

BIRMINGHAM CITY COUNCIL

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

11 September 2019
ALL WARDS

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
June – July 2019

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 June – July 2019

| | Magistrates' | Crown |
|------------------------|--------------|-------|
| Total | 4 | 2 |
| | | |
| Allowed | | 1 |
| Dismissed | 2 | 1 |
| Appeal lodged at Crown | | |
| Upheld in part | | |
| Withdrawn pre-Court | 1 | |
| 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 June and July 2019 costs have been requested to the sum of £5648.25 so far with reimbursement of £4648.25 so far (82.29%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2019 to July 2019, costs associated to appeal hearings have been requested to the sum of £7354.25 so far with reimbursement of £6158.25 so far (83.73%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2019 to July 2019, costs contra Birmingham City Council associated to appeal hearings, £0.00.

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 | Nissar Mohammed | 24.06.2019 | Dismissed | £180.00 | £180.00 | The appeal was against the Sub Committee Decision on 30.01.2019 to refuse to grant a private hire driver licence, due to convictions recorded against the applicant. The appeal was dismissed, the appellant was found to be not credible in his evidence and given his previous convictions the decision of the Sub Committee was correct. |
| 2 | Amir Ali | 01.07.2019 | Dismissed | £350.00 | £350.00 | The appeal was against the Sub Committee Decision on 14.11.2018 to suspend Mr Ali's private hire driver licence for a period of twelve months, due to unsafe driving. The magistrates decided that there was reasonable justification for suspending his licence, the appeal was dismissed. |

MAGISTRATES' COURT – LICENSING ACT 2003

| | Name | Date Case Heard | Result | Costs Requested | Costs Ordered | Comments |
|---|---|-----------------|---------------|-----------------|---------------|---|
| 1 | Five Rivers 2 UK Limited in respect of Zara's Bar 80 Broad Street Birmingham B15 1AU | 05.06.2019 | Consent Order | £0.00 | £0.00 | The appeal was against the Sub Committee decision to revoke the premises licence following an expedited review application submitted by West Midlands Police. On 05.03.2019 the appeal against interim step of suspension being maintained was allowed subject to additional conditions being attached to the licence pending the full appeal hearing against revocation, no Order for Costs. On 05.06.2019 the appeal against revocation was allowed by way of a Consent Order between both parties subject to modification of conditions of licence and no order for Costs. |

| | | | | | | |
|---|---|-----|----------------------------------|---------|---------|--|
| 2 | DG Entertainment Limited in respect of Sutton Tap 67 South Parade Sutton Coldfield B72 1QU | n/a | Appeal Withdrawn pre-Court | £618.25 | £618.25 | The appeal was against the Sub Committee decision to revoke the premises licence on 25.02.2019 following the submission of a review application by West Midlands Police. The appeal was withdrawn. |
|---|---|-----|----------------------------------|---------|---------|--|

CROWN COURT – PRIVATE HIRE OPERATOR’S LICENCE

| | Name | Date Case Heard | Result | Costs Requested | Costs Ordered | Comments |
|---|--------------------|--------------------|---------|--------------------|------------------|---|
| 1 | Mohammed Rashid | 05.07.2019 | Allowed | £4000.00 | £3000.00 | The appeal was against the Sub Committee decision to refuse to grant a private hire operator’s licence to Mr Rashid under the trading name of TOA Cars. Mr Rashid’s appeal was dismissed by Birmingham Magistrates’ Court on 28.01.2019. Mr Rashid’s appeal was allowed due to change of stance, however the judgement was as follows, Birmingham City Council was willing to grant a licence, but not as TOA Cars, Mohammed Rashid (MR) would not trade in any name other than TOA Cars. The fact that MR adopted that stance lead to the appeal which was clearly unnecessary if he had been reasonable. He resolutely set his mind against that. In our judgement there is no reason MR could not have been pragmatic and reasonable, it is our judgement MR is unsuccessful, Birmingham City Council is successful, Cost are awarded from the date of registering the appeal. |

CROWN COURT – HACKNEY CARRIAGE DRIVER'S LICENCE

| | Name | Date Case Heard | Result | Costs Requested | Costs Ordered | Comments |
|---|--------------|-----------------|-----------|-----------------|---------------|---|
| 1 | Abid Hussain | 21.06.2019 | Dismissed | £500.00 | £500.00 | The appeal was against the Sub Committee Decision to revoke Mr Hussain's Hackney Carriage Driver Licence on 03.09.2018 due to a complaint and findings of the subsequent investigation. The appeal to Magistrates Court was dismissed on 27.03.19. The appeal was dismissed, the judge commented that it was not necessarily the overpayment which was a concern, but Mr Hussain's attitude in his dealings with Licensing and his persistent lying that gave her reason to believe he was not an honest person and as such, not a fit and proper person to hold a licence. |