

**BIRMINGHAM CITY COUNCIL**

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

**17 FEBRUARY 2016**  
**ALL WARDS**

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS  
DURING DECEMBER 2015**

1. Summary
- 1.1 This report advises the Committee of the outcomes of appeals against the Sub Committee's decisions which are made to the Magistrates' Court, and any subsequent appeals made to the Crown Court, and finalised in the period mentioned above.
2. Recommendation
- 2.1 That the report be noted.

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### 3. Summary of Appeal Hearings for December 2015

	Magistrates'	Crown
Total	3	1
Allowed	1	
Dismissed	1	
Appeal lodged at Crown		
Upheld in part		
Withdrawn pre-Court		1
Other	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 2015 costs have been requested to the sum of £250 so far with reimbursement of £250 so far (100%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2015 to December 2015, costs associated to appeal hearings have been requested to the sum of £28,594.48 with reimbursement of £27,184.48 (95%) ordered by the Courts.

### 5. Implications for Policy Priorities

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

### 6. Public Sector Equality Duty

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

### 7. Consultation

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

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

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

**MAGISTRATES' COURT – PRIVATE HIRE DRIVER'S LICENCE**

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Reuben Bradshaw	03.12.2015	Allowed	0 (against BCC)	0	On 14 September 2015, as the result of two cautions for relevant offences (including an offence of Actual Bodily Harm), Committee considered and resolved to refuse the grant of a licence. The magistrates listened to all the information and stated it was an unusual case, but did not see any reason why the appellant should not be a private hire driver, and so substituted the Committee's decision. The magistrates did not expand any further on their reasons. No costs were requested by the appellant.
2	Arshad Mehmood	04.12.2015	Dismissed	£250	£250	On 21 October 2015, as the result of conviction for offences of plying for hire and using a vehicle while uninsured, Committee considered and in accordance with the relevant policy resolved to revoke the licence. The appellant failed to attend Court and matters proceeded in his absence. It is understood the appellant intends to either appeal further to Crown Court or request the reopening of proceedings because he has stated he was not notified of the hearing.

## MAGISTRATES' COURT – LICENSING ACT 2003

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Deltic Group Ltd in respect of Gatecrasher, 182 Broad Street	22.12.2015 – Consent Order signed	Agreement reached between parties	0	0	At a full review hearing on 25 November 2015 Licensing Sub Committee C were informed that all parties were of the view that the licence should be revoked and that the interim step of suspension should remain in place until such time as the matter was concluded through an appeal to the Magistrates Court, or upon any level of agreement in respect of a wholly new third party operator holding the premises licence. As a result of a transfer application being submitted by The Deltic Group Limited and subsequent representations being made by them against the interim step to maintain the suspension Licensing Sub Committee C met on 18 December 2015 and having considered the representations made and on the basis of a written undertaking that the premises will not re-open prior to 1 March 2016, and that the previous licence holder, Mr Simon Raine, is not in any way associated to or connected with The Deltic Group Limited, nor will he be involved in the future operation of the premises the Sub Committee resolved to lift the suspension and to modified the conditions of licence. On 22 December 2015 the appeal against the decision to revoke the premises licence was compromised by way of a consent order before Birmingham Magistrates Court with no order as to costs against either party.

## CROWN COURT – PRIVATE HIRE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Nadeem Nisar Raja	n/a – abandoned	n/a	0	0	On 8 April 2015, as the result of conviction for offences of plying for hire and using a vehicle while uninsured, Committee considered and in accordance with the relevant policy resolved to revoke the licence. The appeal to Magistrates' Court was dismissed on 23 July 2015 with costs of £250 being awarded. The appeal to Crown Court was abandoned on 9 December 2015; no costs were requested because no hearing date had been listed.