

BIRMINGHAM CITY COUNCIL

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

24 October 2018
ALL WARDS

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
August 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.

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3. Summary of Appeal Hearings for August 2018

	Magistrates'	Crown
Total	8	
Allowed	3	
Dismissed	3	
Appeal lodged at Crown		0
Upheld in part	0	
Withdrawn pre-Court	2	

4. Implications for Resources

- 4.1 The details of costs requested and ordered in each case are set out in the appendix below.
- 4.2 In August 2018 costs have been requested to the sum of £955.25 so far with reimbursement of £1605.25 so far (59.5%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2018 to August 2018, costs associated to appeal hearings have been requested to the sum of £3788.55 so far with reimbursement of £3009.15 so far (79.4%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2018 to August 2018, costs contra Birmingham City Council associated to appeal hearings have been requested and awarded in excess of £10483.

5. Implications for Policy Priorities

- 5.1 The contents of this report contribute to the priority action of providing an efficient and effective Licensing service to ensure the comfort and safety of those using licensed premises and vehicles.

6. Public Sector Equality Duty

- 6.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Regulation and Enforcement Division, which ensures that equality issues have been addressed.

7. Consultation

- 7.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and the business community in terms of the regulatory duties of the Council. Any enforcement action taken as a result of the contents of this report is subject to that Enforcement Policy.

DIRECTOR OF REGULATION AND ENFORCEMENT

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

MAGISTRATES' COURT – PRIVATE HIRE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Tahir Masood	01.08.2018	Dismissed	£1050.00	£400.00	On 15.01.2018 as a result of a conviction for battery, the Sub Committee resolved to revoke the licence. On 01.08.2018 After hearing both parties submissions the Magistrates decided that Mr Masood had failed to show that the decision was wrong and dismissed the appeal.
2	Latif Ahmed	03.08.2018	Allowed	£812.50 (Contra BCC)	£650.00 (Contra BCC)	On 28.03.2018 as a result of non-conviction information disclosed by Staffordshire Police as part of the Criminal Record Disclosure, the Sub Committee refused to renew the licence. On 03.08.2018 Mr Ahmed's appeal was allowed, as the Magistrates were convinced that the decision of the Sub-Committee was wrong, because Mr Ahmed has had no other complaints, cautions or convictions.75% of the Appellant's costs were awarded, totalling £650.
3	Mark Gee	06.08.2018	Not Defended	£1333.94 (Contra BCC)	£1333.94 (Contra BCC)	On 23.04.2018 the Sub Committee resolved to refuse Mr Gee's request to be exempt from displaying plates and signage on his vehicle. Following legal advice, it was decided not to defend the appeal . The Magistrates court awarded costs in the sum of £1333.94.
4	Tahir Latif	06.08.2018	Dismissed	£191.00	£191.00	On 23.04.2018 due to a conviction for driving with excess alcohol, the Sub Committee resolved to refuse the application for the grant of a private hire driver licence. On 06.08.2018 Mr Latif failed to attend court, the appeal was dismissed, the court made an order for costs of £191.00.
5	Ali Ahmed	13.08.2018	Allowed	£750.00 (Contra BCC)	£750.00 (Contra BCC)	On 29.05.2018 due to convictions recorded, the Sub Committee resolved to refuse the application for the grant of a private hire driver licence. On 16.08.2018 the court allowed the appeal on the basis that the conviction is an old one and Mr Ahmed has held licences with other authorities.

6	Tariq Hussain	15.08.2018	Dismissed	£123.65	£123.65	On 29.05.2018 due to convictions for plying for hire and driving while uninsured the Sub Committee resolved to revoke the licence in line with policy. On 15.08.2018 Mr Hussain did not attend, the court dismissed the appeal.
7	Sheikh Rizwan Ali	17.08.2018	Allowed	£00.00 (Contra BCC)	£00.00 (Contra BCC)	On 27.07.2018 due to a conviction recorded, the Sub Committee resolved to refuse the application for the grant of a private hire driver licence. The decision was in line with policy. On 17.08.2018 the court allowed the appeal, the magistrates were of the view that the Sub Committee should have considered that the appellant is a licensed driver with other authorities and the historic nature of the offence, these were compelling reasons to depart from policy. There was no application for costs.

MAGISTRATES' COURT – PRIVATE HIRE OPERATOR'S LICENCE

1	Naela Sameena t/a Bestway Cars	08.08.2018	Withdrawn Pre-Court	£240.60	£240.60	On 09.04.2018 the Sub Committee refused renewal of the licence due to failing to comply with conditions of licence and other matters of concern. On 08.08.2018 the appellant was not present, the District Judge explained that an official notice of withdrawal via email was received. An order for costs of £240.60 was made.
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