

BIRMINGHAM CITY COUNCIL

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

17 FEBRUARY 2016
ALL WARDS

PROSECUTIONS AND CAUTIONS – DECEMBER 2015

1. Summary
 - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of December 2015.
2. Recommendation
 - 2.1 That the report be noted.

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3. Results

3.1 During the month of December 2015:

- Appendix 1 lists six Licensing simple cautions were administered.
- Appendix 2 lists 38 Environmental Health cases resulting in fines of £14,150, prosecution costs of £9,645 awarded and two simple cautions were administered.
- Appendix 3 lists two Trading Standards cases resulting in fines of £1,000, 10 months imprisonment suspended for 2 years and 100 hours unpaid work, prosecution costs of £2,321 were awarded, no simple cautions were administered.
- Appendix 4 lists cases finalised by district in December 2015 and cases finalised by district April-December 2015.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team April - November 2015.

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 2015 to December 2015 the following costs have been requested and awarded:

Licensing

£39,268 has been requested with £23,605 being awarded (60%).

Environmental Health

£139,447 requested with £123,885 being awarded (89%).

Trading Standards

£67,040 requested with £49,381 being awarded (74%).

- 5.3 For the month of December 2015 the following costs have been requested and awarded:

Environmental Health

£11,176 has been requested with £9,645 being awarded (86%).

Trading Standards

£2,321 has been requested with £2,321 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 SIMPLE CAUTIONS

During the period of December 2015, six simple cautions have been administered.

Local Government (Miscellaneous Provisions) Act 1976

Section 64(3) Two cautions were issued for waiting on a Hackney Carriage stand, when they were not Hackney Carriages.

Licensing Act 2003

Section 57 One caution was issued for failing to produce upon request a copy of a premises licence when requested to do so by an authorised officer.

Section 136(1)(a) One caution was issued for supplying alcohol after 2300 hours.

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

One caution was issued for failing to affix the identity plate externally to the rear of the vehicle.

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

One caution was issued for failing to move a Hackney Carriage forward to fill a place previously occupied by another Hackney Carriage when it drove off or moved forward.

ENVIRONMENTAL HEALTH CASES**ANIMAL WELFARE OFFENCES**

	Name & Address	Date Case Heard	Court	Legislation	Fine /Penalty	Costs	Offence details
1	Tanya Mcauley 30 Nailstone Crescent Acocks Green Birmingham B27 7HY	10/12/15	Birmingham Magistrates Court	The Dogs on Leads Order 2014	£80	£300 (£300 requested)	Found guilty in her absence of one offence of being in charge of a dog and failing to keep it on a lead on Tavistock Road, Acocks Green, Birmingham.

HEALTH & SAFETY OFFENCES

	Name & Address	Date Case Heard	Court	Legislation	Fine /Penalty	Costs	Offence details
1	Melbourne Blake 16 Landswood Road Oldbury West Midlands B68 9QE	10/12/15	Birmingham Magistrates Court	Health & Safety at Work etc Act 1974	£750	£2,179 (£2,179 requested)	Pleaded guilty to one offence of failing to ensure that persons not in employment were not exposed to risks to their health and safety in that the shop floor at Blakey's Newsagent, 2 Foundry Road, Winson Green, Birmingham was not maintained in a safe condition and the defendant failed to take any suitable precautions to prevent the risk of personal injury in that a customer fell a distance of 2 meters into the basement of the shop.

WASTE OFFENCES

	Name & Address	Date Case Heard	Court	Legislation	Fine /Penalty	Costs	Offence details
1	Direct Housing Ltd 543 Bristol Road Selly Oak Birmingham B29 6AU	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	Total £4,000 (£2,500 – Jan 2015 offence £1,500 – June 2015 offence)	£766 (£766 requested)	Pleaded guilty to two offences of knowingly causing or permitting controlled waste (fly tipping), namely black bags of commercial waste, to be deposited on the corner of Grange Road and Bristol Road, there being no Environmental permit in force. Three black bags of waste were found on 20 th January 2015 and a further black bag was found on 8 th June 2015.
2	Heresh Ahmed Khedir 12 Tudor Street Winson Green Birmingham B18 4DG	14/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990 Licensing Act 2003	Total £2,740 (£335 x 4 waste offences £450 x 2 licensing matters £500 x 1 licensing matter) The court also revoked Mr Khedir's personal licence	£950 (£1,981 requested)	Pleaded guilty to seven offences: two of failing to prevent controlled waste (fly tipping) from Villa Supermarket, 117 Villa Road, being deposited in Hunters Road, Lozells, one of failing to produce written information of the transfer of controlled waste to an officer of Birmingham City Council, three of failing to comply with the conditions of the premises licence as the personal licence holder was not present between 23.00 and 0600 hours, door supervision was not provided during weekend evenings, CCTV recordings were not held for 28

							days and staff training records were not provided and one offence of knowingly causing or permitting controlled waste to be deposited on land which did not have in place an environmental permit in that black bin bags containing waste from Villa Supermarket were found on Villa Road.
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LITTERING OFFENCES

	Name & Address	Date Case Heard	Court	Legislation	Fine /Penalty	Costs	Offence details
1	Fuzayel Ahmed 242 Heather Road Birmingham B10 9BD	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
2	Mahmood Hussain 155 McKean Road Oldbury B69 4AG	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
3	Melissa King 5 Bridport Close Hull HU7 6AG	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Hill Street, Birmingham.
4	Drin Racaj 117 Upper Marshall Street Birmingham B1 1LJ	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Temple Street, Birmingham.

5	Mark Matthew Bryan 26 Hillside Avenue Rowley Regis West Midlands B65 0EZ	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
6	Jacob Goodman 5 Station Road Northfield Birmingham B31 3TE	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.
7	Claire Louise Mills Flat 2 657 Chester Road Birmingham B73 5JP	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Hill Street, Birmingham.
8	Rohit Tenugu 28 Dunkley Street Wolverhampton WV1 4AN	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
9	Antonio Vinagre Apartment 72 Pioneer House 42 Ryland Street Birmingham B16 8BZ	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in High Street, Harborne, Birmingham.
10	Abdullah Abdul Hakim Ali-Qazi 27 Littleover Avenue Birmingham B28 9HR	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£40	£100 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
11	Alexandru Lina Flat 275 Brindley House 101 Newhall Street Birmingham B3 1LL	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£85	£100 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.

12	Elaine Maurice 5 Clifton Close Aston Birmingham B6 5BD	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£40	£100 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Bennetts Hill, Birmingham.
13	Sarah Lane 31 Bowyer Drive Slough SL1 5EB	4/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£295	£175 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.
14	Learje Chand 118 Barlow Road Wednesbury WS10 9QB	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Edgbaston Street, Birmingham.
15	Hermanjot Cheeta 80 Redhouse Road Wolverhampton WV6 8SP	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement on Smallbrook Queensway, Birmingham.
16	Denise Cox Flat 3 20 Oakfield Street Cardiff CF24 3RD	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement on Hill Street, Birmingham.
17	Jamie Deighton- Taylor 30 Ashbury Close Cambridge CB1 3RW	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement on Stephenson Street, Birmingham.
18	Sadie Edmonds 11A Elizabeth Grove Birmingham B90 3BX	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement on Corporation Street, Birmingham.

19	Agne Senavaiyte 27B Hunslet Road Quinton Birmingham B32 2PN	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£80	£100 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
20	Sheila Wooten 89 Simmons Drive Birmingham B32 1SL	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£80	£100 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Bull Street, Birmingham.
21	Karen Parton 64 Fordfield Road Kitts Green Birmingham B33 9TN	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£40	£50 (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
22	Diane Telford Flat 5 Stour House Queensway Oldbury B68 0HS	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Priory Queensway, Birmingham.
23	Bianca Stevenson 16 Beach Brook Close Birmingham B11 4QF	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Temple Row, Birmingham.
24	Michael Rolfe 33 Richmond Place Brighton BN2 9NA	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Cherry Street, Birmingham.
25	Akbar Rahimi Room 208 Bonham Carter House 52-54 Gower Street London WC1E 6EB	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Navigation Street, Birmingham.

26	Alexandros Papaspyridis Apartment 710 Rotunda Apartments 150 New Street Birmingham B2 4PA	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
27	Zaneta Chroscinska Cranmere Court 1 Walsall Road Lichfield WS13 6RF	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Union Street, Birmingham.
28	Valentin-Irinel Mitran 960 Pershore Road Birmingham B29 7PU	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
29	Kieran Longstaff 94 Southern Road Washwood Heath Birmingham B8 2EE	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.
30	Alen Koszegi 70 Marston Road Wolverhampton WV2 4NJ	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
31	Abdul Hamid 4 Guest Grove Birmingham B19 2XD	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Priors Queensway, Birmingham.
32	Francis Bailey 2 Saltash Grove Birmingham B25 8SA	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Cherry Street, Birmingham.

33	Morgan Byrne 42 Gregory Avenue Weoley Castle Birmingham B29 5DY	10/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£220	£175 (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
34	Andrew Emsley 2 Osprey Road Perry Common Birmingham B23 5JJ	11/12/15	Birmingham Magistrates Court	Environmental Protection Act 1990	£200	£175 (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Barnabas Road, Erdington. Originally listed for trial.

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

During December 2015 one simple caution was administered.

Food Safety and Hygiene (England) Regulations 2013

One caution was issued for failing to comply with food hygiene regulations

TRADING STANDARDS PROSECUTIONS

	Name & Address	Date Case Heard	Court	Legislation	Fine/Penalty	Costs	Offence details
1	Ayan Jewellers Ltd 362 Ladypool Road Balsall Heath Birmingham B12 8JY	10/12/15	Birmingham Magistrates Court	Hallmarking Act 1973	Total £1,000 (offences 1-5) No separate penalty on remaining offences	£2,321 (£2,321 requested)	Pleaded guilty to 20 offences relating to offering to supply unhallmarked jewellery, namely rings and bangles, from Ayan Jewellers, 362 Ladypool Road which had been described as "22 carat gold" indicating that they were wholly or partly made of gold.
2	Salim Salih 57 Wensleydale Road Birmingham B42 1PR	11/12/15	Birmingham Magistrates Court	Consumer Protection Act 1997/Tobacco Products (Manufacture, Presentation & Sale) (Safety) Regs 2002 Trade Marks Act 1994	Total of 10 months imprisonment suspended for 2 years + 100 hours unpaid work (3 months custody x 2 TMA offences) 2 months custody x 2 CPA offences)	POCA timetable set	Pleaded guilty to four offences: two of offering to supply 1,037 packets of various brands of cigarettes and 212 pouches of hand rolling tobacco at Supersam Mini Market, 218 Rookery Road, Birmingham, which did not visibly display the required warnings on the surface of the packets and two offences relating to the possession for supply of 212 pouches of hand rolling tobacco which bore registered trademarks, namely Golden Virginia and Amber Leaf logos, without the consent of the trade mark proprietors.

TRADING STANDARDS SIMPLE CAUTIONS

During December 2015, no simple cautions were administered.

APPENDIX 4

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – DECEMBER 2015

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	0	0	0	0	0	0	0	0
Environmental Health (FPNs) Not paid and prosecuted	1	1	0	0	32	0	0	0	0	0	0	34
Environmental Health (non FPNs)	0	0	0	0	1	0	1	1	0	1	0	4
Trading Standards	0	0	1	0	0	0	1	0	0	0	0	2

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – DECEMBER 2015

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	0	0	0	0	0	0	0	0
Environmental Health (FPNs) Not paid and prosecuted	2	1	2	3	6	2	0	1	1	1	15	34
Environmental Health (non FPNs)	0	0	0	0	1	0	1	0	0	1	1	4
Trading Standards	0	0	1	0	0	0	1	0	0	0	0	2

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL-DECEMBER 2015

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	3	2	3	0	27	0	0	1	1	0	1	38
Environmental Health (FPNs) Not paid and prosecuted	2	2	2	0	357	1	0	0	1	0	0	365
Environmental Health (non FPNs)	1	7	10	5	22	1	5	7	2	5	0	65
Trading Standards	0	1	2	7	6	0	1	1	0	2	2	22

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL-DECEMBER 2015

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	2	6	10	5	1	1	1	0	2	9	38
Environmental Health (FPNs) Not paid and prosecuted	20	21	18	21	30	12	16	16	8	18	185	365
Environmental Health (non FPNs)	2	4	8	6	12	1	5	6	1	5	15	65
Trading Standards	0	1	2	7	6	1	1	0	1	3	0	22

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL- NOVEMBER 2015

	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Total 2015/2016	
Waste Investigation Outcomes										
Investigations into commercial waste disposal suspected offences and offences	57	32	44	123	13	27	41	33	370	
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	40	25	30	95	23	18	22	19	272	
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	2	2	4	6	6	5	1	5	31	Payment rate = 27%
<u>Section 87 Environmental Protection Act</u> . Fixed Penalty notices issued for commercial and residential litter offences (£80)	26	15	15	11	15	16	14	4	116	Payment rate = 66%
Prosecutions										
Prosecutions submitted to legal services	99									