

BIRMINGHAM CITY COUNCIL

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

14 FEBRUARY 2018
ALL WARDS

PROSECUTIONS AND CAUTIONS – DECEMBER 2017

1. Summary
 - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of December 2017.
2. Recommendation
 - 2.1 That the report be noted.

Contact Officer: Chris Neville, Acting Director of Regulation and Enforcement
Telephone: 0121 303 6111
E-Mail: chris.neville@birmingham.gov.uk

3. Results

3.1 During the month of December 2017 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- Two Licensing cases were finalised resulting fines of £450 and prosecution costs of £400 together with a six month driving disqualification. One simple caution was administered as set out in Appendix 1.
- 20 Environmental Health cases resulted in fines of £25,610, a 6 month conditional discharge, 200 hours of unpaid work and a 12 month driving disqualification. Prosecution costs of £21,329 were awarded together with clean-up costs in the sum of £160.50. No simple cautions were administered as set out in Appendix 2.
- Two Trading Standards cases resulted in fines of £400 and a 12 month conditional discharge. Prosecution costs of £3,686 were awarded together with compensation in the sum of £1,600. One simple caution was administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in December 2017 and cases finalised by district April - December 2017.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team from April to November 2017.

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 December 2017 the following costs have been requested and awarded:

Licensing

£14,297 has been requested with £8,542 being awarded (60%).

Environmental Health

£259,755 has been requested with £211,358 being awarded (81%).

Trading Standards

£76,937 has been requested with £68,722 being awarded (89%).

- 5.3 For the month of December 2017 the following costs have been requested and awarded:

Licensing

£1,095 has been requested with £400 being awarded (37%).

Environmental Health

£27,752 has been requested with £21,329 being awarded (77%).

Trading Standards

£3,686 has been requested with £3,686 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**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	4/12/17	Ghulam Shaber 35 Willows Crescent Balsall Heath Birmingham B12 9NS	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in Broad Street, Birmingham and one of consequently having invalid insurance.	£250 – plying for hire No separate financial penalty for no insurance Disqualified from driving for 6 months. £200 costs (£491 requested)	Sparkbrook	Ladywood
2	7/12/17	Mohammed Abdul Ojud 6 Jersey Road Saltley Birmingham B8 1PL	Equalities Act 2010 Pleaded guilty to one offence of failing to carry out a booking accepted by the operator because the disabled customer was accompanied by an assistance dog.	£200 £200 costs (£604 requested)	Washwood Heath	Ladywood

LICENSING SIMPLE CAUTIONS

During the period of December 2017, one simple caution has been administered.

Local Government (Miscellaneous Provisions) Act 1976

Section 56(3) One caution was issued for failing to produce records

ENVIRONMENTAL HEALTH CASES

WASTE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	1/12/17	SBA Mobiles Ltd 741 Bristol Road South Birmingham B31 2NG	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a statutory demand requiring written information to be provided within 7 days as to how the company disposes of its waste.	£500 £635 costs (£635 requested)	Weoley	Weoley
2	1/12/17	Woodgate PO Ltd 45 Woodgate Lane Birmingham B32 3QU	Environmental Protection Act 1990 Pleaded guilty to three offences; one offence of knowingly causing or permitting controlled waste, namely five black bags of waste from One Stop Post Office and Store, 45 Woodgate Lane, Birmingham, to be deposited on the grass verge opposite 45 Woodgate Lane and two offences of failing to comply with a statutory demand requiring written information to be provided within 7 days as to how the business disposes of its waste.	£1,500 – offence 1 No separate penalty for remaining offences £1,528 costs (£1,528 requested)	Bartley Green	Bartley Green
3	14/12/17	Jonathan Caines 63a Heybarnes Road Hay Mills Birmingham B10 9HR	Environmental Protection Act 1990 Scrap Metal Dealers Act 2013 Bail Act Pleaded guilty to four offences; two of knowingly causing controlled waste, namely paint pots, bulky waste, furniture, soil and garden waste, to be deposited from a Mercedes vehicle on land in Baker Street, Small Heath, Birmingham; one offence of operating as a scrap metal dealer without being licensed to do so and one offence of failing to surrender to bail.	200 hours unpaid Community Work A Rehabilitation Requirement Activity of 20 days £50 fine – Bail Act Offence Disqualified from driving for 12	Bordesley Green	Nechells

				months. Order made for the Forfeiture of the vehicle £400 costs (£6,633 requested)		
4	15/12/17	Phone Giant Ltd 1 Washwood Heath Road Washwood Heath Birmingham B8 1SH	Environmental Protection Act 1990 Found guilty in absence of five offences; two of failing to prevent controlled waste from the business at Phone Giant, 2198 Coventry Road, Sheldon, Birmingham from being deposited on the pavement at 2202-2204 Coventry Road and three of failing to comply with notices requiring written information to be provided as to how the business disposes of its waste from Phone Giant, 2198 Coventry Road and Phone Giant, 1 Washwood Heath Road.	£2,500 £1,985 costs (£1,985 requested) £160.50 clean-up costs.	Washwood Heath	Sheldon

FOOD HYGIENE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	1/12/17	Mohammed Sadhir Ali 81 Brookfield Road Aldridge Walsall WS9 8JE	Food Safety and Hygiene (England) Regulations 2013 Pleaded guilty to four offences relating to conditions at Baguette Box, 332 Witton Road, Aston, Birmingham. There was evidence of mouse activity throughout the premises. Accumulations of dirt and grease were found on the cooker and the floor cover behind a drink fridge was in a poor	£320 – offence 1 No separate penalty for remaining offences £1,204 costs (£1,204 requested)	Out of area	Aston

			condition. There was a lack of pest proofing and no procedures were in place based on HACCP.			
2	7/12/17	Mohammed Najeeb 18 Leasowe Road Dudley DY4 8PW	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Pleaded guilty to 14 offences relating to conditions at Hajee Talibs, 509 Stratford Road, Birmingham on two separate dates, 27th September 2016 and 21st February 2017. On the first date, there were cockroaches throughout the premises and mouse droppings in rusty kitchen equipment. The premises was not kept clean, shelving, equipment and flooring were dirty. Surfaces where food was handled or came into contact with food were not maintained or easy to clean, chest freezer seals were dirty, damaged and rusty, the display chiller surface was mouldy and shelving in the drinks cabinet was dirty and rusty. A kitchen knife was mouldy. Rotten lettuces were found and raw meat was stored with cheese. During the next visit mouse droppings were found throughout the premises and the premises were dirty. There was a gap to the rear door large enough to allow access to pests. Raw meat was again stored with ready to eat food. A dish rack storing food equipment was damaged and rusty. There were no materials for cleaning or drying of hands at the washbasin.</p>	<p>£600 (£300 - offences 1 & 6)</p> <p>No separate penalty for remaining offences.</p> <p>£1,649 costs (£1,649 requested)</p>	Out of area	Springfield
3	19/12/17	Maharani Food and Drink Ltd 730 Pershore Road Birmingham B29 7NJ	<p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Pleaded guilty to 13 offences relating to conditions at Maharani Food and Drink, 209-211 Herbert Road, Small Heath, Birmingham on 14th March 2016, 6th May 2016 and 27th</p>	<p>Total fine £17,500</p> <p>£7,500 – 14.03.16 offences</p> <p>£2,500 – 06.05.16 offences</p>	Selly Oak	Nechells

		<p>July 2016.</p> <p>On 14.03.16 there was evidence of rat activity in the warehouse. There was a gap under the fire exit door which could allow access to pests, the warehouse floor was dirty. There was no wash hand basin for use on the first floor and cracked food containers were being used. There were no procedures based on HACCP and labels bore the wrong identification number.</p> <p>On 06.05.16 there was evidence of rat activity in the warehouse.</p> <p>On 26.07.16 the premises was not clean, plaster was crumbling off the store room wall, the ground floor warehouse wall could not be effectively cleaned. Shelving was dirty and showed mould growth. Cheese packaging was stored on a dirty floor. There was no evidence of HACCP and a food product in the chiller bore an incorrect identification number.</p>	<p>£7,500 – 26.07.16 offences</p> <p>£11,638 costs (£11,638 requested)</p>		
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ANIMAL WELFARE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	7/12/17	Viktoria Tatrai 16 St Heliers Road Weoley Birmingham B31 1QT	<p>Microchipping of Dogs (England) Regulations 2015</p> <p>Pleaded guilty to one offence of being the keeper of a German Shepherd dog and failing to comply with a notice requiring the dog to be microchipped and the correct keeper details to be recorded on a database.</p>	<p>6 month Conditional Discharge</p> <p>£190 costs (£380 requested)</p>	Weoley	Weoley

LITTERING OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	1/12/17	Carolina Blythe 22 Hay Leaze Bristol BS37 7YJ	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
2	1/12/17	Scott Dunn 24 South Road Hockley Birmingham B18 5NB	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Soho	Ladywood
3	1/12/17	Sasher Zaffron Farrar Flat 1 17 Woodhurst Road Birmingham B13 9AY	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Bennetts Hill, Birmingham.	£220 £175 costs (£175 requested)	Moseley & Kings Heath	Ladywood
4	1/12/17	Stuart Homer 38 Nursery Road Walsall WS3 2BY	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
5	1/12/17	Kirsty Jones 60 Wood Street Ilkeston Derby DE7 8GE	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
6	1/12/17	Mithun Kelly 39 Westover Road Handsworth Birmingham, B20 1JD	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Handsworth Wood	Ladywood

7	1/12/17	Madalina Alexandra Lache 7 Lancelot Close Birmingham B8 1EJ	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Washwood Heath	Ladywood
8	1/12/17	Peter McCormack Flat 6 179 Churchill Road Handsworth Birmingham B20 3PX	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bull Street, Birmingham.	£220 £175 costs (£175 requested)	Lozells & East Handsworth	Ladywood
9	1/12/17	Dan Ovid 7 Lancelot Close Birmingham B8 1EJ	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Washwood Heath	Ladywood
10	1/12/17	Mohammed Hasan Rahman 56 Slaney Road Walsall WS2 9AF	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
11	1/12/17	Kelly Richmond Flat 245 Cleveland Tower Holloway Head Birmingham B1 1UF	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in High Street, Birmingham.	£220 £175 costs (£175 requested)	Ladywood	Ladywood
12	1/12/17	Maria Lulia Vladu 4 Highcroft Villas Highcroft Road Erdington Birmingham B23 6GQ	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Bennetts Hill, Birmingham.	£220 £175 costs (£175 requested)	Stockland Green	Ladywood

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

No simple cautions were administered during December 2017

TRADING STANDARDS CASES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward Offence committed
1	7/12/17	Naga Foodstore Ltd 563 Stratford Road Sparkhill Birmingham B11 4LP	Children and Young Persons Act 1933 Pleaded guilty to one offence of selling 20 Benson & Hedges cigarettes from Naga Food Store, 563 Stratford Road, Birmingham to a person under the age of 18.	£400 £1,606 costs (£1,606 requested)	Springfield	Springfield
2	7/12/17	Jahangir Alam 14 Pugh Road Aston Birmingham B6 5LL	Road Traffic Act 1988 Pleaded guilty to one offence of supplying a Ford Mondeo motor vehicle from 14 Pugh Road, Aston, Birmingham in an unroadworthy condition.	12 month conditional discharge £2,080 costs (£2,080 requested) Compensation £1,600	Nechells	Nechells

TRADING STANDARDS SIMPLE CAUTIONS

One simple caution was administered during December 2017

Licensing Act 2003

Section 146(1) One caution was issued for selling alcohol to a person under the age of 18.

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – DECEMBER 2017

<u>WARDS & CONSTITUENCIES FINALIZED BY OFFENCE</u>				
	<u>Licensing</u>	<u>Environmental Health - Non FPNs</u>	<u>Environmental Health - FPNs</u>	<u>Trading Standards</u>
EDGBASTON				
Bartley Green		1		
Edgbaston				
Harborne				
Quinton				
ERDINGTON				
Erdington				
Kingstanding				
Stockland Green				
Tyburn				
HALL GREEN				
Hall Green				
Moseley & Kings Heath				
Sparkbrook				
Springfield		1		1
HODGE HILL				
Hodge Hill				
Washwood Heath				
Bordseley Green				
Shard End				
LADYWOOD				
Aston		1		
Ladywood	2		12	
Nechells		2		1
Soho				

NORTHFIELD				
Kings Norton				
Longbridge				
Northfield				
Weoley		2		
PERRY BARR				
Lozells & East Handsworth				
Handsworth Wood				
Oscott				
Perry Barr				
SELLY OAK				
Billesley				
Bournville				
Brandwood				
Selly Oak				
SUTTON COLDFIELD				
Sutton Four Oaks				
Sutton New Hall				
Sutton Trinity				
Sutton Vesey				
YARDLEY				
Acocks Green				
Sheldon		1		
South Yardley				
Stechford & North Yardley				
TOTAL	2	8	12	2

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – DECEMBER 2017

<u>WARDS & 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>
EDGBASTON				
Bartley Green		1		
Edgbaston				
Harborne				
Quinton				
ERDINGTON				
Erdington				
Kingstanding				
Stockland Green			1	
Tyburn				
HALL GREEN				
Hall Green				
Moseley & Kings Heath			1	
Sparkbrook	1			
Springfield				1
HODGE HILL				
Hodge Hill				
Washwood Heath	1	1	2	
Bordseley Green		1		
Shard End				
LADYWOOD				
Aston				
Ladywood			1	
Nechells				1
Soho			1	

NORTHFIELD				
Kings Norton				
Longbridge				
Northfield				
Weoley		2		
PERRY BARR				
Lozells & East Handsworth			1	
Handsworth Wood			1	
Oscott				
Perry Barr				
SELLY OAK				
Billesley				
Bournville				
Brandwood				
Selly Oak		1		
SUTTON COLDFIELD				
Sutton Four Oaks				
Sutton New Hall				
Sutton Trinity				
Sutton Vesey				
YARDLEY				
Acocks Green				
Sheldon				
South Yardley				
Stechford & North Yardley				
OUT OF AREA		2	4	
TOTAL	2	8	12	2

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – DECEMBER 2017

	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	2
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	12	0	0	0	0	0	0	12
Environmental Health (non FPNs)	1	0	1	0	3	2	0	0	0	1	0	8
Trading Standards	0	0	1	0	1	0	0	0	0	0	0	2

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – DECEMBER 2017

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	1	1	0	0	0	0	0	0	0	2
Environmental Health (FPNs) Not paid and prosecuted	0	1	1	2	2	0	2	0	0	0	4	12
Environmental Health (non FPNs)	1	0	0	2	0	2	0	1	0	0	2	8
Trading Standards	0	0	1	0	1	0	0	0	0	0	0	2

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL - DECEMBER 2017

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	3	0	14	2	0	1	1	2	0	24
Environmental Health (FPNs) Not paid and prosecuted	3	1	2	0	435	1	0	5	0	0	0	447
Environmental Health (non FPNs)	3	9	11	8	43	7	14	3	1	12	0	111
Trading Standards	1	0	3	1	6	0	0	0	0	2	0	13

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL – DECEMBER 2017

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	6	7	2	1	2	0	0	0	5	24
Environmental Health (FPNs) Not paid and prosecuted	18	17	25	28	51	14	31	25	6	13	219	447
Environmental Health (non FPNs)	5	8	10	13	25	4	12	5	3	12	14	111
Trading Standards	1	0	3	0	6	0	0	0	0	1	2	13

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	Total 2017/2018
Waste Investigation Outcomes									
Investigations into commercial waste disposal suspected offences and offences	23	35	83	101	88	43	90	111	574
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	20	32	75	85	75	37	56	76	456
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	11	13	25	29	89	28	37	35	267
<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	18
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)	4	9	7	1	6	2	4	5	38
Prosecutions									
Number of prosecution files submitted to legal services (number produced quarterly)			15			19			34