

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

WEDNESDAY, 13 FEBRUARY 2019 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) 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.

3 - 10

4 MINUTES

To confirm and sign the Minutes of the meeting held on 16 January 2019.

11 - 40

5 REVIEW OF LPPC FEES AND CHARGES 2019-2020

Report of the Acting Director of Regulation & Enforcement

41 - 60

6 REVIEW OF LICENSING SERVICE FEES AND CHARGES 2019-20

Report of the Acting Director of Regulation & Enforcement

<u>61 - 74</u>	7	<u>LPPC 2018-19 QUARTER 3 REPORT - FEB</u>	Report of the Acting Director of Regulation & Enforcement
<u>75 - 88</u>	8	<u>PROSECUTIONS & CAUTIONS DECEMBER 2018</u>	Report of the Acting Director of Regulation & Enforcement
<u>89 - 94</u>	9	<u>OUTCOME OF APPEALS</u>	Report of the Acting Director of Regulation & Enforcement
<u>95 - 96</u>	10	<u>ACTIONS TAKEN BY CHAIR'S AUTHORITY</u>	Report of the Acting Director of Regulation & Enforcement
<u>97 - 102</u>	11	<u>FPN'S ISSUED DECEMBER 2018</u>	Report of the Acting Director of Regulation & Enforcement
<u>103 - 104</u>	12	<u>SCHEDULE OF OUTSTANDING MINUTES</u>	To consider the schedule of outstanding minutes.
	13	<u>OTHER URGENT BUSINESS</u>	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.
	14	<u>AUTHORITY TO CHAIRMAN AND OFFICERS</u>	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'.

BIRMINGHAM CITY COUNCIL

<p>LICENSING AND PUBLIC PROTECTION COMMITTEE 16 JANUARY 2019</p>

**MINUTES OF A MEETING OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE HELD
ON WEDNESDAY 16 JANUARY 2019 AT 1000
HOURS IN COMMITTEE ROOMS 3 AND 4
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Olly Armstrong, Bob Beauchamp, Nicky Brennan,
Neil Eustace, Adam Higgs, Nagina Kauser, Mike Leddy, Mary
Locke, Simon Morrall, Mike Sharpe and Martin Straker-Welds.

NOTICE OF RECORDING/WEBCAST

- 1106 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

DECLARATIONS OF INTEREST

- 1107 Members were reminded that they must declare all relevant pecuniary and non pecuniary interests relating to any items of business to be discussed at the meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting.

There were no declarations of interest.

APOLOGIES

- 1108 Apologies were received from Councillors Bruce Lines, Hendrina Quinnen and Sybil Spence for non-attendance.

MINUTES

- 1109 As a matter arising, Councillor Mike Leddy noted that the Acting Director of Regulation and Enforcement had sent an email that morning inviting Members to nominate themselves on to the Gambling Act Task and Finish Working Group and he urged members to accept the invitation to participate in the Group.

The Minutes of the meeting held on 19 December 2018, having been previously circulated were confirmed as a correct record and signed by the Chairman.

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

At this point in the meeting the Chair advised that she intended to take agenda item No. 6.

THE ENVIRONMENTAL PROTECTION (MISCELLANEOUS AMENDMENTS) (ENGLAND AND WALES) REGULATIONS 2018

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

(See Document No. 1)

Tony Quigley, Head of the Illegal Money Lending Team/Waste Enforcement Unit, made introductory comments relating to the report and in response to questions and comments from Members of the Committee made the following points:-

- a) It was not a new offence but the introduction of a new fixed penalty notice (FPN) for duty of care offences.
- b) The Committee were being asked to determine the amount of the FPN and officers were recommending the amount be £200. This was felt to be a proportionate figure considering that trade waste offences attracted a FPN of £300 and litter FPNs were set at £100. The recommended figure was the default figure and it was felt that the top figure of £400 was too high.
- c) The FPN would be issued to householders and not flytippers. It was intended to 'piggy back' on media coverage undertaken by the Environment Agency and in the local media. Social media would also be used.
- d) Householders should check whether a person or business has a valid registration from the Environment Agency and details of such people can be found on the Agency's website.

- e) Any action taken would be considered on each case merits and should be proportionate.

Following further comments from Members relating to the amount that should be set, Chris Neville, Acting Director of Regulation and Enforcement commented that the Committee would be able to amend the figure set as it could review it when it had been in use for some time.

The Chair put the recommendation 2.1 to the meeting which was unanimously agreed.

The Chair put the recommendation 2.2 to the meeting which was unanimously agreed.

Therefore it was-

1110

RESOLVED:-

- (i) That a fixed penalty amount of £200 for Section 34(2) (A) Environmental Protection Act 1990 offences be agreed; and
- (ii) That the Licensing and Public Health Committee does not wish to set any reduced fixed penalty amount and agrees that, if the case progresses to Court, the Council will seek to recover full costs.

At this point in the meeting the Chair indicated her intention to return to the original agenda order.

TOBACCO CONTROL: SHISHA UPDATE

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

(See Document No. 2)

Janet Bradley, Operations Manager Environmental Health, made introductory comments relating to the report.

Councillor Nagina Kauser, whilst welcoming the work undertaken to date, noted that there was still further work to be done as the Local Authority did not have any real control over them and legislation was required.

Councillor Olly Armstrong indicated that, along with other community spaces such as cafes and bars, shisha premises did allow people to get together socially and he welcomed the work being undertaken to make them safe and accessible.

The Chair put the recommendations in the report to the meeting which was unanimously agreed.

1111

RESOLVED:-

- (i) That the report be noted;
 - (ii) that a letter be sent on behalf of the Licensing and Public Protection Committee to Jake Berry MP (Minister for Local Government) highlighting the concerns and supporting the call for better legislation in this area; and
 - (iii) that outstanding minute 934(ii) be discharged.
-

A CLEAN AIR STRATEGY FOR THE CITY OF BIRMINGHAM

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

(See Document No. 3)

Mark Wolstencroft, Operations Manager (EPU), made introductory comments relating to the report. In response to comments and questions from Members of the Committee he made the following points:-

- (i) The only costs identified so far were in relation to the consultation. The pledges in the document were part of various work streams across the Council. Pledges and priorities could be refined after the consultation by Cabinet in light of available budgets.
- (ii) Regarding the bus lane on the Tyburn Road this had been included in modelling and the model could be revisited if appropriate. Details would be sent to Councillor Sharpe.
- (iii) The modelling of traffic had been undertaken to establish likely rerouting to avoid the Clean Air Zone.
- (iv) Local modelling around schools had taken place and engagement with them would take place so that they could decide on what measures, such as traffic exclusion zones, were appropriate for their circumstances.
- (v) Central Government were keen to introduce better control relating to the use of wood burners so that the correct fuel was used.
- (vi) Councillor Armstrong had made similar comments at an earlier stage in the process and, whilst he (Councillor Armstrong) may be disappointed that those suggestions/ideas had not come through to the document, Members should be minded that the document was out to consultation and could change again. There was an opportunity to consider the imagery and language in the document and whether more emphasis should be put on walking.
- (vii) He could not comment on issues relating to trees and public transport although he undertook to take the issue of the work to provide a cycle

route on the A38 corridor delaying the introduction of an extended 61 bus service back to officers so that an answer could be provided.

In response to a question from Councillor Olly Armstrong relating to supporting taxi drivers, Chris Neville, Acting Director of Regulation and Enforcement, explained that Committee had taken a decision in 2017 that all licensed vehicles should meet the Euro Emissions standard by 1 January 2020 when the Clean Air Zones would come in to being. It was acknowledged that that had a big impact on the trade. There was currently consultation with the trade and public relating to new emissions standards from 2030. This work would advance the objectives of the City Council around clean air. Licensing officers sat on a City wide officer strategy group to provide an input around licenced vehicles. Mark Wolstencroft indicated the views of the Licensing Section through the group had been built in to the proposals.

The Chair put the recommendation in the report to the meeting which was unanimously agreed.

1112 **RESOLVED:-**

That the report be noted.

PROSECUTIONS AND CAUTIONS – NOVEMBER 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 highlighting some of the cases. In relation to case 1 in appendix 3 he indicated that a presentation would be made outlining the work officers did in the case.

Gary Singh, Principal Trading Standards Officer, and Mick Davies, Enforcement Officer, gave a presentation based on the following powerpoint slides:-

(See Document No. 5)

Following the presentation they responded in detail to Members' questions in particular those relating to how those buying such jewellery could be confident that they were buying genuine pieces, how some of the gold bangles had come to be hallmarked by the Assay Office and what steps the Assay Office were taking to prevent a repeat.

Members congratulated the officers on the investigation that they had undertaken which had resulted in 3 arrests. It was suggested that the case be highlighted in the media to act as a deterrent and also allow information to be made available to those who may have made purchases of gold which was not of the stated carats.

The Chair put the recommendation to the meeting which was unanimously agreed.

1113 **RESOLVED:-**

That the report be noted.

Councillor Nicky Brennan left the meeting.

At this point in the meeting the Chair advised that she intended to take agenda item No. 12A.

OTHER URGENT BUSINESS

The Chair was of the opinion that the following item be considered as a matter of urgency in order to expedite consideration thereof and instruct officers to act if necessary.

Update Report on Unauthorised Encampments

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

(See Document No. 6)

Mark Croxford, Head of Environmental Health, made introductory comments relating to the report and responded to comments from Members concerning proper management of the site and respecting wishes of travelling community.

The Chair put the recommendations to the meeting which was unanimously agreed.

1114 **RESOLVED:-**

- (i) That the report is noted and outstanding minute number 1071 be discharged; and
 - (ii) That Committee requests a further report to be brought in 3 months to update on the various work items contained within this report.
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At this point in the meeting the Chair indicated her intention to return to the original agenda order.

Councillors Simon Morrall and Martin Straker-Welds left the meeting.

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
NOVEMBER 2018**

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

(See Document No. 7)

Chris Neville, Acting Director of Regulation and Enforcement, made introductory comments relating to the report.

The Chair put the recommendation to the meeting which was unanimously agreed.

1115 **RESOLVED:-**

That the report be noted.

FPN'S ISSUED OCTOBER & NOVEMBER 2018

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

(See Document No. 8)

Chris Neville, Acting Director of Regulation and Enforcement made introductory comments relating to the report.

The Chair put the recommendation to the meeting which was unanimously agreed.

1116 **RESOLVED:-**

That the report and verbal update be noted.

SCHEDULE OF OUTSTANDING MINUTES

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 8)

Chris Neville, Acting Director of Regulation and Enforcement confirmed that Outstanding Minutes Nos. 934 (ii) and 1071 could be discharged and Outstanding Minute No. 942 (ii) would be reported upon in February 2019.

1117 **RESOLVED:-**

That Outstanding Minutes Nos. 934 (ii) and 1071 be discharged and all other Outstanding Minutes be continued.

OTHER URGENT BUSINESS (continued)

1118 There were no further items of other urgent business.

AUTHORITY TO CHAIR AND OFFICERS

1119 **RESOLVED:-**

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

The meeting ended at 1235 hours.

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CHAIRMAN

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

13 FEBRUARY 2019
ALL WARDS

**REVIEW OF LICENSING AND PUBLIC PROTECTION
FEES AND CHARGES 2019/2020**

1. **Summary**

- 1.1 The Corporate Charging Policy and Financial Regulations require that fees and charges levied by the Licensing and Public Protection Committee be reviewed on an annual basis to ensure the continued full recovery of costs.
- 1.2 It should be noted that some of the fees relating to areas which come within your Committee's remit are set nationally through statute, and these cannot be varied by your Committee. These are indicated in the report.
- 1.3 All fees and charges have been set to with the objective of maximising income so far as is possible within legal constraints.
- 1.4 This report deals with all fees and charges within the control of your committee other than the fees charged by the Licensing Service, which are considered in a separate report.

2. **Recommendations**

- 2.1 That the changes to the fees and charges for Trading Standards Services, as detailed in Appendix 1, are approved to take effect from 1 April 2019.
- 2.2 That the changes to the fees and charges for Environmental Health Services, as detailed in Appendix 2, are approved to take effect from 1 April 2019.
- 2.3 That the changes to the fees and charges for Environmental Health Fixed Penalty Notices, as detailed in Appendix 2(a), are approved to take effect from 1 April 2019.
- 2.4 That the changes to the fees and charges for Pest Control Services, as detailed in Appendix 2(c), are approved to take effect from 1 April 2019.

- 2.5 That the changes to the fees and charges for Register Office Services, as detailed in Appendix 3, are approved to take effect from 1 April 2019.
- 2.6 That the statutorily set charges for the Register Office, as detailed in Appendix 3(a) be noted.
- 2.7 That the changes to the fees and charges for Coroner's Services as detailed in Appendix 4, are approved to take effect from 1 April 2019.
- 2.8 That the changes to the fees and charges for Birmingham Account Team (formerly Surveying Services) as detailed in Appendix 5, are approved to take effect from 1 April 2019.
- 2.9 That authority be delegated to the Director of Regulation and Enforcement and Heads of Service to authorise the negotiation of variations to the fees and charges identified in this report, in the interests of commercial flexibility.

Contact officer: Mark Croxford, Head of Environmental Health
Telephone: 0121 303 6350
Email: mark.croxford@birmingham.gov.uk

3. Background

- 3.1 The City Council's Corporate Charging Policy and Financial Regulations require that Chief Officers, at least annually, report to and seek approval from Committee on a review of all fees and charges levied for services provided.
- 3.2 Tables with greyed out boxes indicates the fee is set in statute and is for noting only.

4. Proposals

- 4.1 The fees proposed in this report are calculated to maximise income and recover the full cost of carrying out the various services in line with City Council policy. This includes all overheads, administrative costs, expenses and any appropriate recharge of officers' time.
- 4.2 The areas covered are as follows:
- Appendix 1 – Review of Charges for Trading Standards.
 - Appendix 2 – Review of Charges for Environmental Health
 - Appendix 2(a) – Review of Charges for FPNs issued by Environmental Health
 - Appendix 2(c) – Review of Charges for Pest Control
 - Appendix 3 – Review of Charges for Register Office.
 - Appendix 3(a) – Register Office statutorily set fees.
 - Appendix 4 – Review of Charges for the Coroner's Service.
 - Appendix 5 – Review of charges for Birmingham Account Team (formerly Surveying Services)
- 4.3 Where fees in any service area are not covered by the appendices or a recovery of monies is to be levied then the full recharge will be based on the following table. The hourly rate by grade (includes full overhead recovery and central support costs) is broken down by the seven salary grading bands the Local Authority appoints its officers under.

OFFICER SALARY GRADE	CHARGEABLE HOURLY RATE 2018/19	CHARGEABLE HOURLY RATE 2019/20
Grade 2	£34	£35
Grade 3	£46	£48
Grade 4	£61	£63
Grade 5	£77	£79
Grade 6	£99	£102
Grade 7	£132	£136

4.4 In carrying out this annual review of charges reference has been made to the requirements of the Corporate Charging Policy. Particular attention has been paid to the need to ensure that income is maximised insofar as possible.

4.5 With regard to matters which relate to trading in the open market consideration has been given to competitors pricing and what the market can sustain. Where a fee has been proposed that does not achieve full cost recovery (for instance due to the need to compete with alternative providers), it has been indicated in the relevant appendix.

4.6 During the year ahead the financial position will continue to be closely monitored and options identified to resolve budgetary pressures as necessary and alternative savings proposals developed to meet new and emerging pressures.

5. Consultation

5.1 This report will be appended to a wider reaching City wide Fees and Charges report to full Cabinet at the end of February 2019.

6. Implications for Resources

6.1 The proposals represent an increase to budgeted income for 2019/20. The proposed increases are in line with the budget strategy for 2019/20.

7. Implications for Policy Priorities

7.1 The recommendations are in accordance with Financial Regulations, budget requirements and the Corporate Charging Policy.

8. Public Sector Equality Duty

8.1 There are no specific implications identified.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Birmingham City Council – Corporate Charging Policy

REVIEW OF TRADING STANDARDS CHARGES 2019/20

1.1 It is proposed that the revised fees are based on the 2018/2019 fees with a 5% increase; this takes account of the 2019/20 pay award, increased superannuation costs and inflationary changes to operational and running overheads.

1.2 Fees have been rounded up or down as appropriate.

Measuring Instruments for Measuring Liquid Fuel or Lubricants or Mixtures Thereof

Weights and Measures	2018/19	2019/20
Un-subdivided container types	£92.00	£97.00
1 meter tested	£115.00	£121.00
2 meters tested	£188.00	£197.00
3 meters tested	£263.00	£276.00
4 meters tested	£331.00	£348.00
5 meters tested	£396.00	£416.00
6 meters tested	£484.00	£508.00
7 meters tested	£551.00	£579.00
8 meters tested	£609.00	£639.00
All other Weights and Measures on site - charge per hour	£77.00	£79.00
Measuring Instruments off-site within BCC boundary hourly rate + mileage	£77.00	£79.00
Measuring Instruments on-site outside BCC boundary hourly rate + mileage + 10 % for other overheads	£77.00	£79.00
Duplicate certificates or duplicate statements of accuracy (each)	£22.00	£23.00
Work outside of normal Office Hours , hourly rate will be subject to a 50% increase		
Metrology minimum charge for cancelled appointment	£77.00	£79.00

1.3 Bespoke seminars/training

A charge for businesses or trade sectors expressing an interest in a bespoke seminar or training on Trading Standards legislation relevant to that business or trade sector; this would include certification of Weighbridge Operators. It is proposed that the charge is £88 + VAT per attendee for a day course and £55 +VAT for half day course (minimum of 10 attendees) remains unchanged.

1.4 Primary Authority Partnership

This is part of a national programme to enable local authorities and businesses to work together to help improve consistency in regulation. The programme is

overseen by the Better Regulation Delivery Office and enables local authorities to recharge for the time spent on servicing the partnership. Primary Authority Partnerships are agreed on a cost recovery basis.

The current charging arrangements which have already been agreed with our current partners are based on an officer's hourly rate. The proposed charge, therefore, reflects the 2018/2019 Grade 5 Officer hourly rate of £79 plus expenses.

1.5 Business Support

Where Businesses request business support but without entering into a Primary Authority Agreement, the local Authority would seek cost recovery and charge at Grade 5 Officer hourly rate of £79.

Head Office	2018/19	2019/20
Primary Authority Partnerships (cost recovery only)	£77.00	£79.00
Bespoke Seminars and Training on Trading Standards Legislation full day course- charge per attendee (+ VAT)	£84.00	£88.00
Bespoke Seminars and Training on Trading Standards Legislation, half day course - charge per attendee (+ VAT)		£55.00
Primary Authority Partnership (PAP) - hourly rate	£77.00	£79.00
Business Advice outside/without PAP Agreement	£77.00	£79.00
Surveillance Assistance - Hourly Rate GR4	£61.00	£63.00
Surveillance Assistance - Hourly Rate GR5	£77.00	£79.00

1.6 Private Hire Access to Knowledge Course

This course is available to potential drivers in relation to preparation for the Licensing Private Hire Knowledge Test. It is proposed that the charge is £39 per attendee in 2019/20. This is an increase from £37 per attendee in 2018/2019.

Private Hire Knowledge	2018/19	2019/20
Private Hire Access to Knowledge Course Fee per attendee	£37.00	£39.00

1.7 Financial Investigations

Accredited Financial Investigators within Trading Standards are able to provide financial investigation services to both internal and external (public sector) clients. It is proposed that where services are provided outside Birmingham Trading Standards that the charge be at a GR5 hourly rate of £77.00 plus expenses. Any incentivisation money resulting from a Proceeds of Crime Act 2002 investigation will be shared according to the Home Office incentivisation scheme. The current Home Office Asset Recovery Incentivisation Scheme (ARIS) stipulates:

- Under the Home Office Asset Recovery Incentivisation Scheme (ARIS) 50% of the monies recovered from a particular defendant is given to

the Home Office and the remaining 50% is distributed amongst the agencies involved in the Confiscation.

These agencies will receive the appropriate share (of the 50%) from their asset recovery activities allocated as follows:

Confiscation order receipts

Criminal Justice Service Ministers have agreed that confiscation order receipts will be split three ways thus:

- Investigation (Local Authority) – 18.75%;
- Prosecution (Local Authority) – 18.75% and
- Enforcement (Her Majesty's Court Service) – 12.5%.

Cash Forfeitures

The ARIS 'rules' for cash forfeitures are different in that the agency seizing the cash receives 50% share of the forfeited amount. If the offender has the ability to pay prosecution costs after the 'confiscation proceedings' have concluded these are also recoverable.

Providing Service to other Local Authorities

It is proposed that where the services of the Accredited Financial investigator are provided by Birmingham Trading Standards on behalf of another local authority and this has resulted in cash forfeiture, then 25% of the total forfeited amount will be retained by Birmingham Trading Standards.

It is proposed that where the services of the Accredited Financial Investigator have resulted in a successful confiscation order receipt the 18.75% investigation allocation will be retained by Birmingham Trading Standards.

Regional Investigations Team

The Regional Investigations Team is hosted by Birmingham Trading Standards. The grant agreement requires that 50% of the any ARIS payment awarded and received by the hosting Local Authority is returned to National Trading Standards (NTS). It is, therefore, proposed that any successful financial investigation undertaken on behalf of this team will result in the retention of 25% of the remaining ARIS money after payment is made to the NTS. This amounts to 9.375% of the total amount of a confiscation order and 12.5% of total cash forfeiture.

Negotiation

Financial investigation is a growing service within the public sector and many local authorities are now offering these services. There are many different charging policies and in some circumstances it may be beneficial to have the ability to negotiate the charges with the client to secure the job. The Director of Regulation and Enforcement and the Head of Trading Standards have the discretion to agree any negotiated changes to the proposed fees and charges relating to financial investigations.

1.7 Trading Standards Fixed Penalty Notice and Penalty Charge Tariffs

All of the tariffs in the table below are set by statute except for the tariff for early payment discount in respect of nuisance parking and it is not proposed to change that tariff.

Fixed Penalty Notices	2018/19	2019/20
Nuisance Parking (s6(1) Clean Neighbourhoods and Environment Act)	£100	£100
Energy Performance Certificates - Duty to Provide to Prospective Buyers (Energy Performance of Buildings (England & Wales) Regulations 2012)	£200	£200
Energy Performance Certificates - Duty to Display (Energy Performance of Buildings (England & Wales) Regulations 2012) - 14(3)(a)	£1,000	£1,000
Energy Performance Certificates - Duty to Display (Energy Performance of Buildings (England & Wales) Regulations 2012) - 14(3)(b)	£500	£500
Energy Performance Certificates - Duty of Controllers of Air conditioning Systems (Energy Performance of Buildings (England & Wales) Regulations 2012) - 18(1), 20, 21	£300	£300
Redress Schemes (requirement of Estate Agents to belong to scheme)	£1,000	£1,000
Minimum Efficiency Standards for buildings (from April 2018) - £5,000 to £10,000 or 10%-to-20% of rateable value		

APPENDIX 2

REVIEW OF CHARGES – ENVIRONMENTAL HEALTH AND PEST CONTROL 2019/2020

2.0 In reviewing these fees and charges, officers from the Directorate have considered:

- the budget strategy for 2019/20.
- the need to ensure that relevant expenditure and income targets are met and full cost recovery achieved.
- fees and charges levied by neighbouring districts.
- consultation responses.

2.0.1 The non-statutory fees and charges have been set in accordance with the above considerations.

2.0.2 For 2019/2020 Environmental Health have again used the rationale of maximising their income, based on market forces, to assist in meeting the corporately set income targets and fees inflation for the sections.

2.1 Issuing of Food Condemnation/Surrender Notes by Environmental Health Officers

It is proposed that the fee for issuing condemnation/surrender notes for freezer breakdowns and for similar insurance purposes be increased to £112 per hour (from £105). This is based on the hourly rate for a GR5 officer plus administration support cost. (Non-Business activity VAT exempt (Tax Code A8 applies))

2.2 Provision of Food Export Certificates

It is proposed that where an inspection of the premises is required, this will be subject to a minimum of £150 (current charge £140) plus an administrative charge of 10%. Inspections that are longer than one hour will be charged at an hourly rate for a GR5 Officer per hour or part of an hour thereafter. (Non-Business activity VAT exempt (Tax Code A8 applies)).

Where no visit is required it is proposed that the fee remain at £102 (current charge £95) for the certificate. (Non-Business activity VAT exempt (Tax Code A8 applies)).

Where Export Certificates have been produced and are no longer required, there will be a charge of £27 (current charge £25) cancellation fee for each certificate produced.

2.3 Food Hygiene Rating Scheme revisits

It is proposed to increase the charge for all FHRS revisits that are requested by businesses to obtain a new food hygiene score to £187 (currently £175). These requests are received following a programmed inspection that gave a lower score than a business would like to trade under and is additional work over and above our statutory duty for food interventions. (Non-Business activity VAT exempt (Tax Code A8 applies)).

Summary

Food Condemnation / Export / Hygiene matters	2018/19	2019/20
Food Condemnation / Surrender Notes	£105.00	£112.00
Provision of Food Export Certificates	£140.00	£150.00
Provision of Food Export Certificates where no visit required	£95.00	£102.00
Food Export Certificates where produced but no longer required	£25.00	£27.00
FHRS Revisit to obtain new Food Hygiene Score	£175.00	£187.00

2.4 Health and Safety

On occasions solicitors request copies of health and safety accident reports. The Health and Safety at Work etc. Act 1974, Section 28, sub-section 9, allows a disclosure by an authorised officer of a “written statement of relevant facts observed by him” (Employment Protection Act 1975). It is proposed to make a minimum charge of £165 (two hours at GR5) plus the hourly rate of £82 per hour or part hour thereafter. (Current charge is £154 and £77 per hour). VAT will be applied at its appropriate rate, in addition to this cost.

- 2.5 Your officers can deliver a range of bespoke training courses specifically for other local authority officers for example on practical incident investigation. This service assists other local authorities who have less experience and smaller health and safety teams. It is proposed that the charge is increased to £86 per delegate for one day’s training [excluding any refreshments] with a minimum number of ten delegates per course (currently £80). (VAT exempt if only L/A officers attend. VAT would be payable for external delegates and must be added to their charge).

Summary

Health and Safety	2018/19	2019/20
Section28 HSWA for legal Accident Reports	£154.00	£165.00
Section28 HSWA additional hourly rate for accident reports	£77.00	£82.00
Health and Safety Training - per delegate, per day	£80.00	£86.00

2.6 Food and Health and Safety Primary Authority Partnerships.

Environmental Health Food and Health & Safety Teams have set up a number of Primary Authority Partnerships with national multisite businesses. This is part of a national programme to enable local authorities and businesses to work together to help improve consistency in regulation. The programme is overseen by the Government's Better Regulation office and enables local authorities to recharge for the time spent on servicing the partnership. By statute costs incurred by Councils participating in Primary Authority Partnerships are recharged on a cost recovery basis.

The current charging arrangements which have already been agreed with our current partners are based on an officer's hourly rate. The proposed charge, therefore, reflects the 2019/2020 Grade 5 Officer hourly rate of £82 plus expenses. (Current charge £77). (VAT applies but is currently zero rated for this work).

2.7 Environmental Conveyancing Searches

A number of requests are made (usually by solicitor firms) for environmental information held by the Service to assist in conveyancing. The information has to be supplied (where held) under the Environmental Information Regulations. Although no charge can be made for providing the raw information, a charge can be made for the cost of processing the information into a usable report. It is proposed that the fees increase to £73 for a Basic Search and £107 for an Advanced Search (current charges £68 and £100 respectively).

2.8 Statutory Default Work

Where work is carried out in default, reasonable costs of the work are recovered i.e. the officers' time (at their respective hourly rates) plus the costs associated with the work necessarily required from third party agents such as locksmiths or vehicle recovery contractors. It would also include any statutory fees and daily charges that are applicable. It is proposed to charge £96 (previously £90) for administration costs for invoices. This work is undertaken by a GR4 officer and the costs reflect both the raising of the invoice and chasing up and close down of invoices that are paid. The total time of this is estimated to be 1½ hours on average per invoice. Officer time relating to seizure of sound equipment is charged at a fixed rate of £110 (currently £100). This is designed to minimise the likelihood of seized equipment not being reclaimed by owners, which would potentially result in excessive/on-going storage and disposal costs for the council that may not be rechargeable.

2.9 Attendance at Exhumations

It is proposed to increase the fixed fee from £300 to £321 (plus VAT) to be received in advance of an exhumation. This is inclusive of early starts and completion of documentation before and after such work. If human remains

are to be added to an existing grave requiring an exhumation approval then the charges for this work will be based on an hourly rate of a GR5 officer.

2.10 Licences for the Distribution of Free Literature

The three areas of the city which are designated as consent areas for the distribution of free literature are: the City Centre, Digbeth and Hurst Street. The current charge for consents is £260 and it is proposed to increase this to £278. The income supports the implementation and enforcement of this consent regime and this avoids putting any further burdens on businesses advertising in the City by way of free literature. Under the legislation local authorities may only make reasonable charges for setting up and enforcement activities within the consent zones and the consent zones are designed to prevent the defacement that can be caused by discarded material. All of the receipts from the scheme are reinvested in its implementation, operation and enforcement and no charge can be levied for clear-up costs.

Summary

Conveyancing and Default work / Free Literature Consents	2018/19	2019/20
Primary Authority Partnership's (Statutorily set at cost recovery)	Cost recovery	Cost recovery
Processing Environmental Information for conveyancing – Basic	£68.00	£73.00
Processing Environmental Information for conveyancing – Advanced	£100.00	£107.00
Statutory Default Work - Admin costs for Invoices / Processing	£90.00	£96.00
Statutory Default Work - Seizure of Sound Equipment	£100.00	£110.00
Attendance at Exhumations (incl completion of documentation)	£300.00	£321.00
Distribution of free literature consents	£260.00	£278.00

2.11 Pest Control

For 2019/20 Pest Control have used the rationale of maximising their income, having regard to market forces, to assist in meeting the income targets for the section.

Due to wider usages of effective gel treatments for cockroaches it is also proposed to reduce the price of these treatments to encourage a greater take-up. The table below identifies the number of treatments per year undertaken by the team. Treatment fees were introduced on 1st December 2015.

Cockroach Complaints by Year	
2012/13	512
2013/14	561
2014/15	637
2015/16	283
2016/17	230
2017/18	164
2018/19	196

DOMESTIC Pest Control

Domestic	2018/19 (inc' VAT element)	2019/20	VAT @20%	Total
Rats - All domestic treatments	Free of charge	Free of charge	N/A	Free of charge
Rats - Pest proofing of holes on site when treating for rats	£85 (£102)	£91.67	£18.33	£110.00
Rats - Covering of broken or defective air vents on site when treating for rats	£85 (£102)	£91.67	£18.33	£110.00
Cockroaches - all treatments - first visit	£85 (£102)	£50.00	£10.00	£60.00
Cockroaches - all treatments - follow up per 30mins	£30.00	£26.67	£5.33	£32.00
Bedbugs - all treatments - first visit	£85 (£102)	£91.67	£18.33	£110.00
Bedbugs - all treatments - follow up per hour plus VAT	£60.00	£52.50	£10.50	£63.00
Mice - mouse poison offered at Neighbourhood Office	Free of charge	Free of charge	N/A	Free of charge
Mice - Advice and break-back traps (only once on site and identified as mice not rats)	£85 (£102)	Cease: no up take		
Mice - All domestic treatments	£85 (£102)	£91.67	£18.33	£110.00
Wasps - Minimum call out charge for a treatment	£60.00	£50.00	£10.00	£60.00
Wasps - 2 or more nests, multiple treatments + revisits	£70.00	£62.50	£12.50	£75.00
Fleas - Visit to put in monitoring traps + materials	£30 (£36)	Cease: no up take		
Fleas - Treatment per property (per visit)	£135 (£162)	£50.00	£10.00	£60.00
Squirrels - proofing lopping trapping plus materials	£85 (£102)	Cease: no up take		
Squirrels - reset trap per visit	£85 (£102)	Cease: no up take		
Ants (one visit, demonstrate how to treat ants and sale of appropriate bait stations excludes pharaoh ants).	Free of charge	Cease: no up take		

Reduced
Price

Other insect treatments - first hour	£85 (£102)	£91.67	£18.33	£110.00
Other insect treatments - subsequent half hour	£30 (£36)	£26.67	£5.33	£32.00

COMMERCIAL

Commercial	2018/19	2019/20	VAT @20%	Total
All treatments for commercial / non-domestic and landlords that are responsible for property wide infestations - first visit	£85 (£102)	£91.67	£18.33	£110.00
Bedbugs / Pharaoh Ants - first visit	£85 (£102)	£91.67	£18.33	£110.00
Clearance work (rodent/insect/bird/premises) - first hour	£85 (£102)	£91.67	£18.33	£110.00
Clearance work (rodent/insect/bird/premises) - subsequent hours plus materials plus VAT	£85 (£102)	£91.67	£18.33	£110.00
Additional Charges for jobs involving hazardous waste (clinical/needle/etc.)	£125 (£150)	£133.33	£26.67	£160.00
Land clearance and associated weed control when treating for rodents (Land clearance materials charged plus 10% administration)	£85 (£102)	£91.67	£18.33	£110.00

Commercial jobs that are competitively tendered, at a rate above or below the agreed rate above will be authorised by the Head of Service or Director, plus materials and VAT.

2.12 Animal Welfare – Stray Dog Charges

It is proposed to alter the charges applied to dog owners where their dogs strayed. Where dogs are claimed from the Birmingham Dogs Home or where dogs are returned directly to their owners there will be a £25 charge made. The £25 fee is a statutory amount prescribed by the Environmental Protection Act 1990 and cannot be altered. The Act also permits local authorities to charge dog owners all costs incurred by the seizure and detention of their dog if seized as a stray. It is proposed therefore to charge dog owners all such costs, which may include out of hours kennelling charges or veterinary fees, as well as officer time.

It is proposed to charge £95 (previously £85) for dog handling services, in respect of restraining or removing dogs for example at an eviction or forced entry. Where the attendance on site extends beyond an hour additional time spent will be charged at GR3 per hour or part thereof. Any additional Dog Wardens that need to attend for multiple or large / difficult dogs, will be charged at an additional GR3 per officer per hour.

2.13 Animal Welfare Licensing

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, came into effect on 1 October 2018. Changes to licence fees came into effect in October 2018, following committee approval. The new Regulations allow licences to run for 1, 2 or 3 years and licence fees must reflect this; they must also reflect the need for a separate application and yearly fee. The length of a licence is determined by a new star rating of premises, which must be determined by the inspecting officers following inspection and in consideration of previous compliance history. The new Regulations require a longer inspection and application process, which has resulted in an increase in charges. There are also new provisions which allow licenced premises to apply for a variation to their licence and also to request additional inspections; proposed costs for these are outlined below.

The tables below identify animal related licensed premises and associated reviewed fees. The proposed fees are in-line with charges made by other local authorities and have been based on the average times taken by GR4 and GR5 officers undertaking this work.

Where officers carry out assessments of dogs kept by any person looking to adopt or foster a child, it is proposed to charge the officer's full hourly rate from the start to completion of the assessment, this includes travel time and providing a report on the suitability or otherwise of any dog(s) kept by the potential carers to the adoption/fostering team. The previous cost of £85 per assessment does not reflect the variation in time spent processing these requests, in particular when assessments are conducted outside the Birmingham boundary.

Where officers carry out work on behalf of social services involving the removal of animals where their owners have been admitted into hospital or found to be deceased, it is proposed to charge £95 (previously £85) to attend and remove animals and a further £48 (GR3) per hour or part thereof charged for any subsequent visits required. Office activities (GR4) will be charged at the officer's hourly rate or part thereof.

Proposed Animal Welfare licence fees - 2019/2020.

New Licences

Licensable Activity	Total Licence Fee 1 year licence	Current Fee	Vets Fees	L A Inspection upon Request	Application to Vary Licence
Selling Animals as Pets	£444.25	£432.50	At Cost	£106.50	£164.25
Commercial Animal Boarding	£373.75	£314.50	At Cost	£106.50	£164.25
Dog Breeding	£373.75	£314.50	At Cost	£106.50	£164.25
Dangerous Wild Animals	£373.75	£322.50	At Cost	£106.50	£164.25
Home Dog Boarding	£259.25	£245.50	At Cost	£106.50	£57.75
Arranging Animal Boarding (where no animal boarding licence in place)	£140.75 (plus £79 inspection per premises as required)	N/A	At Cost	£106.50	£57.75 (plus £79 inspection per premises as required)
Hiring of Horses	£492.25	£322.50	At Cost	£106.50	£164.25
Keeping/Training Animals for Exhibition	£452.75 (3 year licence)	£245.50	At Cost	£106.50	£164.25

Renewal Licences

Licensable Activity	Application Fee	Licence Fee (1 year)	Licence Fee (2 year)	Licence Fee (3 year)	Vets Fees	L A Inspection on request	Application to Vary Licence
Selling animals as pets	£164.25	£79	£158	£237	At Cost	£106.50	£164.25
Commercial Animal	£176.25	£79	£158	£237	At Cost	£106.50	£164.25

Boarding							
Dog Breeding	£176.25	£79	£158	£237	At Cost	£106.50	£164.25
Dangerous Wild Animals	£176.25	£79	£158	£237	At Cost	£106.50	£164.25
Home Dog Boarding	£81.50	£79	£158	£237	At Cost	£106.50	£57.75
Arranging Animal Boarding (as stand-alone licence)	£140.75 (plus £79 per inspection per premises as required)	£79	£158	£237	At Cost	£106.50	£57.75 (plus £79 per inspection per premises as required)
Hiring out Horses	£215.75	£79	£158	£237	At Cost	£106.50	£164.25
Keeping / Training Animals for Exhibition	£215.75	N/A	N/A	£237	At Cost	£106.50	£164.25

Note 1

Cost for the re-issue of an existing licence £10.50 (Licensing Act 2003 standard charge)

Note 2

Where any veterinary inspection is required then these will be charged at cost.

Note 3

Zoo Licensing remains unchanged, any inspections carried out by Inspector appointed by the Secretary to State are charged to the applicant as an additional fee.

Type of Licence	Current Fee	Proposed Fee
Zoos		
- 4 year licence (new)	£2,670	£2,670
- 6 year licence (renewal)	£2,670	£2,670

2.14 Fixed Penalty Notice Tariffs

The Fixed Penalty Notice (FPN) tariffs are detailed at Appendix 2(a).

2.15 All other FPNs are set at their legal maximum except:

- Unauthorised Distribution of Free Literature
- Graffiti and Flyposting
- Litter

(Tariffs amended by The Environmental Offences (Fixed Penalties) (England) Regulations 2017)

2.16 Committee can consider varying the tariff for the FPNs in 2.15 and if so minded reduce the tariff of any FPN which is not set by statute.

2.17 With regard to the Littering FPN committee are asked to consider the following:

- The current payment rate of FPNs is approximately 85%
- Approximately 700 prosecutions for non-payment were submitted last year (10% of FPNs issued)
- The remainder had reasons not to be pursued.
- Increasing the tariff to the maximum may dissuade littering
- Increasing the tariff may decrease the repayment rate and increase the prosecution rate. An increased prosecution rate would require extra staff to administer this process.
- Reducing the tariff at £80 does not reflect the Governments default level (£100) if no action were taken.

2.19 Early repayment discounts were discontinued as few people took note of the timelines and most paid the lower payment significantly after the expiry of the discounted period. This led to inequalities and administration difficulties. It is your officers recommendation that committee do not reinstate early payment rates.

FIXED PENALTY NOTICE TARIFFS

APPENDIX 2(a)

OFFENCE	LEGISLATION	EXISTING TARIFF 2018/2019 Existing FPN & Early Discount	PENALTY CAN BE SET	FPN TARIFF FOR 2019/2020
Community Protection Notice. (For fixed penalty notices repealed under Environmental Protection Act 1990 and Clean Neighbourhoods and Environment Act 2005, including former Street Litter Control notices and Litter Clearing Notices)	s.52(7) Anti-social Behaviour Crime and Policing Act 2014	£100 No discount for early payment	Maximum £100 Indeterminate discount can be offered for early payment (the range is not specified)	£100 No Discount for early payment
Unauthorised distribution of literature in a consent area	Schedule 3A, para.7(2) Environmental Protection Act 1990	£100 No discount for early payment	Between £65 - £150 Minimum discount for early payment £50	£100 No Discount for early payment
Graffiti and Flyposting	s.43 Anti-social Behaviour Act 2003	£100 No discount for early payment	Between £65 - £150 Minimum discount for early payment £65	£100 No Discount for early payment
Litter	s.88(1)Environmental Protection Act 1990	£100 No discount for early payment	Between £65 - £150 Minimum discount for early payment £65	£100 No Discount for early payment
Domestic Duty of Care Fixed Penalty Notice	Section 34(2)(A) Environmental Protection Act 1990	This is a new FPN tariff set at 16 January 2019 LPPC meeting.	Between £150 to £400 Discount can be set between £120 & £150	£200 No Discount for early payment
Failure to produce written particulars of waste [waste transfer notes]	s.34A (2) Environmental Protection Act 1990	£300 set by statute No discount for early payment	Set by statute Minimum discount for early payment £180	£300 No Discount for early payment
Failure to furnish documentation of waste carriers registration	s.5B(2) Control of Pollution (Amendment) Act 1989	£300 set by statute No discount for early payment	Set by statute Minimum discount for early payment £180	£300 No Discount for early payment

OFFENCE	LEGISLATION	EXISTING TARIFF 2018/2019 Existing FPN & Early Discount	PENALTY CAN BE SET	FPN TARIFF FOR 2019/2020
Failure to comply with notice for commercial or industrial waste receptacles and presentation	s.47ZA, 47ZB of the Environmental Protection Act 1990	£110 No discount for early payment	Between £75 - £110 Minimum discount for early payment £60	£110 No Discount for early payment
Failure to comply with notice for household waste receptacles and presentation	s.46, Environmental Protection Act 1990	£60	Set by statute No discount allowed	£60
Noise from domestic dwellings exceeding a permitted level	s.8 Noise Act 1996	£110 No discount for early payment	Between £75 - £110 Minimum discount for early payment £60	£110 No Discount for early payment
Noise from licensed premises	s.8 Noise Act 1996	£500	Set by statute No discount allowed	£500
Unauthorised deposit of waste (fly-tipping)	33A Environmental Protection Act 1990	£400 No discount for early payment	Between £150 and £400 Minimum discount for early payment £120	£400 No Discount for early payment
Abandoning a vehicle	s.2A (1) Refuse Disposal (Amenity) Act 1978	£200 set by statute No discount for early payment	Set by statute Minimum discount for early payment £120	£200 No Discount for early payment
Smoking in a smoke free place or vehicle	S.7 Health Act 2006	£50 £30 If paid in 15 days	Set by statute Discount set by statute £30 if paid within 15 days	£50 £30 If paid in 15 days
Failure to display no smoking signs	s.6 Health Act 2006	£200 £150 if paid in 15 days	Set by statute Discount set by statute £150 if paid within 15 days	£200 £150 if paid in 15 days

REVIEW OF CHARGES - REGISTER OFFICE 2019/2020**Relevant Background**

- 1.1 In reviewing these fees and charges, officers from the Directorate have considered:
 - the budget strategy for 2019/20.
 - the need to ensure that relevant expenditure and income targets are met and full cost recovery achieved.
 - Statutory Fee changes
 - Introduction of revised Statutory fees
 - consultation responses
- 1.2 The non-statutory fees and charges have been set in accordance with the above considerations.
- 1.3 The Register Office fees and charges were calculated to generate an additional net income of £0.051m (equivalent to 7% on Non-Statutory budgets). However General Register Office have announced a number of changes to the statutory fee structure which take effect on 16 February 2019. After having sought clarification and further to a letter of 21 January 2019 addressed to Proper Officers, Local Registration Services have been advised that they are required to implement the new structure without any local flexibility.
- 1.4 Whilst the changes increase certificate fees, they prevent Birmingham Register Office from generating income by charging a processing fee for certificate applications and by applying a tiered priority certificate production service. The financial implication is to cause a pressure on the service of an estimated £0.060m going into 2019/20.
- 1.5 The budget consultation process for 2019/20+ includes proposals of additional new services for Floral Ceremony Packages, Photography Packages, change of name service, etc. An additional income target of £0.040m has been applied for these schemes.
- 1.6 Where applicable, prices for 2020/21 have also been included. This is principally to allow for advanced booking and payment for weddings. In most cases these have assumed an inflation of 2% from the 2019/20 prices.

Approved Buildings

- 1.7 Birmingham City Council has responsibility for approving non-religious venues for Civil Marriage and Partnerships. Some fees relate to services that are traditionally booked well in advance. For these services the fees are set out for more than one financial year.

- 1.8 Following a consultation exercise, fees for non-religious venues have been kept at the same level as 2018/19 as shown in the table below. This will mitigate potential loss of income and damage to the reputation of the city from non-renewal of licences by venues and cancelled ceremonies.

Register Office - Approved Buildings	2018/19	2019/20
New Application for approval of premises to include ONE room 3 years	£3,402.00	£3,402.00
Renewal of existing approved premises to include ONE Room 3 years	£2,376.00	£2,376.00
Additional rooms included in the application (per room) 3 years	£756.00	£756.00
Additional rooms added after the application approved 3 years	£864.00	£864.00
Application for approval of religious building for Civil Partnerships 3 years	£668.00	£668.00
Renewal of existing approved premises to include ONE Room 6years	£4,212.00	£4,212.00
Additional rooms included in the application (per room) 6years	£1,080.00	£1,080.00
Additional rooms added after the application approved 6years	£864.00	£864.00
Application for approval of religious building for Civil Partnerships 6years	£668.00	£668.00

Register Office Ceremony Suites

- 1.9 A simpler and streamlined fee structure is proposed for 2019/20. The fees for a ceremony within the Superintendent Registrar's office are statutory by nature.
- 1.10 Statutory fees are set nationally by General Register Office and not this committee. However, they are provided for information.
- 1.11 Enriched marriage/ civil partnership services will be available for which increased fees will be charged as shown in the table below.
- 1.12 The Ceremony Room charge will be £191 from 01 April 2019.
- 1.13 If the couple wish to have enhanced items such as readings or music then an additional charge of £50 will apply for those items not on the pre-approved list.
- 1.14 If the couple wish to add readings and music that are not on the pre-approved list then a further (i.e. additional to the £50) charge of £30 per additional item will be levied.

1.15 There will be a fee for separate interviews prior to the ceremony of 50, subject to availability.

Register Office - Ceremony Suite	2018/19	2019/20	2020/21
Ceremony Suite - Statutory Room (excludes Certificate)	£46.00	£46.00	£46.00
Ceremony Suite - Charge for Basic Ceremony (excludes Certificate)	£176.00	£191.00	£199.00
Ceremony Suite - Charge for Reading or Music Enhancements (not on pre- approved list)	£0.00	£50.00	£51.00
Ceremony Suite - Additional - Own Reading and Music Enhancements (not on pre-approved list)	£0.00	£80.00	£82.00
Ceremony Suite - Additional - Separate Interviews prior to the ceremony (subject to availability)	£0.00	£50.00	£51.00
Ceremony Suite Fully Enhanced Ceremony – Saturday afternoons only (excludes certificate fee)	£321.00	£346.00	£360.00

1.16 By setting the fees so far in advance it allows couples, wishing to marry, to plan and budget ahead with confidence.

1.17 All ceremony suite fees are subject to room availability

Attendance at Approved Premises

1.18 Fees for registration staff to attend a ceremony taking place at one of the City's 48 approved venues are also set out for more than one financial year for the same reason as above.

Register Office – Attendance	2018/19	2019/20	2020/21
Monday to Friday	£520.00	£540.00	£551.00
Weekend	£660.00	£690.00	£704.00
Public Holiday	£660.00	£800.00	£820.00

Other Fees

1.19 Following the implementation of revised Statutory fees for the issue of certificates in February 2019 there is no longer a tiered priority service for certificate production. The tiered service has been replaced by a single priority fee for the production of a certificate before the next working day of £24.00.

Register Office – Certificates	2018/19	2019/20	2020/21
Certificate Priority - Same Day (Statutory fee which excludes certificate fee)	£40.00	£24.00	£24.00
Certificate Priority (now a statutory fee) - Next Working Day (excludes certificate fee)	£22.00	£00.00	£00.00
Certificate Priority - 3 Working Days (excludes certificate fee)	£11.00	£00.00	£00.00

1.20 Following a review of The Nationality Checking Service (NCS), UK Visa and Immigration withdrew this service from local registration services in Autumn 2018.

1.21 It is proposed to increase the remaining non – statutory fees from 01 April 2019 as shown below.

Register Office - Other Fees	2018/19	2019/20	2020/21
Nationality Checking service - one adult	£110.00	£0.00	£0.00
Nationality Checking service - couple	£160.00	£0.00	£0.00
Nationality Checking service - family (up to 4)	£180.00	£0.00	£0.00
Nationality Checking service - additional minors	£60.00	£0.00	£0.00
Private Citizenship Ceremony - Monday – Friday (per person)	£170.00	£200.00	£204.00
Private Citizenship Ceremony – Saturday (per person)	£180.00	£225.00	£230.00
NCS change of appointment fee	£40.00	£0.00	£0.00
NCS additional appointment fee	£40.00	£0.00	£0.00
Fee for talk by genealogist	£50.00	£0.00	£0.00
Fee charged for research (per half hour)	£40.00	£50.00	£51.00
Fee for international postage via on-line application form	£6.50	£6.50	£6.50
Change of Notice appointment (charged on the second and subsequent appointment changes where 48 or more hours notice is given)	£20.00	£21.00	£22.00
Celebratory Certificates (at time of birth registration)	£10.00	£11.00	£11.00
Change of Name deed (includes certificate)	£60.00	£61.00	£61.00
Change of name certificate additional copies	£10.00	£11.00	£11.00
Special Celebratory Certificates (birthday, grandparents, anniversary)	£20.00	£21.00	£21.00

*** Those fees identified as £0 for 2019/20 ceased in Autumn 2018.**

Register Office - Other Fees	2018/19	2019/20	2020/21
Photographs and flowers package		TBA	TBA
Pitch at Wedding Fayre	£40.00	£50.00	£51.00
Hire of ceremony rooms 2 or 3 for function/event - half day or full day	POA	POA	POA
Hire conference room for function/event - half / full day	POA	POA	POA
Training for authorised person to register marriages / quarterly returns	£60.00	£70.00	£72.00
Appointment to check completeness / validity of notice for Marriage (non-refundable)	£40.00	£40.00	£40.00
Save the day – approved premise- ceremony > 12 months in advance	£75.00	£75.00	£77.00
Save the day – ceremony suites- ceremony > 12 months in advance	£60.00	£65.00	£66.00
Save the day – ceremony suites- Register Office ceremony > 12 months in advance	£50.00	£55.00	£56.00
Priority service at approved premises – to take place within 12 weeks (additional)	£75.00	£75.00	£77.00
Provision of folder	£1.25	£1.00	£1.00
Provision of envelope	£0.65	£0.50	£0.50
Postage – signed for from	£2.50	£2.50	£2.50
Postage International from	£6.50	£6.50	£6.50
Priority Correction/ Re-registration Appointment	£40.00	£43.00	£44.00
Production of further documents for notice of marriage/civil partnership	£20.00	£21.00	£22.00
Keepsakes/additional products	POA	POA	POA
Administration of post-dated passport forms	£20.00	£21.00	£21.00
European Passport Return Service	£20.00	£25.00	£26.00
Postage per application up to and including 500g	£8.00	£9.00	£9.00
Postage per application up to and including 1kg	£10.00	£11.00	£11.00
Postage per application up to and including 2kg	£12.00	£13.00	£13.00
Postage per application up to and including 10kg	£30.00	£32.00	£33.00
Postage per application up to and including 20kg	£45.00	£48.00	£49.00
Register Office ceremony advance booking	£50.00	£55.00	£56.00
Register Office ceremony suite advance booking	£60.00	£65.00	£66.00
Register Office ceremony change to a booked ceremony	£50.00	£55.00	£56.00
Register Office ceremony suite change of appointment fee	£60.00	£65.00	£66.00
Approved Premises advance ceremony booking fee	£75.00	£75.00	£77.00
Approved Premises change to a booked ceremony	£75.00	£75.00	£77.00
Advice in advance of taking notice of marriage per applicant	£5.00	£5.00	£5.00
Processing of a non-priority on-line application for a standard certificate after registration	£6.00	£0.00	£0.00

Statutory Fees and Charges

3.1 A table of the current statutory fees is detailed below. These are set externally / nationally and are provided for information.

3.2 It should be noted that the fee for the issue of a birth, death, marriage and civil partnership certificate has increased from £4.00 - £11.00. It is anticipated that this fee increase will mitigate some of the loss of income from the removal of the tiered priority certificate production service and processing fee.

Register Office – Statutory Fees	2018/19	2019/20
Superintendent Registrar's Certificate of Birth, Death or Marriage	£10.00	£11.00
Registrar's Certificate issued at the time of Registration	£4.00	£11.00
Registrar's Certificate after Registration	£7.00	£11.00
A general search in indexes not exceeding 6 hours	£18.00	£18.00
Certificate of Worship	£29.00	£29.00
Registration of a religious building for marriage	£123.00	£123.00
Registration of a religious building for marriages for same sex couples (That is already registered)	£64.00	£64.00
Notice of Marriage	£35.00	£35.00
Notice of Marriage subject to immigration Act	£47.00	£47.00
Notice of Civil Partnership subject to immigration Act	£47.00	£47.00
Notice of Civil Partnership	£35.00	£35.00
Fee to reduce the legal waiting period of a notice of marriage/civil partnership	£28.00	£28.00
Fee for sharing information under the Digital Economy Act	£50.00	£50.00
Fee payable to Registrar for marriage Ceremony at register Office	£46.00	£46.00
Fee payable to Registrar for marriage Ceremony at registered building	£86.00	£86.00
Attendance of Civil Partnership Registrar at Register Office	£46.00	£46.00
Notice given at Housebound Person's abode SR attendance	£47.00	£47.00
Notice given at Detained Person's abode SR Attendance	£68.00	£68.00
Attendance of Registrar at Housebound Person's Marriage	£81.00	£81.00
Attendance of Registrar at Detained Person's Marriage	£88.00	£88.00
Attendance of Superintendent Registrar at Housebound Person's marriage	£84.00	£84.00
Attendance of Superintendent Registrar at Detained Person's marriage	£94.00	£94.00
Attendance of CP Registrar at Housebound Person's CP	£81.00	£81.00
Attendance of CP Registrar at Detained Person's CP	£88.00	£88.00
Registrar General's Licence for Marriage	£15.00	£15.00
Fee of priority certificate –Next working day	£24.00	£24.00
Standard Conversion Civil partnership to marriage	£45.00	£45.00

Two stage procedure stage 1 conversion civil partnership to marriage	£27.00	£27.00
SR attendance Conversion Civil partnership to marriage according to Jews / Society of Friends	£91.00	£91.00
SR attendance Conversion Civil partnership to marriage Housebound	£99.00	£99.00
SR attendance Conversion Civil partnership to marriage detained	£117.00	£117.00
Registrar General's Licence for Civil Partnership	£15.00	£15.00
CP Registrar's attendance at religious building	£86.00	£86.00
CP certificate issued after registration	£4.00	£11.00
CP certificate issued after registration	£10.00	£11.00
First short birth certificate issued at time of registration	£4.00	£11.00
Consideration by a Superintendent Registrar of a divorce/Civil Partnership dissolution	£50.00	£50.00
Consideration by a Registrar / Superintendent Registrar of a correction application	£75.00	£75.00
Consideration by the Registrar General of a correction application	£90.00	£90.00
Consideration by the Registrar General of divorce/ CP dissolution from outside British Isles	£75.00	£75.00
Consideration of a reduction in the 28 day notice to marry / civil partnership	£60.00	£60.00
Amendment	£40.00	£40.00
Adult attending communal citizenship ceremony	£80.00	£80.00

APPENDIX 4

REVIEW OF CHARGES – CORONER’S SERVICE 2019/2020

- 4.1 Fees that are chargeable are set out nationally in the Coroners Allowances, Fees and Expenses Regulations 2013.
- 4.2 There are nationally set at:
 - 4.2.1 After inquest, a document disclosed as a paper document is charged at £5 for a document of 10 pages or less, with an additional 50p payable for each subsequent page.
 - 4.2.2 A fee of £5 per document where it is disclosed in any form other than email or paper – i.e. CD copies of inquests.
 - 4.2.3 For a transcription of an inquest of 360 words or less the fee is £6.20, 361-1,439 words is £13.10 and 70p for every additional 72 words or part thereof.
- 4.3 The only locally set fee is the search fee for archive documents. It is proposed to increase the fee to £48 per hour (from £46) which is the GR3 hourly cost.

APPENDIX 5

REVIEW OF CHARGES – BIRMINGHAM ACCOUNT TEAM 2019/2020 **(Formerly Surveying Services)**

- 5.1 The, Birmingham Account Team (formerly Surveying Services group), which is part of Acivico (Building Consultancy) Limited, carry out a range of professional surveying services for both internal and external client groups that are responsible for property portfolios. The scope of services includes the carrying out of technical functions in support of the discharge of the Council's Building Control allied legislative requirements as detailed in The Building Act 1984 and the administration of demolition contracts required to facilitate the Council's regeneration targets. The group also carry out a variety of enforcement duties where full cost recovery is undertaken when the legislation allows.
- 5.2 The work is normally charged on an hourly basis. The current (2018/2019) charge is £72.00 per hour, and it is proposed that this fee will increase to £78.00 per hour. The fees for the year 2018/2019 were held static at the 2017/2018 rate, however, this forthcoming year an increase in the rate is required to cover rising costs and ensure the service is not carried out at a loss. The revised rate is still in line with other professional services carried out within the council and very competitive with regards to the private sector. The increase is necessary to address the increased cost of labour, increases in other on-costs and the necessity to maintain sufficient resources to handle the Council's requirements.
- 5.3 The charge levied in respect of Private Demolition Notices, which is a fixed fee per notification, is currently (2018/2019) set at £220.00 which was also held static last year. It is proposed to increase this fee in line with the increases proposed in paragraph 4.2. Therefore, the new fee will be £240.00.
- 5.4 The charge in respect of notices for temporary grandstands, which is required under the West Midlands County Council Act 1980 Section 39, is based on cost recovery in line with the hourly rate for the Birmingham Account Team as above and it is proposed to revise this rate to £78.00 per hour as well.
- 5.5 Work carried out indicates that, within the limitations of operating within a competitive market and statutory framework, the fees proposed should maximise income to the City Council through Acivico as well as providing good value for money to Acivico customers.

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

13 FEBRUARY 2019
ALL WARDS

REVIEW OF LICENSING SERVICE FEES AND CHARGES 2019/20

1. **Summary**

- 1.1 The Corporate Charging Policy and Financial Regulations require that fees and charges levied by the Licensing and Public Protection Committee be reviewed on an annual basis to ensure the continued full recovery of costs.
- 1.2 It should be noted that some of the fees relating to areas which come within your Committee's remit are set nationally through statute, and these cannot be varied by your Committee.
- 1.3 The report covers the following Fees and Charges:
 - a) Hackney Carriage & Private Hire Licences.
 - b) General Licensing.
 - c) Licensing Act 2003 (Prescribed).
 - d) Gambling Act 2005 (Statutory Maximum).
 - e) Gambling Act 2005 (Prescribed).

2. **Recommendations**

- 2.1 That the changes to the Licensing Service fees and charges be approved to take effect from 1 April 2019 as detailed in Appendices 1, 1(a), 1(b) & 1(d).
- 2.2 That the Licensing Service fees and charges as detailed in Appendix 1(c), and 1(e) be noted.
- 2.3 That the calculation of licence fees utilises brought forward credit balances for Hackney Carriage and Private Hire that have been allocated on the basis set out in paragraph 1.23.
- 2.4 That the pricing strategy as detailed in paragraphs 1.25 to 1.31 of Appendix 1 be approved and/or retained.

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3. Background

- 3.1 The City Council's Corporate Charging Policy and Financial Regulations require that Chief Officers, at least annually, report to and seek approval from Committee on a review of all fees and charges levied for services provided. This report also acknowledges and responds to corporate savings requirements and takes account of the legal framework within which certain licence fees must be set.

4. Proposals

- 4.1 In order to ensure the fees accurately reflect the true cost of administering and processing the licences the fee calculations are based on the finalised accounts from 2017/2018. This is more reliable than trusting in projections and estimates.
- 4.2 Members will note a blanket percentage change has not been applied, but that each fee has been adjusted to take into account the use of carry forward balances (where applicable), changes in overhead costs, processing times and also the cost of physical items such as badges/plates.
- 4.3 The time taken to process and administer each licence type is verified each year to ensure the calculations are accurate. Costs for peripheral items such as vehicle plates, badges, semi-permanent door signs, meter testing etc. are added in after the time is calculated, as is any restitution of carry forward balances. This accounts for the variance in cost between the different types of vehicle licence.
- 4.4 The proposed fees and charges for 2019/20 are detailed within Appendix 1.

5. Consultation

- 5.1 Under Section 70(2) of the Local Government (Miscellaneous Provisions) Act 1976 (LGMPA 76), a Local Authority is required to advertise changes to its fees and charges in respect of hackney carriage and private hire vehicles by placing an advert in a local newspaper for 28 days before it can apply the new fees and it must consider any objections. Although it must consider them it does not have to vary the proposal as a result of them. There is no requirement upon the Local Authority to advertise an alteration to driver fees. Should any objections be received within that time, they must be considered by Committee, thereby potentially delaying the date of implementation for the

revised fees for the Licensing Service as set out in Appendix 1(a) in this report.

6. Implications for Resources

- 6.1 The proposals are consistent with the proposed budget for 2019/2020 for the Licensing and Public Protection Committee that will be reported to you in March, subject to prior approval by City Council. This will ensure that the services continue to be managed within the approved cash limits and in line with the financial regulations relating to these services.
- 6.2 The fees and charges proposed within this report are calculated based on historic income and expenditure for 2017/2018 (in line with previous practice) and include the direct costs of the delivery of services and a proportion of indirect central business support costs e.g. Human Resources, Legal, IT, Finance, Procurement and Democratic costs.
- 6.3 The total available carry forward balance for the relevant period in HCPH was £406,000 with the amount utilized being £135,333. This is further broken down into the service areas. The proportions directly correspond to the proportion of officer time expended on these service areas as shown in paragraph 1.20 of Appendix 1.
- 6.4 It should be noted that fees and charges are recalculated annually and that they may increase or decrease depending on the cost of delivering the service in the previous year and any carry forward balances.
- 6.5 Further to the right to object as detailed in 5.1 above, there are three possible ways in which the fees could be challenged:
- Judicial review of the Council decision based on the decision being Ultra Vires or considered to be unreasonable or irrational (known as Wednesbury Principles).
 - Through the District Auditor – if a Birmingham resident objects to the Local Authority accounts on the grounds that an item is contrary to law or
 - If the Council proposes to set an unlawful fee. This must be reported to and considered by the Monitoring Officer.
- 6.6 The proposed fees have been calculated having regard to finalised accounts in accordance with best practice advice and also with regard to significant case law. There is no statutory method in which to calculate the fees.
- 6.7 Any decision to set fees otherwise than in accordance with the proposals within this report without appropriate justification is likely to increase the risk of challenge.

7. Implications for Policy Priorities

- 7.1 The recommendations are in accordance with Financial Regulations and budget requirements.
- 7.2 The legal requirement for a Licensing Service to recover only “reasonable costs” takes precedence over the City Council’s Corporate Charging Policy and the requirement to maximise income. Licence fees prescribed by statute also take precedence over the Corporate Charging Policy.

8. Public Sector Equality Duty

- 8.1 The fees that are proposed in this report will relate to all licence holders and applicants for licences regardless of their protected characteristics. The fees are calculated on the cost of delivering the service or are prescribed by regulation, and consequently an Equalities Assessment has not been undertaken.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Birmingham City Council – Corporate Charging Policy

LICENCE FEES AND CHARGES 2019/2020

- 1.1 This Appendix refers to fees and charges proposed for the Licensing Service and it should be noted that some of these fees are nationally set, in particular those relating to the Licensing Act 2003.
- 1.2 In relation to the Gambling Act 2005 fees are determined by Licensing Authorities subject to Government prescribed maximum limits.
- 1.3 The fees proposed in this report are calculated to recover the full cost of carrying out the service. This includes all administrative costs, any recharge of officers' time in appropriate cases when carrying out inspections of premises and other compliance duties (where applicable).
- 1.4 The fees proposed fulfil the main requirement of assuring that full costs are recovered from the income generated wherever possible.
- 1.5 The legal requirement for a Licensing Service to recover only "reasonable costs" takes precedence over the City Council's Corporate Charging Policy and the requirement to maximise income. Licence fees prescribed by statute also take precedence over the Corporate Charging Policy. In setting the fees we have also taken account of the Supreme Court decision in the case of Hemming v Westminster City Council. Brief details of the case are provided below and it is referred to again specifically in relation to sex shop fees at paragraphs 3.1 to 3.3.
- 1.6 The case of R (on the application of Hemming (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2015] UKSC 25 focused on whether the local authority's scheme of charging fees for licensing sex shops (under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982) in Soho was permitted by European Services Directive 206/123/EC as implemented by The Provision of Services Regulations 2009 which became law on 28 December 2009.
- 1.7 Westminster's fee was calculated so as to cover the cost of: enforcing the licensing regime against unlicensed operators and monitoring compliance by licensed operators (accounting for around 90% of the fee); and administering the application.
- 1.8 The sex shop owners brought a judicial review in 2011 claiming that Westminster's setting of the fee was unlawful. They argued, inter alia, that since the Provision of Services Regulations 2009 had come into effect the council was disentitled from including in the fee the cost of enforcing the licensing system against unlicensed operators.
- 1.9 The High Court and Court of Appeal had held that Westminster's fees for sex establishment licences were contrary to the European Services Directive because the fee charged included the costs of enforcing against unlicensed operators.

- 1.10 At the beginning of 2015, Westminster took the case to the Supreme Court which in April allowed part of Westminster's appeal i.e. that licensing authorities can fund enforcement activities against unlicensed operators through licensing fees but referred a relatively narrow issue about the precise way in which the fee was charged and collected to the European Court of Justice.
- 1.11 The most significant outcome from the Hemming case was the ruling that the fee should be charged as an application fee, followed by a licence fee. This has been effected where applicable in the proposed fees and charges.
- 1.12 This change will result in more administration, but will also rectify the current position whereby unsuccessful applicants do not pay for the cost of processing and dealing with their application.
- 1.13 The European Services Directive does not have direct applicability to hackney carriage, private hire and gambling licences (which are exempt), but it is regarded as best practice to apply its principles to all licence types.

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING PROPOSED CHARGES 2019/2020

- 1.14 We have assessed our fees for hackney carriage and private hire licences based on the true cost of delivering the service during 2019/2020. Each individual transaction type has been costed according to the time it takes to deliver, and all overheads associated to the running of that part of the service. This ensures that fees accurately reflect the true cost of administering each licence type. Calculating the fees in this thorough and rigorous manner leads to proposed amendments to the fees which do not equate to a uniform percentage change.
- 1.15 This year, the proposals represent a reduction from the previous fees. This is due to a combination of factors including the review of officer time spent on the transactions, efficiency savings and the inclusion of one third of the carry forward surplus applicable to hackney carriage and private hire licences.
- 1.16 Levels of future income are dependent on how many transactions are carried out and which type of licence is applied for. It is impossible to predict how many drivers will choose a three year licence over a one or two year licence, or indeed whether a driver will choose to renew at all.
- 1.17 When considering the fees it is necessary to have regard to the case law R (on the application of Cummings) v Cardiff City Council, [2014] EWHC 2544 (Admin), in that case it was held that the Licensing Authority had not had regard to or accounted for any surplus or deficit in their carry forward balances.
- 1.18 In accordance with the Licensing and Public Protection Committee decision of July 2015, the 2019/2020 fees have been calculated utilising a proportion of the existing carry forward surplus. Having regard to the legal advice and best

practice advice, it was proposed in 2015 that the carry forward reserves be 'run down' over a three year period.

- 1.19 Notwithstanding the need to 'run-down' the carry forward balances, it is also necessary to ensure the carry forward balance is attributed proportionately to the different types of licence. Historically, carry forward balances, be they surplus or deficit, were amalgamated into one figure. In order to ensure any surplus or deficit is properly recorded, it is necessary to apportion the balance correctly.
- 1.20 The total available carry forward balance for the relevant period in HCPH was £406,000 with the amount utilized being £135,333. This is further broken down into the service areas. The proportions directly correspond to the proportion of officer time expended on these service areas, as follows:

	% of total officer time	Individual Carry Forward Balance	£ to be utilised
Hackney Carriage Driver	5	21734	7245
Hackney carriage Vehicle	10	43394	14465
Private Hire Driver	23	97848	32616
Private Hire Vehicle	47	182319	60773
Private Hire Operator	15	60706	20235
<i>(small)</i>	<i>18%*</i>	<i>10927.02</i>	<i>3642.34</i>
<i>(regular)</i>	<i>82%*</i>	<i>49778.63</i>	<i>16592.88</i>
*% of operator transaction time		406000	135333

- 1.21 In order to establish a fair apportionment, officers calculated the total number of transactions and the associated time taken to establish a percentage. Operator transactions are further subdivided into small and regular operators as the time difference is significant.
- 1.22 By not utilising the entire carry forward balance, the service is able to maintain a degree of protection from sharp increases to the licence fees in the event of anticipated expenditure or unexpected costs.
- 1.23 The current and proposed fees for Hackney Carriage and Private Hire Licensing are detailed at Appendix 1(a).
- 1.24 A number of services are delivered as part of the licensing application process which incur fees set by the service provider. These fees are neither set nor controlled by the Licensing and Public Protection Committee. They include:
- Medicals.
 - Vehicle tests.
 - Driving tests for all new applicants.
 - Disability and Safeguarding Awareness Training Seminar.
 - Disclosure and Barring Service (DBS) fee

Fees proposed otherwise than in accordance with the calculations

- 1.25 The fees charged previously for the items listed in the table below in paragraph 1.26 do not reflect the true cost of providing that part of the service, but were maintained at this level to prevent them acting as a deterrent to new applicants, which might encourage them to seek hackney carriage licences from other local authorities and operate as private hire in Birmingham.
- 1.26 The knowledge test was introduced for private hire drivers in 2010 to set high standards for new drivers in terms of their knowledge of Birmingham's roads, their understanding of the legal requirements and conditions attached to their role and to check their ability to speak English. The proposed fees will not achieve full cost recovery, but should not be so high as to deter new drivers from applying for licences.

Fee Type	Actual Cost (16-17)	Current 2018-19 fee	Actual cost (17-18)	Proposed 2019/2020 fee	Variation from cost	Variation from previous fee
Hackney Carriage Knowledge Test	£585	£100	£478	£100	£-378	0
Private Hire Knowledge Test	£373	£58	£78	£60	£-18	£2+
Verbal communication test*	£798	£49	£651	£50	£-601	£1+

*This test can be required at the discretion of the Licensing Sub Committee if the Sub Committee needs to determine a driver's ability to speak English. It is separate to the Knowledge Test in which verbal communication skills are included.

- 1.27 Members are requested to note the proposed charges for 2019/2020 (as set out in the table at 1.26 above) and approve the recommendation in paragraph 2.4 of the report.
- 1.28 The Private Hire Knowledge Test Folder is no longer included in the fees as applicants download the required information from the website.
- 1.29 It has not been possible to determine categorically whether setting an artificially low cost for the knowledge tests has achieved the desired effect of reducing any potential deterrent effect. However, when the ease with which Birmingham drivers are able to obtain licences in neighbouring authorities is considered, it is difficult to imagine a situation where anyone would choose to pay hundreds of pounds if they could easily avoid it. The knowledge test is an important factor in establishing the suitability of applicants to drive the public around this City.
- 1.30 In 2018 the way in which the Private Hire Knowledge Test is delivered was changed which led to a test of the same rigour being able to be delivered for a

much lower cost. The true cost per test reduced significantly, although the cost still exceeds the proposed fee.

- 1.31 Officers have noted a significant number of candidates paying for, and then cancelling their tests and then expecting to be refunded the full amount. Owing to the nature of the subsidised fees charged for these tests (outlined in 1.26 above) and the costs associated with administering a refund, these fees will no longer be eligible for a refund.

General Licensing Proposed Charges 2019/2020

- 2.1 The same approach has been taken for General Licensing Fees as for the Hackney Carriage and Private Hire fees, and for 2019/2020 the current and proposed fees for those functions where the Licensing Authority has discretion to set fees are detailed at Appendix 1(b).
- 2.2 The time taken to process each transaction type has been individually reviewed, and, coupled with the efficiencies savings made, the fee calculations demonstrate in some cases reduction should be made, whereas in others a slight increase is required. Calculating the fees in this thorough and rigorous manner leads to proposed amendments to the fees which do not equate to a uniform percentage change.
- 2.3 As per paragraph 1.11 above, the most significant outcome from the Hemming case was the ruling that fees should be charged as an application fee, followed by a licence fee. This has been effected wherever possible in the proposed fees and charges.
- 2.4 2017/2018 saw a decrease in operational costs in General Licensing.

Sex Establishment Fees - Legal Background

- 3.1 In setting fees for Sexual Entertainment Venues, Sex Shops and Sex Cinemas we have taken note of the case of Hemming v Westminster (2013). Details of the case are explained above at paragraphs 1.6 to 1.11. The case involved a challenge to Westminster's fees for sex shop licences. The challenge was made under the European Services Directive, which, amongst other things, makes clear that licence fees covered by the Directive can only be used to recover costs and should not be used to make a profit or deter service providers from entering the market. In reaching its decision that the fees charged by Westminster were unlawful, the Court of Appeal concluded:
- The original cost of a sex shop licence in Westminster was £29,102.
 - Westminster licensed thirteen sex shops.
 - Westminster's fees had been reviewed annually by officers, but not by a committee or elected member since 2004.
 - The fees that a local authority sets may not exceed the costs of administering the licensing process.

- 3.2 The judgement of the Court of Appeal required Westminster to return almost £2 million in fees to sex shops to cover the period during which its fees had been determined to be unlawful.
- 3.3 Members should note that sex establishment fees in Birmingham have been reviewed annually by the Licensing and Public Protection Committee and that as it has not been necessary for officers to take enforcement action against an unlicensed sex establishment our fees have not included the cost of enforcement, other than the cost of achieving compliance amongst licensed businesses.
- 3.4 The European Services Directive is applicable to all aspects of licensing apart from hackney carriage and private hire licences due to an exemption under the directive for transportation.
- 3.5 Schedule 3 to the 1982 Local Government (Miscellaneous Provisions) Act states that an applicant for the grant, renewal, variation or transfer of a sex establishment licence shall pay a **reasonable fee** determined by the appropriate authorities, but does not expand on what would be considered to be reasonable. Case law relating to fee levels in various licensing cases has agreed a general principle that licensing fees should not be used as a method of creating revenue, for example:

- R v Manchester City Council ex parte King (The Times, 3 April 1991)

established that local authorities may only charge reasonable fees for licences and cover the Council's costs in the administration of those application types and issue costs and not use them to raise revenue.

- R v Westminster City Council ex parte Hutton (1985) LGR

established the need to only take into account relevant material when setting the fees, and that the Council has to determine the annual licence fee for sex establishments by adjusting what would otherwise have been the appropriate fee to reflect any previous deficit or surplus: (This case which was one of a number of cases tried together and reported collectively as R v Birmingham City Council ex p. Quietlynn Ltd and ors. (1985))

- R (app Simply Pleasure and Ors) v Westminster City Council (2012)*

The High Court confirmed that it was unlawful for a local authority to charge lawful licensees for the cost of enforcement against unlicensed operators. In addition the judgment contained an important decision relating to the setting of sex establishment applications fees, stating that licensing authorities cannot simply rollover its licensing fees without determining the licence fee.

*This case was considered in light of the European Union Services Directive. Sex establishments are covered by the European Union Services Directive as Schedule 3 to the 1982 Local Government (Miscellaneous Provisions) Act constitutes an authorisation scheme under Article 9 of the Directive.

- 3.6 Regulation 18 of the Provision of Services Regulations 2009 which implements the EU Services Directive into UK law requires that fees charged in relation to authorisations must be proportionate to the effective cost of the process. The proposed fees must recover the council's costs in relation to the licensing process and cannot be used as an economic deterrent or to raise funds. The fees as proposed should enable to Council to recover its reasonable costs.
- 3.7 The implications are that if trade bodies or applicants believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only. It is important, therefore, that the fees set by the City Council are based on actual costs incurred. It is also important to ensure that our fees do not include potential enforcement costs. The proposed fees in this report meet all of the legal tests outlined above.
- 3.8 Our proposed fees for Sexual Entertainment Venues, Sex Shops and Sex Cinemas are detailed in Appendix 1(b).

Refunds

- 4.1 Fees for all General Licensing functions are payable on application.
- 4.2 All applications must be accompanied by the requisite Application Fee before the application will be accepted or administered. Following determination, should the application be successful, the 'Licence' fee will become due. No licence will be issued until such time as the licence fee has been received.
- 4.3 The application fee is non-refundable. This includes those applications that are refused following a hearing by the Committee, or applications which are withdrawn or discontinued.
- 4.4 For Licensing Act 2003 fees detailed at Appendix 1(c) under the heading 'Other Fees', no refund is payable for any withdrawn or refused applications/notifications.
- 4.5 In accordance with the Licensing Act 2003, the full fee is refundable for minor variations if the Licensing Authority fails to determine the application within the statutory time period.

Statutory Fees

- 5.1 Statutory Fees are prescribed for certain licences and the Committee does not have any discretion in relation to these fees. They are detailed in appendices 1(c), 1(d) and 1(e).

Licensing Act 2003

- 5.2 The fees for this licensing regime are set nationally by the Government and are detailed at Appendix 1(c) we are not aware of any proposals to increase them, despite them having been set in 2005.
- 5.3 It is important to note, the majority of the work of the General Licensing Team is Licensing Act 2003 matters. Whilst the operating costs have been reduced slightly, enabling the fees to be reduced on other areas, the LA2003 fees still do not accurately reflect the costs associated with this work.

Gambling Act 2005

- 6.1 Fees for licences in Appendix 1(d) are determined by Licensing Authorities subject to Government prescribed maximum limits. The fees for licences listed in Appendix 1(e) are set by Government and we are not aware of any proposals to increase them.
- 6.2 In addition to the fees at Appendix 1(d) there is a range of prescribed fees set by the Government and for completeness these are shown at Appendix 1(e). We do not refund any of these fees in respect of applications/notifications that are withdrawn or refused.

Permits and Licences for which no fee can be charged.

- 7.1 House to House Collections are regulated by the House to House Collections Act 1939 and the House to House Collection Regulations 1947. The object of the Act is to provide for the regulation of house to house collections for charitable purposes. The legislation does not allow the Local Authority to charge a fee for processing these licences.
- 7.2 Likewise, charitable street collections are regulated by The Police, Factories etc. (Miscellaneous Provisions) Act 1916. The Act requires collectors to obtain a permit from the Licensing Authority. The legislation does not allow the Local Authority to charge a fee for processing these permits.

8. Future Financial Plan

- 8.1 In 2015/2016 the Licensing Service relocated to new office accommodation, and made progress towards replacing the licensing software system (SOPRA) and sourcing an online application system for hackney carriage and private hire licences. This project has been slower than anticipated but is still progressing.
- 8.2 Although fees are calculated using historic accounts, it is important to also have regard to the future. The costs of replacing the licensing system have yet to be fully realised.

APPENDIX 1(a)

HACKNEY CARRIAGE AND PRIVATE HIRE

Transaction	current	Proposed 19-20 Application fee	Proposed 19-20 Licence fee	Total Amount payable	Variation from current	%
Hackney Carriage Driver grant 1 yr	£183	£130	£19	£150	-£33	-18
Hackney Carriage Driver grant 2 yr	£217	£130	£48	£179	-£38	-18
Hackney Carriage Driver grant 3 yr	£250	£130	£77	£208	-£42	-17
Hackney Carriage Driver renewal 1 year	£133	£87	£19	£106	-£27	-20
Hackney Carriage Driver renewal 2 years	£167	£87	£48	£135	-£32	-19
Hackney Carriage Driver renewal 3 years	£200	£87	£77	£164	-£36	-18
Hackney Carriage Driver Late Renewal 1 yr	£183	£130	£19	£150	-£33	-18
Hackney Carriage Driver Late Renewal 2 yr	£217	£130	£48	£179	-£38	-18
Hackney Carriage Driver Late Renewal 3 yr	£250	£130	£77	£208	-£42	-17
Hackney Carriage Vehicle	£124	£87	£36	£123	-£1	-1
Hackney Carriage Vehicle renewal	£107	£58	£36	£94	-£13	-13
Hackney Carriage Vehicle late renewal	£124	£72	£36	£108	-£16	-13
Private Hire Driver grant 1 year	£161	£130	£11	£142	-£19	-12
Private Hire Driver grant 2 year	£195	£130	£40	£171	-£24	-13
Private Hire Driver grant 3 year	£228	£130	£69	£199	-£29	-13
Private Hire Driver renewal 1 year	£111	£87	£11	£98	-£13	-12
Private Hire Driver renewal 2 years	£145	£87	£40	£127	-£18	-12
Private Hire Driver renewal 3 years	£178	£87	£69	£156	-£22	-12
Private Hire Driver late renewal 1 year	£161	£130	£11	£142	-£19	-12
Private Hire Driver late renewal 2 year	£195	£130	£40	£171	-£24	-13
Private Hire Driver late renewal 3 year	£228	£130	£69	£199	-£29	-13
Private Hire Vehicle	£128	£101	£26	£127	-£1	-1
Private Hire Vehicle renewal	£128	£87	£26	£113	-£15	-12
Private Hire Vehicle Late Renewal	£128	£101	£26	£127	-£1	-1
Private Hire Operator 1-5 Vehicles only	£628	£232	£53	£284	-£344	-55
Private Hire Operator 1-5 Vehicles only (5yr)	£2,232	£232	£747	£979	-£1,253	-56
Private Hire Operator 1-5 Vehicles only renewal	£578	£188	£53	£241	-£337	-58
Private Hire Operator 1-5 Vehicles only renewal (5yr)	£2,182	£188	£747	£935	-£1,247	-57
Private Hire Operator (standard)	£895	£232	£574	£805	-£90	-10
Private Hire Operator (standard) (5yr)	£3,569	£232	£3,353	£3,584	£15	0
Private Hire Operator (standard) renewal	£845	£188	£574	£762	-£83	-10
Private Hire Operator (standard) renewal (5yr)	£3,519	£188	£3,353	£3,541	£22	1
Amendments to Private Hire Operator Trading Name/Address	£84	£72	n/a	£72	-£12	-14
Replacement/Lost/Stolen Vehicle Identity Plate/Door Plates	£33	£29	n/a	£29	-£4	-12
Replacement/Lost/Stolen Driver Identity Badge	£33	£29	n/a	£29	-£4	-12
Replacement/Copy Paper Licence	£33	£29	n/a	£29	-£4	-12
Replacement/Transfer of Vehicle Licence*	£100	£87	n/a	£87	-£13	-13
Hackney Carriage Knowledge Test Folder	£33	£29	n/a	£29	-£4	-12
Hackney Carriage Knowledge Test	£100	£100	n/a	£100	£0	0
Hackney Carriage Written/Verbal Test	£49	£49	n/a	£50	£1	2
Private Hire Knowledge Test	£58	£58		£60	£2	3
Private Hire Verbal Test	£49	£49		£50	£1	2
photocopying	20p/ sheet	20p/sheet	n/a	20p/sheet	nil	NIL

* when done independently of licence renewal

APPENDIX 1(b)

Licence Type	admin time	compliance time	application fee	licence fee	total amount payable	current fee	difference
Massage and Special Treatment							
- 1 level of treatment	77		£161	£0	£161	£196	-£35
renewal	60		£126	£0	£126	£153	-£27
- 2+ levels of treatment	90		£189	£0	£189	£230	-£41
renewal	80		£168	£0	£168	£204	-£36
Transfer of Ownership	35		£73	£0	£73	£89	-£16
Application for additional treatments	35		£73	£0	£73	£89	-£16
Skin Piercers	87		£69	£0	£69	£54	£15
Sex Shop/Sex Cinema GRANT**	2490	70	£5,221	£147	£5,368	£6,533	-£1,165
renewal	1400	70	£2,936	£147	£3,082	£3,751	-£669
Transfer of ownership	810		£1,699	£0	£1,699	£2,067	-£368
Variation	1060		£2,223	£0	£2,223	£2,705	-£482
Sexual Entertainment Venues**	2590	100	£5,431	£210	£5,641	£6,864	-£1,223
renewal	1415	90	£2,967	£189	£3,156	£3,841	-£685
Transfer	805		£1,688	£0	£1,688	£2,054	-£366
Variation	1375		£2,883	£0	£2,883	£3,509	-£626

APPENDIX 1(c)**LICENSING ACT 2003 - PRESCRIBED FEES**

These fees were set nationally by Government in 2005 and cannot be changed.

Application Fee

Rateable Value	Premises Value	Published
		21 January 2005
A	No rateable value up to £4,300	£100
B	£4,301 to £33,000	£190
C	£33,001 to £87,000	£315
D	£87,001 to £125,000	£450
E	£125,001 and above	£635
D primarily alcohol	2 x multiplier	£900
E primarily alcohol	3 x multiplier	£1,905

Annual Charge

Rateable Value	Premises Value	Published
		21 January 2005
A	No rateable value up to £4,300	£70
B	£4,301 to £33,000	£180
C	£33,001 to £87,000	£295
D	£87,001 to £125,000	£320
E	£125,001 and above	£350
D primarily alcohol	2 x multiplier	£640
E primarily alcohol	3 x multiplier	£1,050

Other Fees

Personal Licence (grant)	£37
Temporary Event Notice (TEN)	£21
Theft/loss of premises licence/club certificate, summary, personal licence or TEN	£10.50
Provisional Statement	£315
Change of name, address, club rules	£10.50
Personal Licence Change of details.	£10.50
Variation of DPS	£23
Transfer of premises licence	£23
Interim Authority Notice	£23
Right of Freeholder notification	£21
Minor Variation	£89
Variation to include alternative condition (no DPS)	£23

APPENDIX 1(d)

GAMBLING ACT FEES (Figures in Brackets show maximum fee limit)

Premises Type	New Licence	1 st Annual Fee	Annual Fee	Variation	Transfer	Re-instatement	Provisional Statement	Licence Application (Provisional)	Copy Licence	Change Notification
Casinos			(£3,000)	(£2,000)	(£1,350)	(£1,350)	N/A	N/A	(£25)	(£50)
Current fee	£3,140	£480	£628	£2,000	£1,049	£1,049	£3,028	£1,469	£25	£50
proposed fee	£2,498	£382	£500	£2,000	£834	£834	£2,409	£1,169	£25	£50
difference	-£642	-£98	-£128	£0	-£215	-£215	-£619	-£300	£0	£0
Bingo Clubs	(£3,500)		(£1,000)	(£1,750)	(£1,200)	(£1,200)	(£3,500)	(£1,200)	(£25)	(£50)
Current fee	£3,140	£480	£628	£1,750	£1,049	£1,049	£3,140	£1,200	£25	£50
proposed fee	£2,498	£382	£500	£1,750	£834	£834	£2,498	£1,200	£25	£50
difference	-£642.27	-£98.18	-£128.45	£0.00	-£214.57	-£214.57	-£642.27	£0.00	£0.00	£0.00
Adult Gaming Centre	(£2,000)		(£1,000)	(£1,000)	(£1,200)	(£1,200)	(£2,000)	(£1,200)	(£25)	(£50)
Current fee	£2,000	£369	£510	£1,000	£584	£584	£2,000	£999	£25	£50
proposed fee	£2,000	£294	£406	£1,000	£465	£465	£2,000	£795	£25	£50
difference	£0.00	-£75.48	-£104.32	£0.00	-£119.45	-£119.45	£0.00	-£204.34	£0.00	£0.00
Race Tracks	(£2,500)		(£1,000)	(£1,250)	(£950)	(£950)	(£2,500)	(£950)	(£25)	(£50)
Current fee	£2,500	£480	£628	£1,250	£950	£950	£2,500	£950	£25	£50
proposed fee	£2,500	£382	£500	£1,250	£950	£950	£2,500	£950	£25	£50
difference	£0	-£98	-£128	£0	£0	£0	£0	£0	£0	£0
Family Entertainment Centres	(£2,000)		(£750)	(£1,000)	(£950)	(£950)	(£2,000)	(£950)	(£25)	(£50)
Current fee	£2,000	£369	£510	£1,000	£584	£584	£2,000	£950	£25	£50
proposed fee	£2,000	£294	£406	£1,000	£465	£465	£2,000	£950	£25	£50
difference	£0	(£75)	(£104)	£0	(£119)	(£119)	£0	£0	£0	£0
Betting Premises	(£3,000)		(£600)	(£1,500)	(£1,200)	(£1,200)	(£3,000)	(£1,200)	(£25)	(£50)
Current fee	£3,000	£369	£510	£1,500	£584	£584	£3,000	£999	£25	£25
proposed fee	£3,000	£294	£406	£1,500	£465	£465	£3,000	£795	£25	£25
difference	£0	(£75)	(£104)	£0	(£119)	(£119)	£0	(£204)	£0	£0
Temporary Use Notice	(£500)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	(£25)	N/A
Current fee	£409								£25	
proposed fee	£325								£25	
difference	-£83.66								£0.00	

GAMBLING ACT 2005 – PRESCRIBED FEES

These fees were set nationally by Government in 2007 and may not be changed. There are no proposals from Government to revise these fees.

Alcohol Licensed Premises

Notification of up to 2 machines	£50
Permit for 3 or more machines (transitional)	£100
New Permit for 3 or more machines	£150
Variation	£100
Transfer of permit	£25
New name to be substituted	£25
Copy permit	£15
1 st Annual fee (3 or more machines)	£50
Annual fee (3 or more machines)	£50

Club Gaming and Machine Permits

Renewal and Transitional	£100
New	£200
Renewal after 10 years	£200
Variation	£100
Copy permit	£15
1 st Annual fee	£50
Annual fee	£50

Unlicensed Family Entertainment Centres

Transitional	£100
New	£300
Renewal after 10 years	£300
New name to be substituted	£25
Copy permit	£15

Lotteries

New	£40
Annual Fee	£20

Appendix 1(b)

	19/20 Application Fee	19/20 Licence Fee	19/20 'Total'	current fee	DIFFERENCE	%
Massage and Special Treatment						
- 1 level of treatment	£161	£0	£161	£196	-£35	-18
renewal	£126	£0	£126	£153	-£27	-18
- 2+ levels of treatment	£189	£0	£189	£230	-£41	-18
renewal	£168	£0	£168	£204	-£36	-18
Transfer of Ownership	£73	£0	£73	£89	-£16	-18
Application for additional treatments	£73	£0	£73	£89	-£16	-18
Skin Piercers	£46	£0	£46	£54	-£8	-15
Sex Shop/Sex Cinema GRANT	£5,221	£147	£5,368	£6,533	-£1,165	-18
renewal	£2,936	£147	£3,082	£3,751	-£669	-18
Transfer of ownership	£1,699	£0	£1,699	£2,067	-£368	-18
Variation	£2,223	£0	£2,223	£2,705	-£482	-18
Sexual Entertainment Venues GRANT	£5,431	£210	£5,641	£6,864	-£1,223	-18
renewal	£2,967	£189	£3,841	£3,841	£0	0
Transfer	£1,688	£0	£1,688	£2,054	-£366	-18
Variation	£2,883	£0	£2,883	£3,509	-£626	-18

PUBLIC REPORT

Report to:	LICENSING AND PUBLIC PROTECTION COMMITTEE	
Report of:	ACTING DIRECTOR REGULATION AND ENFORCEMENT AND CORPORATE DIRECTOR FINANCE AND GOVERNANCE	
Date of Decision:	13 FEBRUARY 2019	
SUBJECT:	LICENSING AND PUBLIC PROTECTION BUDGET MONITORING 2018/19 - QUARTER 3	

1. Purpose of Report:
<p>1.1 This report sets out the position on the Licensing and Public Protection Committee's Revenue and Capital Budgets at the end of December 2018 (Quarter 3) and the forecast position for the year end. It highlights any issues that have arisen and informs the Licensing and Public Protection Committee of any action being taken to contain spending within the approved cash limits.</p> <p>1.2 The report also details the latest performance within the Licensing and Public Protection Committee including progress against the approved Savings Programme for 2018/19.</p> <p>1.3 The report is in line with the current City Council established financial monitoring framework to ensure that expenditure is managed within cash limits.</p>

2. Decision(s) Recommended:
<p>The Licensing and Public Protection Committee is requested to :</p> <p>2.1 Note the latest Revenue budget position at the end of December 2018 (Quarter 3) and Forecast Outturn as detailed in Appendix 1.</p> <p>2.2 Note the position for the Savings Programme for 2018/19 as detailed in Appendix 2.</p> <p>2.3 Note the expenditure on grant funded programmes and Proceeds of Crime Act as shown in Appendix 3i and Appendix 3ii.</p> <p>2.4 Note the position on Capital projects, as detailed in Appendix 4.</p> <p>2.5 Note the position on reserves and balances, as detailed in Appendix 5.</p>

Lead Contact Officer(s):	Parm Phipps, Business Partner – Services Finance
Telephone No: E-mail address:	0121 303 4176 parmjit.phipps@birmingham.gov.uk

3. Consultation
<p data-bbox="103 190 311 235">3.1 <u>Internal</u></p> <p data-bbox="199 257 1495 380">The financial position on the revenue and capital budget is reported on a monthly basis to the Management Team and the Acting Service Director of Regulation and Enforcement is briefed on the major financial issues, as required in line with the Council's framework.</p> <p data-bbox="103 414 327 459">3.2 <u>External</u></p> <p data-bbox="199 481 1495 571">There are no additional issues beyond consultations carried out as part of the budget setting process for 2018/19.</p>

4. Compliance Issues:
<p data-bbox="103 750 1348 817">4.1 <u>Are the recommended decisions consistent with the Council's policies, plans and strategies?</u></p> <p data-bbox="199 851 1495 929">The budget is integrated within the Council's Financial Plan 2018+, and resource allocation is directed towards policy priorities.</p> <p data-bbox="103 963 1332 1041">4.2 <u>Financial Implications (Will decisions be carried out within existing finances and Resources?)</u></p> <p data-bbox="199 1075 1495 1153">The Licensing and Public Protection Budget Monitoring 2018/19 (Quarter 3) report provides details of monitoring of service delivery within available resources.</p> <p data-bbox="103 1187 462 1232">4.3 <u>Legal Implications</u></p> <p data-bbox="199 1265 1495 1523">Section 151 of the 1972 Local Government Act requires the Interim Chief Financial Officer (as the responsible officer) to ensure proper administration of the City Council's financial affairs. Budgetary control, which includes the regular monitoring of and reporting on budgets, is an essential requirement placed on directorates and members of Corporate Management Team by the City Council in discharging the statutory responsibility. This report meets the City Council's requirements on budgetary control for the specified area of the City Council's Directorate activities.</p> <p data-bbox="103 1556 590 1601">4.4 <u>Public Sector Equality Duty</u></p> <p data-bbox="199 1635 1495 1780">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 2018/19

- 5.1 The City Council approved the overall budget on 27 February 2018. The Licensing and Public Protection Committee noted the original net revenue budget allocation of £7.736m (as detailed in Appendix 1) on 14 March 2018.
- 5.2 There has been one minor addition to the Committee's net budget. This returns £0.025m to the Register Office that was previously removed as part of the Professional Support Service (PSS) centralisation. The post has since been identified as out of scope and will be reinstated and kept within the Register Office Structure.

	£'m
Original Budget 2018/19 Reported to LPPC 14 March 2018	7.736
PSS – Reinstatement of Out of Scope post budget (Register Office)	0.025
Current Approved Net Revenue Budget	7.761

- 5.3 The current approved budget for this Committee is therefore £7.761m.
- 5.4 The City Council has well-established arrangements for monitoring spending against the cash limited budgets allocated to Directorates and Committees.
- 5.5 Reports are presented to Cabinet on a quarterly basis on the overall city-wide financial position and the Licensing and Public Protection Committee will also receive quarterly financial performance reports during the financial year.

Revenue – Financial Review and Year End Projections (Appendix 1)

- 5.6 The total expenditure at Quarter 3 (end of December 2018) is £7.356m. However, this includes £2.024m of costs relating to the 1974 Bombings Inquest. These costs will be funded through the Ministry of Justice. When adjusted, this leaves £5.332m net expenditure, which represents 68% of the annual net budget. This is below the net position expected for this time of year mainly due to the variation on Highways Licensing.
- 5.7 A year end net surplus of (£0.118m) is being forecast formally. Pressures identified in Pest Control are more than mitigated by efficiencies being managed in Environmental Health and Trading Standards. Pressures reported formally by Highways will be mitigated within the Highways Service.
- 5.8 Budgets continue to be managed rigorously and any changes will be reported in future reports.
- 5.9 The table below sets out a high level summary of the projected year end overspend by service (full details in Appendix 1) and how this is comprised of over the savings programme and base budget pressures.

Forecast Year End Variations – Quarter 3			
Budget Head	Savings Programme £'m	Base Budget (underspend) / Pressures £'m	Total (underspend) / Pressures £'m
Environmental Health	0.000	(0.170)	(0.170)
Pest Control	0.000	0.100	0.100
Register Office	0.000	0.000	0.000
Mortuary and Coroners	0.000	0.070	0.070
Trading Standards	0.000	(0.118)	(0.118)
Licensing and Enforcement	0.000	0.000	0.000
Public Rights of Way	0.000	0.000	0.000
Highways Licensing	0.000	0.000	0.000
NRSA Licences (Highways)	0.000	0.000	0.000
TOTAL	0.000	(0.118)	(0.118)

The key components of the projection include:

- **Environmental Health (£0.170m underspend) and Pest Control (£0.100m pressure)**

Pest Control continues to experience income related pressure from contracts (for example: on clearance). The two services are managed jointly and savings are being managed within Environmental Health to fully fund this.

- **Mortuary and Coroners (£0.070m pressure)**

In addition to the costs for the 1974 Inquest there are also a number of operational pressures visible. These are mainly the result of changes to pay levels (including backdated adjustments), partly offset by forecast savings on autopsies and the transportation of deceased remains.

- **Trading Standards (£0.118m underspend)**

Trading Standards additional income through sharing costs of officers assigned to projects and securing external funding for Anti-Counterfeiting operations.

- **Highways Licensing (nil pressure)**

The service has formally reported some pressures in the first part of the year. However, any pressure that may arise relating to Highway Licences will be fully mitigated within the Highways service and will not form a pressure on this committee.

Savings Programme

- The Committee's Savings Programme is £0.222m for 2018/19.
- An assessment at Quarter 3 continues to conclude that this will be fully delivered in 2018/19 and all savings will be delivered.

Mitigations and Management Actions 2018/19

- Managers within Regulatory Services are involved in a number of actions this financial year to mitigate budget pressures for current and future financial years.
- Pest Control

Contracts continue to be sought to clear waste land and Council Housing land to make good the £0.100m forecast pressure on income. However, savings are also being managed within Environmental Health to mitigate this pressure.

- Mortuary and Coroners

Pressures relating to the 1974 Inquest (currently £2.024m) will be met by specific Government Funding. This has been confirmed in writing by the Ministry of Justice.

A formal letter from the Chair of Licensing and Public Protection Committee has now been sent to Ministry of Justice in order to establish regular liaison and enable payment to be claimed and received on an ongoing basis.

Capital (Appendix 4)

- 5.10 The Capital programme for security and essential health and safety works in the mortuary including ventilation solutions is being reviewed and updated.
- 5.11 A short term solution involving temporary air conditioning is in place and an extension to this is being arranged whilst permanent installations are being reviewed.

6. Grant Funded Programmes

- 6.1 Within Regulatory Services, there are two grant funded programmes: Illegal Money Lending and Scambusters (RIT).
- 6.2 Expenditure and income for each of the grants is shown in Appendix 3 and summarised below.

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 is funded through specific grant from HM Treasury, with the allocation of up to £3.805m in 2018/19.
- 6.5 The expenditure at the end of December 2018 was £2.725m (72%) this is a reasonable level for three quarters way through the year - and it is anticipated that the programme will fully spend the grant allocated.

Scambusters

- 6.6 The Scambusters - Regional Investigations Team (RIT) investigates and takes action against fraudsters operating across council boundaries in the central region.
- 6.7 Funding has been confirmed at £0.320m (£0.335m last financial year).
- 6.8 The expenditure at the end of December 2018 was £0.215m (67%). Again this is a reasonable level for this point in the financial year and it is anticipated that the programme will fully spend the grant allocated.

7. Proceeds of Crime Act

- 7.1 Regulatory Services secures funding through the Proceeds of Crime Act 2002 (PoCA) in response to financial investigations undertaken following sentencing by the courts.
- 7.2 PoCA monies are ring-fenced for expenditure on community and crime prevention projects
- 7.3 Expenditure specifically recorded as planned PoCA items is £0.363m at the end of Quarter 3 which will be funded routinely through a combination of appropriations from PoCA reserves and income received during the year.
- 7.4 An analysis of expenditure on the two PoCA programmes is set out in Appendix 3ii.
- 7.5 Receipts from the PoCA process, so far this financial year total £0.053m.

8. Balances and Reserves:

- 8.1 The reserves at Quarter 3 are shown in Appendix 5.
- 8.2 The reserves currently total £1.686m and are ring-fenced.
- 8.3 This follows planned use of Licensing reserve (for taxi licensing) and use of PoCA reserves for PoCA eligible expenditure as approved at LPPC in November.
- 8.4 All planned income and expenditure on reserves will be reported to this Committee.

9. Evaluation of Alternative Option(s):

- 9.1 During the year ahead the financial position will continue to be closely monitored and options identified to resolve budgetary pressures as necessary.

10. Reasons for Decision(s):

10.1 The Report informs the Licensing and Public Protection Committee of the Revenue and Capital Budget for 2018/19 and the forecast outturn at Quarter 3.

10.2 The latest position in respect of the Licensing and Public Protection Committee's use of reserves, Savings Programme and risks are also identified.

Signatures

Chris Neville Acting Service Director
Regulation and Enforcement

Clive Heaphy
Corporate Director Finance and Governance

Date

List of Background Documents used to Compile this Report:

Licensing & Public Protection - Revenue and Capital Budget 2018/19 – 14 March 2018

Licensing & Public Protection – Budget Monitoring 2018/19 Quarter 1 – 19 September 2018

Licensing & Public Protection – Budget Monitoring 2018/19 Quarter 2 – 21 November 2018

List of Appendices accompanying this Report (if any):

1. Appendix 1 - Financial Performance Statement and Forecast Outturn
2. Appendix 2 - Savings Programme Performance
3. Appendix 3i Summary of Grant and Proceeds of Crime Programmes
4. Appendix 3ii Analysis of PoCA expenditure for Trading Standards and IMLT
5. Appendix 4 - Capital Programme
6. Appendix 5 - Balances and Reserves

Report Version

1.0

Dated

10 January 2019

Licensing and Public Protection Committee - 2018/19 Quarter 3 (December)

Revenue Expenditure

Service Areas

	Original Budget	Current Budget	Movement	Current Budget to Date	Actuals to date	Variance	Forecast Year end Variance
	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £
Environmental Health	3,807	3,807	0	2,839	2,425	(414)	(170)
Pest Control	307	307	0	225	306	82	100
Reg'n Births, Deaths & Marriages	705	860	155	683	595	(88)	0
Mortuary/Coroners *	1,699	1,569	(130)	1,191	3,731	2,540	70
Trading Standards	1,261	1,261	0	930	791	(139)	(118)
Licensing & Enforcement	(5)	(5)	0	50	(126)	(176)	0
Public Rights Of Way	74	74	0	55	59	4	0
Highway Licences	(68)	(68)	0	(35)	(391)	(355)	0
NRSWA Licences (Highways)	(43)	(43)	0	(33)	(36)	(3)	0
Net Expenditure	7,736	7,761	25	5,906	7,356	1,450	(118)

* 1974 Inquest Costs <u>included</u> within Mortuary and Coroners					2,024		
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Subjective Headings

	Original Budget	Current Budget	Movement	Current Budget to Date	Actuals to date	Variance	Forecast Year end Variance
	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £
Employees	11,014	11,294	280	8,471	8,224	(247)	(273)
Premises	912	912	0	730	637	(93)	30
Transport and moveable Plant	201	181	(20)	131	99	(32)	(5)
Supplies and Services	2,684	2,477	(207)	1,847	1,937	90	433
Capital Financing	208	215	7	161	161	(0)	0
Recharge Expenditure	440	440	0	440	442	2	0
Expenditure For Service Area	15,459	15,519	60	11,780	11,501	(280)	185
Grants					0	0	0
Customer and Client					0	0	0
Fees and Charges	(3,525)	(3,553)	(28)	(2,667)	(2,312)	355	30
Rents etc	(4)	(4)	0	(3)	(25)	(22)	0
Miscellaneous Income **	(3,585)	(3,585)	0	(2,746)	(758)	1,988	(110)
Recharge Income	(198)	(198)	0	(147)	(711)	(564)	(223)
Rev Income	(7,313)	(7,341)	(28)	(5,562)	(3,806)	1,756	(303)
Below the Line (Capital Funding, etc.)	(410)	(417)	(7)	(313)	(339)	(26)	0
Net Expenditure	7,736	7,761	25	5,906	7,356	1,450	(118)

** Recovered Court Costs <u>included</u> in Miscellaneous Income					(207)		
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Note: figures exclude : PoCA, IMLT and Scambusters (see Appendix 3)

Licensing and Public Protection Committee - 2018/19 Quarter 3 (December)

Savings Programme and Tracker

Service Area	Savings Reference	Total Programme 2018/19	Progress against specific Savings with Actions Required					TOTAL
			Actions in place to fully achieve Savings (in line with Policy Decision)	Actions in place to fully achieve Savings (new Policy Decision required)	Actions in place to Achieve savings in year only	Actions in place but some risk to delivery	Savings not deliverable	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
		£'000	£'000	£'000	£'000	£'000	£'000	£'000
Register Office	PL011	(172)	(172)	0	0	0	0	(172)
Trading Standards	EGJ7	(50)	(50)	0	0	0	0	(50)
Total Regulatory Services		(222)	(222)	0	0	0	0	(222)
Highways Services		0	0	0	0	0	0	0
Total LPPC Savings Programme		(222)	(222)	0	0	0	0	(222)

Licensing and Public Protection Committee - 2018/19 Quarter 3 (December)

Grant Funded and Proceeds of Crime Programmes

Illegal Money Lending Team (IMLT) England

	Original Budget	Current Budget	Movement	Current Budget to Date	Actuals to date	Variance	Forecast Year end Variance
	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000
Employees	2,943	2,943	0	2,207	2,212	5	0
Premises	54	54	0	40	36	(5)	0
Transport and Moveable Plant	115	115	0	86	59	(27)	0
Supplies and Service	334	334	0	218	324	106	0
Capital Financing	15	28	12	21	21	0	0
Recharge Expenditure	159	159	0	111	73	(38)	0
Expenditure For Service	3,621	3,633	12	2,684	2,725	40	0
Grants	(3,605)	(3,605)	0	(1,803)	(1,846)	(44)	0
Fees and Charges					(6)	(6)	0
Rev Income	(3,605)	(3,605)	0	(1,803)	(1,852)	(50)	0
Asset Revenue Manage	(15)	(28)	(12)	(21)	(21)	(0)	0
Levies					7	7	0
Below the Line Adjus	(15)	(28)	(12)	(21)	(13)	7	0
Net Expenditure for	0	0	0	861	859	(2)	0

Scambusters / Regional Investigation Team (RIT)

	Original Budget	Current Budget	Movement	Current Budget to Date	Actuals to date	Variance	Forecast Year end Variance
	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000
Employees	220	224	4	168	183	15	0
Premises	1	2	0	1	1	(0)	0
Transport and Moveable Plant	5	2	(3)	1	2	1	0
Supplies and Service	96	81	(15)	60	28	(32)	0
Recharge Expenditure	14	12	(2)	9		(9)	0
Expenditure For Service	335	320	(15)	240	215	(25)	0
Grants	(335)	(320)	15	(240)	(159)	81	0
Rev Income	(335)	(320)	15	(240)	(159)	81	0
Levies					0	0	0
Below the Line Adjus	0	0	0	0	0	0	0
Net Expenditure for	0	0	0	(0)	56	56	0

Proceeds of Crime Act (Trading Standards and IMLT)

	Original Budget	Current Budget	Movement	Current Budget to Date	Actuals to date	Variance	Forecast Year end Variance
	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £	* 1,000 £
Employees		90	90	90	136	45	0
Transportation					0	0	
Supplies and Service	60	156	96	141	221	80	0
Third Party Payments		3	3	3	4	1	0
Capital Financing / Asset Revenue Management	0	4	4	3	3	(0)	0
Expenditure For Service	60	253	193	237	363	127	0
Miscellaneous Income					(53)	(53)	0
Rev Income	0	0	0	0	(53)	(53)	0
Asset Revenue Manage		(4)	(4)	(3)	(3)	0	
Appropriations		(189)	(189)	(189)	(189)	0	
Net Expenditure for	60	60	0	45	118	73	0

Licensing and Public Protection Committee - 2018/19 Quarter 3 (December)

Proceeds of Crime Act Programmes

Proceeds of Crime (Trading Standards)

Description		Actuals to date	
		* 1,000 £	
Financial Investigators (2FTE)		85	
Senior Authorised Officer and Deputy (0.8FTE)		51	(part funding only)
Support for Third Sector and Credit Union Organisations		14	
LCSP Local Grant Programme - East		1	
LCSP Local Grant Programme - South		3	
NCA Registration and Subscriptions		14	
Total PoCA Expenditure (TS)		168	

Proceeds of Crime (Illegal Money Lending Team)

Description		Actuals to date	
		* 1,000 £	
Publicity / Documentation		1	
Prison Radio		5	
Support for Third Sector and Credit Union Organisations		188	
NCA Registration and Subscriptions		1	
Total PoCA Expenditure (IMLT)		195	

Total PoCA Expenditure (combined)		363	
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Licensing and Public Protection Committee - 2018/19 Quarter 3 (December)

Capital Programme

Service Areas	Allocation 2018/19	Actuals Year to Date	Forecast Year End Variance
(1)	(2)	(3)	(4)
	£'000	£'000	£'000
Mortuary Floor and Ventillation*	299	5	0
Capital Expenditure	299	5	0

* Capital Budget relating to Mortuary Floor and Ventilation has been transferred from 2017/18
(as reported to LPPC 14 March 2018)

Licensing and Public Protection Committee - 2018/19 Quarter 3 (December)

Balances and Reserves

	Licensing		Grants		PoCA		
Reserves and Balances	Entertain - ment Licensing	Hackney Carriage and Private Hire	Illegal Money Lending Team	Scam - busters Team	PoCA Trading Standards	PoCA Illegal Money Lending	Total Reserves and Balances
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(10)
	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Reserves as at 01 April 2018	0	(406)	(279)	0	(539)	(793)	(2,017)
Transactions (to)/from Balances in 2018/19							
Appropriations to Reserves in year	0	0	0	0	0	0	0
Appropriations from Reserves in year	0	142	0	0	110	79	331
Net Movements 2018/19	0	142	0	0	110	79	331
Planned/routine appropriations to/from PoCA Reserves	0	0	0	0	0	0	0
Estimated Reserves 31 March 2019	0	(264)	(279)	0	(429)	(714)	(1,686)

BIRMINGHAM CITY COUNCIL

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

13 FEBRUARY 2019
ALL WARDS

PROSECUTIONS AND CAUTIONS – DECEMBER 2018

1. Summary
 - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of December 2018.
2. Recommendation
 - 2.1 That the report be noted.

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

3. Results

3.1 During the month of December 2018 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- Four Licensing cases were finalised resulting in fines of £650. 18 penalty points were issued and prosecution costs of £895 were awarded. No simple cautions were administered as set out in Appendix 1.
- 64 Environmental Health cases resulted in fines of £16,866 and prosecution costs of £7,393 were awarded. A vehicle involved in fly-tipping was also forfeited. One simple caution was administered as set out in Appendix 2.
- No Trading Standards cases were finalised and no simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in December 2018 and cases finalised by district April – December 2018.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team in April - November 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 2018 to December 2018 the following costs have been requested and awarded:

Licensing

£20,865 has been requested with £16,197 being awarded (78%).

Environmental Health

£261,623 has been requested with £197,392 being awarded (75%).

Trading Standards

£42,010 has been requested with £16,091 being awarded (38%).

- 5.3 For the month of December 2018 the following costs have been requested and awarded:

Licensing

£2,264 has been requested with £895 being awarded (40%)

Environmental Health

£14,873 has been requested with £7,393 being awarded (49%).

Trading Standards

No costs have been requested or awarded.

- 5.4 Since the start of the financial year until the end of December 2018 the following income has been received from the courts:-

Licensing

£11,873 has been received.

Environmental Health

£142,465 has been received including Waste Enforcement cases.

Trading Standards

£52,970 has been received.

(Total £207,308)

- 5.5 This will not directly correlate to the values awarded in the same time period as individual cases are often cleared in instalments with the associated fines and court costs taking precedence over the settling of BCC legal costs. Therefore, income received may relate to cases from the previous financial year or earlier.

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.

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	6/12/18	Faysal Ahmed Nechells Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in Bristol Road, Birmingham and one of consequently having invalid insurance.	£140 – No Insurance offence + 6 penalty points No separate penalty for plying £150 costs (£534 requested)	Nechells	Bournbrook & Selly Park
2	7/12/18	Arshad Mahmood Kings Heath Birmingham	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.	£350 – Plying for hire + 6 penalty points No separate penalty for No Insurance £135 costs (£816 requested)	Billesley	Ladywood
3	20/12/18	Rana Naeem-Ul- Hassan Walsall	Town Police Clauses Act 1847 Pleaded guilty to one offence of plying for hire in Birmingham Road, Sutton Coldfield.	£40 £410 costs (£410 requested)	Out of area	Sutton Mere Green
4	20/12/18	Adnan Mohammed Abdullah Hussein Weoley Castle Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire in Alcester Road, Moseley, Birmingham and one of consequently having invalid insurance.	£120 – no insurance + 6 penalty points No separate penalty for plying £200 costs (£504 requested)	Weoley & Selly Oak	Moseley

LICENSING SIMPLE CAUTIONS

During the period of December 2018, no simple cautions were administered

ENVIRONMENTAL HEALTH CASES**WASTE OFFENCES**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	5/12/18	Mashid Sharif Dorani Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of failing to comply with a notice requiring written information of how waste from Amir Supermarket, 247 Dudley Road, Birmingham was disposed of within 7 days. Originally listed for trial	£2,500 No costs awarded or requested.	North Edgbaston	North Edgbaston
2	6/12/18	Hoor Qasim Ltd 75 Alum Rock Road Birmingham B8 1LY	Environmental Protection Act 1990 Pleaded guilty to two offences; one offence of failing to take all reasonable measures to prevent a contravention under Section 33 of the Environmental Protection Act 1990, in that bags of waste from Hoor Qasim, 75 Alum Rock Road were found on the pavement at the junction of Ralph Road and Alum Rock Road, Birmingham, and one offence of failing to comply with a notice requiring written information of how waste from the business was disposed of within 7 days.	£345 – offence 1 No separate penalty for offence 2 £700 costs (£1,012 requested)	Alum Rock	Alum Rock
3	6/12/18	SA Express Ltd 235 Witton Road Aston Birmingham B6 6NU	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from SA Express, 235 Witton Road, Aston, Birmingham was disposed of within 7 days.	£200 £200 costs (£368 requested)	Aston	Aston

4	6/12/18	Charlie Roden Handsworth Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of being the registered keeper of a vehicle and failing to provide information required by an authorised officer, within 7 days, in relation to the details of the driver and/or person in control of the vehicle which had been involved in a fly tipping incident.	£120 No costs awarded (£617 requested)	Birchfield	Birchfield
5	20/12/18	Muhammed Ashraf Birmingham	Environmental Protection Act 1990 Scrap Metal Dealers Act 2013 Pleaded guilty to two offences; one of depositing controlled waste, namely a fridge, onto land on Radstock Avenue, Birmingham and one offence of operating as a scrap metal dealer without a licence.	£320 – offence 1 No separate penalty for offence 2 No costs awarded (£1,063 requested) Forfeiture of vehicle	Ward End	Bromford & Hodge Hill
6	20/12/18	Soyful Hussain Birmingham	Environmental Protection Act 1990 Pleaded guilty to two offences; one offence of knowingly causing or permitting waste, namely black bags containing waste from Aarong Clothing, 520 Coventry Road, Birmingham, to be deposited on the pavement near 526 Coventry Road, Birmingham and one offence of failing to comply with a notice requiring written information of how waste from the business was disposed of within 7 days.	£1,065 – offence 1 No separate penalty for 2 nd offence £733 costs (£733 requested)	Bordesley Green	Small Heath
7	20/12/18	Imran Farooq Smethwick	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely 10 bags of garden waste, on Abberley Street, Birmingham.	£933 £1,000 costs (£1,105 requested)	Out of area	Soho & Jewellery Quarter

ANIMAL WELFARE OFFENCES – SINGLE JUSTICE PROCEDURE

1	14/12/18	Michelle While 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 a notice requiring that the microchip details recorded on the database were updated with the keeper's full name, address and contact number.	£220 fine £85 costs (£175 requested)	Sheldon	Sheldon
2	14/12/18	Erica Enica Kidd Birmingham	The Microchipping of Dogs (England) Regulations 2015 Found guilty in her absence of one offence of being the keeper of a Husky cross type dog and failing to comply with a notice requiring that the microchip details recorded on the database were updated with the keeper's full name, address and contact number.	£220 fine £85 costs (£175 requested)	Erdington	Erdington

LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
14/12/18	55	£10,943	£4,590	£9,625

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

One simple caution was administered during December 2018.

Food Safety and Hygiene (England) Regulations 2013

One caution was issued for failing to comply with Food Hygiene Regulations

TRADING STANDARDS CASES

No Trading Standards prosecutions were finalised during December 2018

TRADING STANDARDS SIMPLE CAUTIONS

No simple cautions were administered during December 2018

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – DECEMBER 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	1	0	0	1	1	0	0	4
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	55	0	0	0	0	0	0	55
Environmental Health (non FPNs)	0	1	0	4	3	0	1	0	0	0	0	9
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – DECEMBER 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	1	0	1	0	0	1	4
Environmental Health (FPNs) Not paid and prosecuted	3	3	1	1	9	3	2	1	3	1	28	55
Environmental Health (non FPNs)	0	1	0	3	3	0	1	0	0	0	1	9
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL-DECEMBER 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	19	0	0	6	2	0	0	28
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	553	0	0	0	0	0	0	553
Environmental Health (non FPNs)	4	12	16	23	44	2	7	5	2	18	1	134
Trading Standards	1	1	4	1	2	0	2	1	0	0	0	12

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL-DECEMBER 2018

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	3	6	3	1	4	1	0	2	8	28
Environmental Health (FPNs) Not paid and prosecuted	20	19	27	44	84	25	33	15	6	23	257	553
Environmental Health (non FPNs)	3	11	16	24	31	6	5	6	1	9	22	134
Trading Standards	0	1	4	1	1	0	1	1	0	1	2	12

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2018 – MARCH 2019

	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Total 2018/2019
Waste Investigation Outcomes									
Duty of Care inspections into the waste disposal arrangements of commercial premises	125	116	157	81	135	128	104	64	910
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	105	100	122	70	127	74	67	32	697
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	30	41	50	35	62	80	83	21	402
<u>Section 87 Environmental Protection Act.</u> Fixed Penalty notices issued for commercial and residential litter offences (£80)	0	2	0	0	0	0	1	0	3
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)	4	5	3	7	6	3	6	9	43
Prosecutions									
Number of prosecution files submitted to legal services (number produced quarterly)			43			24			67

BIRMINGHAM CITY COUNCIL

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

13 FEBRUARY 2019
ALL WARDS

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
December 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 6103
E-mail: Emma.Rohomon@birmingham.gov.uk

3. Summary of Appeal Hearings for December 2018

	Magistrates'	Crown
Total	5	
Allowed	1	
Dismissed	3	
Appeal lodged at Crown		
Upheld in part		
Withdrawn pre-Court		
Consent Order	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 December 2018 costs have been requested to the sum of £579.11 so far with reimbursement of £384.11 so far (66.3%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2018 to December 2018, costs associated to appeal hearings have been requested to the sum of £12633.61 so far with reimbursement of £10984.21 so far (86.9%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2018 to December 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	Shahzad Amar	10.12.2018	Dismissed	£309.11	£309.11	The appeal was against the Sub Committee decision made on 09.04.2018 to refuse to grant a private hire driver's licence to Mr Amar due to a conviction for dangerous driving. Pre-Court the appellant had indicated that the appeal may be withdrawn. The appellant did not attend court, the court confirmed that the appeal had been lodged within the 21 day period and that the fault for the delay in the complaint being laid lay with the court administration. No email communication had been received confirming that the appeal was to be withdrawn, the District Judge dismissed the appeal and awarded costs in the sum of £309.11

2	Saleem Akhtar	10.12.2018	Allowed	£0.00 (contra BCC)	£0.00 (Contra BCC)	<p>The appeal was against the Sub Committee decision to revoke the private hire driver's licence issued to Mr Akhtar because he had not provided a criminal record check, in line with the requirements of his licence. Mr Akhtar attended unrepresented, the background to the appeal was outlined, and that Mr Akhtar had failed to provide a DBS and provided no reasonable explanation. Mr Akhtar had obtained a DBS when he was notified the matter was being referred to the Sub Committee. The Magistrates confirmed that the appeal was upheld on the basis of new information received since the Committee Meeting, namely the clean DBS check that they had before them today. The Court stated that the decision made by the Licensing Sub-Committee was not wrong when it was made in September due to the lack of a clean DBS check at that point, however when considered today, with the benefit of having Mr Akhtar's DBS check, the decision to revoke would have been the wrong decision today. It was outlined to the court that there should be no order as to costs against the Authority as it had acted reasonably and honestly at all times during the discharge of its public duties and the Court agreed that this was the case therefore refused to make any order as to costs. It was further stated that if the Court had the power to do so we had considered making an application for Mr Akhtar to pay our costs for defending the Appeal as he has wasted public resources however we were not aware that such power in fact existed. The Court confirmed that it could not make an order for costs against a party that had been successful in its appeal.</p>
3	Mohammed Zaheer	17.12.2018	Dismissed	£120.00	£0.00	<p>The appeal was against the Sub Committee decision to refuse to grant a Private Hire Driver's Licence to Mr Zaheer due to convictions recorded against him. Mr Zaheer failed to attend court. The district judge accordingly dismissed his appeal with no order as to costs.</p>

4	Munawar Hussain	19.12.2018	Dismissed	£150.00	£75.00	The appeal was against the decision to revoke with immediate effect under the chair's authority, the private hire driver's licence held by Mr Hussain following information disclosed by West Midlands Police. After hearing from both parties the Magistrates dismissed the Appeal on the basis that the decision of the Chair of the Licensing and Public Protection Committee on 14 August 2018 was not wrong and that the interests of public safety justified the immediate revocation of Mr Hussain's licence. The court awarded costs in the sum of £75.00.
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MAGISTRATES' COURT – LICENSING ACT 2003

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Matthew Eason In respect of Glamorous Show Bar 27-35 Hurst Street Birmingham B5 4BD	10.12.2018	Consent Order	Nil	Nil	The appeal was against the Sub Committee decision to remove the Designated Premises Supervisor, modify the hours for licensable activities and impose conditions on the licence, following an expedited review submitted by West Midlands Police. Birmingham Magistrates Court agreed by way of a Consent Order that the decision of the Sub Committee be rescinded and replaced with three new conditions of licence.

BIRMINGHAM CITY COUNCIL

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

13 February 2019
ALL WARDS

**ACTION TAKEN BY THE CHAIR OF THE LICENSING
& PUBLIC PROTECTION COMMITTEE:**
January 2019

1. Summary
 - 1.1 This report advises the Committee of action taken by the Chair under authority from the Licensing & 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 6103
E-mail: 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 January 2019

- 4.1 On 30 January 2019 authority was sought to revoke with immediate effect the private hire driver licence held by driver reference 81836. On 30 January 2019 the Licensing Enforcement Section received information from West Midlands Police: Driver 81836 was arrested for allegations of fraud on 23 January 2019. Driver 81836 has been released pending further investigation.
- 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 30 January 2019 notice was hand delivered personally to driver 81836's last known 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.

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.

DIRECTOR OF REGULATION AND ENFORCEMENT

BIRMINGHAM CITY COUNCIL

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

13 FEBRUARY 2019
ALL WARDS

FIXED PENALTY NOTICES ISSUED DECEMBER 2018

1. Summary
 - 1.1 The report sets out a breakdown, on a Ward basis, of fixed penalty notices issued in the City during the period of December 2018.
2. Recommendation
 - 2.1 That the report be noted.

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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 month of December 2018.

4.2 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 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

APPENDIX 1

Wards where FPN's are issued

Ward	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Acocks Green	3	0	2	0	5	2	0	0	0				
Allens Cross	0	0	0	0	0	0	0	0	0				
Alum Rock	0	2	1	1	3	1	3	1	0				
Aston	1	1	1	1	1	2	2	1	0				
Balsall Heath West	0	0	4	0	1	1	0	2	0				
Bartley Green	1	0	1	0	0	0	0	0	0				
Billesley	0	2	5	1	0	1	0	0	0				
Birchfield	0	0	0	2	0	0	0	0	2				
Bordelsey & Highgate	1	1	1	1	0	0	3	0	0				
Bordesley Green	0	2	2	2	9	2	9	0	1				
Bournbrook & Selly Park	0	1	1	9	4	0	1	0	0				
Bournville & Cotteridge	1	0	0	9	3	0	1	0	0				
Brandwood & Kings Heath	0	5	3	3	0	0	0	0	0				
Bromford & Hodge Hill	0	1	1	0	2	1	1	0	0				
Castle Vale	0	0	0	0	0	0	0	0	0				
Druids Heath and Monyhull	0	2	0	0	0	0	2	0	0				
Edgbaston	0	0	2	1	0	6	1	0	0				
Erdington	2	0	2	6	2	1	0	3	0				
Frankley Great Park	0	0	0	0	0	1	0	0	0				
Garretts Green	0	0	0	2	0	0	0	0	0				
Glebe Farm & Tile Cross	2	0	1	3	0	0	1	1	1				
Gravelly Hill	1	0	0	0	1	0	0	0	0				
Hall Green North	0	2	0	0	1	1	2	0	1				
Hall Green South	0	4	2	0	0	1	0	0	0				
Handsworth Wood	0	0	2	1	0	0	0	0	0				
Handsworth	2	0	1	0	1	0	0	2	1				
Harborne	0	0	1	2	2	1	0	0	0				
Heartlands	1	1	0	0	1	1	2	0	0				
Highters Heath	0	0	0	0	0	1	0	0	0				
Holyhead	1	0	5	0	2	11	0	0	0				
Kings Norton North	0	0	0	1	0	0	0	0	0				
Kings Norton South	1	0	0	0	0	0	0	0	0				
Kingstanding	1	0	0	0	0	0	0	0	2				
Ladywood	746	777	463	302	399	560	570	735	416				
Longbridge & West Heath	0	0	0	0	0	0	4	0	0				
Lozells	2	1	0	0	1	0	0	0	0				
Moseley	0	1	0	0	0	1	1	0	0				
Nechells	0	0	0	2	0	3	3	0	0				
Newtown	0	0	2	0	2	2	2	0	0				
North Edgbaston	2	1	0	0	0	0	0	0	0				
Northfield	0	0	0	0	0	0	2	0	6				
Oscott	0	0	5	0	1	0	1	1	0				
Perry Barr	0	0	1	0	0	1	4	0	0				
Perry Common	0	0	1	0	0	1	0	0	0				
Pype Hayes	1	0	0	0	0	0	0	1	0				
Quinton	0	0	0	0	0	0	0	1	0				
Rubery & Rednal	1	0	0	0	0	0	0	0	1				

Shard End	0	0	0	0	5	0	0	0	0				
Sheldon	1	0	0	0	1	1	1	0	0				
Small Heath	3	0	1	2	7	0	3	1	0				
Soho & Jewellery Quarter	0	0	3	0	1	7	7	2	0				
South Yardley	0	1	0	0	0	0	1	0	0				
Sparkbrook & Balsall Heath East	0	2	3	1	4	9	2	1	3				
Sparkhill	0	1	3	0	1	30	3	0	0				
Stirchley	0	0	0	0	2	0	0	0	0				
Stockland Green	0	0	0	0	0	0	0	4	0				
Sutton Four Oaks	0	0	0	0	0	0	0	1	0				
Sutton Mere Green	0	0	0	0	0	0	0	0	0				
Sutton Reddicap	0	0	0	0	0	1	0	0	0				
Sutton Roughley	0	0	0	0	0	0	0	0	0				
Sutton Trinity	0	0	0	0	0	0	0	0	0				
Sutton Vesey	0	2	0	0	0	1	13	1	0				
Sutton Walmley & Minworth	0	0	0	0	0	1	0	0	4				
Sutton Wylde Green	1	0	0	0	0	0	5	6	0				
Tyseley & Hay Mills	0	0	0	0	0	0	2	0	0				
Ward End	0	0	0	3	1	0	9	0	0				
Weoley & Selly Oak	0	0	0	1	0	0	0	0	0				
Yardley East	0	0	0	0	0	1	0	2	0				
Yardley West & Stretford	0	1	0	0	0	0	1	0	0				
	775	811	520	356	463	653	662	766	438	0	0	0	5,444

BIRMINGHAM CITY COUNCIL**LICENSING AND PUBLIC PROTECTION COMMITTEE****13 FEBRUARY 2019****SCHEDULE OF OUTSTANDING MINUTES**

MINUTE NO./DATE	SUBJECT MATTER	COMMENTS
942 (ii) 15/11/2017	<u>Revision of Birmingham City Council Act 1990 Establishments for Massage and/or Special Treatments</u> 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 hearings to Licensing Sub-Committees.	Report due in March 2019
1114 16/01/2019	<u>Update Report On Unauthorised Encampments</u> – 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 April 2019

