful appeal, whichever is the later.	Policy Dri11
<b>Refusal of Applicants with a Conviction for a Drugs Related Offence</b>	
An applicant with a conviction for a drug-related offence should normally be refused.	Policy Dri12
<b>Failure of Three or More Knowledge Tests per Application</b>	
Where an applicant has failed three knowledge of the city tests in connection with an application for a hackney carriage or private hire driver's licence, that application will be refused on the grounds that the person is not considered to be a fit and proper person to hold such a licence.	Policy KT6
An applicant may re-submit an application for the grant of a driver's licence one year after the date of the third knowledge test. This application will be treated as a new application and the applicant must undertake and pass the appropriate tests.	Policy KT7
<b>Failure of Three Driving Tests per Application</b>	
Where an applicant has failed three driving tests in connection with an application for a driver's licence that application will be refused on the grounds that the applicant is not considered to be a fit and proper person to hold such a licence.	Policy DT3
An applicant may re-submit an application for the grant of a driver's licence one year after the date of the third driving test, however, should a further failure occur this application will be presented to the Licensing Sub Committee for determination.	Policy DT4





Working Dogs	
Since March 2001 licensed hackney carriage and private hire drivers in England have been under a duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without additional charge. Drivers can apply for an exemption from the duty on medical grounds if they have a condition that is aggravated by contact with dogs to allow them to continue in the trade. Drivers must comply with the requirements of the exemption.	EA 2010 s168-171
Wheelchair Accessibility	
licensed hackney carriage and private hire drivers must: <ul style="list-style-type: none"> <li>• transport wheelchair users in their wheelchair</li> <li>• provide passengers in wheelchairs with appropriate assistance</li> <li>• charge wheelchair users the same as non-wheelchair users</li> </ul>	
Suspension, Revocation and Refusal to Renew Licences	
A hackney carriage or private hire vehicle licence may be subject to suspension, revocation or refusal, or renewal, by the Licensing Sub- Committee, on the following grounds: <ul style="list-style-type: none"> <li>• The vehicle is unfit for use as a hackney carriage or private hire vehicle.</li> <li>• Any offence or non-conformity with the legislative provisions by either the operator or the driver.</li> <li>• Any other reasonable cause.</li> </ul>	
A hackney carriage or private hire driver's licence may be suspended, revoked or refused on renewal by the Committee on the following grounds: <ul style="list-style-type: none"> <li>• Since the grant of the licence the driver has been cautioned or convicted of an offence involving drugs, dishonesty, indecency or violence.</li> <li>• Any offence or non-compliance with the legislative provisions by the driver.</li> <li>• Any other reasonable cause.</li> </ul>	LGMPA 76 s61
In all the above cases, and where applicants for the grant of a licence have been refused, there is a right of appeal against the Committee's decision to the Magistrates' Court. The outcome of all appeals is reported to the Licensing and Public Protection Committee on a regular basis.	LGMPA 76 s61-63

**Immediate Action on the grounds of Public Safety:**

Where information is received regarding a licensed driver which indicates there may be an immediate risk to public safety, that information will be shared with the Chair of the Licensing and Public Protection Committee to consider the immediate revocation of the driver's licence. Such action to be reported to the next available Licensing and Public Protection Committee as part of the Actions Taken by the Chair between Meetings report.

Any decision to revoke will be communicated to the driver as soon as is reasonably practicable by way of a letter, ordinarily hand delivered by Enforcement Officer(s).

It is not possible to reinstate a licence after revocation without a successful appeal. In the event that the allegations are found to be completely unproven, i.e. a case of mistaken identity or other verified information which exonerates the driver completely, the matter will be put to the Chair to consider a 'fast-track' grant application, in order to grant a 'new' licence, for the duration of the remainder of the previous licence, and negating the requirement for additional tests etc. This negates the need for a costly and time-consuming appeal, and enables the driver to be back on the road in the shortest possible time. Matters which are less definitive will be referred to a sub-committee for consideration, notwithstanding the driver's right to appeal to the courts.

Document	Link	Notes
Hackney Carriage Byelaws	 HC Byelaws	Revised 2010  Currently under review
Private Hire Driver Conditions	 Private Hire Driver Conditions	Revised 2010  (2017 revision agreed –pending implementation date)
Hackney Carriage Vehicle Conditions		
Private Hire Vehicle Conditions	 Private Hire Vehicle Conditions	Revised 2010  (2017 revision agreed –pending implementation date)
Private Hire Operator Conditions	 Private Hire Operator Conditions	Revised 2010  (2017 revision agreed –pending implementation date)

## **SCHEME OF DELEGATIONS (HCPH)**

Hackney Carriage / Private Hire	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Setting of Fees and charges	All Cases		
Approval of Hackney Carriage Fares	All Cases		
Agree standard conditions i.e. vehicle / driver/operator etc.	All Cases	Requests for exemption may be considered by sub committee	
When a hackney carriage vehicle licence has expired and more than one calendar month has elapsed		any attempt to re-licence the vehicle	
<b>AUTHORITY TO SUSPEND, REVOKE OR REFUSE TO RENEW OR REFUSE TO GRANT ANY LICENCE OR APPLICATION:</b>			
in the case of a licensed vehicle being found to be in contravention of legislation,			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the officer is not satisfied as to the fitness of the vehicle, or			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the officer is not satisfied as to the accuracy of the taximeter, or			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the vehicle does not have adequate insurance cover, or			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the vehicle is unroadworthy or in a dangerous condition.			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if an officer is not satisfied as to the fitness of a driver following a medical report from the Occupational Health Service.			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847

Hackney Carriage / Private Hire	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub- Committee	Officers (Senior Licensing Officer or above)
Where the applicant has 11 points on their DVLA licence or a conviction or caution for an offence that does not fall within the category of drugs, violence, dishonesty or of a sexual nature.			All Cases
Where an applicant has cautions over two years old, such application will be granted.			All Cases
Where an applicant has a conviction(s) for dishonesty, whatever the sentence, including a prison sentence, then such application will be granted provided at least ten years has lapsed since the last conviction for dishonesty.			All Cases
Where an applicant has an absolute discharge for any offence, with no other offences, such application will be granted.			All Cases
Where an applicant has failed 3 verbal communication tests, or 3 Knowledge tests, or 3 driving tests, then such application will be refused.			All Cases
Where an applicant has previously been refused or his/her licence revoked, whether by Birmingham City Council or another Local Authority, any further application will be refused within a 12 month period starting from the date of the refusal/revocation of the previous licence.		All Cases	
Where a private hire driver is convicted for plying for hire (first offence), then their private hire driver's licence will normally be suspended for a minimum period of 6 months.		All Cases	
Where a private hire driver is convicted for plying for hire and no insurance, then their private hire driver's licence will normally be revoked.		All Cases	
Grant/renewal of a licence where a driver is convicted of a drink/drug related driving offence or has been subject to a driving ban		All Cases	
Renewal of a drivers licence after the late renewal period where the circumstances for the lateness are on medical grounds only. (late renewal fee applies)			All case



Hackney Carriage / Private Hire	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub- Committee	Officers (Senior Licensing Officer or above)
<del>Where a driver pays any fee by cheque and that cheque is not honoured and following chasing letters to be sent to the driver at his/her last known address, the drivers licence or vehicle licence will be suspended until such time as the requisite fee is received.</del>			All Cases  <b>Removed – we do not accept cheques as payment</b>
When confirmation is received to the effect that the holder of the licence has been banned from driving by a Court of Law and is no longer in possession of a valid DVLA driving licence.			All Cases
Approval of the installation of safety screens in private hire vehicles, where MIRA testing and approval, or an equivalent European test certificate can be produced for the proposed screen			All Cases
Approval of certain standard exemptions to the current licence conditions for private hire operators and vehicles, where the applicant can demonstrate that the exemption is justified (limousines, stretched and special event vehicles carrying out private hire work within the city)			All Cases
Grant of licence where the applicant has 6 points on their DVLA licence or a conviction or caution for an offence that does not fall within the category of drugs, violence, dishonesty or of a sexual nature.			Licensing officer and above
Consideration of suitability of evidence as to good character where applicant is from a failed state and cannot comply with requirement to provide a DBS.			All cases

**GENERAL LICENSING POLICY DOCUMENT****(Matters not addressed by Statement of Licensing Policy, Statement of Gambling Principles or Sexual Entertainment Policy)**

The General Licensing Team is responsible for a wide range of licensing functions, which include sales of alcohol, late night refreshment, regulated entertainment, sex establishments, charitable collections, scrap metal and gambling premises.

Administration of the Animal Welfare licensing function is under the remit of Environmental Health. The Senior Animal Welfare Officer and the administration team are located at Garretts Green. Inspection and enforcement is carried out by the Senior Animal Welfare Officer.

**Massage and Special Treatment Establishments**

Birmingham City Council Act 1990.

- Only a very small number of local authorities in the country have similar powers. The legislation was originally aimed at controlling massage and various treatments which could carry a health and safety risk to the public, e.g. water borne disease and exposure to UV rays. The Act has led to a whole range of premises being included, from health and fitness centres to hairdressing salons.
- Anyone conducting an establishment for treatment by way of massage is required to be licensed; other forms of treatment also include Solaria, Therapeutic Spa Baths, Sauna, Turkish Baths, Aromatherapy massage and Herbal Baths.
- Each licensed premises is subject to an annual visit by a Licensing Enforcement Officer.
- When considering applications for licences consultation is carried out with West Midlands Police. There are also statutory requirements placed on applicants to post notices on the premises giving passers-by opportunity to comment or object.
- All licences are subject to a set of conditions which regulate the manner in which the premises must be operated.



BCCA90 MST  
Standard Conditions

## Sex Establishments

Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the “Act”).

The Act gives local authorities the adoptive powers to control sex establishments which are defined as a sex shop, a sex cinema or a sexual entertainment venue (SEV)

### Sex Shops and Sex Cinemas

A sex shop is a premises used for a business, which consists, to a significant degree, of selling what are termed sex articles. These commonly include magazines, DVDs and different forms of sex aids.

A sex cinema is any premises used to a significant degree for showing of films, which are concerned primarily with, or relate to, or are intended to stimulate or encourage sexual activity.

The key words in the statutory definition are the words “to a significant degree”. This is not defined by the Act but case law suggests ‘significant’ implies a higher standard than ‘more than trifling’. In almost all cases the ratio between the sexual and other aspects of the business would be material: the absolute quantity of sales, the character of the remainder of the business, the nature of the display and the nature of the articles themselves are all considerations. No single factor is decisive and the Committee must decide which considerations are material and what weight to attach to them.

When considering applications for licences consultation is carried out with West Midlands Police, Ward Councillors and the Licensing Enforcement Team. There are also statutory requirements placed on applicants to advertise in the local press and post notices on the premises giving passers-by opportunity to comment or object.

The criteria for consideration are:

- the suitability of the applicant;
- whether the person applying will actually be responsible for operating the business
- the location and suitability of the premises; and
- whether the number of sex establishments within that locality is equal to or exceeds the number which the Council considers appropriate for the area.

Other than where the suitability of the applicant is concerned, there is no automatic right of appeal against a decision to refuse a licence and, therefore, an applicant’s only remedy would normally be by way of judicial review.



Sex Shop Conditions



Sex Cinema  
Conditions

## Sexual Entertainment Venues

A Sexual Entertainment Venue (SEV) is defined as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.

The meaning of ‘relevant entertainment’ is “any live performance or live display of nudity which is of such nature that it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)”.

These definitions would apply to the following forms of entertainment as they are commonly known: lap dancing; pole dancing; strip shows; peep shows; and live sex shows.

The legislation provides exemptions from the definitions of SEVs as follows:

- Sex shops and sex cinemas (these are separately defined in Schedule 3 to the 1982 Act).
- Premises which provide relevant entertainment on an infrequent basis.

These are detailed as premises where:


- no relevant entertainment has been provided on more than 11 occasions within a 12 month period
- no such occasion has begun within a period of one month beginning with the end of the previous occasion; and
- no such occasion has lasted longer than 24 hours.

On 12th October 2010, Birmingham City Council resolved to adopt the provisions to control SEVs. A separate Sexual Entertainment Venue Policy, to apply to the whole of Birmingham, was published and became effective from 3 January 2011. This Policy is was revised in October 2014 and was effective since 1 November 2014. The policy is currently under review.

The Sexual Entertainment Venue Policy document contains full details of the licensing regime applicable to Birmingham including application procedures, standard conditions and delegations. The Standard conditions were revised with effect from 1st November 2014 (on all licences granted or renewed after that date).



SEV Policy

<b>Charitable Street Collections</b>	
Police, Factories etc., (Miscellaneous Provisions) Act 1916.	
The Act prescribes Regulations, which govern the conduct of collections being made for charitable or other purposes in any street or public place.	 Model Street Collection Rules
This could include a collecting box or tin, or even the sale of any articles or magazines where there is a representation at the point of sale that part of the proceeds are being applied to charitable or other purposes.	
Organisations do not have to be a registered charity but checks are made to ascertain that the organisation is genuine, and for new organisations or charities, copies of the latest accounts may be requested. Details of the promoter are forwarded to the West Midlands Police to afford them the opportunity to comment on the suitability of the applicant. The promoter of the collection or permit holder is also required to submit a return within one month of the collection taking place to show the amount collected and details of how the proceeds have been applied particularly on expenses.	
In September each year, an advertisement is placed on the Birmingham City Council website inviting applications to be lodged by 1 November for the following year. In order to allow for a fair opportunity of collection dates for all prospective charitable organisations, applications are restricted to either one collection that covers the “whole city” or two separate dates for a selection of districts.	
All applications received by 1 November each year are given priority for dates and areas and efforts are made to allocate preferred dates to each of the individual organisations. To avoid any clash of interest permits are not granted to two separate organisations to collect in the same place on the same day. For those organisations applying later than 1 November, applications are allocated on a first come first served basis provided that the requested date and area is still available.	
“Face to face” fundraising usually relates to the collection of direct debits / standing orders from shoppers/pedestrians. Such appeals are normally conducted by professional fundraising companies that are remunerated by charities. Where a professional fundraiser is involved in a charitable street collection on behalf of a charity, our procedures require that a copy of the statutory fundraising agreement is submitted with the application as this gives details of the costs of the fundraising.	
Under the Model Street Collection Regulations, “no payment shall be made out of the proceeds of a collection, directly or indirectly, to any other person connected with the promotion or conduct of the collection other than payments which have been specifically approved by the Council.”	
All such face-to-face street collection applications are, therefore, referred to Committee for consideration with the expectation that an applicant demonstrates how any potential donors are made fully aware of the remuneration costs involved and the relationship between the company and the charity.	
There is no right of appeal against the refusal to grant a street collection permit.	
The Charities Act 2006 was introduced to change the way in which charitable collections were	

regulated, however, the Act was implemented in phases and to date the provisions relating to public charitable collections have still not been introduced.

It should be noted that a part of the Charities Act 2006 that was introduced, amended the Charities Act 1992 in relation to the statement required to be made by professional fundraisers when raising money for particular charitable institutions. The statement must give the method by which the fundraiser's remuneration in connection of the appeal is determined and the notifiable amount of that remuneration.

### House to House Collections

House to House Collections Act 1939.

Whereas street collection permits are normally issued to cover a period of one or two days, a house to house collection licence can be granted for any period up to one year.

With regard to vetting and checking to ascertain whether the organisation applying is genuine or not, the same procedures apply as for street collections.

There is a requirement for the promoter of the collection to make a return following the collection.

Collections generally take place from door to door or from one public house to another.

Some of the larger well-known charities such as British Red Cross, Christian Aid, Shelter, RNLI etc., have a Government exemption from having to apply for a licence, but most of the smaller, and particularly local groups and organisations need a licence before they can collect money (or articles which they intend to give away or sell later), from door to door.

As with the procedure for street collections, where a charitable organisation is utilising the services of a professional fundraising company, our procedures require that a copy of the statutory fundraising agreement is submitted with the application.

Unlike street collections, there is a statutory right of appeal against the refusal to grant a house to house collection licence. In this case, the right of appeal is to the Secretary of State, and the grounds for refusal are set out in the Act.

### Skin Piercers

Local Government (Miscellaneous Provisions) Act 1982 Part VIII

Local Government Act 2003




Local Government (Miscellaneous Provisions) Act 1982 Part VIII applies to the registration of persons operating at premises to provide the following types of skin piercing: Acupuncture, Tattooing



acupuncture byelaws



Tattoo byelaws

and Electrolysis.	 electrolysis byelaws
Byelaws were introduced in 1985 to regulate these activities.	
The Local Government Act 2003 came into effect on 1 April 2004 and introduced the registration and inspection of all businesses which carry out cosmetic skin piercing and semi-permanent skin colouring.	
Byelaws were introduced in 2006 to regulate these activities.	 cosmetic skin piercing byelaws  Semi-perm skin colouring byelaws
Inspection and enforcement is carried out by officers of Birmingham's Environmental Health Service.	
This is purely a registration function, with no provision for objection or refusal. Registration Certificates are issued by Senior Licensing Officers or above.	

### **Village Greens**

#### **The Commons Act 2006**

The Local Authority is the 'Registration Authority' for the purposes of the legislation.

Applications can seek the inclusion in the register of town and village greens of land which is claimed to have qualified for registration by virtue of continuous usage by inhabitants of the locality for lawful sports and pastimes as of right over a period of 20 years. In order for an application to succeed it must satisfy all parts of the statutory test.

Applications are reported to the Licensing and Public Protection Committee.

In cases where objections give rise to a serious dispute of fact between the applicant and the objectors, a public inquiry may be held before an independent inspector, who will then put forward a recommendation to the Registration Authority.

The final decision will be taken by the Licensing and Public Protection Committee, or a Licensing Sub-committee if so delegated.

<b>Animal Welfare</b>
<b>Animal Boarding</b> Animal Boarding Establishments Act 1963
<p>Anyone involved in the business of providing accommodation for other peoples animals (being cats or dogs),is required to obtain a licence form the local authority.</p> <p>Inspections are undertaken by the Senior Animal Welfare Officer, prior to licence approval.</p> <p>Licensed premises now include home dog boarders, where individuals board dogs in their own home and also dog day care centres.</p>
<b>Dog Breeding</b> Breeding of Dogs Acts 1973 and 1991
<p>Legislation prescribes standards of management and accommodation in relation to the business of breeding dogs.</p> <p>In addition to the inspection by the Senior Animal Welfare Officer the Act requires that the services of an independent veterinary surgeon or practitioner is used for inspecting prospective establishments in respect of applications for the grant of a new licence</p>
<b>Pet Shops</b> Pet Animals Act 1951.
The Act regulates the sale of pet animals which includes a provision that a pet animal cannot be sold to a person under the age of 16. Conditions which are applied to premises promote animal health and welfare.
<b>Performing Animals</b> The Performing Animals (Regulations) Act 1925
The Act covers the use of animals in film and stage performances, at circuses, and as part of exhibitions etc. More recently these provisions are applied to persons who use animals during educational talks and demonstrations at children’s parties. It is an offence for anyone to train or exhibit a performing animal unless they are registered.
<b>Dangerous Wild Animals</b> The Dangerous Wild Animals Act 1976 (as amended)
<p>The Act contains a schedule detailing a variety of animals for the purposes of the Act e.g. venomous snakes and certain monkeys etc.</p> <p>Zoos, pet shops and circuses are exempt from the provisions of the Act. There are no current licences, however, the Act provides powers to the Council to seize any animal being kept on premises which are unlicensed.</p> <p>There is a requirement for an independent report to be obtained from a veterinary surgeon or practitioner before a licence can be granted.</p>
<b>Riding Establishments</b> Riding Establishments Acts 1964 and 1970
<p>Stables which hire out horses or ponies for riding or instruction must be licensed under the provisions of the Riding Establishments Act 1964 and 1970. When considering applications there is a requirement for an independent report to be obtained from a veterinary surgeon or practitioner.</p> <p>An applicant for the grant or renewal of a licence must undergo or present an enhanced criminal record check (not more than 3 months old) with the submission of an application form.</p> <p>Once licensed, a licence holder must ensure that an enhanced criminal record check is conducted for any person in their employ that may come into contact with any persons under the age of 17 years that will be using the services of the riding establishment.</p>



<b>Zoos</b>
Zoo Licensing Act 1981
<p>This Act classes any establishment, other than a circus or pet shop, where animals are kept for public exhibition as a Zoo.</p> <p>Licences are initially granted for four years and then renewable every six years.</p> <p>Zoos must observe standards of modern zoo practice which have been specified by the Secretary of State.</p> <p>Inspections are carried out annually by the Senior Animal Welfare Officer, however, at least twice during the term of the licence; a formal inspection must be carried out by a veterinary surgeon or practitioner in addition to an inspector appointed by the Secretary of State.</p>

<b><u>Notices</u></b>	
Where applications carry a requirement to advertise in the local press, it is recommended advertisements are placed in The Birmingham Mail, The Birmingham Post, or, for applications relating to premises in Sutton Coldfield, the Sutton Observer.	Policy Notice1
Should applicants wish to use an alternative publication they are advised to consult with officers at the Licensing Service.	
In circumstances where Birmingham City Council Licensing Service is required to publish notices in the local press such notices will be placed in the Birmingham Mail or the Birmingham Post.	Policy Notice2

<b>Film Classification</b>
<p>On 21<sup>st</sup> March 2012 Birmingham City Council's Licensing Committee agreed a formal procedure for dealing with requests to exhibit films that have no certificate from the British Board of Film Classification (BBFC).</p> <p>Requests for film classification must be submitted 28 days prior to the proposed screening, be made in writing and give details of the following:</p> <ul style="list-style-type: none"> <li>• where and when the film is to be exhibited,</li> <li>• intended audience profile,</li> <li>• suggested film classification,</li> </ul> <p><b>All</b> requests must be accompanied by a brief synopsis and a copy of the film in standard DVD format.</p>

Where Birmingham City Council has determined the classification of a film it will be subject to the following standard conditions:

- *A notice must be displayed both inside and outside of the premises to ensure that persons entering are readily aware of the classification attached to any film or trailer.*
- *No person is to be admitted to any part of the programme unless they are of the age permitted by the relevant classification. This condition does not apply to members of staff under the relevant age provided that the prior written consent of the person's parent or legal guardian is obtained.*

#### General information

If a premises licence, issued under the Licensing Act 2003 authorises film exhibitions, the licence holder **must** comply with any recommendation by the British Board of Film Classification (BBFC), or if the film has no classification, then in accordance with any recommendation by the Licensing Authority.

A Licensing Authority can either determine the appropriate classification of any film which has not been the subject of classification by the BBFC; or determine a different classification to that determined by the BBFC to apply generally in Birmingham.

The BBFC classifies films in the following way:

- |     |  |
|-----|--|
| U   | Universal (suitable for all).  |
| PG  | Parental Guidance (some scenes may be unsuitable for young children).        |
| 12  | Suitable for age 12 years and over.  |
| 12A | Suitable for age 12 years and over, or younger when accompanied by an adult. |
| 15  | Suitable for age 15 years and over.  |
| 18  | Suitable for 18 years and over.  |

#### Exemptions

The Licensing Act 2003 sets out exemptions for the provision of regulated entertainment from requiring a licence under the Act:

- Film exhibitions for the purposes of advertisement, information or education; if the sole main purpose of the exhibition is to demonstrate any product, advertise any goods or services, or provide information, education or instruction, even if they simultaneously entertain;
- Film exhibitions in museums and art galleries; if the exhibition consists of or forms part of an exhibition put on show for any purpose of the museum or art gallery, even if they amount to the provision of entertainment.

## Enforcement

Licensing Enforcement Officers and Licensing Compliance Officers are issued with an identity card and authorisation. They enforce the provisions of the legislation for which they are authorised. This includes but is not limited to:

- Birmingham City Council Act 1990
- Equalities Act 2010
- Gambling Act 2005
- House to House Collections Act 1939
- Licensing Act 2003
- Local Government Act 1972 (Section 222)
- Local Government Act 2003
- Local Government (Miscellaneous Provisions) Act 1976 Part II
- Local Government (Miscellaneous Provisions) Act 1982 Part I, II, VII
- Police Factories, etc. (Miscellaneous Provisions) Act 1916 (Street Collections)
- Private Hire Vehicles (Carriage of Guide Dogs etc.) Act 2002
- Private Security Industry Act 2001
- Town Police Clauses Act 1847 and 1889
- Hackney Carriage Byelaws,

Officers undertake inspections, offer advice, deal with requests for assistance, investigate complaints and take part in planned exercises including operations with other enforcement agencies.

The premises and individuals licensed under the above Acts will be risk rated and inspected as and when appropriate in line with that rating, to ensure compliance with the legislation and any conditions attached to their licences. Inspections may also take place upon the grant, renewal or transfer of a licence or upon the receipt of a complaint.

Private hire operators will be risk rated and inspected an appropriate number of times during the year. Officers will check that the documents and records relating to drivers, vehicles and bookings are as prescribed by their conditions of licence. All operators will receive at least one inspection during the course of the operational year.

Stop check exercises are regularly undertaken with the assistance of the Police. Licensed vehicles are stopped and inspected to ensure that they and their drivers are complying with conditions of licence and are safe to carry members of the public. If defects on the vehicle are noted such as loose radios, bald tyres or defective lights, the plate licence may be suspended until the issues are rectified.

As well as routine inspections and high visibility exercises, Officers undertake exercises, where they pose as members of the public and make test purchases. Again this is to check licensees are complying with the legislation and their conditions of licence.

Officers also work jointly with agencies such as the Police and DVSA (formerly VOSA).

Further information can be found within the Regulation and Enforcement, Enforcement Policy.

**SCHEME OF DELEGATIONS**

(For matters not addressed in individual policy documents)

<b>Miscellaneous</b>		<b>Decision to be made by:</b>	
<b>Matter to be dealt with:</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers (Senior Licensing Officer or above)</b>
Massage & Special Treatment Licence	<del>If objection received</del>	If objection received	If no objection received
Skin piercing registration			All Cases
<u>face-to-face</u> street collection applications	<del>All cases where collectors are paid, or where fundraisers are paid directly or indirectly from proceeds of collection</del>	All cases where collectors are paid, or where fundraisers are paid directly or indirectly from proceeds of collection	All other cases
House to House collections applications	<del>Cases referred by Licensing Officers for determination</del>	Cases referred by Licensing Officers for determination	All cases (unless application raises concerns i.e. allocation of proceeds)
Village Green Consideration of application	All cases		
Village Green – instruction of independent inspector	All cases		
Village Green – determination of application	All Cases		

**DELEGATION OF FUNCTIONS REGARDING THE LICENSING ACT 2003****(Extract from Statement of Licensing Policy)**

<b>Subject</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence.	If a Police objection is made.	If no objection.
Application for personal licence with relevant unspent convictions.	If a Police objection is made.	
Application for premises licence/ club premises certificate.	If a relevant representation is made.	If no relevant representations.
Application for provisional statement.	If a relevant representation is made.	If no relevant representations.
Application to vary premises licence/club premises certificate.	If a relevant representation is made.	If no relevant representations.
Request to vary designated premises supervisor.	If a Police objection is made.	All other cases.
Request to be removed as designated premises supervisor.		All cases.
Application for transfer of premises licence.	If a Police objection is made.	All other cases.
Application for interim authorities.	If a Police objection is made.	All other cases.
Application to review premises licence/club premises certificate.	All cases.	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.		All cases.
Decision to object when Local Authority is a consultee and not the relevant authority considering the application.		All cases.
Determination of application to vary premises licence at community premises to include and alternative licence condition	If a Police objection is made.	All other cases.

Determination of a Police objection to a STANDARD temporary event notice.	All cases.	
Application for minor variation of premises licence/club premises certificate		All cases ( for decision whether to consult other Responsible authorities and for Determination)
Determination of a Police / EH objection to a temporary event notice.	All cases except where objection requires inclusion of conditions from existing premises licence and applicant is in agreement	Where objection requires inclusion of conditions from existing premises licence and applicant is in agreement
Attachment of Conditions from existing premises licence to TEN	Where applicant objects to conditions	If applicant is in agreement
Issuing of Counter notice for STANDARD TEN	Following determination hearing	Where limits are exceeded
Issuing of counter notice for Late TEN		All cases
Suspension of licence for non payment of fees		All cases
Requests for a change to the film classification awarded by the BBFC	All cases	
Requests for classification of films where there is no BBFC classification	Where there is concern about the content of any film submitted or the proposed exhibition of the film	Where appropriate procedure is followed and no concerns as to content
Request for implementation of Early Morning Restriction Order	FULL Committee	
Request for imposition of Late Night Levy	Full City Council	
Statement of Licensing Policy	Full City Council	
Cumulative Impact Assessment	??	??

**DELEGATION OF FUNCTIONS REGARDING THE GAMBLING ACT 2005****(Extract from Statement of Gambling Principles)**

Subject	Full Council	Licensing & Public Protection Committee	Licensing Sub-Committees	Officers
Three year licensing policy	X			
Policy to permit casino	X			
Fee setting (when appropriate)		X		
Application for premises licence			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Gambling Commission	Where no representations received or representations have been withdrawn
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn

Review of a premises licence			X	
Application for a club/gaming club machine permits			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Cancellation of club gaming/club machine permits			X	
Application for other permits			Where an application is received to operate more than 4 gaming machines on an alcohol licensed premises	Where an application is received to operate 4 or less gaming machines on an alcohol licensed premises
Cancellation of licensed premises gaming machine permits				X
Consideration of temporary use notice				X
Decision to give a counter notice to a temporary use notice			X	
Decision to attach/exclude a premises licence condition			X	
To administer and carry out all other functions not specifically mentioned in the delegation to the Licensing & Public Protection Committee, which are capable of being delegated to an officer as provided in the Gambling Act 2005 and any regulations made under that Act, together with any related functions				X



## Sexual Entertainment Venues

(From SEV Policy)

**SCHEME OF DELEGATION OF DECISION-MAKING AND FUNCTIONS**

The Licensing and Public Protection Committee is responsible for making licensing decisions with Sub-Committees and officers having delegated powers to make some decisions. The table below describes how licensing decisions will be made. This scheme of delegations will be subject to regular review

Nothing within this scheme of delegations shall prevent matters being referred to a higher level where appropriate. E.g. officers may refer matters to a sub committee, or a sub-committee may refer a matter to full committee. <b>Decision to be made by:</b>			
<b>Matter to be dealt with:</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers (Senior Licensing Officer or above)</b>
Application for grant or transfer	All cases		
Application for renewal or variation	If relevant objection made		If no relevant objection made
Minor variation application	If relevant objection made		If no relevant objection made
Revocation of Licence	All cases		
Cancellation of Licence			All cases
Make/amend regulations prescribing standard conditions, terms and restrictions	All cases		
Setting of fees	All cases		
Waiver	All cases		
To make and amend policy relating to the licensing of sex establishments	All cases		
To enforce the provisions of Part II and Schedule 3 of the Local Government Miscellaneous Provisions Ac 1982			All cases

**GOOD PRACTICE AND PROCEDURE**

The following are points that your Committee should bear in mind when making decisions concerning individual licences and should be read in conjunction with the Members' Code of Conduct and the Member/Officer Protocol. They are based on the large number of legal cases in which the courts, including the European Courts, have considered different aspects of a local authority's licensing functions. However, your Committee should be aware that in certain cases there are additional requirements resulting from specific legislation.

**1. Political/Party Group Meetings**

Group meetings should be concerned with policy reports, not the discussion of individual licence applications etc. The use of a party political whip is inconsistent with the rules of natural justice and should be avoided by Councillors sitting on the Licensing and Public Protection Committee.

**2. Members**

Members should be mindful of the requirements concerning the disclosure of interests and when it is necessary for a member to vacate a meeting. In cases of doubt the Director of Legal Services, or his representative, should be consulted. Details are set out in the Council Constitution.

**3. Social Media**

**What are social media?**

Social media is the term to describe websites and online tools which allow people to interact with each other by creating their own content. The content could, for example, be blogs, videos or short messages, known as tweets, via twitter.

On social media sites users share information, discuss opinions and may create interest groups or pages. Ultimately people use these sites and tools to build online communities and networks which encourage participation and engagement.

**Types of Social Media:**

- Blogging and microblogging – online journals – Twitter is an example of microblogging, where entries are limited to 140 characters
- Online Forums – people with similar interests sharing information and opinions – AccyWeb is an example
- Social networking sites – these facilitate connections between people who already know each other, often in a social context, but are increasingly used by businesses to promote their products or services- Facebook is an example
- Video and photo publishing – sharing videos and photographs worldwide – Flickr is an example

**Some general legal issues:**

- **Libel** – If you publish an untrue statement about a person which is damaging to their reputation, they may take a libel action against you. The same thing may happen if, for example, someone else publishes something libellous on your website, you know about it and don't take swift action to remove it. A successful libel claim could result in the award of damages against you,
- **Copyright** – Placing images or text on your site from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Therefore don't publish anything you are unsure about, or obtain prior permission. A successful claim for breach of copyright would be likely to lead to an award of damages against you.
- **Data Protection** – Do not publish the personal data of individuals unless you have their express permission.
- **Bias and Predetermination** – if you are involved in making licensing decisions, do not say anything through social media (or indeed anywhere) that suggests you have completely and irrevocably made your mind up on an issue that is due to be formally decided upon. While your likely view on a particular application may be well known, you need to be able to show that you attended the committee or hearing prepared to take on board and weigh all the evidence and arguments, and were genuinely persuadable to a different view. If you weren't, the decision may be later challenged as invalid. If a person has suffered some sort of detriment as a result of such an invalid decision, they may have a claim against the council for damages.
- **Wednesbury Unreasonableness** – members must also always be seen to acting reasonably in relation to the Committee process and consideration of all applications; if detriment arises a Third Party may commence Judicial Review proceedings.

### **Use of Social Media by Members of Committee**

- Although the use of Social Media can be an invaluable tool for a Member of the Council/Committee Member it is important that such usage is properly managed at all times and that particularly a clear distinction is maintained between Private usage and Member usage. It is important that Social Media is not perceived by any Third Party to interfere with the proper decision making process. Members are advised to exercise extreme caution before commenting on social media, or in the conventional press, on any licensing decisions which they are, or are likely to be involved in making. This is to ensure that their comments may not be interpreted to mean that members have already determined a licence application, which could be used against the local authority.
- The same applies to Council Members who are not members of the Licensing & Public Protection Committee, but whose comments or actions on social media could be misinterpreted. If elected Members make any comments when representing residents who are objecting to licence applications they must not link their comments in any way to members of the Committee.
- During Committee hearings it is particularly important that mobile communication devices, including telephones and tablet computers or Social Media are not used, whether for research or communication purposes. The use of any form of Social Media or mobile telephones at Committee may lead to an inference of bias, pre-determination or Wednesbury Unreasonableness.

### **4. The Applicant**

Ordinarily the applicant should be given the opportunity of being heard by your Committee before the application is determined, even if this is not an express requirement of the relevant statute. The applicant should also be allowed to be accompanied by a legal or other representative if they so desire.

### **5. Third Parties to a Hearing**

Any person or body wishing to make representations or objections in respect of an application or notice should be given the opportunity to do so. Subject to any statutory restriction the nature of the representations or objections should be disclosed to the applicant in advance of the meeting so that they may consider their

response. The identity of an objector should not be disclosed to the applicant without their consent, unless any statutory provision state otherwise.

## **6. Disclosure of Information**

The applicant should be given prior knowledge of the nature of the Council's concerns, and of those of any objectors.

The extent of the disclosure should also be sufficient to avoid the applicant having to request an adjournment to allow time for proper consideration of the matters they are obliged to address.

## **7. Evidence**

Each member of your Committee should be supplied with copies of every document that has been supplied both by and to the applicant and any third parties to the hearing. If any new documents are produced at the meeting, each party should have the opportunity to inspect them. In certain cases there may be statutory provisions which require another party's consent, if applicable, to new documentation being introduced at the meeting.

## **8. Adjournments**

Any request for an adjournment should not be refused if to do so would effectively deny the applicant a fair hearing.

## **9. The Hearing**

The procedure is intended as a general framework to ensure the rules of natural justice apply and that a fair hearing is presided over by an "independent and impartial tribunal". The conduct of individual hearings may vary slightly according to circumstances and the discretion of the Chairman. In all cases, however, this general framework will be followed:

- a. Members present should identify themselves so that the applicant may be satisfied that there has been no breach of the rule against bias.
- b. A licensing officer will outline the relevant details of the application or matter under consideration.
- c. Usually the applicant will present his or her case first, at the conclusion of which members may ask questions. A similar opportunity will then be

afforded to any third party to a hearing making representations or objections to the application.

- d. The applicant should be given the opportunity to ask questions of those third parties.
- e. Once the licensing officer, the applicant and any third party to the hearing have given evidence and answered any questions, the third party shall first be given an opportunity to make brief closing remarks, and then the applicant to make their final closing remarks on the application under question. All parties should leave the room, so that only the Committee, the Committee Manager and the Director of Legal Services' representative remain.

During the hearing members must not discuss the merits of the case. This should be left until the applicant, any objectors and officers involved in the case have left the room.

The only members who may participate in the decision making are those who have seen and heard all the evidence and have been present for the subsequent discussion.

Once the applicant, any third party and officers have left the meeting they may be recalled to provide further information or clarification but all of them must return, not just the person from whom further information is required.

## **10. The Decision**

Once the Committee has reached its decision the parties must be recalled and informed verbally of the decision with the exception of applicants and drivers for a hackney carriage or private hire licence or personal licence who only receive the decision later in writing. If reasons for the decision are to be given, which will usually be the case, this will be done in writing at a later date. Notice of any right of appeal should also be given to the parties.

## LICENSING COMMITTEE CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS (As agreed Sept 2016- amended 04/18)

### 1. PURPOSE OF THIS CODE

- 1.1 This Licensing Code of Practice ('the Licensing Code') has been prepared to guide members and officers in the discharge of the City Council's statutory Licensing functions. This Code will also inform potential applicants and the public generally of the high standards of ethical conduct adopted by the Council in the exercise of its Licensing powers.
- 1.2 The Licensing Code is in addition to Birmingham's Code of Conduct for Members, which was adopted by the City Council in June 2012. For the avoidance of doubt, when an Executive Member attends and participates in the decision-making of the Licensing Committee, s/he does so as a Member of the Committee and not as a Member of the Executive. Accordingly, s/he must, along with other Members of the Committee, exercise an independent mind on issues before the Committee.
- 1.3 The provisions of this Licensing Code are designed to ensure that Licensing decisions are taken on proper grounds, are applied in a consistent and open manner and that Members making such decisions are held accountable for those decisions. The Licensing Code is also designed to assist Members and officers in dealing with approaches from applicants or those who already have a relevant Licence/permit, etc.
- 1.4 Throughout this Code, reference is made to the Licensing Committee. This refers to the Licensing and Public Protection Committee ("LPPC"), in the context of its determination of applications for licences i.e where the Committee performs the functions of the Licensing Authority, rather than in the context of non-Licensing Authority decisions.
- 1.5 Any reference to Licensing Committee equally refers to any Licensing Sub-Committee.

### 2. CONTEXT

- 2.1 This Licensing Code applies to both Councillors and officers– it is not therefore restricted to Licensing Committee members. The successful operation of the Licensing system relies on mutual trust and understanding of each other's role. It also relies on both Members and Officers ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

The Human Rights Act provides additional safeguards for citizens, and encourages the application of best practice. Article 6 is concerned with guaranteeing a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations.

- 2.2 This code must be read in conjunction with (where appropriate):
  - The LPPC Policies Procedures and Delegations.
  - The Statement of Licensing Policy

- Home Office Guidance (s182) – issued under S182 Licensing Act 2003
- The Statement of Gambling Principles and relevant guidance issued by the Gambling Commission.
- The Sexual Entertainment Venue Policy
- Code of Conduct for Members
- Code of Conduct for Officers

### **3. GENERAL CONSIDERATIONS**

- 3.1 In relation to Hackney Carriage and Private Hire applications, (generally speaking) the Licensing Authority **MUST NOT** issue a licence to a driver, operator or vehicle proprietor unless they are satisfied the applicant is a fit and proper person.
- 3.2 In relation to Licensing Act matters, where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn, the licensing authority **MUST** grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act.
- 3.3 If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations.
- 3.4 Birmingham City Council's Code of Conduct for Members (adopted June 2012) must be complied with throughout the decision making process, which includes mandatory requirements with regard to member interests.
- 3.5 The responsibility for declaring an interest rests with individual Members and Officers of the Council. This Licensing Code outlines further rules applicable to the Licensing process in Birmingham.
- 3.6 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst Officers are responsible to the Council as a whole. This applies equally to traditional forms of political management based on Committees and to models based on forms of executives or elected mayors. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to Officers through a decision of the Council, the Executive or a Committee. A successful relationship between Councillors and officers can only be based upon mutual trust, respect, courtesy and understanding of each other's positions. This relationship, and the trust which underpins it, should never be abused or compromised.
- 3.7 Both Councillors and Officers are guided by Codes of Conduct. Birmingham's Code of Conduct for Members provides standards and guidance for Councillors. Employees are subject to the Employees' Code of Conduct. In addition to these codes, a Council's standing orders set down rules which govern the conduct of Council business. There is also a Member / Officer Protocol that assists in defining the relation with both.
- 3.8 Birmingham's Code of Conduct for Members sets out the requirements on Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests, but also appropriate relationships with other



Members, staff and the public, which will impact on the way in which Councillors participate in the Licensing process. Of particular relevance to Councillors serving on the Licensing Committee or Executive, or who become involved in making a Licensing decision is the requirement that a Member must not use their position improperly for personal gain or to advantage friends or close associates.

3.8 The basis of the Licensing system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved.

3.9 From time to time applicants may submit confidential information for example a financial appraisal in support of an application. Such appraisals will be taken into account in relation to determination of the application, but such information may be exempt from the requirement from disclosure.

3.10 Public Speaking

During public speaking at Licensing Committee, the following should not occur:-

- Members should not cross-examine members of the public at any time;
- Members should not ask leading questions of officers or members of the public as by way of introducing new facts to the debate;
- Members should only ask relevant questions; and
- Late evidence should not be introduced by speakers at Committee – unless authorised at the discretion of the Chairperson. with the agreement of all parties.

3.11 Conflicts of Interest

Some Members in general are more likely than others to be uncomfortable in the role of Licensing Committee Member owing to the combined pressures of their local business interests, the ward member advocate role, and the constraints of the Licensing system. Any potential licence-related background may also give rise to a perception by the public that they are more likely to be in favour of an application, even where they are determining cases completely impartially. In order to minimise the risk for the Council and the Member concerned, the Member in question should discuss their position carefully with the Director of Regulation and Enforcement and Monitoring Officer for the Council, of the Council to see whether it would be suitable for him/her to become a Member of Licensing Committee or if already a Member take part in the determination of any applications before them

## **4. LOBBYING AND ATTENDANCE AT PUBLIC MEETINGS**

### **General**

4.1 Given the requirement that Members of the Licensing Committee should exercise an independent mind to applications in accordance with the relevant considerations, Members must not favour any person, company, group or locality. Members can, of course, form and express a personal opinion on Licensing applications but they are advised to indicate that they will only form a final opinion about an application after full consideration of all the evidence, representations and submissions made. Members should be careful not to publicly commit themselves to a particular outcome on an application prior to its full consideration at Committee, as to do so could be perceived by others as the Member having closed his/her mind to hearing all the relevant

considerations. If that were to happen, he/she should be asked by the Chairman of the Committee, the Director of Regulation and Enforcement and/or the Monitoring Officer (or their representatives) not to:-

- (a) take any further part in the consideration of the application; and
- (b) vote on the application. This can only be transparently demonstrated by the relevant Member not attending the meeting or leaving the Committee Room in order to ensure the integrity of the whole decision making process. If the relevant Member wishes to speak at Committee then they should declare their pre-determined position and withdraw from the meeting. This is to ensure Members of the Licensing Committee do not, by their presence, influence or seek to influence the remainder of the decision making body. Members should always notify Committee of any approach by any group, person or company prior to the discussion of the relevant matter.

- 4.2 Members of the Committee who may be involved in the determination of an application are, of course, free to listen to a point of view about a proposal, give procedural advice and agree to forward any comments, but should then refer the person to Officers. Members in this situation may indicate (or give the impression of) support for or opposition to a proposal, but should avoid giving the impression of a closed mind.
- 4.3 Whilst Members involved in making decisions on applications may begin to form a view as more information and opinions become available, a decision can only be taken by the Committee after all available information is to hand and has been duly considered. In this regard, any political group meetings prior to the Committee meeting should not be used to determine how Councillors should vote. Decisions can only be taken after full consideration of the evidence, representations and submissions made.
- 4.4 The Chairman of the Committee should attend a briefing with Officers prior to a Committee meeting, to help give an effective lead in the Committee.
- 4.5 Councillors involved in decision making on Licence applications should not, whether orally or in writing, organise support or opposition to a proposal, lobby other Councillors, act as advocate or put pressure on officers for a particular recommendation. However, other Councillors (who are not part of the decision making process) within that Committee Member's Ward, can make written representations to the Licensing Committee.
- 4.6 A Member involved in determining applications may respond to lobbying by openly expressing an opinion prior to the full report of the Director of Regulation and Enforcement to a Committee meeting (and there may be particular local circumstances where this is considered appropriate) but should indicate they will not make a final decision until after full consideration of all the evidence, representations and submissions.
- 4.7 If a Member involved in determining applications goes so far as to make it clear beyond doubt that they have a completely closed mind which could not be shifted, this would amount to predetermination and the Member concerned should respond as in 4.1.
- 4.8 Where Members involved in the determination of applications are in attendance at public meetings or Ward meetings they may listen to the debate on current applications, provide advice about procedures involved in determining an application and express a view about an application but should respond as in 4.6.

#### 4.9 Members Predetermination of Applications

Section 25 of the Localism Act 2011 states that prior indications of a view of a matter do not amount to predetermination in the following situations:

- (2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because-
  - (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter and
  - (b) the matter was relevant to the decision.

The advice provided by the Monitoring Officer is that this is the present position with regard to the Legislation but whilst Members are entitled to express a view in relation to an application Members should indicate they still have an open mind in relation to an application until they have had the opportunity to consider the report of the Director of Regulation and Enforcement and that the final decision in relation to the application can only be made by Committee. This caveat is intended to safeguard so far as possible the decision made by Committee from Judicial Review until further case law and guidance has assisted with the interpretation of Section 25 of the Localism Act 2011.

#### Dealing with Correspondence

- 4.10 Members of the Committee and Executive often receive correspondence from constituents, applicants and other interested parties asking them to support or oppose a particular proposal. Members should forward a copy of the correspondence to the Director of Regulation and Enforcement or inform him/her at the Committee if time is short. Merely forwarding the correspondence onto the relevant officer would not prevent the Member being involved in determining the application.

#### Pre-Application Discussions

- 4.11 When involved in pre-application discussions, Officers should always act fairly to all and completely impartially by providing accurate advice and assistance when required or requested by the general public, applicants or Members. A written record of all such discussions must be retained on the Licensing file.

#### Site Visits by Members with Officers

- 4.12 The deferral of a relevant application for a site visit should not be on the basis of exposing members of the Committee to local opinion, but should be on sound and proper Licensing reasons, which shall be recorded in the minutes of the meeting.
- 4.13 Under the Chairman's guidance the role of the Licensing Officer attending the site visit will be:
  - (a) to brief Members on the Licensing applications(s) the subject of the visit and explain the reasons why the application was deferred for a visit;
  - (b) to ensure that the views of all interested parties are heard by all Members on the site visit and accurately recorded. Officers will prepare a written report of the site visit which will be taken back to Licensing Committee to form the basis of a further discussion at a subsequent meeting.

- 4.14 The Chairman (or Member chairing the visit) shall explain the purpose of the visit and how it will be conducted to all persons present at the site visit.
- 4.15 Officers shall ensure, where practical, that applicants, Members and interested parties are invited to attend the visit and that they are able to view all key parts of the site, which is the subject of the Applications.
- 4.16 The purpose of a site visit conducted by Members and officers is to gain information relating to the land or buildings which are the subject of the Licensing application and which would not be apparent from the Licensing application to be considered by the Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area, and is an opportunity to hear the views of the members of the public, applicants and other interested parties. Discussions on site visits shall be confined to the application as currently submitted. A Member of Committee who has an interest in a Licensing application, or who has acted in a way that amounts to predetermination, cannot attend the site visit in his or her capacity as a Member of Licensing Committee. However, the Member concerned would be entitled to attend the site visit in his or her personal capacity as a member of the public.
- 4.17 Whilst on site visits, Members of Committee can express an opinion on the application or its merits, but should avoid making comments or acting in a way which makes it clear beyond doubt that they have a completely closed mind, as this would amount to predetermination. Whilst Members of Committee are not prevented from engaging individually in discussion with applicants or objectors, to ensure transparency of public dealing by Member and effective /orderly management of the site visit, it is recommended that any question of the applicant(s) / objector(s) by the Licensing Officer and/or Members should be made in the presence of the other parties (or their representatives if there is a large scale public interest).
- 4.18 Members and Officers are obligated not to waste Council resources and, as such, a site visit is only likely to be necessary if:
- the impact of the proposed application is difficult to visualise from the plans and any supporting material, including photographs taken by officers (although if that is the case, additional illustrative material should have been requested in advance); or
  - there is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.
- 4.19 Where there is substantial public interest in a proposal and relevant representations have been made, the Council may invite all parties to visit the site so that they may point out all the areas of contention to Members of the Licensing Committee and give their views. A note of proceedings will be taken at these meetings and minutes kept as part of the official record.
- 4.20 Results of the site visit will be reported to the next available meeting of the Committee.
- 4.21 Once the results of a site visit have been reported back to Committee, Members of the Committee who were not present at the site visit can ask questions, offer opinions, take part in discussions and vote in relation to that Licensing application.

#### The Role of Ward Councillors and MPs on Site Visits

- 4.22 Where relevant representations have been made Ward Councillors and MPs may attend and participate in site visits putting forward their point of view. However, the determination of Licensing applications rests solely with the Licensing Committee and no indication should be given by Members of the Committee of the likely decision during the course of the site visit.

### **5. MEETINGS OF THE LICENSING COMMITTEE**

- 5.1 A Member shall not vote in relation to any Licensing application unless he or she has been present in the meeting of the Licensing Committee for the whole of the deliberations on that particular application.
- 5.2 A senior legal officer should always attend meetings of the Licensing Committee to ensure the probity and propriety of the Licensing and decision-making processes.
- 5.3 Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chairman prior to dealing with the next agenda item, by requesting from each member as to how they have voted, noting this and the member's name.
- 5.4 Chairmanship – The chairman should ensure
- 5.4.1 Members' comments at Committee only relate to the relevant merits of the application before them;
  - 5.4.2 reference at Committee to matters which are not relevant should be disregarded;
  - 5.4.3 the cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined; and done in accordance with the appropriate Procedural Rules for the Hearing in question.

### **6. TRAINING**

- 6.1 Members dealing with Licensing issues will attend such training sessions as required each year to receive guidance in relation to Licensing matters and processes and on procedural matters such as declaration of pecuniary or non-pecuniary interests. Training will be conducted in accordance with the training for Councillors standard. Members who fail to attend such training will be excluded from meetings of Licensing Committee. This training should include a balance of the following:-

- • Short (half day) sessions on special topics of interest or where appeals have indicated problems with Licensing policy;
- • Special topic groups to consider thorny issues in depth;
- • Formal training by internal and external speakers;
- • Quick presentations by officers on hot topics, e.g. new legislation, white papers and their impacts, followed by a brief question and answer session;

### **7. LICENCE APPLICATIONS SUBMITTED BY COUNCILLORS AND OFFICERS**

- 7.1 Serving Councillors or their relatives who act as agents for people pursuing a Licensing matter will not be permitted to play any part in the decision making process for that proposal. Similarly, should they or their relatives submit their

own proposal to the Council, they will take no part in its processing, as in both cases they will have an interest in the matters.

- 7.2 In cases where officers of this Department or members of their family submit a licence application, or where they have an interest in a particular application they should inform the Director of Regulation and Enforcement and Monitoring Officer accordingly. (eg- where an application is submitted by a limited company and an Officer is a director (or similar) of the company.

## **8. REGISTRATION AND DECLARATION OF INTERESTS**

The Localism Act 2011 and the Birmingham Code of Conduct for Members place requirements on Members on the Registration and Declaration of their interests and the consequence for the Members participation in consideration of an issue in the light of those interests. These requirements must be followed scrupulously and Members should review their situation regularly. Guidance on the registration and declaration of interests is dealt with by the Birmingham Code of Conduct for Members.

## **9. COMPLAINTS ABOUT THE DETERMINATION OF LICENSING APPLICATIONS**

- 9.1 Whatever procedures the City Council operates, it is likely that complaints will be made. However, the adoption of the advice in this guidance should greatly reduce the occasions on which complaints are justified. It should also provide less reason for people to complain in the first place.
- 9.2 There is a city-wide procedure for dealing with complaints, as well as customer comments and compliments. Complaints alleging a breach of the Birmingham's Code of Conduct for Members must be reported to the Monitoring Officer.
- 9.3 So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. The guiding rule is that every application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, why and how it had been reached. Particular care needs to be taken with applications determined under the powers delegated to the Director of Regulation and Enforcement, where there is no report to a Committee. Such decisions should be well documented and form part of the case file. It is preferable to use the complaints procedure prior to any recourse to the Local Government Ombudsman.
- 9.4 Where any right of appeal exists against a decision of the Licensing Committee, that right is to be communicated at the time of the notification of decision.

## **10. CONCLUDING REMARKS**

- 10.1 Maintaining high ethical standards enhances the general reputation of the City Council, its Members and its officers. Open and transparent decision making enhances local democracy and should lead to better informed citizens. A common understanding of the various roles, responsibilities and accountabilities should also enhance citizen participation. This Licensing Code, along with Birmingham City Council's Code of Conduct for Members,

therefore, serves an essential part in the local and corporate governance of Birmingham City Council

- 10.2 The City Council's Head of Paid Service, the Monitoring Officer and the Section 151 Officer have been consulted over this Licensing Code.
- 10.3 If any person believes that a Member or Officer has breached any aspect of this Licensing Code, s/he should refer the matter to the City Council's Monitoring Officer.

**Prepared by the (Joint) Acting City Solicitor and Monitoring Officer of Legal and Democratic Services and the Director of Regulation and Enforcement**





## **BIRMINGHAM CITY COUNCIL**

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

**20 JUNE 2018**  
**ALL WARDS**

### **PROPOSAL FOR COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE**

#### **1. Summary**

- 1.1 The question of issuing dual (combined hackney carriage and private hire driver's) licences has been raised a number of times at recent trade liaison meetings. Some licensing authorities do this for all driver applications, with the aim of simplifying the licensing function by processing and issuing a single licence. However, it is difficult to adopt this practice in areas where access to the hackney trade requires passing a demanding knowledge test, as here in Birmingham.
- 1.2 There does not seem to be an appetite in the trade to reduce the difficulty of the hackney carriage knowledge test and requiring all private hire applicants to take the hackney test is not reasonable, so if adopted in Birmingham, it could only reasonably apply to new and existing hackney carriage drivers.
- 1.3 There would be some advantages for hackney carriage drivers in adopting a dual licence and there could also be savings in Sub Committee time.

#### **2. Recommendations**

- 2.1 Your Committee should consider the following proposals:
  1. Instruct officers to devise a timeline for introduction of dual licences and look into the amendments to policies and licence conditions which would be necessary to accommodate the changes.
  2. Or: Reject the proposal as impractical.
  3. Or: Agree the alternative suggestion of waiving private hire knowledge testing for existing hackney carriage drivers.

Contact Officer: Chris Arundel, Principal Licensing Officer  
Telephone: 0121 464 8994  
E-mail: [chris.arundel@birmingham.gov.uk](mailto:chris.arundel@birmingham.gov.uk)

### 3. Background

- 3.1 Birmingham City Council does not currently offer a dual hackney carriage and private hire driver's badge, some local authorities do so, Sandwell being a local example, but it is more commonly offered by those authorities where testing is simpler and a distinction between the working knowledge of hackney and private hire drivers is considered less important.
- 3.2 For those authorities, the payback for having a combined badge is the simplicity of only having to administer one type of licence for drivers. For Birmingham, this would not apply. Introduction of a dual licence in Birmingham would require administration of three licence types during the transitional period and ultimately leave us administering two licence types. For Birmingham to benefit from a dual licence, it would be necessary to remove, or simplify the hackney carriage knowledge test and make all licences dual licences.
- 3.3 Birmingham has a purpose built and distinctive hackney carriage fleet and the challenging nature of the hackney knowledge test is understandably considered a rite of passage by the trade. Unsurprisingly there does not appear to be an appetite amongst hackney carriage drivers for removing or simplifying the knowledge test at the present time. For this reason, if the proposal is adopted only hackney carriage drivers could be eligible to convert to a dual licence.
- 3.4 Members regularly sitting on Licensing Sub Committees may have noticed an increase in applications from hackney carriage drivers wishing to obtain a private hire driver's licence and seeking exemption from the test requirements associated with a new application.
- 3.5 The frequency of such requests has increased noticeably, with many applicants citing a wish to work for Uber as their reason for making an application and others referring to the imminent requirement to replace older more polluting hackney carriage vehicles in order to comply with the new emission standards effective from 1 January 2020.
- 3.6 Although issued under different legislation the actual mechanics of issuing a licence for a hackney carriage or private hire driver are very similar, with only the requirements of the knowledge tests to distinguish between application types. In all other respects the requirements and fitness standards are the same. The conditions and legal restrictions are different and this is reflected in the very different knowledge tests currently employed for each licence.

### 4. Practicalities

- 4.1 There are a number of problems to overcome; not least the volume of drivers to be accommodated is in excess of one thousand three hundred. Many of those drivers will be mid-term into a three year licence and to change their licence conditions requires the issue of a new licence.

- 4.2 The simplest and most practical way to manage the issue of combined badges would be to do so on renewal, however with many drivers favouring a three year badge, it is likely many drivers would be required to wait for two years or more to obtain a combined badge. Accordingly agreeing a mechanism to accommodate those drivers switching to a dual licence would probably be a necessity.
- 4.3 Unfortunately as a licence cannot have new conditions attached during its lifetime, a driver wishing to obtain a combined “dual” licence before the expiry of his current hackney carriage driver’s licence would need to surrender the current licence and take out a new one and fees applicable to the issue of a new licence would need to be charged to cover operational costs. Medicals and DBS checks due would also need to be carried out as part of the new application, but other tests normally associated with a new application could be waived.
- 4.4 The current SOPRA Licensing System is no longer being given developmental support, so any changes would have to be accommodated within the existing system without modification. For this reason adopting a policy of converting all existing hackney licences would be preferred, as there is no likelihood that a third licence type could be introduced and managed on the existing platform.
- 4.5 However, drivers currently hold licences with an expiry date and they are under no obligation to return, surrender, exchange, or otherwise dispose of those licences in the meantime. It is inevitable some drivers would not wish to take out the dual licence and would hang on to their hackney badges for as long as possible. This raises the spectre of a conversion process which could take up to three years to accomplish, with a system designed to accommodate two badge types needing to accommodate three. This could only be accomplished by resort to notes and manual record keeping, which would not be ideal.
- 4.6 Should the dual licence proposal be adopted, it would be preferable in the medium term to source a new style dual badge for issue to dual licensed drivers, in the short term drivers could simply be issued with two badges, one for hackney carriage and one for private hire, but both showing the same licence number.

## 5. Possible Advantages

- 5.1 For hackney carriage drivers:
- i. A cost reduction, two licences for the price of one. No requirement to sit additional tests, or to seek exemptions.
  - ii. An opportunity for drivers facing the cost of replacing a hackney carriage with an expensive, cleaner, greener, vehicle to move to private hire, where replacement vehicles are considerably cheaper.

- iii. Simplification for drivers wanting both licences, with no need to renew two separate licences or to keep track of different expiry dates.

5.2 For officers and members:

- i. A small reduction in demand for appointments.
- ii. No need to accommodate hackney drivers seeking exemptions at sub Committee meetings.
- iii. Experienced hackney carriage drivers seeking a move to private hire are much less likely to move to other licensing authorities as an alternative to passing the Birmingham private hire knowledge test.

6. Possible Disadvantages

6.1 For hackney carriage drivers:

- i. Cost and inconvenience of surrendering an existing licence to obtain a dual licence if required before current expiry date.

6.2 For officers and members:

- i. An increase in demand in the short term for appointments to change licences to dual status.
- ii. Uncertainty over a drivers understanding of law and licence conditions as applicable to private hire drivers.
- iii. A small reduction in income where drivers no longer pay for two licences. This would be very small, as only approximately 60 drivers out of 1300 hackney carriage drivers currently hold a private hire licence as well.
- iv. Difficulties associated with accommodating changes and three licence types on the current licensing computer system.
- v. A short term problem with issuing two badges (potential for one to be loaned out) and necessity to procure new dual badges.

7. A Practical Alternative

7.1 Although it is clearly not what has been requested, a possible alternative and one which would be extremely simple to accommodate, would be to agree to allow all existing hackney carriage drivers to take out a private hire driver's licence without requiring them to take the associated knowledge test.

7.2 this could be offered on renewal, or following the surrender of the existing hackney licence (a partial refund could be given if appropriate), where a driver did not wish to hold both licences, or in addition to the existing licence where a driver wanted the option of driving both types of vehicle.

7.3 It is probably worth at least considering this option, as the number of drivers currently holding both types of licence is less than 1% of licensed drivers,

which suggests historically, there has not been a huge demand to hold both licence types.

## 8. Implications for Resources

- 8.1 For dual licences, the number of licences involved would be no more than 1300, a proportion of which would be accommodated during normal renewal appointments in any case. Additional demand for appointments outside renewals would impact on officer time, but should not have any significant financial impact as grant fees would be payable for those new licences. Non-renewal transactions would probably have to be managed strictly by appointment rather than on demand, to reduce impact on normal service delivery.
- 8.2 Accommodating three licence types over a period of up to three years could be problematic and would probably have to involve some form of manual record keeping outside the scope of the existing computer system.
- 8.3 The resource implications associated with the alternative of waiving private hire knowledge test requirements could be similar in terms of demand for appointments, but there would be no necessity to accommodate additional licence types, or to maintain any sort of manual record.

## 9. Implications for Policy Priorities

- 9.1 The contents of this report contribute to the protection, safety and welfare of residents and visitors to the City by promoting improvements in the standards of services provided by licence holders and is compatible with our mission statement: Locally accountable and responsive fair regulation for all – achieving a safe healthy, clean, green and fair trading city for residents, business and visitors.

## 10. Public Sector Equality Duty

- 10.1 To all intents and purposes this is an administrative issue, the decision to pursue or not to pursue dual licences will not impact the wider public and drivers will still meet the medical and criminal record standards required now. No wider public sector equality issues have been identified in relation to this proposal.

## **ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil



## **BIRMINGHAM CITY COUNCIL**

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

**20 JUNE 2018**  
**ALL WARDS**

#### **CONSULTATION ON PRIVATE HIRE VEHICLE SIGNAGE**

##### **1. Summary**

- 1.1 During December 2017 a public survey was hosted to consider some of the issues raised by members of the trade regarding the current signage requirements. More than 100 responses were received.
- 1.2 There was no clear consensus for change identified by the survey. However, some popular themes did emerge, which members may wish to explore further. Of those themes, the most obvious is the desire expressed by many respondents, the majority identifying themselves as private hire drivers, to see the use of semi-permanent door signs discontinued. An interesting and contradictory position was offered by a smaller group identified primarily as private hire operators, who wish to see the semi-permanent signs retained and amended to include the operator's details.
- 1.3 Beyond the bare figures, a lot of comments were included which help to illustrate the thought processes and reasoning of the respondents. There are some interesting suggestions and a small number of respondents have made additional submissions in response to the survey outside the scope of the online questionnaire.

##### **2. Recommendation**

- 2.1 An officer and members working group should be set up to look at the issues raised and to consider the changes which it may be appropriate to make to the existing signage requirements.

Contact Officer: Chris Arundel, Principal Licensing Officer  
Telephone: 0121 464 8994  
E-mail: [chris.arundel@birmingham.gov.uk](mailto:chris.arundel@birmingham.gov.uk)

### 3. Background

- 3.1 Officers have previously discussed signage requirements at trade meetings and at specially convened meetings with private hire operators. This survey was initiated in order to give drivers, passengers and other interested parties an opportunity to comment and offer their opinion.
- 3.2 At the meeting of the Licensing and Public Protection Committee held in April 2015, the current signage regime was discussed and compared with the signage requirements employed by Transport for London (TFL) and the other core cities. It was found with the exception of TFL, the majority of other cities require a highly visible signage regime, not dissimilar to that required here in Birmingham.
- 3.3 Prior to the survey officers were aware of a number of issues raised by vehicle proprietors, for example allegations the semi-permanent door signs damaged paintwork and identified vehicles to opportunistic thieves looking for change. Officers were also aware having the name of the proprietor on the rear plate was unpopular with some vehicle proprietors, so it was not unexpected that such issues would be raised in the survey.

### 4. The Survey

- 4.1 The full results of the survey, including questions posed and a summary of the responses are attached as an appendix to this report, however, some of the questions and answers are detailed below to give an indication of the findings.
- 4.2 The first and possibly most fundamental question relates to the colours used for Birmingham private hire vehicle signage. In this case 60% of respondents were in favour of retaining the current black and yellow livery. Two responses were received from individuals representing two different organisations involved in promoting the interests of blind and partially sighted people. One advocated a switch to black and white as a higher contrast option, the other advised black and yellow was best as it has good contrast and for individuals suffering from progressive sight loss, yellow was the last colour to be lost.
- 4.3 Question 5 asked if semi-permanent door signs are necessary. 61% of respondents said they were not.
- 4.4 Question 8 asked if the details of the operator should be displayed and nearly 73% of respondents were in favour.
- 4.5 Question 9 asked whether the operator sign should be magnetic or semi-permanent. Almost 63% of responses indicated they should be magnetic.
- 4.6 Question 11 asked if the front windscreen plate is necessary, approximately 71% of respondents said it was. Question 13 asked if the windscreen sign should be replaced with a hard plastic plate fixed to the front of the vehicle, nearly 64% said no.



- 4.7 At question 15, we posed the question about information to be displayed on the rear plate. With 87% in favour, the registration number was the favourite, but somewhat surprisingly the owners name came in as the second most popular suggestion, with 45% of respondents stating it should be included on the plate.
- 4.8 Question 17 asked about relaxing restrictions on commercial advertising, 55% of responses indicated advertising should be allowed. A related question at 19, asked if restrictions on operator advertising should be relaxed and almost 54% of respondents were in favour.

## 5. Interpreting and Applying the Results

- 5.1 There is more to the survey than simply the bare figures, narrative comments were actively sought and as can be seen from the number of comments indicated in the summary for each question, plenty were forthcoming.
- 5.2 It is apparent some element of collaboration was employed in the completion of the survey, as some comments are repeated word for word in a number of individual entries. Whether this was an example of collaborative thinking, or multiple entries by the same individual it is difficult to say.
- 5.3 52% of respondents identified themselves as private hire drivers. This is perhaps unsurprising, as they have strong views on the issue of signage and they are the individuals most frequently and most obviously affected by these requirements.
- 5.4 A smaller number of licensed private hire operators were also identified as having responded, accordingly the views of the trade may represent as much as 60% of the response. This could be even higher when consideration is given to those responses which do not identify as coming from the trade, but display a high degree of awareness of trade issues and even duplicate comments appearing in other responses.
- 5.5 Whilst the trade has a perfectly reasonable interest in responding and every right to do so, it must be remembered the trade is regulated by this authority. Accordingly a judgement must be made as to whether an expressed desire on the part of the trade is in the interest of the wider public and compatible with the regulatory framework and licensing regime agreed by your Committee.
- 5.6 A good example is provided by the response to the semi-permanent door sign question, 61% of respondents consider them unnecessary, but it should be remembered semi-permanent signage was introduced in 2007 as a response to drivers anonymising their vehicles by removing all signage. It was a move opposed by the trade at the time, but considered necessary by the former Licensing Committee.

- 5.7 In contrast some of the private hire operators favour retaining the semi-permanent signage, but want their details to be included on the signs. Clearly their position is at odds with the majority of respondents, but their comments and additional submissions make interesting reading and should be given due consideration.
- 5.8 A private hire vehicle is a working vehicle and must display the signage required by the appropriate licensing authority. It is your Committee which considers signage requirements and sets those standards for Birmingham. For this reason, officers recommend the establishment of an officer members working group to look more closely at the comments and additional submissions made in response to this consultation, with the aim of identifying what changes (if any) should be recommended to the wider Licensing and Public Protection Committee.
6. Consultation
- 6.1 Over the last two years officers have consulted with trade representatives, licensed operators and now via an open survey, with drivers, members of the public and other interested parties.
7. Implications for Resources
- 7.1 Signage costs are factored into the fees charged for vehicle licences; accordingly any additional costs incurred in modifying signage will be taken into account when licence fees are set for the following twelve months.
8. Implications for Policy Priorities
- 8.1 The contents of this report contribute to the protection, safety and welfare of residents and visitors to the City by promoting improvements in the standards of services provided by licence holders and is compatible with our mission statement: Locally accountable and responsive fair regulation for all – achieving a safe healthy, clean, green and fair trading city for residents, business and visitors.
9. Public Sector Equality Duty
- 9.1 High contrast signage is especially important to assist the partially sighted members of the public in identifying licensed vehicles and when necessary identifying individual vehicles by licence number.

## **ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Signage responses via online survey

Additional signage responses (not submitted via online survey)

**BIRMINGHAM CITY COUNCIL**

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

**20 JUNE 2018**  
**ALL WARDS**

**PROPOSED AMENDMENTS TO THE KNOWLEDGE TEST  
FOR PRIVATE HIRE DRIVERS**

1. Summary

- 1.1 At its meeting held on 14 September 2016, the Licensing and Public Protection Committee approved changes to the Knowledge Test for Private Hire Drivers which removed the geographical element and confirmed the version of the test in use today.
- 1.2 At the time members expressed concern the changes should not compromise the standard of spoken English required in passing the test, or the requirement to demonstrate a good knowledge of applicable law and licence conditions. It was also very clear members did not wish to compromise on standards or to engage in a “race to the bottom” to compete with other licensing authorities.
- 1.3 This report is an update on the status of the test, the issues which have arisen and suggests changes which could be adopted in order to accommodate a greater volume of tests and address the waiting list which has built up as a result of undertaking testing on a one to one basis.

2. Recommendations

- 2.1 That your Committee should approve the recommended changes to the format of the Knowledge Test for Private Hire Drivers.
  - i. Remove the A to Z test.
  - ii. Introduce multiple candidate testing.
  - iii. Change all questions to a multiple choice format.
  - iv. Allow changes to be introduced immediately.

Contact Officer: Chris Arundel, Principal Licensing Officer  
Telephone: 0121 464 8994  
E-mail: [chris.arundel@birmingham.gov.uk](mailto:chris.arundel@birmingham.gov.uk)

### 3. Background

- 3.1 The current incarnation of the knowledge test for private hire drivers is conducted verbally, on a one to one basis to ensure English is spoken and understood to an acceptable degree.
- 3.2 Understanding the questions and describing routes and two point locations is considered sufficiently challenging to dispense with a separate verbal communication test. An example of the questions employed in the current version of the test is attached at appendix 1.
- 3.3 Following the introduction of the Deregulation Act in 2015 many operators took advantage of the opportunity to recruit newly licensed drivers from other neighbouring areas and applications for Birmingham private hire licences virtually ended. The city was seeing increasing numbers of drivers from other areas over whom the Enforcement team had very limited powers.
- 3.4 In June 2016, a decision was made in principal to change the content of the Birmingham knowledge test in order to encourage more applicants and hopefully to reduce the number of outside drivers working in Birmingham courtesy of the Deregulation Act. The topographical test was removed and the multiple choice legal and conditions of licence questions changed to open questioning.
- 3.5 The new test was introduced in October 2016, and immediately interest in being licensed in Birmingham increased. Now demand is such there is a six month waiting list for the test with the testers working at full capacity. Unfortunately along with the increase in demand, there has been a marked decrease in success, with the 60% pass rate changed to a 60% failure rate.
- 3.6 It was found that the A to Z exercise was the main barrier to passing the test. It had been considered a valuable listening and speaking exercise. However, it is clear to the testers, many candidates who do have English as their first language are finding the test too challenging. It appears many applicants are too reliant on Satellite Navigation to cope with a map based exercise.
- 3.7 Some candidates who managed to struggle through the A to Z exercise having completed the Trading Standards training course still failed the test overall as they were unable to understand the questions being asked of them in the second part of the test.
- 3.8 It has become apparent that applicants are being drawn to another nearby authority which allows licensed operators to undertake background checks and to arrange medicals and which has abandoned any form of knowledge or aptitude test and does not even require a driving test. This combined with the long waiting list for a Birmingham test is now resulting in a regular non-attendance rate in excess of 20%.
- 3.9 Once again, Birmingham finds itself in a position where attempting to uphold standards as set by the Committee is failing in its purpose. Far from

preventing unsuitable people from working as private hire drivers in the city, the current testing regime encourages them to seek licences from another authority and allows them to work here with virtually no scrutiny or oversight and with no reference to your Committee or the standards set in this city.

- 3.10 There is still a steady flow of applications from drivers who hold licences issued by other authorities. When asked by testers why they are seeking a Birmingham licence when they already work in Birmingham, they are reporting some operators charge higher rents to drivers licenced in other areas in exchange for allowing them the benefit of working in the city without taking or waiting a long time for a knowledge test.

#### 4. Reasons for Change

- 4.1 Increasing the volume of tests undertaken would address the problem of the waiting list and encourage those drivers who want a Birmingham licence to continue with their application and not abandon it in favour of a fast track licence elsewhere. This would increase the number of drivers licensed in Birmingham ensuring more drivers were under the authority of your Committee.
- 4.2 Encouraging drivers who live and work in the city to obtain a licence in the City is good for the public in that higher standards in respect of suitability testing can be maintained and it is clear a lot of drivers and would be drivers want to be licensed by this authority.
- 4.3 It is equally clear if nothing is done, driver applications will increasingly go elsewhere and Birmingham drivers could become a minority in their own city. Attempting to maintain the current test in the prevailing circumstances is not a viable alternative.

#### 5. Revising the Test

- 5.1 The first recommendation is to remove the A to Z exercise as this has become more of an aptitude test than a language test, the trading standards training course has shown that people with language difficulties can be coached to pass this element but still fail the question element, which requires a very basic understanding of licence conditions and private hire legislation applicable to the role.
- 5.2 The second recommendation is to move from one to one testing to multiple candidate testing. It is possible to conduct a test at the licensing office using the current facilities for up to ten candidates at a time. It may even be possible to increase this number if another facility is used but this would only be done gradually to ensure the effectiveness of the test was not compromised.

- 5.3 Potentially all the candidates due to take a test in a week could be processed in a single day. Officers estimate if three tests were conducted each day using the new format and 8 to 10 candidates were accommodated in each test, then the outstanding backlog of candidates could be cleared in as little as six weeks.
- 5.4 Once the backlog has cleared it is anticipated that new candidates could be processed in two or three sessions per week, effectively reducing waiting times and making more efficient use of available resources.
- 5.5 The third proposal and one which is necessary to conduct multiple candidate tests, is to conduct testing using a multiple choice format. Most of the current bank of questions lend themselves to multiple choice format and those few which do not can be rephrased or replaced as necessary.
- 5.6 Sample tests have been produced and tested. The answers are in a standard multiple choice format with four optional answers. Four answer papers have been devised for each test, in such a way that candidates sitting next to each other have different answer papers, and whilst the questions are of course the same, as is the correct answer, the order and position of the correct answer changes. This will then limit the possibility of passing by cheating. If a candidate copies his neighbour who has answered the question correctly, the cheat must get the wrong answer. This format also minimises the possibility of coaching in the test. If one person indicates the correct answer by some discreet signal, three out of four who copy him must fail the test.
- 5.7 The questions will be asked in plain English, verbally by the tester. The question will be repeated again after 30 seconds. Anyone who does not understand the question due to language difficulties has less than a 25% chance of passing purely through lucky guesses.
- 5.8 The inevitable result of conducting testing in this fashion is a reduced capacity to identify candidates with poor spoken English skills. It is unfortunate but potentially less harmful in the long term than sticking to a one to one testing regime which ensures a majority of potential candidates seek a licence with another authority.

## 6 Introducing The Test

- 6.1 Removal of the A-Z element should remove the biggest area of difficulty, without removing the requirement to study and understand information relating to applicable Licensing Law and Conditions of Licence.
- 6.2 An explanatory document containing the legal elements is already available for download as a PDF file from the Birmingham City Council web site along with the conditions of licence. This will remain applicable to the amended test and need not be revised, beyond amendment to the outline of how testing is conducted.

6.3 Copies of the current explanatory document and the licence conditions are attached as appendices 2 and 3. All the information required to pass the revised test is included in those documents.

6.4 Officers are confident the revised test can be put in place immediately, if members agree to the proposed amendments.

## 7. Implications for Resources

7.1 Replacement of the existing knowledge test with a less challenging regime is likely to result in an increase in the number of new applications and additional demand for appointments. This in turn could see increased pressure on the licensing service which has moved to smaller premises and reduced staff numbers since the introduction of the original test in 2010.

7.2 Moving from a one to one test basis to a multiple test delivery system will lead to greater efficiency and will reduce costs. The tests are currently charged at a rate which is less than the cost of delivery. Greater efficiency will mean this differential will be lower.

## 8. Implications for Policy Priorities

8.1 The contents of this report contribute to the protection, safety and welfare of residents and visitors to the City by ensuring that licensed private hire drivers are safe and suitable to serve both citizens and visitors to the city.

## 9. Public Sector Equality Duty

9.1 Applicants for a private hire driver's licence will continue to be required to attend disability awareness training at the Disability Resource Centre. Therefore, the proposed changes to the Knowledge Test will still ensure that drivers are equipped to deal appropriately with passengers with disabilities and will be trained to recognise safeguarding issues. The proposals in the report require candidates to demonstrate an understanding of their licence conditions and licensing legislation. The ability or inability of an applicant to demonstrate this knowledge does not relate to or depend on any protected characteristics under the Equalities Act 2010. For these reasons officers do not consider it necessary to conduct an Equalities Impact Needs Assessment to accompany this report.

## **ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil

## APPENDIX 1

<b>1. A to Z Test</b>	Pages 98 & 99 Smethwick
<b>Find Reservoir Road, Oldbury</b>	5A 98 Five others in index
<b>Find Cambridge Road, Smethwick</b>	2E 99 Two others in index. This one marked – Not continuous
<b>Give directions from Reservoir Road, Oldbury 5A 98 to Cambridge Road, Smethwick 2E 99</b>	Reservoir Road to island. First exit at island, Londonderry Road to next island. Second exit into Queens Road. Right into Holly Lane. Right at St Pauls Road. Left into Fenton Street. Over island into Telford Way. Right, third exit into Dartmouth Road. Left into Halfords Lane and right into Cambridge Road
<b>Follow directions from Hadley Stadium 6E 99</b>	Start Hadley Stadium. Turn left. (Waterloo Road) Take first right onto a main road. (Bearwood Road) Travel onto next named road through one-way section. (High Street) At the end of this road turn right. (Tollhouse Way) At the next B class road turn left. (Soho Street) Turn right at the end of this short road. (Rabone Lane) Take the second left. (Cornwall Road) Go over the crossroads. (Mornington Road) At the end of this road turn right. Middlemore Road) <b>What is the name of the Railway Station along this road?</b> The Hawthorns 1F 99
<b>Name the school in 2A 98</b>	George Betts Primary School
<b>Name premises in 4D 98</b>	Harry Mitchell Leisure Centre

## 2. Customer service questions

1. When may you take a route other than the shortest?
2. How should you calculate the fare?
3. If a receipt is requested, what information should be included?
4. If a journey is 4.7 miles, using the fare table provided, tell me how much the fare will be? How much change would you give me from £10?
5. When may you use a radio or play music in your private hire car?
6. What should you ensure is of a good standard in order to make sure your passengers have a pleasant journey?



### **3. Licence condition questions**

1. How many private hire cars can rank outside any given premises?
2. What must you do if you are convicted or cautioned for an offence?
3. How soon must you report an illness, which prevents you from driving or requires you to notify the DVLA, to the Licensing Office?
4. If you lose your private hire driver's badge what must you do?
5. If you find property which has been left in the vehicle, what should you do?
6. What action can be taken against you, if you are found to be in breach of your Private Hire Driver's licence conditions?
7. When can you remove the licence plates/door signs from your licensed private hire vehicle?

### **4. Legal questions**

1. Who is responsible for a child of 13 wearing the seatbelt in a Private Hire Vehicle when they are accompanied by their parent?
2. When are you allowed to smoke in a Private Hire Vehicle?
3. When can a private hire vehicle be driven in a bus lane?
4. Your operator has a free-phone by the door of a nightclub. You are waiting for your next job, when a customer from the premises asks you if you can take them home. What do you do?
5. You are the owner and licensed proprietor of a private hire car, it is insured for Social, Domestic and Business use, including private hire. Who else can drive your car?
6. You have just dropped a fare outside a social club when somebody comes out and asks you to take them to the city centre. What do you do?
7. When arriving to collect a fare from outside a pub, you cannot see him. How do you make contact with him?

### **5. Plying questions**

1. What details should you receive from your operator, before you pick up a passenger?
2. If you pick up a passenger whose details have not been passed to you by your operator, what will happen to your insurance?
3. If you are caught plying for hire and invalidating your insurance what is likely to happen to you?
4. If you are convicted for plying for hire and invalidating your insurance, what is likely to happen to your private hire driver's licence?



**PRIVATE HIRE DRIVERS  
CONDITIONS OF LICENCE**

**INTRODUCTION**

The Private Hire Driver's Licence is granted to you subject to you complying with the following conditions of licence. Failure to comply with any of the conditions could lead to a prosecution and/or your licence being suspended, revoked or not renewed by a Licensing Sub Committee.

**CONDITIONS**

**FEES**

1. The licence is granted on condition that all fees due to the Licensing Office in respect of its grant are payable, in full, prior to the commencement of the licence.

**DETAILS TO BE REPORTED**

2. If you are cautioned or convicted for any offence or you receive an endorsement for a motoring offence, including an endorseable fixed penalty, you must report the details, in writing, to the Licensing Office within **7 days**. In the case of a motoring endorsement you do not need to wait for your licence to be returned from the DVLA.
- 3) If you apply for or hold any hackney carriage or private hire operator, vehicle or driver licence(s) with any other council you must inform the Licensing Office, in writing and within **7 days**, of any application being refused or licence(s) being suspended or revoked and provide the following information:
  - i. The name of the council.
  - ii. The licence number(s) of the licence(s) suspended or revoked.
  - iii. The date of the decision.
  - iv. A copy of the decision notice issued by the other council giving the grounds for the action taken.
4. If the private hire vehicle you use is damaged in an accident or otherwise you must report the details of any damage to the vehicle, in writing, to the Licensing Office within **3 days** of the damage occurring.
5. If you change your address at any time you must inform the Licensing Office, in writing, within **7 days**.
6. If you have any illness or medical condition that prevents you from driving or requires you to notify the DVLA, you must notify the Licensing Office, in writing, within **3 days**.
7. If you decide to work for an operator different from that supplied at the time of your licence application, then before commencing work with the new operator, you must notify the Licensing Office, in writing, with details of your previous operator, new operator, new call sign and start date.

8. If your private hire driver's badge is lost or stolen, you must inform the Police and obtain a Police report number, which must be reported to the Licensing Office within **3 days**.

## **DRIVERS BADGE**

9. Your private hire driver's badge, which is issued to you with the licence, must be worn at all times in such a position and manner so as to be plainly and distinctly visible to passengers.
10. Your private hire driver's badge remains the property of the Council and should your licence expire, be suspended, revoked or not renewed, you must return your private hire driver's badge within **7 days**.
11. You must not willfully obstruct or refuse any person from viewing your private hire badge or taking the number of your badge.

## **VEHICLE IDENTITY PLATES & SIGNAGE (See Appendix A)**

12. The only plates and signs to be displayed on or in a private hire vehicle are those referred to in the Conditions for Private Hire Vehicles (See Appendix A), namely:
  - a) The private hire front and rear identity plates, the "Advance Bookings Only" sign and the Private Hire semi-permanent rear door signs, which are issued by the Licensing Office.
  - b) The Operator identification door signs, call signs and Fare Table issued by your operating company.
  - c) The "No Smoking" signs.

With the exception to the Conditions for Private Hire Vehicles relating to "ADVERTISEMENTS", no other plates or signs other than those referred to above may be exhibited or displayed on or in the vehicle without the written approval of the Licensing Office.

13. The private hire vehicle you use must display the identity plates and signage in accordance with the Conditions for Private Hire Vehicles (See Appendix A) and in the locations specified. These plates and signs may only be displayed on private hire vehicles licensed by Birmingham City Council. You must not cause or permit the plates or signs to be placed on any other vehicle.
14. The vehicles private hire identity plates specify the maximum number of passengers allowed to be carried at any one time. You must not allow more than the stated number of passengers to be carried at any one time.
15. Your private hire vehicle must display the Fare Table issued by the private hire operator in a prominent position inside the vehicle so as to be clearly visible to any passenger.
16. All fares charged must be calculated using your operators Fare Table.

## **DOCUMENTATION TO BE MAINTAINED FOR VEHICLES USED**

17. You must ensure that prior to driving any private hire vehicle you are in possession of the following:
  - a) A current Mot Certificate for the vehicle (issued by a testing centre approved by the Licensing Office).
  - b) A current insurance certificate, policy of insurance or cover note covering your use of the vehicle for the purpose of private hire.
18. If there are exceptional reasons which prevent you from maintaining or ensuring "continuous" insurance cover for the private hire vehicle you use, FOR WHATEVER REASON, throughout the duration of the time you are in possession of it, you must attend and notify the Licensing Office, in writing, within 3 days following the insurance cover expiring or lapsing. At the same time you must return the vehicle identification plates as the vehicle will be liable to suspension until insurance cover is produced.
19. You must retain the above documents for a period of 12 months following their expiry and these documents must be available for inspection by an authorised officer at any time.

## **DOCUMENTATION FOR YOUR OPERATOR**

20. Before commencing work for an operator, you must provide them with either the originals or copies of your private hire driver's licence or badge, your private hire vehicles licence or plate, a current MOT and insurance certificate/cover note.

## **MAINTENANCE OF VEHICLES**

21. The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition. In particular all data boxes, radios, PDA's or any other equipment installed in the vehicle must be affixed to the vehicle by use of secure fittings so they cannot be easily removed, to prevent injury or harm to the driver or passengers.
22. The interior of the vehicle shall be kept clean and tidy at all times when the vehicle is in use or available for hire. The exterior of the vehicle to be clean at all such times, having due regard to the weather conditions on the day.

## **BOOKINGS**

23. You must not **PLY FOR HIRE** or accept any booking, which is not made via your operator.
24. You must not tout or solicit any person to hire or be carried for hire in any private hire vehicle or cause or procure any other person to tout or solicit any person to hire or be carried for hire in any private hire vehicle.

25. You must not respond to any booking from your operator unless you are given:
- a) The passenger's name.
  - b) The time and point of pick up.
  - c) The destination.
  - d) The fare (if applicable).
26. Mobile phones must not be used, installed, fitted to or carried in any private hire vehicle for the purpose of inviting, or accepting bookings.
27. You must not, via any means, pass details of any booking or passenger you have agreed to carry to your operator.
28. You must not accept a return booking directly from a passenger.
29. You must not park in such a position or location to be in the vicinity of premises such as bars, restaurants, takeaways, public houses, clubs, hotels, casino's, gaming and amusement arcades, which could give the appearance of being available for hire unless you have been allocated a booking by your operator.

## CONDUCT OF DRIVER

30. You must:-
- a) Have a good standard of personal hygiene, be clean and respectable in your appearance and behave in a civil and orderly manner at all times whilst your vehicle is in use or available for hire.
  - b) Not congregate with more than 2 other private hire drivers/vehicles in residential areas and cause a nuisance by your parking, noise or activities whilst waiting to be allocated a booking.
  - c) Not park or wait in your vehicle on a Hackney Carriage Stand – "Taxi Rank".
  - d) Ensure that when booked, you are in attendance with the vehicle at the appointed time and place unless delayed or prevented by some sufficient cause.
  - e) Not use the horn to signal the vehicle's presence to any passenger(s) awaiting the vehicle.
  - f) Convey a reasonable quantity of luggage and afford reasonable assistance in loading and unloading, including assistance in moving luggage to and from the entrance of any premises where you collect or set down your passenger(s).
  - g) Take all reasonable steps to assist with and ensure the safety of your passenger(s) when entering, being conveyed in and alighting from your vehicle.
  - h) Unless otherwise directed by your passenger(s), proceed to the destination by the shortest possible route.
  - i) Not smoke **at any time** within your private hire vehicle or permit any other person to do so.
  - j) Not eat or drink in your vehicle whilst carrying a passenger.
  - k) Not without the express consent of your passenger(s) play any radio or sound producing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.

- l) Not cause or permit the noise emitted by any radio or previously mentioned equipment in the vehicle which you are driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.
- m) Not demand a fare in excess of any previously agreed for that hiring. If no fare has been previously agreed then you must not demand a fare in excess of that prescribed by your operators fare table displayed in the vehicle. If the vehicle is fitted with a meter and no fare has been previously agreed then you must not demand a fare in excess of that shown on the meter.
- n) If requested to do so by your passenger(s), provide a written receipt for any fare paid, on stationery bearing the name of your operator, which includes your call sign, details of the journey and the fare paid.

## **LOST PROPERTY**

- 31. You must immediately after the termination of any hiring, or as soon as practicable thereafter, carefully search the private hire vehicle for any property which may have been accidentally left therein.
- 32. Any property accidentally left in a private hire vehicle must be handed in to a West Midlands Police Station as soon as possible, and in any event, within 3 days of the property being found and a receipt for such property obtained. A copy of the receipt must be provided to the Licensing Office within 7 days of its issue.

## **METERS**

- 33. Should a meter be fitted to the private hire vehicle you use it must be tested, sealed and certified by an authorised officer before it can be used for calculating fares for passengers.
- 34. You must not tamper with or permit any other person to tamper with the meter, its fittings, connections or seal without the written approval of the Licensing Office.

## **ASSISTANCE DOGS & WHEELCHAIR USERS**

- 35. You must not refuse to accept the hiring of a vehicle merely because the passenger is accompanied by a guide dog or assistance dog. If you have a medical exemption from carrying dogs, then this must be obtained in writing from the Licensing Office and be maintained in the vehicle at all times for production to passengers or inspection by an authorised officer.
- 36. You must not make any additional charge for the carriage of a guide or assistance dog, the conveyance of a wheelchair, or other equipment required by a person suffering from a disability.

## **GUIDANCE NOTES**

If you have any difficulty in understanding the implications of any of the above conditions, please let the Licensing Office know immediately so that arrangements can be made to assist you in that respect.

If you are aggrieved by any of the conditions attached to this licence you may make an application for exemption from them and attend a hearing before the Licensing Sub Committee, alternatively you can appeal to a Magistrates Court within 21 days of the service of this licence on you.

## **ADVISORY**

**The Equality Act 2010** brings together a number of existing laws into one place so that it is easier to use. It sets out the personal characteristics that are protected by the law and the behaviour that is unlawful.

Under the Act people are not allowed to discriminate, harass or victimise another person because they have any of the protected characteristics including disability. The act gives examples of unacceptable behaviour whilst the Equality Commission web site ([www.equalityhumanrights.com](http://www.equalityhumanrights.com)) gives examples of best practice.

### **Smoke Free Legislation**

Private Hire Vehicles and 'Taxis' are smoke free vehicles and nobody may smoke within these vehicles. Appropriate 'No Smoking' signage must be displayed in the vehicle. Furthermore, any enclosed premise that is used as a workplace or is used by the public, for example, making bookings, must be smoke-free. Failing to prevent smoking in a smoke free place can lead to prosecution and a maximum fine of £2,500 being imposed on whoever manages or controls the smoke-free premises or vehicle. For further advice and guidance on this matter please go to [www.smokefreengland.co.uk](http://www.smokefreengland.co.uk)



You are advised to familiarise yourself with all the rules and regulations that you will have to comply with once you become a licensed Private Hire Vehicle (PHV) driver.

This document does not cover every single law in relation to the trade; however, it covers things that you will be questioned about during your knowledge test.

You should read this in conjunction with the current conditions of licence for private hire drivers and vehicles.

[https://www.birmingham.gov.uk/downloads/file/821/private\\_hire\\_driver\\_licence\\_conditions](https://www.birmingham.gov.uk/downloads/file/821/private_hire_driver_licence_conditions)

[https://www.birmingham.gov.uk/downloads/file/823/private\\_hire\\_vehicle\\_licence\\_conditions](https://www.birmingham.gov.uk/downloads/file/823/private_hire_vehicle_licence_conditions)

**THIS DOCUMENT CONSISTS OF EIGHT PAGES  
PLEASE ENSURE THAT ALL HAVE BEEN DOWNLOADED**

## **AUTHORITY TO DRIVE**

To drive a PHV you must hold a PHV driver's licence. This licence must be issued by the same local authority which licences the vehicle you intend to drive. If you hold a PHV driver licence issued to you by Birmingham City Council, you are allowed to drive a PHV licensed by Birmingham City Council, and take work from a Birmingham licensed operator. You would not be able to drive a private hire vehicle licensed by Solihull Council or any other authority.

A driver of a PHV must be licensed to drive PHV's even if the vehicle is not being used for PHV purposes and that person is detailed on the vehicles insurance.

Family members may not drive a licensed PHV unless they hold a valid licence issued by Birmingham City Council.

## **Insurance**

The vehicle's insurance must cover you to drive the vehicle for PHV purposes. You must ensure that you have seen the insurance certificate covering you to drive the vehicle before you start work in a hired or borrowed vehicle.

## **USE OF VEHICLE**

You may not licence a vehicle of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage

Your vehicle should comply with all regulations regarding roadworthiness and safety. You should also be aware that additional requirements regarding safety and comfort are made by the council's conditions of licence. If you borrow or rent an unroadworthy vehicle you may be liable for any penalties incurred. Likewise if you lend or rent an unroadworthy vehicle, you may be liable for any penalties incurred by the driver.

If required by an authorised officer (police officer or council officer) you must produce the vehicle for inspection, inform the officer where the vehicle is being kept and or produce any driving licence or insurance certificate as requested.

You must display your vehicle licence plate in the manner prescribed by the Council, as detailed in the City Council vehicle signage policy, at all times whether working or not. You must return your plates to the council within seven days of any licence expiring or being revoked or suspended.

You must never carry more people in your vehicle than the number stated on your PHV licence plate as this is a criminal offence and may invalidate your insurance policy.

If you sell your vehicle you must inform the Licensing Office, in writing, within 14 days of the sale detailing the name and address of whom it has now been sold to.

If your vehicle is involved in an accident that materially affects the safety, performance or appearance of the vehicle or affects the comfort or convenience of the passengers being carried, you must report this to the Licensing Office within 72 hours of the accident occurring. It is advisable that this notification is in writing, and a copy of the same is retained by you.

You must not park or allow your PHV to stand in any designated taxi rank.

Private hire vehicles are not permitted to use bus lanes within Birmingham, even if they are also designated for use by taxis.

Private hire vehicles including mini buses that have had seats removed may only use bus lanes under the direction of a police officer.

## **REQUIREMENTS FOR DRIVERS**

You must wear your identification badge at all times when you are working as a PHV driver. The badge must be worn in a position and manner as to be plainly and distinctly visible to your passengers.

It is illegal to smoke in your vehicle at any time, whether you are working as a PHV driver or not. It is also illegal for your passengers to smoke in your vehicle and you may be prosecuted if you allow them to.

If you are instructed to collect passengers at a specific time, then you should attend at the agreed time unless you are prevented from doing so. If you are going to be late, you should do your best to contact the passengers and inform them.

If you arrive to collect someone from their home address, on arrival you should wait a short period of time before leaving your vehicle and knocking on their door. You must not sound your horn to alert them to your presence. You may ask your operator to call the customer to inform them of your arrival.

If a passenger is accompanied by an assistance dog, you must carry both the passenger and the dog. It is a criminal offence to refuse to carry an assistance dog unless you have a medical exemption notice. It is sensible to allow the dog to sit in the front passenger footwell of the vehicle.

Once you have passengers in your vehicle you must not collect any further passengers unless the first fare requests that you do so.

No person being the driver of a hackney carriage or of a private hire vehicle shall, without reasonable cause, unnecessarily prolong in

distance or in time the journey for which the hackney carriage or private vehicle has been hired.

Any fare in relation to a PHV booking is agreed between the licensed operator and the customer at the time of the booking. A PHV driver must ensure that they charge only the fare that has been previously agreed between the customer and the licensed operator. If no fare has been agreed you must not charge more than is calculated using your fare table.

### **Driver Conduct**

You must always behave in a civil and orderly manner which means you should be polite, well mannered, well behaved and disciplined. You must ensure that both you and the vehicle are clean and you must give priority to the safety of your passengers. You must not drink or eat without the permission of your passengers and you must not play music without their permission. You must not engage in any sexual activity with passengers, make inappropriate personal contact or make inappropriate comments of a cultural, religious or sexual nature.

You should ensure that seat belts are worn when required. All passengers should wear their belts unless they hold an exemption certificate.

You are liable for any fines if you are carrying a child that is not properly restrained, even if the parent or guardian is on board the vehicle.

You are only exempt from the wearing of your seat belt if you are transporting a fare paying passenger. Note, you are more likely to be

seriously injured if not wearing a seat belt in a minor collision than you are by being assaulted by a passenger.

## **PLYING FOR HIRE**

A PHV driver is not permitted to collect passengers unless the job has been pre-booked through an operator who is licensed by Birmingham City Council and had the job passed to them by that operator.

BEFORE collecting a passenger, the driver should already know the name of the passenger, the arranged time and location of the pick-up, the destination and, if pre-arranged, the agreed fare.

**It is a criminal offence for a PHV driver to take a fare unless it has been pre-booked with their operator.**

If a PHV driver is approached in the street by a member of the public who asks them to take them somewhere, the driver must refuse and advise the person to contact their licensed operator.

A PHV driver may not obtain passenger details on behalf of the operator, even if they have come from premises that have a Freephone or radio link to the operator.

Transporting an un-booked passenger would also be likely to negate insurance cover for the vehicle leading to prosecution both for plying for hire and no insurance.

A conviction for these offences is likely to result in a substantial fine, penalty points and possible disqualification.

Committee policy states that any driver found guilty of plying for hire and invalidating their insurance should have their licence revoked.



**BIRMINGHAM CITY COUNCIL**

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

**20 JUNE 2018**  
**ALL WARDS**

**DETERMINING THE SUITABILITY OF APPLICANTS AND LICENSEES IN THE  
HACKNEY CARRIAGE AND PRIVATE HIRE TRADES  
including DRUGS TESTING POLICY**

1. Summary

- 1.1 This report outlines the content of the Institute of Licensing (IoL) Guidance published in April 2018.
- 1.2 It also identifies areas where the existing policies and procedures of the Licensing and Public protection Committee differ from the guidance as published.
- 1.3 The report includes recommendations for amendments in order to address these differences.
- 1.4 This report also seeks to respond to the Coroner's Report of 1<sup>st</sup> June 2018 recommending action be taken to address the issue of monitoring licensed drivers for drug use.

2. Recommendations

- 2.1 That the Committee recognises the Institute of Licensing Guidance as best practice guidance, with a view to implementing the proposals therein.
- 2.2 That all licence applicants and existing licence holders will be required to sign up to the Disclosure and Barring Service Update Scheme.
- 2.3 That all applicants for the grant or renewal of Private Hire Operator or Vehicle Proprietor Licence be required to produce a Basic Disclosure Certificate for consideration.
- 2.4 That Officers produce a Draft Drug Testing Policy as per 7.3 of this report.
- 2.5 That the Coroner should be notified of the matters arising from this report in accordance with the requirements of the Notice at Appendix 1.

Contact Officer: Emma Rohomon, Acting Head of Licensing  
Telephone: 0121 303 6111  
E-mail: [emma.rohomon@birmingham.gov.uk](mailto:emma.rohomon@birmingham.gov.uk)

### 3. Background

- 3.1 The City Council has a number of licensing, regulatory and registration powers and duties and the exercise of these powers and duties is delegated to the Licensing and Public Protection Committee.
- 3.2 While some Acts are prescriptive in their nature and are accompanied by detailed guidance, the law pertaining to hackney carriage & private hire licences has no such provision.
- 3.3 It is a matter for each individual licensing authority to decide how they will determine their licence applications; respond to matters arising during the licence period, what conditions should be attached to licences and also any pre-application requirements. As such, there is a degree of variation across the country which could lend itself to inconsistency.
- 3.4 According to the Department for Transport *“Taxi and Private Hire Licensing – Best Practice Guide”* para 8:  
*“The aim of local authority licensing of the taxi and PHV trades is to protect the public.”*
- 3.5 Licensing Authorities CANNOT grant drivers and operators a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59; s55 in respect of operators).
- 3.6 The ‘fit and proper’ test has never been officially defined. The Institute of Licensing guidance (Appendix 1) has been produced in collaboration with the Local Government Association (LGA), Lawyers in Local Government (LLG), and the National Association of Licensing and Enforcement Officers in order to try and assist local authorities to achieve greater consistency in the absence of any national guidance or legislative reform.
- 3.7 Aside from the convictions policy, the Guidance includes some concepts which are not currently addressed within our existing policies, procedures or pre-application requirements which must be given careful consideration.
- 3.8 These concepts include some aspects of DBS checking, Drug testing and also some additional conditions for Private Hire Operators. These will be explored in greater detail later in this report.

3.9 As both the Coroner's Report and the IoL Guidance make reference to drug testing of drivers it was felt appropriate that the two matters be combined into one report for completeness.

3.10 Also, there have been a number of critical reports in the media, both nationally and locally, concerning the criminal history of drivers licensed by this Authority (and others).

#### 4. Coroner's Report to the City Council

4.1 On 17<sup>th</sup> December 2017 a serious collision occurred on Lee Bank Middleway resulting in multiple deaths, including a Sandwell Licensed Hackney carriage Driver and his two passengers.

4.2 Following the Inquest into the death of the Hackney carriage Driver, the Coroner issued a report to both Sandwell Metropolitan Borough Council and Birmingham City Council, requiring action to be taken to address the risk of future deaths. (Appendix 2)

4.3 The reason for the Coroner's concerns was the toxicology results of the Hackney carriage driver showed him to be over the legal drug drive limit.

4.4 Although it was made clear that this was not a factor in the cause of death of any of the victims, the Coroner is concerned that there is no drug testing policy in place for licensed drivers, which, according to the evidence of West Midlands Police to the Inquest, is necessary to ensure the safety of passengers.

4.5 The introduction of a Drug Testing Policy is explored in Paragraph 7 of this report.

#### 5. The Institute Of Licensing Guidance

5.1 The guidance document seeks to assist local authorities by providing a reference framework of what they consider to be reasonable principles to follow.

5.2 Traditionally, the approach taken within Birmingham, and most other licensing authorities has been that 'each case is considered on its own merits' meaning the policies have never said 'never'.

5.3 This can be evidenced by the current policy Reference DBS3 in the latest Policies Procedures and Delegations Report which states:

"Where the DBS check reveals cautions or convictions relating to drugs, dishonesty, violence, or offences of a sexual nature, or reveals any information giving cause for concern, the applicant, or licensed driver will be referred to the Licensing Sub-Committee where the individual's fitness to hold a licence will be considered, unless

those matters have already been taken into consideration and passed by Committee.”

- 5.4 The IoL Guidance seeks to establish certain parameters for certain types of offences which give greater clarity for both applicants and decision makers. Specific offences are not referred to, just categories of offence, such as ‘Dishonesty’ or ‘Violence’.
- 5.5 The Guidance makes reference to applicants with convictions undergoing drug testing at their own expense. This is addressed in Paragraph 7 of this report.

## 6. Criminal Record Checks

- 6.1 Currently, new applicants for driver’s licences are required to provide an Enhanced DBS certificate on application, with a requirement to repeat the check every three years.
- 6.2 It is proposed to change this to require all licence applicants and existing licence holders to sign up to the Disclosure and Barring Service Update Scheme. Registration costs £13 a year.
- 6.3 The IoL Guidance proposes Basic Disclosure Checks be carried out on Private Hire Operators and also Vehicle proprietors. The justification for requiring these checks is contained within paragraphs 3.35-3.47 of the guidance.
- 6.4 It is proposed that these requirements be introduced as described within the guidance for Vehicle Proprietors and Private Hire Operators.
- 6.5 The Guidance proposes placing a condition onto Private Hire Operators requiring them to carry out similar suitability checks on the staff they employ or use within their company. This proposal would require an amendment to the Conditions of Licence for Private Hire Operators.

## 7. Drugs Policy

- 7.1 The Coroner’s Report detailed in Paragraph 4 above requires Birmingham City Council to respond setting out what action is going to be taken to address her concerns including details of a timetable of actions.
- 7.2 The IoL Guidance refers to the Drug testing of drivers convicted of drug related offences.
- 7.3 In order to respond to both of these matters, it is recommended that Officers be instructed to investigate the feasibility and cost of such a drug testing scheme.

7.4 A report will be brought back to this Committee exploring the options available to the Committee and also, having regard to the ever present issue of cross-border working: detailing existing drug testing provisions in neighbouring authorities (if any).

8. Consultation

8.1 This report seeks to introduce additional policies and processes which will require consultation.

9. Implications for Resources

9.1 to follow

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10. Implications for Policy Priorities

10.1 The issues addressed in this report relate to the City Council priorities associated with creating a cleaner, greener and safer city and providing excellent services.

11. Public Sector Equality Duty


11.1 to follow.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: nil



	<p><b>REGULATION 28 REPORT TO PREVENT FUTURE DEATHS</b></p> <p><b>THIS REPORT IS BEING SENT TO:</b></p> <ol style="list-style-type: none"> <li>1. Sandwell Metropolitan Borough Council</li> <li>2. Birmingham City Council</li> </ol>
1	<p><b>CORONER</b></p> <p>I am Louise Hunt Senior Coroner for Birmingham and Solihull</p>
2	<p><b>CORONER'S LEGAL POWERS</b></p> <p>I make this report under paragraph 7, Schedule 5, of the Coroners and Justice Act 2009 and regulations 28 and 29 of the Coroners (Investigations) Regulations 2013.</p>
3	<p><b>INVESTIGATION and INQUEST</b></p> <p>On 21/12/2017 I commenced an investigation into the death of Imtiaz Mohammed. The investigation concluded at the end of an inquest on 29th May 2018. The conclusion of the inquest was Road Traffic Collision.</p>
4	<p><b>CIRCUMSTANCES OF THE DEATH</b></p> <p>On 17/12/17 at 01.11 a serious collision took place on Lee Bank Middleway in Birmingham. An Audi A3 registration SV09STX containing 4 occupants was travelling towards Highgate having come from the traffic island on Broad Street in the City Centre. The Audi car was driving between 94 and 100mph on a road with a speed limit of 40mph. After negotiating a slight left hand bend the driver of the Audi has lost control of the vehicle, crossing the oncoming carriageway. The Audi vehicle has then rotated to collide its nearside to the front of a black Peugeot Taxi reg SH05 ONG traveling in the opposite direction. The taxi contained the driver and two passengers. The Taxi has in turn collided with a silver Toyota Yaris reg AF07KNC and then overturned. The Audi has continued to rotate coming to rest straddling lanes 1 and 2 in the opposite carriageway. During this, all 4 occupants of the Audi were ejected from the vehicle, two from the sun roof and two from the boot. None were wearing seatbelts. One occupant from the Audi survived. The 3 occupants from the taxi all died as a result of their injuries. The cause of the collision was driving a vehicle at excessive speed with defected tyres contributed to be driving under the influence of cannabis.</p> <p>Following a post mortem the medical cause of death was determined to be: MULTIPLE INJURIES</p>
5	<p><b><u>CORONER'S CONCERNS</u></b></p> <p>During the course of the inquest the evidence revealed matters giving rise to concern. In my opinion there is a risk that future deaths will occur unless action is taken. In the circumstances it is my statutory duty to report to you.</p> <p>The <b>MATTERS OF CONCERN</b> are as follows. –</p> <ol style="list-style-type: none"> <li>1. Toxicology was obtained for the deceased who was driving the Taxi involved in the collision. This confirmed the following blood levels: Cocaine 0.010mg/l Benzoylcegonine (a cocaine metabolite) 0.40mg/l</li> </ol>

	<p>Carboxy THC 0.10 mg/l</p> <p>The level of the cocaine metabolite would have resulted in the deceased being over the legal drug drive limit. This did not contribute to this collision.</p> <p>However West Midlands Police raised concerns at the inquest that there was presently no system in place to monitor and check whether taxi drivers are over the drug limit whilst driving. They confirmed in evidence that some sort of testing was required for the safety of passengers.</p>
6	<p><b>ACTION SHOULD BE TAKEN</b></p> <p>In my opinion action should be taken to prevent future deaths and I believe you have the power to take such action.</p>
7	<p><b>YOUR RESPONSE</b></p> <p>You are under a duty to respond to this report within 56 days of the date of this report, namely by 27 July 2018. I, the coroner, may extend the period.</p> <p>Your response must contain details of action taken or proposed to be taken, setting out the timetable for action. Otherwise you must explain why no action is proposed.</p>
8	<p><b>COPIES and PUBLICATION</b></p> <p>I have sent a copy of my report to the Chief Coroner and to the following Interested Persons families of Lucy Davis, Lee Jenkins, Imtiaz Mohammed, Mohammed Fasha, Tauqeer Hussain, Kasar Jehangir, WMP and the Taxi's insurers. I have also sent it to Department of Transport who may find it useful or of interest.</p> <p>I am also under a duty to send the Chief Coroner a copy of your response.</p> <p>The Chief Coroner may publish either or both in a complete or redacted or summary form. He may send a copy of this report to any person who he believes may find it useful or of interest. You may make representations to me, the coroner, at the time of your response, about the release or the publication of your response by the Chief Coroner.</p>
9	<p>01/06/2018</p> <p>Signature </p> <p>Louise Hunt Senior Coroner Birmingham and Solihull</p>





# Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades



April 2018

 Institute of Licensing

Produced by the Institute of Licensing in partnership with:

 **LLG**  
Lawyers in Local Government

 **NALEO**

 **Local Government Association**

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## Foreword

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Therefore, this guidance is to be welcomed. It rightly emphasises that any circumstance relating to the licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to licensing authorities as to how they ought to approach their important task of making determinations about the safety and suitability of drivers and operators.

While, of course, licensing is a local function, it seems absurd that precisely the same conduct might result in a short period without a licence in one district, and a much longer period in a neighbouring district. If a driver is suitable in district A, they are surely suitable in district B, and vice versa. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing. Adherence to the guidance may also provide protection to licensing authorities on appeal.

The guidance is therefore commended to licensing authorities. It is hoped that, in due course, it will sit at the elbow of every councillor and officer working in taxi licensing.

Philip Kolvin QC  
Cornerstone Barristers

April 2018

## Chapter 1: Introduction

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- 1.1 This guidance has been produced by the Institute of Licensing working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation. We are grateful to all three organisations for their contributions. This guidance is formally endorsed by all of those organisations.
- 1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications<sup>1</sup>. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.4 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.5 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision. This guidance complements the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any forthcoming Government guidance. Local authorities should also be aware of the forthcoming National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences.
- 1.6 This document is intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee. It can then be used by local authorities as a basis for their own policies: in particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.
- 1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the

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<sup>1</sup> Except vehicle proprietors. In those cases there is no "fit and proper" requirement, but the authority has an absolute discretion over granting a licence.

authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*<sup>2</sup>.

- 1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.
- 1.9 This Guidance contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.
- 1.10 This Guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.
- 1.11 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

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<sup>2</sup> [2007] 1 WLR 2067

## Chapter 2: Offenders and Offending - An Overview

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- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.<sup>3</sup> With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.
- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done, is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of re-offending and harm<sup>4</sup>. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

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<sup>3</sup> DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

<sup>4</sup> Kemshall, H. (2008). Understanding the Management of High Risk Offenders (Crime and Justice). Open University Press

- 2.6 Flaud<sup>5</sup> noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place<sup>6</sup>.
- 2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.
- 2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future<sup>7</sup>. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%<sup>8</sup>. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences<sup>9</sup>.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity<sup>10</sup>. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.
- 2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population<sup>11</sup>. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

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<sup>5</sup> Flaud, R. (1982). Cited in, Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

<sup>6</sup> Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

<sup>7</sup> Craig, L. A. and Browne, K. B (2008). *Assessing Risk in Sex Offenders: A Practitioner's Guide* Paperback.

<sup>8</sup> Ministry of Justice (2017) *Proven reoffending statistics: July 2014 to June 2015*, London: Ministry of Justice.

<sup>9</sup> Ministry of Justice (2015): *Transforming Rehabilitation: a summary of evidence on reducing reoffending*. London: Ministry of Justice.

<sup>10</sup> McGuire, J. (2008). A review of effective interventions for reducing aggression and violence. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1503), 2577-2597

<sup>11</sup> Nash, M. (1999) *Police, Probation and Protecting the Public*. London: Blackwell Press.



### Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”<sup>12</sup>.
- 2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”<sup>13</sup>.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over<sup>14</sup>. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships<sup>15</sup>. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males<sup>16</sup>.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist<sup>17</sup>. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance<sup>18</sup>. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some

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<sup>12</sup> National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

<sup>13</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

<sup>14</sup> Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364.

<sup>15</sup> Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

<sup>16</sup> Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatestone: Essex.

<sup>17</sup> Farrell, S (2005). Understanding Desistance from Crime: Emerging Theoretical Directions in Resettlement and Rehabilitation (Crime and Justice) Paperback.

<sup>18</sup> Maguire, M., Morgan, R. and Reiner, R. (2002). The Oxford Handbook of Criminology. 3<sup>rd</sup> Edition. Oxford: Oxford University Press.



ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”<sup>19</sup>.

- 2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.

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<sup>19</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

## Chapter 3: 'Taxi' Licensing Overview

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- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver's hands.
- 3.2 Local authorities (districts, unitaries and Welsh Councils) and TfL are responsible for hackney carriage and private hire licensing.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the DfT *"Taxi and Private Hire Licensing – Best Practice Guide"* para 8 which states:
- "The aim of local authority licensing of the taxi and PHV trades is to protect the public."
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.
- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.
- 3.9 What is the role of each of these, and how do authorities determine an application, or take action against a licence?

### Taxi Drivers

- 3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory

criteria to be met before a licence can be granted and many authorities grant “dual” or “combined” licences to cover driving both types of vehicle.

- 3.11 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, and be a “fit and proper” person<sup>20</sup>.
- 3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.
- 3.13 An applicant must also have the right to remain, and work in the UK<sup>21</sup>.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.<sup>22</sup>
- 3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*<sup>23</sup>. Silber J said:
- “... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”
- 3.16 This is reflected in a test widely used by local authorities:
- ‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’<sup>24</sup>
- 3.17 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

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<sup>20</sup> Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers hackney carriage drivers.

<sup>21</sup> Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of hackney carriage drivers.

<sup>22</sup> “Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales” - Home Office, 1<sup>st</sup> December 2016 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

<sup>23</sup> [2002] EWHC 1145 (Admin), [2003] RTR 199

<sup>24</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 10.21

- 3.18 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers' licence?
- 3.19 The local authority has the power to require an applicant to provide:
- “such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”<sup>25</sup>
- This “information” can include any pre-conditions or tests that they consider necessary
- 3.20 Some of these are universal, such as medical assessments<sup>26</sup>. Others are required by some authorities, but not others. These include:
- Enhanced DBS certificates and sign-up to the update service;
  - Knowledge tests;
  - Driving tests;
  - Disability Awareness;
  - Signed Declarations;
  - Spoken English tests.
- 3.21 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.
- 3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared<sup>27</sup>) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker<sup>28</sup>.
- 3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks<sup>29</sup> and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.

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<sup>25</sup> Local Government (Miscellaneous Provisions) Act 1976 s57(1)

<sup>26</sup> See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

<sup>27</sup> “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates.

<sup>28</sup> See *Adamson v Waveney District Council* [1997] 2 All ER 898

<sup>29</sup> “For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children’s Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2” DBS email 31st August 2017.

- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.
- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability<sup>30</sup>.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account<sup>31</sup>. This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been)

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<sup>30</sup> As recommended by the DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 59

<sup>31</sup> *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 and *Cherwell District Council v Anwar* [2011] EWHC 2943 (Admin)

to assault another sexually has demonstrated completely unacceptable standards of behaviour.

- 3.31 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.32 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.33 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.
- 3.34 As a society, we need to ask the question “who is driving my taxi?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

## Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same

authority<sup>32</sup>. A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person<sup>33</sup>.

- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.
- 3.39 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”<sup>34</sup>
- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they

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<sup>32</sup> See *Dittah v Birmingham City Council*, *Choudhry v Birmingham City Council* [1993] RTR 356 QBD

<sup>33</sup> Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

<sup>34</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 12.35



obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.

- 3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation<sup>35</sup>. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

## Vehicle Proprietors

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence<sup>36</sup> and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.
- 3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.
- 3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be

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<sup>35</sup> See s57(1)(c) of the 1976 Act.

<sup>36</sup> S37 of the 1847 Act in relation to hackney carriages; section 48 of the 1976 Act to private hire vehicles.



satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”<sup>37</sup>

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<sup>37</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 8.98

## Chapter 4: Guidance on Determination

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- 4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.4 The purpose of this document is to offer guidance on how licensing authorities can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

### Pre-application requirements

- 4.5 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but can include some or all of the following (these are not exhaustive lists):

#### Vehicles:

- Basic DBS checks;
- Specifications e.g. minimum number of doors, minimum seat size, headroom, boot space etc;
- Mechanical tests and tests of the maintenance of the vehicle e.g. ripped seats etc;
- Emission limits/vehicle age limits;
- Wheelchair accessibility requirements.

#### Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

#### Operators:

- Basic DBS checks;
- Details of their vetting procedures for their staff;
- Knowledge of the licensing area.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership<sup>38</sup>) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.

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<sup>38</sup> Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction<sup>39</sup>. Fixed penalties and community resolutions will also be considered in the same way as a conviction<sup>40</sup>.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated

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<sup>39</sup> This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

<sup>40</sup> This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

- 4.19 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## Drivers

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

- 4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

#### Crimes resulting in death

- 4.29 Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

#### Exploitation

- 4.30 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

#### Offences involving violence

- 4.31 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

#### Possession of a weapon

- 4.32 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

#### Sex and indecency offences

- 4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
- 4.34 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

### Dishonesty

- 4.35 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Drugs

- 4.36 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 4.37 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

### Discrimination

- 4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Motoring convictions

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

### Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

- 4.40 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.41 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

### Other motoring offences

- 4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.
- 4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Hackney carriage and private hire offences

- 4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Vehicle use offences

- 4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## Private Hire Operators

- 4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.



- 4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

## Vehicle proprietors

- 4.50 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.
- 4.51 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 4.52 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 4.53 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 4.54 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

## Acknowledgements

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In December 2015, the Institute of Licensing established a working party to look at the creation of a model or standard set of guidelines in relation to assessing the suitability of applicants and licence holders in relation to taxi drivers, operators and vehicle proprietors, taking into account the character of the applicant or licensee.

The core project group comprised:

- Stephen Turner, Solicitor at Hull City Council, Licensing Lead for Lawyers in Local Government and Vice Chair of the North East Region IoL (Project Group Chair)
- Jim Button, Solicitor at James Button & Co and President of IoL
- Philip Kolvin QC, Cornerstone Barristers and Patron of IoL
- John Miley, Licensing Manager for Broxtowe Borough Council, National Chair for NALEO and Vice Chair of the East Midlands Region IoL
- Linda Cannon, previously Licensing Manager for Basingstoke & Dean and Hart Councils, and now private licensing consultant and Chair of the South East Region IoL
- Phil Bates, Licensing Manager for Southampton City Council
- Sue Nelson, Executive Officer of IoL

This Guidance is the result of the work of the project team and includes consideration of antecedent history of the applicant or licence holder and its relevance to their 'character' as well as consideration of convictions, cautions and non-conviction information.

The Institute is delighted to have the Local Government Association, the National Association of Licensing and Enforcement Officers and Lawyers in Local Government contributing to and supporting this project with IoL.

The Institute is also grateful to others who have contributed to the work of the project group, including former probation officer Hannah Jones (now Housing Officer at Flintshire Council) who has assisted the group in providing the chapter on 'Offenders and Offending'.

This project has been further enhanced by invaluable contributions from the following individuals and organisations:

- Ellie Greenwood and Rebecca Johnson, Local Government Association
- Tim Briton, Lawyers in Local Government
- Ben Atrill
- Suzy Lamplugh Trust
- Councillor Richard Wright, North Kesteven District Council
- Professor of Criminology Fiona Measham, Durham University
- Councillor Philip Evans, Conwy County Borough Council
- Councillors Catriona Morris and Mick Legg, Milton Keynes Council
- Louise Scott Garner
- Jenna Parker, Institute of Licensing

Finally, grateful thanks go to all those who responded to the initial fact-finding survey and the subsequent consultation on the draft guidance.

Institute of Licensing  
Egerton House  
2 Tower Road  
Birkenhead  
CH41 1FN  
T: 0151 650 6984  
E: [info@instituteoflicensing.org](mailto:info@instituteoflicensing.org)



Institute of  
Licensing

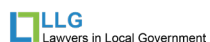
The Institute of Licensing (IoL) is the professional body for licensing practitioners across the UK.  
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The Local Government Association (LGA) is the national voice of local government.  
[www.local.gov.uk](http://www.local.gov.uk)



Lawyers in Local Government (LLG). [www.lawyersinlocalgovernment.org](http://www.lawyersinlocalgovernment.org)



National Association of Licensing and Enforcement Officers (NALEO). [www.naleo.org.uk](http://www.naleo.org.uk)

**BIRMINGHAM CITY COUNCIL**

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

**20 JUNE 2018**  
**ALL WARDS**

**MODERNISING CONSUMER MARKETS CONSUMER GREEN PAPER**

1 Summary

- 1.1 The Government recently published a green paper “Modernising Consumer Markets”. The paper proposes a range of approaches aimed at ensuring the UK’s regulatory framework meets the challenges of modern consumer markets, supporting both innovation and the rights of consumers.
- 1.2 The paper poses a series of questions for consultation and welcomes an input from all relevant parties.
- 1.3 This report focuses primarily on Chapters 3 and 4 of the document, directly relevant to Trading Standards work “Digital markets that work for consumers and improving enforcement of Consumer Rights”.

2 Recommendations

- 2.1 That the report be noted.
- 2.2 That a formal response to the consultation document “Modernising Markets” Green Paper be submitted to the Government based on the proposed responses to questions 9, 15 and 16 which are directly relevant to the work of Birmingham Trading Standards and which are contained in the appendix 1 to this report.

Contact Officer: Sajeela Naseer, Head of Trading Standards and Markets  
Telephone: 0121 303 6112  
E-mail: [sajeela.naseer@birmingham.gov.uk](mailto:sajeela.naseer@birmingham.gov.uk)

### 3 Background

- 3.1 The Green Paper taken as a whole, emphasises the need for an enterprising Economy, built on invention, innovation and competition with the view being that competition between firms will drive productivity with long term economic growth, which will inevitably benefit consumers.
- 3.2 The document covers a wide range of issues which affect a number of industry sectors.
- 3.3 The Green Paper sets out three principles for responding to the challenges and opportunities of modern consumer markets:
  - Competition should be central to our approach.
  - Consumers should benefit from new technology and new business models.
  - Consumers should be able to get redress when things go wrong - and consumer rights are effectively enforced.
- 3.4 The first chapter of the green paper looks at ensuring competition in the modern markets and the role played by the Competition and Markets Authority (CMA).
- 3.5 The second chapter looks at the regulated markets such as utilities, telecommunications and financial services and how to make data portability work best for all consumers.
- 3.6 In this report however we will focus only on the key proposals most relevant to trading standards with an emphasis upon the proposals aimed at strengthening consumer rights and enforcement powers for regulators in respect of consumer law issues.
- 3.7 In summary, the Green Paper seeks views on the following issues:
  - How best to improve consumers understanding of terms and conditions (T&C's).
  - How best to improve the system of alternative dispute resolution (ADR).
  - Helping consumers benefit from their data and remain protected when they buy and sell online.
  - How best to support enforcement authorities in protecting consumers and strengthening their enforcement powers.

## 4 Digital Markets Working for Consumers

- 4.1 Chapter 3 of the paper looks at implications of the increasing digital economy and data portability and what approaches the CMA could take to ensure effective completion.
- 4.2 However in this chapter the paper also highlights an interesting issue that of increasing consumer to consumer transactions via online platform market places.
- 4.3 Whilst there are considerable consumer protection measures available for consumer buying from traders, such as goods should be satisfactory quality, under the Consumer Rights Act 2015, there is very little provisions for consumer to consumer transactions. Goods should still be as described, however consumers may not be aware of the difference in their rights when something goes wrong.
- 4.4 Should there be some sort of legal responsibility placed on the host platform provider or should additional rights be introduced for consumers to consumer transactions. Should for example consumers be required to clearly state the condition of the item in the description and highlight any defects or that repair work is necessary. This could particularly be an issue in higher value goods such as electrical goods or second hand cars.
- 4.5 The paper poses the question is the legal framework that covers consumer to consumer transactions appropriate to promote consumer confidence.
- 4.6 The recommended response from your Committee agrees that this area does need to be addressed to give consumers, who may well be from lower income groups, additional protection. Exploration should also be sought as to whether the host platform could be legally made to bear some liability or responsibility.
- 4.7 The Green Paper also looks at issues surrounding unfair terms and conditions.
- 4.8 There are concerns that consumers do not always understand what they have agreed to when accepting a contract, typically terms and conditions of sale (T&Cs). The suggestion is that businesses should be encouraged to use short and simple T&Cs as they are more likely to be understood by consumers as well as to undertake regular reviews to ensure that consumers can understand the key facts.
- 4.9 The Green Paper refers to studies that have shown that the way in which T&Cs are presented can significantly improve consumer comprehension and seeks views on whether businesses in certain sectors should be required to ensure that there is a minimum level of comprehension.
- 4.10 Many businesses are not familiar with the law in relation to unfair terms. Work is therefore ongoing, to improve compliance and reduce the use of unfair terms in consumer contracts, typically concerning deposit and advance

payments, cancellation charges, exclusions of liability and asking customers to agree to privacy rules/data use. The Paper primarily cites the role played by the CMA in this area.

## 5 Improving Enforcement of Consumer Rights Alternative Dispute Resolution

- 5.1 Chapter 4 of the paper looks at ensuring consumers are able to easily get redress when things go wrong and that consumer rights are effectively enforced.
- 5.2 The Green Paper considers alternative dispute resolution (ADR) schemes in the non-regulated sector to resolve civil disputes without the need to go to the civil courts.
- 5.3 In non-regulated markets where ADR is voluntary, such as general retail, research has shown that very few businesses participate in the ADR process in order to try and resolve disputes with their customers without going to court. It is reported, for instance, that businesses agreed to participate in only 6% of cases received by The Consumer Ombudsman.
- 5.4 However currently because ADR's in the non-regulated sector are voluntary there is no compulsion on traders to join. It is evident that areas that attract the greatest level of complaints and greatest consumer detriment do have a prevalence of 'problem' traders.
- 5.5 In sectors such as building or housing repair or second hand car trade consumers are often left dealing with traders unwilling to fulfil their obligation under the Consumer Rights Act 2015. Often it not even clear who is the owner of the business or a proper address so pursuing a civil action in court is fraught with difficulties.
- 5.6 The Government is consulting on how to make ADR more accessible and simpler for consumers, and how to incentivise more businesses to participate in ADR.
- 5.7 It has asked for views on whether businesses in non-regulated sectors should be given a choice of ADR provider amidst concerns that it confuses consumers, and would like to understand the challenges faced by groups of consumers, particularly vulnerable groups of consumers, when considering ADR.
- 5.8 Consumers are often forced to abandon legitimate complaints and the Government believes that mandatory ADR should be considered for sectors where there are high levels of high value complaints such as second hand cars and home improvements.
- 5.9 The recommendation for your Committee response is that joining a ADR scheme should be made mandatory in problem sectors giving consumers extra confidence that they have a reasonable avenue for redress when things go wrong.





## 6 Strengthening System of Public Enforcement

- 6.1 The Government recognises public enforcement of consumer law is an essential element of consumer trust in the markets and maintaining a level playing field.
- 6.2 Public enforcement bodies such as trading standards play a key role in protecting consumers from collective harm, such as misleading claims, use of unfair terms, use of unsafe products and instances of fraud.
- 6.3 The paper also recognises significant change in the market with the ever increasing trend towards online shopping.
- 6.4 Currently local authority trading standards departments are the primary enforcer of consumer law and have 75% of total resources. However this is reliant on local authority funding and these prioritise local objectives.
- 6.5 Funding of local authority trading standards has decreased significantly over the last 7 years. A Chartered Trading Standards Institute survey in 2016 reported total GB budget for trading standards has fallen from £213 million to £124 million, since 2009, resulting in a 53% cut in staff. The situation locally in Birmingham shows front line Trading Standards staff had reduced from 57.7 in 2010 to 18.3 in 2018/19.
- 6.6 The paper highlights the role of National Trading Standards (NTS) in improving local authorities' capacity to respond to the increased level of regional and national consumer detriment issues. In the last three years NTS has worked with local authorities with a core budget of £40m. An example cited is the eCrime team funded by NTS looking at national on line scams such as copycat websites and other further online frauds. Local Trading Standards have processes for escalating issues of regional and national importance to NTS. The NTS does not have enforcement powers itself.
- 6.7 Locally a recent example was when NTS recognised the role played by Birmingham Trading Standards in tackling Hajj Fraud and provided funding to tackle significant fraudulent travel agents operating nationally and to share best practice with other local authorities.
- 6.8 Another example is regional intelligence team tackling regional and national scams and frauds the Central England team being hosted by Birmingham.
- 6.9 Trading Standards adopts a Intelligence led approach, and sharing intelligence with the other Central England Local Authorities ( CEnTSA) identifies traders and trade sectors of most concern. Resources locally and regionally can then be prioritised and focused on those areas most concern. In some cases the the Regional Investigations Team, funded by NTS , is tasked to instigate investigations , whilst on other occasions request is made via CEnTSA for additional funding for resources from NTS.
- 6.10 More recently the Government has set up the Office of Product Safety and Standards (OPSS) which it is intended will provide a dedicated expertise to

lead on national Product Safety challenges. It will, where necessary, bring together technical and scientific support to coordinate and support the activities of local authority Trading Standards. In the longer terms consideration will be given to making the OPSS an independent body

- 6.11 The Government wants to ensure that the enforcement regime in relation to consumer protection issues provides a robust response to both local and national threats.
- 6.12 The consultation question asks what changes are needed to ensure local and national enforcers work together within an effective framework for protecting consumers.
- 6.13 The recommended response from your Committee recognises the role of NTS and looks forward to engaging with the new OPSS. However emphasises the need for Government to provide additional funding for over stretched Local Authority Trading Standards. NTS's budget is limited and escalating regional and potentially national issues for additional funding and resources are not always successful.
- 6.14 The recommended response also requests the government to recognize the huge range of nearly 250 pieces of legislation enforced by Local Trading Standards and that through NTS or BEIS should also provide funding for training in areas where skills gaps have developed with reduction in staff.

## 7 Consultation

- 7.1 The consultation document sets out 21 questions and is seeking responses from consumer bodies, academics, businesses and enforcement. This report is recommending responding to questions 9, 15 and 16.
- 7.2 The consultation period on the Green Paper closes on 4 July 2018.
- 7.3 We understand that the National Trading Standards (NTS) and Association of Chief Trading Standards Officers (ACTSO) are preparing a joint response. This is expected to be a more detailed response including some of the issues not addressed within this report.

## 8 Implications for Resources

- 8.1 There is no immediate implication; Trading Standards would currently continue to be accommodated within the resources currently available to your Committee.

## 9 Implications for Policy Priorities

- 9.1 Within Regulation and Enforcement Our Mission Statement is - locally accountable and responsive fair regulation for all – achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors.
- 9.2 The proposals in the Green paper also reflect existing trading standards contribution to the “succeed economically” strategic outcome, ensuring that all traders conduct their business in a fair and equitable trading environment.

10. Public Sector Equality Duty

- 10.1 The recommendations contained in this report will not have any effect on any of our existing duties under the Equality Act 2010

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Modernising Consumer Markets Consumer Green Paper April 2018

**BIRMINGHAM TRADING STANDARDS - MODERNISING CONSUMER MARKETS – CONSUMER GREEN PAPER CONSULTATION****REPONSES TO QUESTIONS - 9, 15 and 16.****9. Is the legal framework that covers consumer -to-consumer transactions appropriate to promote consumer confidence?**

It is evident that the advent of online sales platforms such as eBay - more consumers are purchasing goods from other consumers. We agree that protections for such sales are insufficient and we welcome additional legal protection for sales of this nature, particularly in relation to high value goods such as used sales/ electrical/white goods – especially as more often than not, it is consumers that are on low incomes that purchase from such sources.

**15. Should there be an automatic right for consumers to access alternative dispute resolution in sectors with the highest levels of consumer harm?**

We would agree with such a proposal and would support any movement towards automatic ADR.

In Birmingham as probably in most other Trading Standards authorities, we have high levels of complaints from consumers concerning both used car sales from independent car sales traders and complaints against builders.

These problematic traders would generally have no intention of joining such schemes however if joining such a scheme was a legal requirement then this would clearly benefit consumers and give them added protection.

**16. What changes are needed to ensure local and national enforcers work together within an effective framework for protecting consumers?**

We in Birmingham recognise the contribution from NTS and welcome the establishment of the new Office for Product Safety & Standards and we look forward to engaging with them as and when the need arises concerning significant safety issues.

However both NTS and Local Trading Standards need to be sufficiently funded to effectively protect consumers. The advent of on line trading has presented increasing opportunities to mislead or defraud consumers. New legislation places ever increasing demands on already over stretched staff.

The Government could consider providing direct funding to Local Trading Standards for core trading standards functions to address problem trade sectors or in areas particularly where most vulnerable consumers have been targeted.

The Government could also look at providing greater funding directly to regional bodies such as Central England Trading Standards Authorities for tasking the regional investigations teams so they have greater capacity to address more widespread complex frauds and scams.

The Government also needs to recognise skills gap that has developed with the reduction in staff and take steps through the national bodies to fund additional training to cover the 250 or so pieces of consumer legislation that are currently enforced.

**BIRMINGHAM CITY COUNCIL**

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

**20 JUNE 2018**  
**ALL WARDS**

**FIXED PENALTY NOTICES ISSUED MARCH AND APRIL 2018**

1. Summary
  - 1.1 The report sets out a breakdown, on a Constituency/Ward basis, of fixed penalty notices issued in the City during the period of March and April 2018.
2. Recommendation
  - 2.1 That the report be noted.

Contact Officer: Mark Croxford, Head of Environmental Health  
Telephone: 0121 303 6350  
E-mail: [mark.croxford@birmingham.gov.uk](mailto:mark.croxford@birmingham.gov.uk)

### 3. Background

3.1 The issuing of fixed penalty notices [FPN] by officers from Regulation and Enforcement is one of the means by which the problems of environmental degradation such as littering and dog fouling are being tackled within the City.

3.2 The yearly total numbers of fixed penalty notices issued are indicated below.

<u>Month</u>	<u>Fixed Penalty Notices Issued</u>
April 2004 – March 2005	382
April 2005 – March 2006	209
April 2006 – March 2007	650
April 2007 – March 2008	682
April 2008 – March 2009	1,147
April 2009 – March 2010	1,043
April 2010 – March 2011	827
April 2011 – March 2012	2,053
April 2012 – March 2013	1,763
April 2013 – March 2014	1,984
April 2014 – March 2015	4,985
April 2015 – March 2016	5,855
April 2016 – March 2017	6,306
April 2017 – March 2018	5,873

### 4. Enforcement Considerations and Rationale

4.1 The attached appendix shows the wards where FPNs were issued during the months of March and April 2018.

4.2 By identifying both the area where the FPN is issued and the ward/area that the litterer lives this demonstrates that the anti-litter message is being spread right across the city. By and large litter patrols are targeted to the primary and secondary retail areas of the city because there is a high level of footfall and they engage with a full cross section of the population. Targeted areas include locations where there are excessive levels of littering, smoking areas with high levels of cigarette waste that cause blight in the city and areas where there are known problems associated with groups gathering to eat outdoors.

4.3 The number of incidences of Fixed Penalty Notices being issued reflects the fact that there is still a problem with littering on our streets. Since the Health Act came into force there has been a decline in street cleanliness associated with cigarette waste. This is reflected not only in these statistics but also in the environmental quality surveys undertaken by Fleet and Waste Management that record cigarette waste being the most prevalent waste upon our streets and identify it in 98% of all samples of street cleanliness.



4.4 One of the difficulties in resolving the problem of cigarette waste being deposited on the street is that the perception of many smokers is that cigarette waste is not litter. A change in the culture and perceptions of these smokers is critical to resolving this problem.

4.5 Anyone who receives a FPN is encouraged to talk to their co-workers, friends and families to promote the anti-litter message.

## 5. Consultation

5.1 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[s] taken as a result of the contents of this report are subject to that Enforcement Policy.

## 6. Implications for Resources

6.1 The work identified in this report was undertaken within the resources available to your Committee.

## 7. Implications for Policy Priorities

7.1 The issue of fixed penalty notices has a direct impact on environmental degradation within the City and the Council's strategic outcome of staying safe in a clean, green city.

## 8. Public Sector Equality Duty

8.1 The actions identified in this report were taken in accordance with approved enforcement policies which ensure that equalities issues have been addressed.

# **ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: FPN records



**BIRMINGHAM CITY COUNCIL**

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

**20 JUNE 2018**  
**ALL WARDS**

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS  
TAKEN DURING MARCH AND APRIL 2018**

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.

Contact Officer: Emma Rohomon, Acting Head of Licensing  
Telephone: 0121 303 9780  
E-mail: emma.rohomon@birmingham.gov.uk

3. Summary of Appeal Hearings for March & April 2018

	Magistrates'	Crown
Total	5	
Allowed		
Dismissed	3	
Appeal lodged at Crown		n/a
Upheld in part	1	
Rejected at 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 and April 2018 costs have been requested to the sum of £805 with reimbursement of £305 (37.8%) 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	Mohammed Aslam	Listed 06.04.2018	Rejected	0	0	On 9 May 2017, as the result of disqualification from driving for a period of 12 months, Committee considered and resolved that the licence be suspended and refused renewal until 10 April 2019, in line with the policy relating to a driver who has been disqualified from driving. It was successfully argued that because of the length of time since Committee's decision the appeal was out of time. No order was made as to costs but Mr Aslam's appeal fee was refunded.
2	Ismail Suleman	06.04.2018	Allowed in part	0 (contra BCC)	0	On 19 September 2017, as the result of a second incident of failing to display the required private hire vehicle signage in spite of a recent warning regarding this deficiency, and obstructive behaviour towards a Police Officer, to the extent that he was arrested for the offence of obstruction, Committee considered and resolved that the licence be suspended for a period of 4 months. Mr Ismail's representative stated at Court that although he agreed there should be a period of suspension, he considered 4 months to be excessive. The Court reduced the period of suspension to 2 months.

3	Mazhar Iqbal	09.03.2018	Dismissed	£305.00	£305.00	On 2 January 2018, as the result of 3 separate offences each of plying for hire and using a vehicle while uninsured, the most recent of which were committed shortly after becoming licensed as a private hire driver following revocation of a previous licence for the same offences and shortly before becoming licensed as a hackney carriage driver, Committee considered and resolved that the licence be suspended for a period of 6 months. Although the private hire licence was revoked at the same time, no appeal was lodged against this decision. In the words of the Magistrates, Committee was right to query Mr Iqbal's ability to comply and could have even revoked the hackney carriage licence. They were not therefore persuaded that the decision to suspend the hackney carriage licence was wrong, and the appeal was dismissed.
4	Itshaam Hussain	13.04.2018	Dismissed	0	0	On 13 February 2018, as the result of serious motoring offences committed before Mr Hussain had passed the DSA driving test, Committee considered and resolved that the application be refused. Whilst the Court was very sympathetic with what he said, it did not consider the decision of the Committee to be wrong, and dismissed the appeal. No order was made as to costs.
5	Akhtar Hussain	27.04.2018	Dismissed	0	0	On 13 February 2018, as the result of convictions for offences of harassment and sending a threatening communication, Committee considered and resolved that the application be refused. The Magistrates in reaching their decision to not allow the appeal said they had to take into account the safety of the general public. The Council has a paramount duty to protect the public. No order was made as to costs.

**BIRMINGHAM CITY COUNCIL**

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

**20 JUNE 2018**  
**ALL WARDS**

**ACTIONS TAKEN BY THE CHAIR OF THE LICENSING  
AND PUBLIC PROTECTION COMMITTEE DURING APRIL 2018**

1. Summary
  - 1.1 This report advises the Committee of an action taken by the Chair under authority from the Licensing and Public Protection Committee, together with an explanation as to why this authority was used.
2. Recommendation
  - 2.1 That the report be noted.

Contact Officer: Emma Rohomon, Acting Head of Licensing  
Telephone: 0121 303 9780  
E-mail: [emma.rohomon@birmingham.gov.uk](mailto:emma.rohomon@birmingham.gov.uk)

### 3. Background Information

- 3.1 On 16 March 2007 Section 52 of the Road Safety Act 2006 came into force. This has had the effect of enabling a licensing authority to suspend or revoke a hackney carriage or private hire driver's licence with immediate effect – meaning that the suspension or revocation takes effect immediately once notice of the authority's decision has been given to the driver – where this decision is considered necessary in the interests of public safety.

### 4. Summary of Action Taken for April 2018

- 4.1 On 19 April 2018 authority was sought to revoke with immediate effect the private hire driver licence held by driver reference 27558. On 19 April 2018 the Licensing Enforcement Section received information from the West Midlands Police: on or about the same date a female passenger was assaulted in a sexual manner by the driver of a private hire vehicle: the driver grabbed her by her scarf and attempted to "stick his tongue down her throat". She was able to free herself and leave the vehicle. She approached the driver's window to pay him but he again grabbed her by the scarf and tried to kiss her but ended up licking her face and nose.
- 4.2 The interests of public safety being considered paramount, an authorisation of the Director of Regulation and Enforcement, acting in consultation with the Chair, was obtained and on 19 April 2018 notice was hand delivered personally to driver 27558 at his home address, advising that his private hire driver licence was revoked with immediate effect, in accordance with Sections 61(1)(b) and 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976. Driver 27558's badge and vehicle identification plates were received from him.

### 5. Implications for Resources

- 5.1 No specific implications have been identified; however, drivers retain the right to appeal through a Magistrates' Court, which may result in the imposition of costs either to or against the City Council.

### 6. Implications for Policy Priorities

- 6.1 The contents of the report contribute to the City Council's published policy priority of improving the standards of licensed vehicles, people and premises in the City.



7. Implications for Equality and Diversity

- 7.1 The actions identified in this report were taken in accordance with the Regulatory Services enforcement policy, which ensures that equality issues have been addressed.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**



**BIRMINGHAM CITY COUNCIL**

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

**20 JUNE 2018**  
**ALL WARDS**

**PROSECUTIONS AND CAUTIONS – MARCH & APRIL 2018**

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

Contact Officer: Chris Neville, Acting Director of Regulation and Enforcement  
Telephone: 0121 464 8640  
E-Mail: [Chris.Neville@birmingham.gov.uk](mailto:Chris.Neville@birmingham.gov.uk)

### 3. Results

3.1 During the months of March and April 2018 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- Three Licensing cases were finalised resulting in fines of £1,260 and prosecution costs of £1,268. 14 penalty points were issued and a total of 18 months driving disqualifications were imposed. 37 simple cautions were administered as set out in Appendix 1.
- 127 Environmental Health cases resulted in fines of £292,196. Prosecution costs of £43,959 were awarded. 9 months imprisonment suspended for 2 years, 12 months disqualification from driving and forfeiture of a vehicle. 4 months imprisonment suspended for 2 years, 4 months tagged curfew and 6 months disqualification from driving. Compensation for clean-up costs in the sum of £1,644 was awarded. One simple caution was administered as set out in Appendix 2.
- Three Trading Standards cases were finalised resulting in fines of £37,760 and prosecution costs of £12,316. Compensation in the sum of £7,577 was awarded. No simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in March and April 2018 and cases finalised by district April - March 2018.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team from April 2017 to March 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 2017 to April 2018 the following costs have been requested and awarded:

Licensing

£19,059 has been requested with £12,292 being awarded (64%).

Environmental Health

£380,872 has been requested with £311,497 being awarded (82%).

Trading Standards

£90,808.70 has been requested with £81,788.69 being awarded (90%).

- 5.3 For the months of March and April 2018 the following costs have been requested and awarded:

Licensing

£2,013 has been requested with £1,268 being awarded (63%).

Environmental Health

£51,455 has been requested with £43,959 being awarded (85%).

Trading Standards

£12,316 has been requested with £12,316 being awarded (100%).

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.

**ACTING 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	7/3/18	Mohammed Wasim Balsall Heath Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded <u>not guilty</u> to two offences: one of plying for hire in Suffolk Street Queensway, Birmingham and one of consequently having invalid insurance.  Found guilty after trial	£150 – No Insurance  + 6 penalty points  Disqualified from driving for 6 months  No separate penalty for plying  £500 costs (£1,031 requested)	Moseley & Kings Heath	Ladywood
2	12/4/18	Imran Yousaf Basford Nottingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Found guilty in his absence of two offences: one of plying for hire in Bennetts Hill, Birmingham and one of consequently having invalid insurance.	£770 – No Insurance  + 8 penalty points  No separate penalty for plying  £568 costs (£568 requested)	Out of area	Ladywood
3	30/4/18	Mohammed Sulieman Rehman Ward End Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988  Pleaded guilty to two offences: one of plying for hire in Rea Street, Birmingham and one of consequently having invalid insurance.	£340 – No Insurance  Disqualified from driving for 12 months  No separate penalty for plying  £200 costs (£414 requested)	Washwood Heath	Ladywood

## **LICENSING SIMPLE CAUTIONS**

During the period of March and April 2018 37 simple cautions have been administered

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

**Section 48(6)** 11 cautions were issued for failing to display a private hire vehicle licence plate

**Section 54(2)** Four 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) & Section 54(2)** Four cautions were issued for failing to display a private hire vehicle licence plate and for failing to wear the drivers badge in a position and manner as to be plainly and distinctly visible

**Section 57** One caution was issued for omitting a material particular on a licence application

**Section 64(3)** One caution was issued for waiting on a Hackney Carriage stand without being licensed as Hackney Carriage

### **Licensing Act 2003**

**Section 136(1)(a) & Section 57** One caution was issued for carrying on a licensable activity otherwise than in accordance with an authorisation and for failing to produce a premises licence upon request by an authorised officer.

**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** Two cautions were issued for failing to wear or display a hackney carriage driver's badge in a position and manner as to be plainly and distinctly

### **Town Police Clauses Act 1847 & Road Traffic Act 1988**

**Section 45 & Section 143** 10 cautions were issued for plying for hire and driving without insurance

**Section 51 & Section 143** One caution was issued for acting as a private hire driver without a current licence and driving without insurance

### **Criminal Justices and Public Order Act 1994**

**Section 167(1)** One caution was issued for soliciting person to hire a vehicle, to carry them as passengers.

### **Equalities Act 2010**

**Section 170** One caution was issued for failing to carry out a booking accepting by the operator due to the passenger being accompanied by an assistance dog.

**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	1/3/18	RRB Birmingham Ltd 18 West Heath Road Northfield Birmingham B31 3TG	Environmental Protection Act 1990  Pleaded guilty to one offence of depositing controlled waste, namely one black bag containing documents relating to RRB Birmingham Ltd, on a grass verge opposite 3a The Green, Kings Norton, Birmingham. Statutory Declaration made. Originally proved in absence on 18.1.18.	£2,000 fine  £1,010 costs (£1,010 requested)	Northfield	Kings Norton
2	15/3/18	Caribbean Mish Mash Ltd 406 Dudley Road Birmingham B18 4HH	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from the business at Mish Mash Caribbean, 406 Dudley Road, Birmingham was disposed of within 7 days.	£350 fine  £351 costs (£351 requested)	Soho	Soho
3	28/3/18	Muhammed Nabeel Birmingham	Environmental Protection Act 1990  Pleaded <u>not guilty</u> to one offence of knowingly causing or permitting controlled waste, namely 13 bags containing plasterboard, tiles and building waste, to be deposited from a vehicle in Yardley Green Road, Birmingham. Found guilty after trial	£1,000 fine  £934 costs (£934 requested)	South Yardley	Bordesley Green
4	29/3/18	Saima Malik Oldbury	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from the business at Saima Hair & Beauty, 237 Dudley Road, Birmingham was disposed of within 7 days.	£300 fine  £300 costs (£690 requested)	Out of area	Soho



5	6/4/18	Virginity Hair & Beauty Boutique Ltd 180 Dudley Road Birmingham B18 7QX	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from the business at Virginity Hair & Beauty Boutique, 180 Dudley Road, Birmingham was disposed of within 7 days.	£1,000 fine  £574 costs (£574 requested)	Ladywood	Ladywood
6	9/4/18	Wajid Ur Rahman Birmingham	Environmental Protection Act 1990  Pleaded guilty to two offences; one of knowingly causing or permitting controlled waste, namely logs, chipboard and tubing, to be deposited from a vehicle on land in Bolton Road, Birmingham and one offence of failing to provide information as to the person in charge of the vehicle on the date of offence	£432 x fly tipping offence No separate penalty x information offence  £1,500 costs (£2,096 requested)	Bordesley Green	Nechells
7	12/4/18	Emma Wall Birmingham	Environmental Protection Act 1990  Pleaded guilty to two offences of failing to comply with notices requiring written information of how waste from the business at The Sun Lounge, 54-56 Station Road, Erdington, Birmingham was disposed of within 7 days.	£300 – offence 1  No separate penalty for offence 2  £400 costs (£881 requested)	Hall Green	Erdington
8	12/4/18	PB Haute Couture Ltd 414 Stratford Road Birmingham B11 4AD	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from the business at Princess B Haute Couture, 180 Alum Rock Road, Birmingham was disposed of within 7 days.	£300 fine  £200 costs (£437 requested)	Springfield	Washwood Heath
9	12/4/18	Mohammed Adnan Khan Birmingham	Environmental Protection Act 1990  Pleaded guilty to one offence of knowingly causing or permitting controlled waste, namely bags of waste to be deposited on land on Yardley Wood Road, Birmingham.	£150 fine  £100 costs (£817 requested)	Brandwood	Billesley

10	12/4/18	City Express (MSB) Ltd 86 Alum Rock Road Birmingham B8 1HZ	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from the business at City Express Travel, 86 Alum Rock Road, Birmingham was disposed of within 7 days.	£300 fine  £434 costs (£434 requested)	Washwood Heath	Washwood Heath
11	12/4/18	Amsons TM Ltd 353-355 Coventry Road Birmingham B10 0SN	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from the business at Amsons, 126 Alum Rock Road, Birmingham was disposed of within 7 days.	£300 fine  £463 costs (£463 requested)	Nechells	Washwood Heath
12	12/4/18	Muhammed Adnan Dudley	Environmental Protection Act 1990  Pleaded guilty to three offences of knowingly causing or permitting controlled waste to be deposited on land. On 25 <sup>th</sup> September 2017 five black bags of domestic waste were deposited on Dugdale Street, on 10 <sup>th</sup> October 2017 two black bags of domestic waste were deposited on Abberley Street and on 16 <sup>th</sup> October 2017 six black bags of domestic waste were deposited on Abberley Street	£640 – offence 3  No separate penalty for offences 1 & 2  £1,000 costs (£1,705 requested)	Out of area	Soho
13	19/4/18	Mark Bolton Bilston Wolverhampton	Environmental Protection Act 1990  Pleaded guilty to eight offences: one of depositing controlled waste, namely 15 black bags, signage boards, broken furniture, wooden fence panels and a large builder's bag, on land at the car park outside Malcolm Locker Youth Centre, Rowden Drive, Birmingham, four of failing to comply with notices requiring information as to how the business at Gardens R Us, 268 Great Bridge Road, Wolverhampton disposes of its waste, one of failing to keep any written information regarding the transfer of controlled waste from the business and two offences of failing to	4 months custody suspended for 2 years 4 months tagged curfew  Disqualified from driving for 6 months  Excluded from Rowden Drive for 2 years	Out of area	Erdington

			provide information as to the driver of the vehicle used to deposit the controlled waste	£1,659 costs (£1,659 requested)  Clean-up costs £160		
14	20/4/18	Jimmy Doherty Tunstall Stoke on Trent	Environmental Protection Act 1990  Pleaded <u>not guilty</u> to one offence of knowingly causing or permitting controlled waste, namely building waste and general household waste, to be deposited on parkland at Sarehole Mill, Birmingham.  Found guilty after trial.	9 months imprisonment suspended for 2 years.  Disqualified from driving for 12 months.  Forfeiture of vehicle  Compensation for clean-up £1,484  No costs awarded	Out of area	Hall Green
15	26/4/18	Courtney Bullivant Leicester	Pleaded guilty to two offences; one of knowingly causing or permitting controlled waste, namely two bed bases, to be deposited on land on Brookfield Road, Birmingham and one offence of failing to comply with a statutory demand for information as to how waste is disposed of from the garden at 1 Louisa place, Brookfield Road, Birmingham.	£1,720 fine  £1,068 costs (£1,068 requested)	Out of area	Soho

**PEST OFFENCES**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	26/4/18	Allmid Limited 222 Alcester Road Moseley Birmingham B13 8EY	Prevention of Damage by Pests Act 1949  Pleaded guilty to one offence of failing to comply with a notice requiring the accumulation of rubbish and overgrowth to be removed from land at Garage 97 and the communal area opposite 80 North Park Road, Birmingham, and to eradicate pests within 28 days.	£370 fine  £572 costs (£527 requested)	Moseley & Kings Heath	Stockland Green

**FLYPOSTING OFFENCES**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	12/4/18	Westbourne Leisure Ltd Westbourne Head Office Strawberry Bank Hotel 72 Main Road Meriden Coventry CV7 7NF	Town & Country Planning Act 1990  Pleaded guilty to two offences of displaying posters advertising an event at the Irish Centre on guard railings opposite the Irish Centre, High Street, Digbeth and outside the O2 Institute, Digbeth without the consent of the City Council.	£600 – offence 1  No separate penalty for offence 2  £820 costs (£820 requested)	Out of area	Nechells

**ANIMAL WELFARE OFFENCES – SINGLE JUSTICE PROCEDURE**

1	23/03/18	Gail Flynn Birmingham	The Microchipping of Dogs (England) Regulations 2015  Found guilty in her absence of one offence of being the keeper of a Staffordshire Bull Terrier type dog and failing to comply with notices requiring that the microchip details recorded	£220 fine  £175 costs (£175 requested)	Longbridge	Longbridge
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			on the database were updated with the keeper's full name, address and contact number.			
2	13/4/18	Tina Tyndale Birmingham	The Microchipping of Dogs (England) Regulations 2015  Found guilty in her absence of one offence of being the keeper of a Shar Pei dog and failing to comply with notices requiring the dog to be microchipped within 21 days.	£220 fine  £175 costs (£175 requested)	Stockland Green	Stockland Green

### **FOOD HYGIENE 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	1/3/18	East End Foods Plc East End House Kenrick Way West Bromwich B71 4EA	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to three offences relating to conditions at East End Foods, 58-99 Darwin Street, Birmingham. Rat droppings were found throughout the premises. Food was not protected against contamination, gnawed boxes and bags of food were found. There was a build-up of dust and debris throughout the premises.	£180,000 fine  £3,453 costs (£3,453 requested)	Out of area	Nechells
2	15/3/18	Chung Ying Cantonese Restaurant Ltd 17 Thorp Street Birmingham B5 4AT	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to 14 offences; nine relating to conditions found at Chung Ying Gardens Cantonese Restaurant, 17 Thorp Street, Birmingham on 16 <sup>th</sup> December 2016. The premises were not kept clean and there were no adequate procedures in place to control pests. No hot water was supplied to the hand basins throughout the premises. Food was not protected against contamination,	£30,000 fine  £4,414 costs (£4,414 requested)	Nechells	Nechells

			<p>uncovered cashew nuts were being stored on top of uncovered raw prawns and uncovered raw prawns were stored next to uncovered cooked chicken. Foods were not being stored at correct temperatures. Food was not protected against allergens, nuts; raw shellfish and cooked chicken were stored, uncovered together posing a risk of cross contamination. There were no procedures in place based on HACCP.</p> <p>Three offences relating to the conditions found on 21<sup>st</sup> December 2016. There was no hot water to hand wash basins throughout the kitchen or food preparation areas and there was no evidence of a food safety management system being in place and two offences of failing to comply with Hygiene Improvement Notices requiring written allergy information to be available for the food and drink served at the premises and a constant supply of hot water to be provided throughout the premises</p>			
3	15/3/18	<p>Kafe Karachi Ltd 253 Alcester Road South Kings Heath Birmingham B14 6DT</p>	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Pleaded guilty to seven offences relating to poor conditions following an inspection at Kafe Karachi Ltd, 127-129 Ladypool Road, Birmingham. The Company failed to comply with two Hygiene Improvement Notices; one required them to remove loose flaking paint and redecorate and to ensure all food ingredients were stored in suitable clean and undamaged packaging. The second notice required them to put in place, implement and maintain procedures based on HACCP. The premises was not kept clean, food crates used to store samosas were dirty and greasy. A work top table had been repaired using black tape and was ingrained with food</p>	<p>£4,000 fine</p> <p>£3,069 (£3,069 requested)</p>	Brandwood	Sparkbrook

			debris. Food was not protected against contamination, carrots were being stored beneath raw fish and raw meat was being prepared next to salad.			
4	29/3/18	Adeola Idowu Birmingham	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to five offences following an inspection of Joy Express, 120 Great Hampton Row, Birmingham. There was evidence of mouse activity throughout the premises. Mouse droppings were found on shelves and the floor. A large hole in the wall, defective ceiling tiles and lack of pest proofing allowed access to pests. A bag of chapatti flour was on display for sale that had been damaged by pests. There were no procedures based on HACCP.	£533 fine  £1,573 costs (£1,573 requested)	Kingstanding	Aston
5	6/4/18	Yum Yum Grill (UK) Ltd Unit 22 Martineau Place Birmingham B2 4UU	Food Safety and Hygiene (England) Regulations 2013  Found guilty in their absence of five offences relating to conditions at Yum Yum Grill, Unit 22 Martineau Place, Birmingham. There was evidence of mouse activity in the premises. The premises was dirty, shelving, walls, touch points, the rear door and a hand basin was dirty. Cleaning equipment, the microwave, chest freezers, food containers and food packaging were all dirty. There were no procedures based on HACCP. There was no evidence that food handlers were trained in food hygiene.	£12,000 fine  £1,977 costs (£1,977 requested)	Ladywood	Ladywood
6	12/4/18	Paul & Mario's Ltd 5 Bloomsbury Street Birmingham B7 5BX	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to three offences relating to conditions at Paul & Mario's, 5 Bloomsbury Street, Birmingham. There was evidence of mouse activity throughout the premises. The	£1,400 – offence 1 No separate penalty for remaining offences  £915 costs	Nechells	Nechells

			premises was not kept clean, the floor was littered with mouse droppings, there was an accumulation of grease and dirt on the wall and floor behind the pressure cooker. A dead mouse was found behind the freezer. The rear entrance door was left open without adequate pest proof screening.	(£915 requested)		
7	26/4/18	<p>Medina Bakery Ltd 48 Golden Hillock Road Birmingham B10 0LG</p> <p>Rashid Ahmed Esakjee Kings Heath Birmingham</p>	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>The Director and Company pleaded guilty to 21 offences each relating to conditions at Medina Bakery, 48 Golden Hillock Road, Birmingham on two separate dates. On the first occasion the premises was dirty and mouse droppings were found throughout the premises. A wall in the rear storage room was covered in mould, the ceiling and light fittings were rusty and there was an accumulation of dirt underneath the walk in oven. A hole in the skirting board in the manufacturing room allowed access to pests and the roller shutter door had gaps around it. The cellar was full of redundant equipment making it impossible to carry out pest checks. There were not enough wash basins available. Bleach and washing powder was stored in close proximity to where food was prepared. Tiles in the manufacturing room were cracked and damaged and areas of the wall were damaged. Equipment was dirty and staff wore filthy overcoats. Cling film and wrapping materials were stored next to mouse droppings. On the second occasion the premises was still dirty and a fridge used to store yeast and mixed fruit was covered in mould. Paint on the ceiling was cracked above a mixer and the floor around the wash hand basin/sink was damaged. Open boxes of fruit and nuts were being stored on</p>	<p>£20,000 fine against the company</p> <p>£1,734 costs (£1,734 requested)</p> <p>£1,280 (£640 x 2) fine against the Director.</p> <p>All costs to be paid by the company.</p>	South Yardley	South Yardley



			shelving and not protected against flies. A number of undescribed eggs were noted in the manufacturing room and warehouse and no documentation was available to show where they had come from.			
8	26/4/18	Azad Supermarket (Bham) Ltd 479-481 Stratford Road Sparkhill Birmingham B11 4LE	Food Safety and Hygiene (England) Regulations 2013  Pleaded guilty to four offences relating to conditions at Azad Supermarket, 479-481 Stratford Road, Birmingham during two separate visits. On the first visit tiles in the walk-in freezer were cracked and damaged, the floors in the shop, butchery, warehouse and walk in chiller were dirty, tile grouting around the sink in the butchery was dirty. Live cockroaches were present in the butchery area. On the second visit the company had failed to comply with a Hygiene Improvement Notice requiring the floors, walls and ceilings to be thoroughly cleaned. Live cockroaches were found in the butchery area, corridors, on the shop floor and within containers of vegetables and boxes of crisps	£12,000  £2,004 costs (£2,004 requested)	Springfield	Springfield

#### **LITTERING OFFENCES (NON SJP)**

	<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	26/4/18	Hama Choman Tahir Smethwick	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street.	£45 fine  £75 costs (£175 requested)	Out of area	Ladywood

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

<b>Date Cases Heard</b>	<b>Total Number of Cases</b>	<b>Total Fines imposed</b>	<b>Total Costs awarded</b>	<b>Total Costs requested</b>
9/3/18	9	£1,980	£1,395	£1,575
23/3/18	30	£6,526	£5,160	£5,250
13/4/18	42	£8,690	£3,570	£7,350
27/4/18	18	£3,560	£2,885	£3,150

### **ENVIRONMENTAL HEALTH SIMPLE CAUTIONS**

One simple caution was administered during March and April 2018

#### **Food Safety and Hygiene (England) Regulations 2013**

One caution was issued for failing to comply with Food Hygiene Regulations

**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	5/3/18	<p>Car Place Birmingham Ltd 134 Small Heath Highway Birmingham B10 0BW</p> <p>Mohammed Umair Birmingham</p> <p>Mohammed Tufail Birmingham</p>	<p>Consumer Protection from Unfair Trading Regulations 2008 &amp; Road Traffic Act 1988</p> <p>The Company and Mohammed Umair each pleaded guilty to 23 offences; eight of exposing cars for sale at 134 Small Heath Highway, in an unroadworthy condition. 10 offences of exposing vehicles for sale on carplaceltd.co.uk website, autotrader.co.uk website and at 134 Small Heath Highway, creating the impression they could be legally sold when they could not as they were unroadworthy. Five offences of advertising and offering for sale motor vehicles without first carrying out a basic inspection to ascertain whether the vehicles were safe, roadworthy and of satisfactory quality or economical to repair.</p> <p>Mohammed Tufail pleaded guilty to four offences; two of exposing vehicles for sale on carplaceltd.co.uk website, autotrader.co.uk website and at 134 Small Heath Highway, creating the impression they could be legally sold when they could not as they were unroadworthy. A further two offences of advertising and offering for sale motor vehicles without first carrying out a basic inspection to ascertain whether they were safe, roadworthy and of satisfactory quality or economical to repair.</p>	<p>Car Place – fine £33,120</p> <p>(£1,440 x 23)</p> <p>Mohammed Umair – fine £1,800</p> <p>£2,472 costs</p> <p>£4,283 compensation</p> <p>Mohammed Tufail - £575 fine</p> <p>£7,418 costs</p> <p>£3,294 compensation</p> <p>(Total costs requested £9,891)</p>	Nechells	Nechells

2	6/4/18 at Birmingham Crown Court	Jambaz Ahmadzai Alum Rock Birmingham	<p>Tobacco and Related Products Regulations 2016 and Trade Marks Act 1994</p> <p>Pleaded guilty to six offences: two of supplying 898 packs of cigarettes and tobacco of various brands and 220 packs of snuff from Metro Express, 704 Alum Rock Road, Birmingham, which failed to carry the health warnings required on the packaging and a further offence relating to the supply of 84 packs of snuff which failed to carry the health warnings required and three offences relating to packets of cigarettes of various brands and hand rolling tobacco which bore registered trademarks without the consent of the trade mark holders.</p>	<p>18 month community order with 100 hours unpaid work x 6</p> <p>To run concurrently</p> <p>POCA timetable set</p>	Washwood Heath	Washwood Heath
3	26/4/18 at Birmingham Crown Court	<p>KRC Motors WM Ltd 1098 Kingsbury Road Birmingham B35 6AH</p> <p>Hawdam Khalis Jabar Birmingham</p>	<p>Consumer Protection from Unfair Trading Regulations 2008</p> <p>The Company and Director each pleaded guilty to two offences relating to an advertisement on the Auto Trader Website which contained false information, namely that the vehicle had “no accident damage” and was in “excellent condition”. The advert also omitted that the vehicle was in fact a Category D Insurance write off.</p>	<p>Company fined £2,000</p> <p>£2,425 costs (to be paid by company)</p> <p>(£2,425 requested)</p> <p>Director fined £265</p>	Tyburn	Tyburn

### **TRADING STANDARDS SIMPLE CAUTIONS**

No simple cautions were administered during March and April 2018

**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – MARCH 2018**

<b><u>WARDS &amp; CONSTITUENCIES FINALIZED BY OFFENCE</u></b>				
	<b><u>Licensing</u></b>	<b><u>Environmental Health - Non FPNs</u></b>	<b><u>Environmental Health - FPNs</u></b>	<b><u>Trading Standards</u></b>
<b>EDGBASTON</b>				
Bartley Green				
Edgbaston				
Harborne				
Quinton				
<b>ERDINGTON</b>				
Erdington				
Kingstanding				
Stockland Green				
Tyburn				
<b>HALL GREEN</b>				
Hall Green				
Moseley & Kings Heath				
Sparkbrook		1		
Springfield				
<b>HODGE HILL</b>				
Hodge Hill				
Washwood Heath				
Bordseley Green		1		
Shard End				
<b>LADYWOOD</b>				
Aston		1		
Ladywood	1			
Nechells		2	37	1
Soho		2	2	

<b>NORTHFIELD</b>				
Kings Norton		1		
Longbridge		1		
Northfield				
Weoley				
<b>PERRY BARR</b>				
Lozells & East Handsworth				
Handsworth Wood				
Oscott				
Perry Barr				
<b>SELLY OAK</b>				
Billesley				
Bournville				
Brandwood				
Selly Oak				
<b>SUTTON COLDFIELD</b>				
Sutton Four Oaks				
Sutton New Hall				
Sutton Trinity				
Sutton Vesey				
<b>YARDLEY</b>				
Acocks Green				
Sheldon				
South Yardley				
Stechford & North Yardley				
<b>TOTAL</b>	1	9	39	1

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

<u>WARDS &amp; CONSTITUENCIES - FINALIZED BY DEFENDANT'S ADDRESS</u>				
	<u>Licensing</u>	<u>Environmental Health - Non FPNs</u>	<u>Environmental Health - FPNs</u>	<u>Trading Standards</u>
<b>EDGBASTON</b>				
Bartley Green				
Edgbaston			1	
Harborne				
Quinton				
<b>ERDINGTON</b>				
Erdington				
Kingstanding		1		
Stockland Green				
Tyburn				
<b>HALL GREEN</b>				
Hall Green				
Moseley & Kings Heath	1			
Sparkbrook			1	
Springfield				
<b>HODGE HILL</b>				
Hodge Hill				
Washwood Heath			2	
Bordseley Green				
Shard End			1	
<b>LADYWOOD</b>				
Aston			3	
Ladywood			1	
Nechells		1	1	1
Soho		1	3	

<b>NORTHFIELD</b>				
Kings Norton				
Longbridge		1	1	
Northfield		1	1	
Weoley				
<b>PERRY BARR</b>				
Lozells & East Handsworth			2	
Handsworth Wood				
Oscott				
Perry Barr				
<b>SELLY OAK</b>				
Billesley			1	
Bournville				
Brandwood		1	3	
Selly Oak				
<b>SUTTON COLDFIELD</b>				
Sutton Four Oaks				
Sutton New Hall				
Sutton Trinity			1	
Sutton Vesey				
<b>YARDLEY</b>				
Acocks Green				
Sheldon				
South Yardley		1		
Stechford & North Yardley				
<b>OUT OF AREA</b>		2	17	
<b>TOTAL</b>	1	9	39	1



**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL 2017 - MARCH 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	1	0	0	1	0	0	0	<b>1</b>
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	39	0	0	0	0	0	0	<b>39</b>
Environmental Health (non FPNs)	0	0	1	1	5	2	0	0	0	0	0	<b>9</b>
Trading Standards	0	0	0	0	1	0	0	0	0	0	0	<b>1</b>

**CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL 2017 - MARCH 2018**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	1	0	0	0	0	0	0	0	0	<b>1</b>
Environmental Health (FPNs) Not paid and prosecuted	1	0	1	3	8	2	2	4	1	0	17	<b>39</b>
Environmental Health (non FPNs)	0	1	0	0	2	2	0	1	0	1	2	<b>9</b>
Trading Standards	0	0	0	0	1	0	0	0	0	0	0	<b>1</b>

**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL 2017 - MARCH 2018**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	2	0	3	0	17	2	0	2	1	2	0	<b>29</b>
Environmental Health (FPNs) Not paid and prosecuted	3	1	2	0	583	1	0	5	0	0	0	<b>595</b>
Environmental Health (non FPNs)	3	9	16	11	58	14	16	3	2	18	0	<b>150</b>
Trading Standards	1	0	4	1	7	0	0	0	0	2	0	<b>15</b>

**CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL 2017 – MARCH 2018**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	1	8	7	3	1	3	0	0	0	5	<b>29</b>
Environmental Health (FPNs) Not paid and prosecuted	25	21	31	44	68	21	37	33	8	21	286	<b>595</b>
Environmental Health (non FPNs)	6	10	14	17	30	10	13	7	4	17	22	<b>150</b>
Trading Standards	1	0	4	0	7	0	0	0	0	1	2	<b>15</b>

# CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL 2018

<u>WARDS &amp; CONSTITUENCIES FINALIZED BY OFFENCE</u>				
	<u>Licensing</u>	<u>Environmental Health - Non FPNs</u>	<u>Environmental Health - FPNs</u>	<u>Trading Standards</u>
<b>EDGBASTON</b>				
Bartley Green				
Edgbaston				
Harborne				
Quinton				
<b>ERDINGTON</b>				
Erdington		2		
Kingstanding				
Stockland Green		2		
Tyburn				1
<b>HALL GREEN</b>				
Hall Green		1		
Moseley & Kings Heath				
Sparkbrook				
Springfield		1		
<b>HODGE HILL</b>				
Hodge Hill				
Washwood Heath		3		1
Bordseley Green				
Shard End				
<b>LADYWOOD</b>				
Aston				
Ladywood	2	2	60	
Nechells		3		
Soho		2		

<b>NORTHFIELD</b>				
Kings Norton				
Longbridge				
Northfield				
Weoley				
<b>PERRY BARR</b>				
Lozells & East Handsworth				
Handsworth Wood				
Oscott				
Perry Barr				
<b>SELLY OAK</b>				
Billesley		1		
Bournville				
Brandwood				
Selly Oak				
<b>SUTTON COLDFIELD</b>				
Sutton Four Oaks				
Sutton New Hall				
Sutton Trinity				
Sutton Vesey				
<b>YARDLEY</b>				
Acocks Green				
Sheldon				
South Yardley		1		
Stechford & North Yardley				
<b>TOTAL</b>	2	18	60	2

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

<u>WARDS &amp; CONSTITUENCIES - FINALIZED BY DEFENDANT'S ADDRESS</u>				
	<u>Licensing</u>	<u>Environmental Health - Non FPNs</u>	<u>Environmental Health - FPNs</u>	<u>Trading Standards</u>
<b>EDGBASTON</b>				
Bartley Green			2	
Edgbaston				
Harborne				
Quinton			2	
<b>ERDINGTON</b>				
Erdington				
Kingstanding				
Stockland Green		1	2	
Tyburn			1	1
<b>HALL GREEN</b>				
Hall Green		1	1	
Moseley & Kings Heath		1		
Sparkbrook			2	
Springfield		2		
<b>HODGE HILL</b>				
Hodge Hill			1	
Washwood Heath	1	1	2	1
Bordseley Green		1		
Shard End			1	
<b>LADYWOOD</b>				
Aston			1	
Ladywood		2	2	
Nechells		2		
Soho			3	

<b>NORTHFIELD</b>				
Kings Norton				
Longbridge			1	
Northfield			1	
Weoley			1	
<b>PERRY BARR</b>				
Lozells & East Handsworth			3	
Handsworth Wood			3	
Oscott			1	
Perry Barr			3	
<b>SELLY OAK</b>				
Billesley				
Bournville				
Brandwood		1		
Selly Oak			1	
<b>SUTTON COLDFIELD</b>				
Sutton Four Oaks				
Sutton New Hall				
Sutton Trinity			1	
Sutton Vesey				
<b>YARDLEY</b>				
Acocks Green				
Sheldon				
South Yardley		1	1	
Stechford & North Yardley			1	
<b>OUT OF AREA</b>	1	5	23	
<b>TOTAL</b>	2	18	60	2

### **CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL 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	0	0	0	0	<b>2</b>
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	61	0	0	0	0	0	0	<b>61</b>
Environmental Health (non FPNs)	0	4	2	3	7	0	0	1	0	1	0	<b>18</b>
Trading Standards	0	1	0	1	0	0	0	0	0	0	0	<b>2</b>

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	1	0	0	0	0	0	0	1	<b>2</b>
Environmental Health (FPNs) Not paid and prosecuted	4	3	3	4	6	3	10	1	1	2	24	<b>61</b>
Environmental Health (non FPNs)	0	1	4	2	4	0	0	1	0	1	5	<b>18</b>
Trading Standards	0	0	0	0	1	0	0	0	0	0	0	<b>1</b>

**WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY**  
**APRIL 2017 – MARCH 2018**

	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18	Mar-18	Total 2017/2018
<b>Waste Investigation Outcomes</b>													
Investigations into commercial waste disposal suspected offences and offences	23	35	83	101	88	43	90	111	63	120	173*	157*	<b>1087</b>
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	20	32	75	85	75	37	56	76	46	94	144*	121*	<b>861</b>
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	11	13	25	29	89	28	37	35	23	58	51	34	<b>433</b>
<u>Section 87 Environmental Protection Act</u> . Fixed Penalty notices issued for commercial and residential litter offences (£80)	5	0	5	0	3	0	2	3	0	1	0	0	<b>19</b>
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)	4	9	7	1	6	2	4	5	4	5	5	4	<b>56</b>
<b>Prosecutions</b>													
Number of prosecution files submitted to legal services (number produced quarterly)			15			19			53			43	<b>130</b>

\*feb and march missed figures from previous months added in (36 in Feb and 42 in Mar)

\*feb and march have missed figures from previous months added in (29 in Feb and 35 in March)



**BIRMINGHAM CITY COUNCIL**

**LICENSING AND PUBLIC PROTECTION COMMITTEE**

**20 JUNE 2018**

**SCHEDULE OF OUTSTANDING MINUTES**

<b>MINUTE NO./DATE</b>	<b>SUBJECT MATTER</b>	<b>COMMENTS</b>
916 (iii) 23/10/2017	<b><u>Emissions Policy beyond 31 December 2019</u></b> The Acting Service Director of Regulation and Enforcement be requested to prepare a report for this committee to consider a medium to long-term emissions policy in respect of hackney carriage and private hire vehicles beyond 31st December 2019.	Report due in September 2018
916 (iv) 23/10/2017	<b><u>Absolute Age Policy in respect of Hackney Carriage and Private Hire Vehicles.</u></b> The Acting Service Director of Regulation and Enforcement be requested to prepare a report for this Committee at the earliest opportunity to consider an absolute age policy in respect of hackney carriage and private hire vehicles.	Report due in September 2018
920 23/10/2017	<b><u>Card Payments in Hackney Carriage Vehicles</u></b> The Acting Service Director of Regulation and Enforcement be requested to instruct officers to consult with the wider trade to establish the level of support for all Birmingham Licensed hackney carriages to be equipped to take credit card payments; amongst other drivers and trade organisations and report back to this Committee	Report due in September 2018
934 (ii) 15/11/2017	<b><u>Update Report on Proposed Strategy for Venues Operating as Shisha premises in Birmingham</u></b> The Acting Service Director of Regulation and Enforcement be requested to instruct officers to undertake a wider consultation with key stakeholders on the adoption of the proposed strategy. Officers to present the outcome of the consultation at a future meeting of Committee, with their recommendations on a finalised Strategy for the Committee's approval.	Report due in September 2018
942 (ii) 15/11/2017	<b><u>Revision of Birmingham City Council Act 1990 Establishments for Massage and/or Special Treatments</u></b> The Acting Service Director of Regulation and Enforcement be requested to provide a report for Committee reviewing the need for the Birmingham City Council Act 1990 and options including delegation of	Report due in July 2018

	hearings to Licensing Sub-Committees.	
976 14/02/2018	<b><u>Update Report On Unauthorised Encampments</u></b> – The Acting Service Director of Regulation and Enforcement be requested to report further in three months' time to update on the various work items contained within the report.	Report due in July 2018