

**Members are reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting**

**BIRMINGHAM CITY COUNCIL**

**LICENSING AND PUBLIC PROTECTION COMMITTEE**

**WEDNESDAY, 15 MARCH 2017 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.birminghamnewsroom.com) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

**2 APOLOGIES**

To receive any apologies.

**3 - 14**

**3 MINUTES**

To confirm and sign the minutes of the last meeting held on 15 February 2017.

**15 - 58**

**4 CONTROL OF SEX ESTABLISHMENTS - SEXUAL ENTERTAINMENT VENUE, MISCHKAS / CYCLONE CLUB, 192-194 BROAD STREET, BIRMINGHAM B15 1AY**

Report of the Acting Director of Regulation and Enforcement

**59 - 70**

**5 LICENSING AND PUBLIC PROTECTION – BUDGET MONITORING PROVISIONAL OUTTURN (MONTH 10) 2016/17**

Report of Acting Service Director Regulation and Enforcement and Strategic Director Finance and Legal

**71 - 82**

**6 LICENSING AND PUBLIC PROTECTION – REVENUE BUDGET 2017/2018**

Acting Director Regulation and Enforcement and Strategic Director Finance and Legal

- 83 - 92**                      7        **TRANSITIONAL ARRANGEMENTS FOR DESIGNATED PUBLIC PLACES AND DOG CONTROL ORDERS**
- Report of the Acting Director of Regulation and Enforcement
- 93 - 96**                      8        **OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS TAKEN DURING JANUARY 2017**
- Report of the Acting Director of Regulation and Enforcement
- 97 - 120**                    9        **PROSECUTIONS AND CAUTIONS JANUARY 2017**
- Report of the Acting Director Regulation and Enforcement
- 121 - 126**                  10       **FIXED PENALTY NOTICES ISSUED JANUARY 2017**
- Report of the Acting Director of Regulation and Enforcement
- 127 - 128**                  11       **SCHEDULE OF OUTSTANDING MINUTES**
- To consider the Schedule of Outstanding Minutes.
- 12       **OTHER URGENT BUSINESS**
- 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.
- 13       **AUTHORITY TO CHAIRMAN AND OFFICERS**
- Chairman to move:-
- 'In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

# BIRMINGHAM CITY COUNCIL

<b>LICENSING AND PUBLIC PROTECTION COMMITTEE 15 FEBRUARY 2017</b>
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**MINUTES OF A MEETING OF THE LICENSING  
AND PUBLIC PROTECTION COMMITTEE HELD  
ON WEDNESDAY 15 FEBRUARY 2017 AT 1000  
HOURS IN COMMITTEE ROOMS 3 AND 4,  
COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:** - Councillor Barbara Dring in the Chair;

Councillors Bob Beauchamp, Alex Buchanan, Basharat Dad,  
Neil Eustace, Des Flood, Nagina Kauser, Gareth Moore and  
Habib Rehman.

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**NOTICE OF RECORDING**

802 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site ([www.birminghamnewsroom.com](http://www.birminghamnewsroom.com)) and that members of the press/public may record and take photographs.

The whole of the meeting would be filmed except where there were confidential or exempt items.

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**APOLOGIES**

803 Apologies were received from Councillors Nawaz Ali, Lynda Clinton, Jayne Francis, Penny Holbrook, Mike Leddy and Rob Sealey for their inability to attend the meeting.

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**MINUTES**

Councillor Gareth Moore noted that Councillor Lynda Clinton's first name was spelt in correctly in minute No. 786 of the previous Minutes.

804 Subject to the above, the Minutes of the meeting held on 18 January 2017, having been previously circulated, were confirmed as a correct record and signed by the Chairman.

**CONTROL OF SEX ESTABLISHMENTS SEXUAL ENTERTAINMENT  
VENUE LEGS 11, 193-194 BROAD STREET, BIRMINGHAM, B15 1AY**

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

(See document No. 1)

The following people were in attendance for the hearing.

Sarah Clover – Barrister acting for the applicant  
Thomas Taylor – Owner of the premises  
Eddie Haxhia – Manager  
Peter Atkins – Instructing Solicitor

David Kennedy, Licensing Section, made introductory comments relating to the report.

Sarah Clover, on behalf of the applicant, made the following comments in respect of the application:-

- (a) The applicant was Clear Blue Sky Thinking Limited who owned Legs 11 as part of a chain.
- (b) The Club had operated for a long time and this was the first time an objection had been received in respect of a renewal of the Sexual Entertainment Venue (SEV) licence.
- (c) The Manager Eddie Haxhia was previously the Deputy manager at the premises and therefore knew the premises well.
- (d) There were no objections from West Midlands Police or enforcement officers.
- (e) There was a single objection from an individual who was not in attendance so it was difficult to address the concerns or have the opportunity to ask questions.
- (f) Broad Street could not be seen as being a residential area as indicated in the objection as it was the heart of the City's night-time economy and was therefore a suitable location for a SEV. Indeed Legs 11 had operated on Broad Street for a number of years. The reference in the objection concerning the grant of Planning Permission for residential developments should not be given any weight as the area had not changed significantly.
- (g) The objectors' reference to a safe and friendly area for families and residents could be countered by the fact families would not be in the area when the premises were open. The Crescent Theatre and the Sea Life Centre referred to by the objector were some distance from the premises and operated at different times.

- (h) Broad Street had a number of SEV premises on it and Legs 11 would operate in compliance to the requirements of the relevant Authorities

In response to questions from Members of Committee, Sarah Clover made the following comments:-

- (a) There were no mandatory grounds of refusal and of the discretionary ones set out in paragraph 5.3 only d) applied. The character of Broad Street had not changed and it remained the entertainment hub of the City and its night-time economy. Legs 11 was one of the 8 SEVs that could operate within the ring road (A4540) and had had its SEV licence renewed consistently over a number of years.
- (b) Her use of the word iconic in her opening comments had been intended to indicate that Legs 11 was a well-known and respected brand in Birmingham that had had no trouble. The clientele knew they would not be exploited and the performers well treated.
- (c) The premises were in the right place and whilst there were residential properties in the streets off Broad Street the character of the area was one of entertainment and leisure use. It was not appropriate to base decisions on what may happen to the area in the future.
- (d) She assumed that the Sea Life Centre closed at about 1800 hours and highlighted that it was a day time tourist attraction. There was no conflict between the Sea Life Centre and Crescent Theatre and the application premises due to the distance and different footfall.

In summing up for the applicant, Sarah Clover commended the company and brand which had served Birmingham well. They had done nothing wrong and had the support of the enforcing regulatory authorities and the Council previously. The objector had not attended to explain their objection and allow questions to be asked so only so much weight could be attached to the objection. She invited the Committee to consider the previous renewal of the SEV licence, the calibre of the company and its compliance with regulatory authorities.

At 1028 hours Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer, the Committee Manager and the web streaming operator, withdraw from the meeting.

After an adjournment, all parties together with officers and members of the public were recalled to the meeting at 1047 hours and a summary of the decision of the Sub-Committee was announced. All parties were advised that the full decision would be forwarded to them within five working days and is set out as follows:-

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**RESOLVED:-**

That the application by Clear Blue Sky Thinking Limited for the renewal of the Sexual Entertainment Venue licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 in respect of Legs 11, 193 – 194 Broad Street, Birmingham, B15 1AY be granted.

Those matters detailed in the application and the Licensing Authority's approved standard conditions will form part of the licence issued in accordance with Paragraph 6.1.1 of the Committee Report.

**REASONS**

The Committee carefully considered the representations made by the Applicant's legal representative, and the written objection submitted arguing that the Licence should not be renewed, as set out within Appendix 5 of the Report. Those making an objection had decided not to attend the Committee meeting, but their objection was nevertheless considered in detail by the Committee and addressed by the applicant's legal advisor.

Those making the objection referred to:

- Broad Street and the surrounding streets becoming more and more residential areas by the granting of planning permission for several large residential developments;
- That they wished the area to be safe and friendly to everyone who visits or lives in the area; and,
- That this included families with children visiting the Crescent Theatre and Sea Life Centre and business people staying in hotels in the area.

The Committee had regard to the location of the premises, and in particular paragraphs 10 and 11 in the City Council, Sexual Entertainment Venue Policy (effective from 1 November 2014) when considering if the renewal of the licence would be inappropriate having regard to Use of the Premises in the Vicinity (paragraph 10) and the Character of the relevant locality (paragraph 11).

The Committee noted that the relevant locality is not defined in the applicable legislation or government guidance; it is dependent on the surroundings of the premises at the time of the application. For the purposes of determining the Application, the Committee found that the relevant locality in this case is the Broad Street area, which is characterised as being the heart of Birmingham City Centre's vibrant night time economy with a number of lap dancing clubs.

Although the Committee accepted that the Broad Street area and surrounding streets were becoming more residential in nature, it did not accept that the relevant locality predominant feature was residential. In the absence of those making the objection either attending the meeting, or providing further clarity around the nature of the objection or any evidence to support their assertion, it was reasonable for the Committee to conclude that the relevant locality was not predominantly residential.

The Committee had to base their view on the character of the relevant locality and nearby premises at the time of the application and not as it may develop in the future.

The Committee were reminded that the upper limit set by the Council for the number of Sexual Entertainment Venues which fall within the ring road (A4540) was eight of which 3 are located on Broad Street.

Although the objector(s) had specifically referred to area by the Crescent Theatre and Sea Life Centre in support of their objection, neither was located within the immediate vicinity of the Premises. The Committee accepted that the opening and closing times for both of these venues would be entirely consistent with the operation of the Premises. These venues would typically close earlier than the applicant's premises busiest trading hours.

The Committee were not convinced that the applicant would run and manage the premises, in anything other than a professional manner, having regard to safety of members of the public. The applicant's legal representative also informed the Committee that the applicant was an experienced operator, and had managed these premises without any intervention from either the Police or any Regulatory body during the periods covered under their previous licences. Indeed there were no observations from the Police in respect of the Application and no objection from anyone other than those referred to above. It was therefore appropriate to surmise that the suitability of the applicant and proposed premises was good.

In reaching this decision, the Committee has given due consideration to the City Council's Sexual Entertainment Venue Policy, the information contained in the application, the written representation received and the submissions made at the hearing by the applicant and their legal adviser.

Under the provisions contained within Schedule 3, paragraph 27 of The Local Government (Miscellaneous Provisions) Act 1982, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

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At this point in the meeting it was proposed by the Chair, and agreed, to consider agenda item 8.

### **PROPOSALS FOR VEHICLE EMISSION STANDARDS FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

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

(See document No. 2)

Councillor Basharat Dad declared a non-pecuniary interest in that a family member was in the taxi trade.

Chris Neville, Head of Licensing, circulated a letter from the Mayor of London and the Leaders of Birmingham City Council, Derby City Council, Nottingham City Council, Leeds City Council and Southampton City Council to the Prime Minister dated 10 February 2017:-

(See document No. 3)

He went on to make introductory comments relating to the report and explained that the contents of the report had been discussed at length at the previous day's Trade Liaison meeting and members of the trade had asked him to advise the Committee of some of the themes raised as follows:-

- (a) The timescales should be extended to enable the trade time to make preparations to replace their vehicles. Chris Neville indicated that this would have to be balanced with the Government's imposed deadlines.
- (b) A trade representative Mr Pearson had indicated that he was involved at a national level in discussions with the Department for Transport and he understood that in 2 to 3 weeks' time the Government intended to produce a national plan for the taxi trade. Chris Neville indicated that he had not had confirmation of that.
- (c) The trade was critical that the City Council was too early in developing its emissions policy without complete details of the levels of pollution and the location of the Clean Air Zones. Equally the Council was criticised for moving too quickly.
- (d) An Economic Impact Assessment should be undertaken on the economic welfare of drivers. Chris Neville indicated that he understood that Transport for London were making available to taxi drivers in London £3,000 to allow them to transfer their vehicles.
- (e) Consideration of the impact of the changes on disabled people needed to be undertaken particularly in light of the suggestion that in future the Hackney Carriage fleet would not have to be made up of a traditional London cabs but would contain saloon cars which were not as suitable to meet the needs of disabled people.
- (f) An Equalities Impact Analysis would have to be undertaken due to the fact that 90% of drivers were from ethnic minorities.
- (g) The economic situation of drivers who had loans already needed to be taken in to account. Chris Neville highlighted that there was currently no Government funding for LPG conversions.
- (h) The trade was critical of the Council for rushing in to the proposals without consultation. Chris Neville highlighted that over the last few years during meetings with the trade the introduction of Clean Air Zones and the implications for the trade had been discussed although he acknowledged that the report was the first time the issue had been in print. He noted that the consultation would begin soon.



- (i) The impossibility of timescales was raised but the suggestion of dealing with the oldest vehicles first was correct.
- (j) TOA suggested that the proposal would see 150 vehicles off the road and they highlighted that they provided a service to disabled passengers and those on access to work schemes so the impact of the proposal on them would have to be considered.
- (k) It was noted that Government policy for a number of years had been to encourage people to use diesel vehicles as they had less impact on carbon dioxide levels but now it was realised that they caused pollution.
- (l) Rather than the Council incur the fine for not meeting the standards, the money could be put to buying new vehicles for drivers.
- (m) The effect on businesses in the City of the reduction of taxis and private should be considered.
- (n) There was discussion relating to the need for new vehicle specification. Chris Neville felt that this should not be considered in isolation from these requirements. There was a lot to consider when deciding what to licence or not given that for an example electric vehicles tended to be smaller.
- (o) The Private Hire trade and the Hackney carriage trade should be treated evenly and it was further noted that additional capacity in garages able to convert vehicles to LPG would be required.

Members of the Committee made a number of comments relating to the report and officers responded to questions as appropriate.

During the discussion several members made reference to the short time for consultation and it was suggested that a 8 week period would be more appropriate for the consultation.

At the invitation of the Chair representatives of the trade spoke in relation to the proposals and drew members' attention to the impact of them on the trade, customers and drivers. Officers responded to some of the issues raised. Several of the people who spoke also mentioned the short timescale for the consultation which they thought should be longer.

Members of the Committee reconsidered the length of the consultation. Councillor Des Flood proposed that the consultation period be twelve weeks, Councillor Nagina Kauser seconded and it was agreed.

The Chair put the recommendations as amended above to the Committee and it was-

806

**RESOLVED:-**

- (i) That, subject to the above amendment, officers be instructed to consult with the hackney carriage and private hire trade on the proposed

emissions policy for hackney carriage and private hire vehicles detailed in sections 8 and 9 of this report and which are set out in Appendices 1(a), 1(b) and 2 of the report;

- (ii) that the consultation extends for a period of 12 weeks and that officers report the results of the consultation to this Committee at the earliest opportunity; and
  - (iii) that Outstanding Minute No. 651 (ii) be discharged.
- 

At 1217 hours the meeting was adjourned.

At 1228 hours the meeting was reconvened and it was agreed to return to the original order of business.

At 1229 hours Councillor Nagina Kauser withdrew from the meeting.

**REVIEW OF LICENSING AND PUBLIC PROTECTION FEES AND CHARGES 2017/2018**

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

(See Document No. 4)

Officers made introductory comments relating to the report and responded appropriately to Members' questions.

It was unanimously-

809

**RESOLVED:-**

- (i) That the changes to the fees and charges as below be approved to take effect from 1 April 2017:
  - a. Trading Standards Services as detailed in Appendix 1.
  - b. Environmental Health and Pest Control Services as detailed in Appendix 2.
  - c. Register Office Services as detailed in Appendix 3; statutorily set charges are shown in Appendix 3(a) and a benchmarking comparison is shown in Appendix 3(b).
  - d. The Coroner's Service as detailed in Appendix 4.
  - e. Birmingham Account Team (formerly Surveying Services) as detailed in Appendix 5.
- (ii) that the tariffs for Fixed Penalty Notices, as detailed in Appendix 2a be set at the levels specified for the year 2017/2018. [All FPNs have

been set at the maximum prescribed tariff with no discount for early payment except where a statutory discount applies.]; and

- (iii) that authority be delegated to the Acting 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.

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**REVIEW OF LICENSING SERVICE FEES AND CHARGES 2017/2018**

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

(See Document No. 5)

Chris Neville, Head of Licensing, made introductory comments relating to the report and, in response to concerns raised by Councillor Gareth Moore relating to the fluctuation of the prices charged to drivers for licences as they were now being increased after the previous year's decrease, he explained that the reserves were being used correctly. He added that the charges for licences were also based on the cost of issuing them.

It was-

810

**RESOLVED:-**

- (i) That the changes to the Licensing Service fees and charges be approved to take effect from 1 April 2017 as detailed in Appendices 1, 1(a), 1(b) & 1(d);
- (ii) that the Licensing Service fees and charges as detailed in Appendix 1(c), and 1(e) be noted;
- (iii) 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;
- (iv) that the pricing strategy as detailed in paragraph 1.27 and 1.28 of Appendix 1 be approved and retained; and
- (v) that the proposal in paragraph 2.5 of the appendix to remove 6 month licences from the fees structure for Sex shops and Sex Cinemas be approved.

(Councillor Gareth Moore wished to be recorded as having abstained from voting on the above resolution.)

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**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. He responded to comments and questions from Members. In particular he undertook to upload on to the Council website the document 'Who are Gypsies and Travellers' previously circulated to Members.

811

**RESOLVED:-**

- (i) That outstanding minute No. 775 be discharged; and
- (ii) that a further report be brought in 3 months to update on the various work items contained within this report.

At 1317 hours Councillor Des Flood withdrew from the meeting.

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**FIXED PENALTY NOTICES ISSUED DECEMBER 2016**

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

(See Document No. 7)

Mark Croxford, Head of Environmental Health, made introductory comments relating to the report and responded to Members' questions.

812

**RESOLVED:-**

That the report be noted.

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**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS  
DURING NOVEMBER AND DECEMBER 2016**

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

(See Document No. 8)

Chris Neville, Head of Licensing, made introductory comments relating to the report.

813

**RESOLVED:-**

That the report be noted.

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**PROSECUTIONS AND CAUTIONS DECEMBER 2016**

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

(See Document No. 9)

Mark Croxford, Head of Environmental Health, made introductory comments relating to the report.

814

**RESOLVED:-**

That the report be noted.

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**SCHEDULE OF OUTSTANDING MINUTES**

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 10)

Chris Neville, Head of Licensing, requested that the Outstanding Minute No. 365(ii) relating to Committee Policy in respect of engine size and age of private hire vehicles be considered with Outstanding Minute No. 651(ii) as the two issues could not be dealt with separately. That was agreed and it was noted that Outstanding Minute No. 365(ii) would therefore be discharged.

Chris Neville, Head of Licensing, with reference to Outstanding Minute No. 620(iv) indicated that the matter would be dealt with by way of agreement in writing to members review the policy in a normal way but not including some of the type of venues that had been suggested that the City Council should look at as there was no evidence to support the change to the policy. It would however include sex shops and sex cinemas. He therefore requested that the Outstanding Minute be discharged which was agreed.

Chris Neville, Head of Licensing, advised that Outstanding Minute No. 648 would be reported upon in April and updated Members on the remaining Outstanding Minutes.

815

**RESOLVED:-**

That Outstanding Minute Nos. 365(ii), 620(iv), 651(ii) and 775 be discharged and all other Outstanding Minutes be continued.

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**OTHER URGENT BUSINESS**

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

**CCTV in Private Hire Vehicles**

- 816 Councillor Gareth Moore made reference to a media story relating to the use of Dashcam footage in the successful conviction of a person who had attacked a private hire driver. He noted that there had been similar stories. The Councillor felt that the case should be used as a positive example for the introduction of Dashcams in private hire vehicles.

Chris Neville, Head of Licensing, indicated that officers had been requested to carry out work on that issue and a consultation would be undertaken. He noted that in informal discussions with members of the taxi trade he had had received positive feedback and he felt that any proposals put forward by the Council would be welcomed by the trade.

The Chair added that there was a lot of interest from the trade and at a recent trade meeting attended by Chris Neville and herself there had been a demonstration of the equipment.

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**AUTHORITY TO CHAIRMAN AND OFFICERS**

- 817 **RESOLVED:-**

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

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The Committee ended at 1330 hours.

.....  
CHAIRMAN

**BIRMINGHAM CITY COUNCIL**

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

**15 MARCH 2017**  
**LADYWOOD**

**CONTROL OF SEX ESTABLISHMENTS - SEXUAL ENTERTAINMENT VENUE,  
MISCHKAS / CYCLONE CLUB, 192 – 194 BROAD STREET, BIRMINGHAM B15 1AY**

1. Summary
- 1.1 Birmingham City Council's Sexual Entertainment Venue Policy became effective from 1<sup>st</sup> November 2014.
- 1.2 An application has been received for the simultaneous transfer and renewal of the Sexual Entertainment Venue (SEV) Licence granted to Michelle Monaghan in respect of premises known as Mischkas / Cyclone Club, 192 – 194 Broad Street, Birmingham B15 1AY.
- 1.3 In the absence of any observations or objections, and or any reason to refuse the renewal in accordance with Schedule 3 LG (MP) Act 1982, officers have delegated authority to renew the licence. Officers do not have delegated authority to approve the transfer element of the application, which must be determined by the Committee in accordance with the scheme of delegations.
- 1.4 There are no objections to either the transfer or renewal elements of the application.
- 1.5 The transfer element of the application seeks to transfer the SEV licence from Michelle Monaghan as an individual to a limited company being Mischkas Limited. At the time of writing this report Michelle Monaghan is the sole director of Mischkas Limited.
- 1.6 Subject to the Committee approving the transfer the licence will be renewed by officers under delegated authority.
- 1.7 There are 8 SEV venues operating within Birmingham, 7 of which, including this premises, are located within the area bounded by the ring road (A4540).
- 1.8 As stated in Birmingham City Council's SEV Policy, the Council considers that the part of the City which falls within the ring road (A4540) is an area which is appropriate to have an upper limit guide on the number of SEV's, the appropriate upper limit being eight.

## 2. Recommendations

- 2.1 That Committee consider and determine the application for the transfer of the licence from Michelle Monaghan to Mischkas Limited, having regard to the options available to Committee detailed at paragraph 6.1 of this report.
- 2.2 If the Committee are minded to approve the transfer of the licence, they are also requested to approve the updated:
  - 2.2.1 External Scheme (Appendix 2); and
  - 2.2.2. Club Rules (Appendix 3).

Contact Officer: Chris Neville, Head of Licensing  
Telephone: 0121 303 6111  
E-mail: [chris.neville@birmingham.gov.uk](mailto:chris.neville@birmingham.gov.uk)



### 3. Background

- 3.1 An application has been received from Mischkas Limited for the simultaneous transfer and renewal of the Sexual Entertainment Venue Licence granted in respect of the premises known as Mischkas / Cyclone Club, 192 – 194 Broad Street, Birmingham B15 1AY. A copy of the application is attached at Appendix 1.
- 3.2 The applicant has submitted updated pictures of the external scheme of the premises. Copies of which are attached at Appendix 2.
- 3.3 The proposed hours of operation remain unchanged being 08.00 hours to 06.00 hours Monday to Sunday.
- 3.4 The nature of the entertainment as described on the application form is pole dancing and burlesque dancing. The applicant has confirmed the relevant entertainment involves full nudity.
- 3.5 The applicant has submitted an updated version of the club rules which are attached at Appendix 3.
- 3.6 The applicant has confirmed that the relevant entertainment, as detailed in paragraph 3.4 above, will now only take place on the ground floor at the front of the premises.

### 4. Consultation

- 4.1 The applicant was required to advertise the application in a local newspaper, post a notice outside of the premises for a period of 21 days and serve a copy of the application to the Chief Officer of Police.
- 4.2 In addition, upon receipt of an application, the Licensing Section consults with the relevant Local Policing Unit, the Licensing Enforcement Team and also notifies the appropriate Ward Councillors.
- 4.3 West Midlands Police and Birmingham City Council's Licensing Enforcement Team have advised that they have no objections to the transfer and renewal of the SEV licence.
- 4.4 A copy of the Council approved standard conditions for Sexual Entertainment Venue licences are contained within the current Sexual Entertainment Venue policy, a copy of which is attached at Appendix 4.
- 4.5 Location plans, including a plan showing the proximity of the other existing licensed Sexual Entertainment Venues to the premises, are attached as Appendix 5.
- 4.6 The applicant has been invited to attend the hearing in support of their application.

## 5. Matters for Consideration

- 5.1 When considering an application for the transfer of a licence, the Committee should have regard to any observations submitted to it by the Chief Officer of Police and any objections that the Licensing Authority has received from anyone else within 28 days of the date of the application.
- 5.2 Subject to any new information produced at the hearing, it does not appear that any of the mandatory grounds of refusal apply to the application currently due for consideration. For example, a licence shall not be granted to a person who is under the age of 18 or who has had a previous application for the same premises refused within the last 12 months.
- 5.3 The only discretionary grounds upon which the Council may refuse an application are those grounds specified in Schedule 3 paragraph 12(3) of the Local Government (Miscellaneous Provisions) Act 1982 as amended:
- a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or any other reason;
  - b) that if the licence were to be granted, renewed or transferred, the business to which it relates would be managed by, or carried on for, the benefit of a person other than the applicant who would be refused the grant of such a licence if he made the application himself;
  - c) that the number of sex establishments, or of sex establishments of a particular kind in the relevant locality at the time the application is made, is equal to or exceeds the number which the authority consider is appropriate for that locality;
  - d) that the grant or renewal of the licence would be inappropriate, having regard:
    - (i) to the character of the relevant locality; or
    - (ii) to the use to which any premises in the vicinity are put; or
    - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

## 6. Options Available

- 6.1 The Committee may:
- 6.1.1 Grant the application as it stands in which case the licence will be transferred subject to the Council approved Standard Conditions.
- 6.1.2 Grant the application as it stands subject to the Council approved Standard Conditions, unless they have been expressly excluded or varied and/or other Specific Conditions or restrictions that the Committee deem reasonable, necessary proportionate and justifiable.

6.1.3 Refuse the application on one or more of the grounds as outlined in paragraph 5.3 above.

7. Right of Appeal

7.1 An applicant has a right of appeal to the Magistrates Court against decisions to refuse to grant, renew, vary or transfer a licence, the imposition of conditions or the revocation of an existing licence.

7.2 It should be noted that although no right of appeal lies against a decision made on the discretionary grounds set out in paragraphs 5.3(c & d) above, the applicant could challenge a refusal on the aforementioned grounds by way of a judicial review.

8. Implications for Resources

8.1 A fee of £3,977 is payable for renewal of a Sexual Entertainment Venue licence; if the application is subsequently refused then 50% of the fee will be refundable.

8.2 In the event of an appeal hearing, the Magistrates power to award costs derives from Section 64 of the Magistrates Courts Act 1980 which entitles them to make such order as they think just and reasonable.

9. Implications for Policy Priorities

9.1 The application that is the subject of this report should be considered in accordance with the published Birmingham City Council Sexual Entertainment Venue Policy.

10. Public Sector Equality Duty

10.1 No specific implications have been identified.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil

## SEX ENT 1.5

**Fair Processing Statement** - Any personal data held by Birmingham City Council in relation to your application for a Licence to use a premises, vehicle, vessel or stall as a Sexual Entertainment Venue, will be held in full compliance with the legal obligations as set out in the Data Protection Act 1998. This is in accordance with the Council's Privacy Policy, a copy is available on the Council's website: [www.birmingham.gov.uk/privacy](http://www.birmingham.gov.uk/privacy). To protect the public funds we may also use the information you have provided on this form to prevent and detect fraud. We may share this information for the same purposes with other Council Departments and organisations for example, other councils and the police.

## BIRMINGHAM CITY COUNCIL

## SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

## Application for a Licence to use any Premises, Vehicle, Vessel or Stall as a Sexual Entertainment Venue

*All questions must be answered, save where otherwise stated. If relevant questions are not answered, the application will be deemed incomplete and will be returned to the applicant.*

**Section 1****Application details:**

Is this licence for the: Grant ☐ Renewal ☒ Transfer ☒

Is the application made by: an individual ☐ a partnership or other unincorporated body ☐ a company or other corporate body ☒

**Section 2****Answer only if Applicant is an individual**

What is the full name of the individual? .....

Permanent Residential Address: .....

Any former names: .....

Date of Birth: .....

Place of Birth: .....

Date Became Resident in the UK: .....

or E.U Member State: .....

National Insurance Number or E.U Member State Equivalent: .....

Telephone Number (during normal office hours): .....

Email Address: .....

Name and address to which correspondence to be sent (if different from above): .....

Has the applicant a financial interest in the business which is the subject of this application?

Yes ☐ No ☐ If 'yes' to what extent: .....

Is the whole business owned by the applicant? .....

Yes ☐ No ☐

BCC REGULATION & ENFORCEMENT LICENSING SECTION DATE RECEIVED 2-3 DEC 2018 REF NO 03133 8965 INITIALS
--

**Section 3*****Answer only if the Applicant is an unincorporated body or a partnership***Full Name of Applicant  
.....

What are the names of the applicant's partners? Please complete the table below:

Name (in full): Mr/Mrs/Miss/Other	Date of Birth	Address of permanent residence Throughout six months Immediately preceding this application	Date became resident of United Kingdom or other E.U member state

Are there persons responsible for the management of the Applicant other than the partners? If so state their names:

.....

.....

.....

Please confirm if the whole of the business is owned by the applicant? Yes ☐ No ☐

**Section 4.*****Answer only where the applicant is a company or other corporate body***What is the name of the Applicant? **Mischkas Limited**Has the Applicant previously been known by any other name and if so what name? **Yes, Financial Angels Limited and Verve Business Services Limited, 2006 and 2007 respectively**If the Applicant is a company, what type of company is it (e.g., public or private, limited by share or guarantee, etc.)? **Private Limited Company**What is the registered number of the Applicant? **05333201**What is the registered office address? **Suite 7, 51 Pinfold Street, Birmingham, B2 4AY**In which country is the company incorporated? **United Kingdom**What is the date of incorporation of the company? **14<sup>th</sup> January 2005**

Please complete the table in respect of each of the Directors, the Company Secretary or other persons responsible for the management of the body.

Name (in full): Mr/Mrs/Miss/Other	Date of Birth	Address of permanent residence throughout six months immediately preceding this application	Date became resident of United Kingdom or other E.U. member State
<b><u>Miss Michelle Monaghan (Director)</u></b>			<b><u>Since birth</u></b>

SEX ENT 1.5

Does the Applicant use any other trading names? If so, please state the trading name(s).

Mischkas/Cyclone Club

What is the Applicant's trading address? 182 – 194 Broad Street, Birmingham, B15 1AY

Please confirm if the whole of the business is owned by the applicant? Yes ☒ No ☐

**Section 5**

***All Applicants***

Please give details of the person (if any) who is to be responsible for the management of the premises in the absence of the licence holder:

First Name Melanie Surname Marsala

Former Name (if any)

National Insurance Number or E U Member State Equivalent

Permanent Address

Date of Birth: Place of Birth

Has any person named at any place in this application been associated in any way with any other application for a licence for a sex establishment? Yes ☒ No ☐

If 'yes' give full details Michelle Monaghan was the holder of the SEV Licence for Scarlets, 34 Horsefair, Birmingham which was refused the renewal of its SEV Licence in December 2016 by the Licensing Committee and this decision is subject of an appeal



Section 6**Premises details:**

Is this application in respect of: Premises ☒ Vehicle ☐ Vessel ☐ Stall ☐

Is the premises, vehicle, vessel or stall in use for sexual entertainment at the date of this application? Yes ☒ No ☐

If the answer is yes, state the name and address of the person or body currently operating the Business: Michelle Monaghan, director of Mischkas Limited

What is full address of the premises for which a licence is sought? Mischkas/Cyclone Club, 192 - 194 Broad Street, Birmingham, B15 1AY

If the application is in respect of a vehicle, vessel or stall, please state where it is to be used as a sexual entertainment venue:.....

Under what name is, or will the premises be known? Mischkas/Cyclone Club

Is the whole of the premises to be used under the licence? Yes ☐ No ☒

If no, please state:

a) which part of the premises is to be used for the purposes of the licence

The areas marked on the plan which states Cyclone are the areas used under the SEV Licence

b) the use to which the remainder of the premises are to be put

The area at the back of the Premises marked as Mischkas is a separate bar which does not offer sexual entertainment. Mischkas is currently closed and not trading

c) the names of those responsible for the management of the remainder of the premises

Mischkas Limited

If the Applicant's interest in the premises is a leasehold one, please state:

a) Head-lease ☐ Sub-lease ☒

b) the name and address of the landlord and of the superior landlord where applicable

Marston's PLC, Marston House, Wolverhampton, WV1 4JT

c) the length of the unexpired term 10 years 7 months



**Section 7.****Proposed operation times and activities**

Give the times it is proposed to operate the Premises for the purpose of this Licence:

<u>Day</u>	<u>Start</u>	<u>Finish</u>	<u>State any seasonal variations or non standard timings where you intend to use the Premises, which are different to those listed in the column on the left.</u>
Monday	08:00	06:00	
Tuesday	08:00	06:00	
Wednesday	08:00	06:00	
Thursday	08:00	06:00	
Friday	08:00	06:00	
Saturday	08:00	06:00	
Sunday	08:00	06:00	

Please give full details of the nature of the relevant entertainment e.g. lap-dancing, pole-dancing, stage strip show etc.

**Pole dancing and burlesque dancing on the ground floor at the front of the premises**

Please confirm if the relevant entertainment involves full nudity ☒ Yes ☐ No

**Section 8.****If the application is for the Transfer of a Premises Licence**

Name of current Premises Licence Holder Michelle Monaghan

Please give the reason/s for the transfer application

**For operational reasons**

**Section 9.**

Has the Applicant or any persons named in this form been convicted of a criminal offence whether in the UK or elsewhere? Yes ☐ No ☒

If so, please give details of unsent convictions below:

**Convictions:**

Forenames	Surname	Former Name (if any)	Court	Date	Offence	Penalty or Sentence

Has the Applicant or any persons named in this form been cautioned whether in the UK or elsewhere? Yes ☐ No ☒

If so, please give details below:

**Cautions:**

Forenames	Surname	Former Name (if any)	Offence	Date of Caution	Where caution administered

## SEX ENT 1.5

Has any person or the corporate or unincorporated body referred to in this application: -

Been disqualified from holding a licence for a sex establishment?	No
Been refused the grant / renewal / transfer of a licence for a sex establishment?	Yes
Been the holder of a sex establishment licence when that licence has been revoked?	No
Been associated in any way with any other application for a sex establishment licence?	Yes
If 'Yes' to any of the above please provide details:	
Michelle Moraghan was the holder of the SEV Licence for Scarlets, 34 Horsefair, Birmingham, B1 1DA which was refused on 14 <sup>th</sup> December 2015 and that decision is subject of an appeal lodged to Birmingham Magistrates' Court	

Is there any information in this application which you would not wish to be seen by members of the public?

Yes ☒ No ☐

If yes, state which information and the reasons why you would not wish it to be seen

The home address for the applicant and the home address, date of birth, national insurance number and previous name of the manager for the Premises should not be available to members of the public as they are personal information

Is there any further information which the Applicant would wish the Council to take into account when considering this application?

.....

.....

.....

.....

(If necessary, please continue on a separate sheet)

## SEX ENT 1.5

Please read the checklist below and tick to confirm you have enclosed all of the required information/documents:

I have made or enclosed payment of the fee ☒ X

Please check the following link for details of the cost of your application:-

<http://www.birmingham.gov.uk/licensingfeesandcharges>

I have enclosed a plan showing the interior layout of the premises and where relevant entertainment will take place for consideration by the Licensing Authority ☒ X

I have enclosed a copy of the "club rules". Such club rules must contain the required conduct of performers which shall include for example, no sex acts, no giving or taking phone numbers (including exchange of business cards). ☒ X

I have enclosed a schema showing the exterior design for consideration by the Licensing Authority ☒ X

I understand and agree that I must send a copy of my completed application to the Chief Officer of Police no later than seven days after the date of the application. I also understand that I must produce evidence of due service of the Notice of Application upon the Chief Officer of Police as required by paragraph 10(14) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982. ☒ X

I understand that I must now advertise my application on or near the Premises for 21 days starting with the date of the application. ☒ X

I understand that I must advertise the application in a local newspaper within seven days after the date of the application and that a copy of the notice of application which has been published must be given to the Licensing Authority in accordance with paragraph 10 (8) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982. ☒ X

**DECLARATION:** I declare that the details in this application are true to the best of my knowledge and belief and acknowledge that if there are any omissions or incorrect statements of a serious nature this may result in the application being refused. I further declare that I have read and agree to abide by the conditions of Licence for a Sexual Entertainment Venue made by Birmingham City Council in accordance with Section 2 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 should my application be granted.

APPLICANTS ARE INFORMED THAT ANY PERSON WHO, IN CONNECTION WITH AN APPLICATION FOR THE GRANT, RENEWAL OR TRANSFER OF A LICENCE, MAKES A FALSE STATEMENT WHICH HE KNOWS TO BE FALSE IN ANY MATERIAL RESPECT OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF AN OFFENCE AND LIABLE, ON SUMMARY CONVICTION, TO A FINE NOT EXCEEDING £20,000.

Signature P.P. Mc...

Name of Signatory Heath Thomas of Harrison Clark Rickerbys

Designation of Signatory Solicitor for the applicant

Date 22<sup>nd</sup> December 2016



## APPENDIX 2

Mischkas – front elevation



Mischkas – rear elevation





### Rules and Regulations for Self Employed Dancers at The Cyclone Club

- Before Beginning work as a Self Employed Dancer, you will be required to provide two forms of ID; one displaying your photograph and date of birth and another with your current address. A driving License will suffice.
- All dancers are required to arrive early for their shift to ensure they are on the floor before opening time. Any dancers arriving late will be fined £10 for every 30 minutes they are late.
- If you are unable to attend a shift, please give the house manager at least 4 hours' notice to avoid being fined.
- Dancers house fee is payable on arrival of your shift.
- Drugs are not permitted on these premises at any time. Any dancer found in possession of drugs will be asked to leave with no refund of house fee or commission earned that shift.
- Dancers are permitted to eat during their shift, but not on the floor, only in the changing area.
- Smoking is only permitted in designated areas.
- Every dancer is required to dance on the pole during her shift. Failure to do so will result in fines of £10 for every missed stage call.
- Any dancer found stealing will be asked to leave with no refund of house fee or commission earned that shift.
- Dances are £20 each and must last at least 2 minutes.
- Under no circumstances is prostitution allowed.
- Under no circumstances let the customer touch you.
- No heels on the upholstered furniture. Repetitive warnings will lead to a fine.
- No mobile phones on the floor, only to be used in the changing room.
- Dancers must not insult or argue with customers. Any disputes with other girls, must be dealt with discreetly, not on the floor and not in front of customers.
- Dancers are responsible for their belongings and the club accepts no responsibility for lost or stolen items of personal property.
- All dancers are required to maintain a level of decorum; personal hygiene, hair, nails, skin and make up must be maintained throughout the shift.
- No drinking from bottles; this is a gentleman's club and we expect you to act as ladies.
- No chewing gum on the floor; again, we expect you to act as ladies.
- All dancers are responsible for their own tax and national insurance, and any medical insurance you require. It is advised you seek an accountant.
- I have been advised and accept there is CCTV throughout the premises.

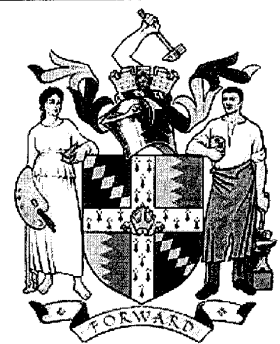
I have read, and agree to all of the conditions of self-employment listed above. I agree I am self-employed and responsible for my own tax and accounts. I will supply my own insurance and will not hold The Cyclone Club responsible for any loss or accident sustained by me.

I understand this is a legal contract between myself and the club.

Signed .....

Stage Name ..... Date .....

Managers Signature ..... Date .....



# **BIRMINGHAM CITY COUNCIL SEXUAL ENTERTAINMENT VENUE POLICY**

**EFFECTIVE FROM 1<sup>st</sup> November 2014**

Licensing Service at Crystal Court,  
Aston Cross Business Village  
50 Rocky Lane,  
Aston,  
Birmingham, B6 5RQ

OR alternatively by email to: [licensing@birmingham.gov.uk](mailto:licensing@birmingham.gov.uk)



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1. **Introduction**

- 1.1 Birmingham City Council ("the Council") is able to regulate sex establishments through Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act"), in particular sex shops and sex cinemas.
- 1.2 On 6 April 2010 the Policing and Crime Act 2009 ("the 2009 Act") came into force and amended Schedule 3 of the 1982 Act. Sexual Entertainment Venues ("SEVs") were added as a category of sex establishments to enable local authorities to regulate those premises which provide lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows and other similar entertainment.
- 1.3 The Council resolved on 12 October 2010 to adopt the new amendments to gain regulatory control of SEVs with effect from 3 January 2011. Consequently, this SEV policy applies to the whole of Birmingham.
- 1.4 The adoption of Schedule 3 allows the Council to prescribe standard conditions and fees for the grant, variation, renewal and transfer of SEV licences and the appropriate number of premises to be licensed in a relevant locality, which may be nil.
- 1.5 The aim of this policy is to provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application and members of the Licensing and Public Protection Committee when making a determination on an application. This policy will be reviewed regularly and revised where necessary.
- 1.6 Each application will be dealt with on its own merits
- 1.7 Consideration will be given to the provisions of the Human Rights Act 1998, the Provision of Services Regulations 2009 and the Home Office guidance issued in March 2010 entitled "Sexual Entertainment Venues – Guidance for England and Wales" when considering applications for SEVs.
- 1.8 The Council does not take a moral stance in adopting this policy. The Council recognises that Parliament has made it lawful to operate sex establishments and that such businesses are a legitimate part of the retail and leisure industries. It is the Council's role as a Licensing Authority to regulate such premises in accordance with the law.

2. **Sexual Entertainment Venues**

- 2.1 An SEV is defined in the 2009 Act as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer".
- 2.2 The meaning of 'relevant entertainment' is "any live performance or live display of nudity which is of such a nature that, ignoring financial gain it must

reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)". An audience can consist of just one person.

- 2.3 This definitions would apply to the following forms of entertainment [as they are commonly known]: lap dancing; pole dancing; table dancing; strip shows; peep shows and live sex shows. This list is not exhaustive and should only be treated as indicative. The decision to licence premises as sexual entertainment venues shall depend on the content of the relevant entertainment rather than the name given to it.
- 2.4 The 2009 Act provides exemptions from the definition of SEVs as follows:
- Sex shops and sex cinemas (which are separately defined in Schedule 3 to the 1982 Act).
  - Premises which provide relevant entertainment on an infrequent basis. These are detailed as premises where:
    - (a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
    - (b) no such occasion has begun within a period of one month beginning with the end of the previous occasion; and
    - (c) no such occasion has lasted longer than 24 hours.
  - Other premises or types of performances or displays exempted by an order of the Secretary of State.
  - Private dwellings to which the public are not admitted
- 2.5 Premises which provide regulated entertainment on an infrequent basis will continue to be regulated under the 2003 Act insofar as they are providing regulated entertainment under that Act either by virtue of a premises licence or club premises certificate or a temporary events notice issued under that Act.
- 2.6 In practice this means that the vast majority of lap dancing clubs and similar venues will require both a SEV licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provisions of other types of regulated entertainment not covered by the definition of relevant entertainment.
- 2.7 Live music or the playing of recorded music which is integral to the provision of relevant entertainment such as lap dancing for which a SEV licence is required is specifically excluded from the definition of regulated entertainment in the 2003 Act. Therefore, a SEV will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance to.
3. **Waivers**
- 3.1 Schedule 3 of the 1982 Act makes provision for the Council to grant a waiver from the requirement to hold a sex establishment licence in any case where it

considers that to require a licence would be unreasonable or inappropriate. A waiver may be for such a period as the Council thinks fit. Applications for waivers will be considered in exceptional circumstances.

- 3.2 The Council may at any time give a person who would require a licence but for a waiver, notice that the waiver is to terminate on a date not less than 28 days from the date the notice is given.

#### 4. **Making an Application**

- 4.1 The 1982 Act provides a maximum licence period of one year. The authority may grant a shorter licence if it thinks fit. A shorter period may be granted for example where a licensee wants a licence for a limited period for a trade exhibition or a show.
- 4.2 An application for the **grant, variation, renewal or transfer** of a licence must be made in writing to the Licensing Authority together with the application fee in accordance with the requirements set out below.
- 4.3 There are three separate notice requirements:
1. The applicant must, within seven days after the date of the application, publish an advertisement in a local newspaper circulating in the local authority's area. A suggested form of advertisement is available on request from the Licensing Section.
  2. Where the application is in respect of premises the applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 days starting with the date of application. Again a suggested form of notice is available on request.
  3. The applicant must send a copy of the application to the Chief Officer of Police no later than seven days after the date of the application. Where the application is made electronically it is for the Local Authority itself to send the copy within seven days of receipt of the application.
- 4.4 The application form can be used for grant, variation, transfer and renewal applications. Applicants must provide their name, address, age (where the applicant is an individual), the premises address and the proposed licensed name of the premises.
- 4.5 Applicants must, at the time of submission of a new grant or variation application, provide a scheme showing the exterior design for consideration by the Licensing Authority before the premises are opened for business in order to ensure that exterior design of the premises complies with the Standard Conditions of Licence.

- 4.6 In addition applicants must, at the time of submission of a new grant or variation application, provide a plan showing the interior layout of the premises and where relevant entertainment will take place for consideration by the Licensing Authority.
- 4.7 Applicants for SEVs must also submit a copy of their “club rules” and customer code of conduct. Such club rules must contain the required conduct of performers.
- 4.8 Such club rules will form part of the conditions of licence (if granted) and may be subject to amendment by the Licensing Authority prior to approval.
- 4.9 Applicants must provide evidence to the satisfaction of the Licensing Service of the registration for, and payment of business rates for the premises in question at the time of application.
- 4.9 Officers of the Licensing Service may, as part of the application process, visit the relevant locality of the premises to establish and report on whether there are any characteristics of the locality which may require consideration by the Licensing and Public Protection Committee.
- 4.10 Officers of the Licensing Service may also consult with colleagues from other Departments such as Planning
- 4.11 With regards to online application tacit authorisation does not apply to applications for SEV licences. This means the applicant must wait for the Licensing Authority to determine the application before they can operate a SEV.
- 5. **Fees**
  - 5.1 The 1982 Act permits the authority to set a reasonable fee. Fees for Sex Establishments are reviewed annually by the Licensing and Public Protection Committee and set at a level appropriate to recover the costs of carrying out the licensing function under that Act namely: administration (including any hearings or appeals), inspection and compliance.
  - 5.2 The above process is also applicable to the function of licensing SEVs and the appropriate fees for applications can be found on the Council's website at: [www.birmingham.gov.uk/licensingfeesandcharges](http://www.birmingham.gov.uk/licensingfeesandcharges).
  - 5.3 Application fees must be paid in full at the time of submission of the application.
- 6. **Making Objections to Applications**
  - 6.1 The 1982 Act permits a wide range of persons to raise objections about the **grant, renewal, variation or transfer** of a SEV licence. Objectors can include residents, resident associations, trade associations, businesses, Councillors (providing they do not sit on the Licensing and Public Protection Committee),

regulatory agencies such as Planning and Environmental Health, or MPs. The Police are a statutory consultee for all applications.

6.2 Objections must be made in writing (email is acceptable) no later than 28 days after the date of the application to the Licensing Authority and should include the following:

- the name and address of the person or organisation making the objection;
- the premises to which the objection relates;
- the proximity of the premises to the person making the objection, a sketch map or plan may be helpful to show this.

6.3 Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the 1982 Act. The relevant grounds for objection are:

- That the applicant is unsuitable to hold an SEV Licence;
- That the SEV, if granted would be carried on for the benefit of person/s who would be refused an SEV licence if they had applied themselves;
- That the layout, character or condition of the premises are inappropriate for the proposed SEV;
- That the use of the premises as an SEV would be inappropriate due to the use of premises in the vicinity;
- That the use of the premises as an SEV would be inappropriate due to the character of the relevant locality; and/or
- That the number of sex establishments or sex establishments of a particular type is inappropriate in the relevant locality.

Any objections received by the Licensing Authority which do not relate to the grounds set out in the 1982 Act will be rejected by the Licensing Service.

6.4 The courts have consistently stated that moral objections are inadmissible in such applications and will therefore be rejected.

6.5 Objections will be considered by the Licensing and Public Protection Committee determining the application. The applicant will be informed of any objections received in respect of their application and the objection(s) will become public documents. (However, objector's personal details such as name, address and telephone number will be removed.) A copy of the hearing procedure will be sent to the applicant and any objectors prior to the hearing.

## **7. Determination of an Application**

7.1 **All applications for the grant of a SEV licence will be determined by the Licensing and Public Protection Committee.** Valid objections to any application will be considered by the Licensing Committee or delegated to a Licensing Sub Committee at the hearing to consider the application.

Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing and Public Protection Committee's procedure for hearings, which is available from the Licensing Service.

- 7.2 The 1982 Act provides five mandatory grounds and four discretionary grounds for refusal of a SEV licence. Each application for a SEV will be decided upon its own merits and the Licensing Authority will give clear reasons for its decisions. Any decision to refuse a licence **MUST** be relevant to one or more of the following grounds:

7.3 Mandatory grounds for refusal

Specific mandatory grounds for refusal of a licence are set out in paragraph 12(1) (a to e) of Schedule 3 in the 1982 Act. A licence cannot be granted:

- (a) to any person under the age of 18 years;
- (b) to any person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- (c) to any person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- (d) to a body corporate which is not incorporated in an EEA State; or
- (e) to any person who has, within a period of 12 months immediately preceding that date when the application was made, been refused that grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

7.4 Discretionary grounds for refusal

The only discretionary grounds upon which the Council may refuse an application for the grant or renewal of a licence on one or more of the grounds specified in Schedule 3 paragraph 12(3) are that:

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons;
- (b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he/she made the application himself/herself;
- (c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for the locality;
- (d) the grant or renewal of the licence would be inappropriate, having regard:
  - (i) to the character of the relevant locality; or
  - (ii) to the use to which any premises in the vicinity are put; or
  - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

**8. Suitability of an Applicant**

8.1 In respect of 7.4(a) and (b) above with regard to the suitability of an applicant to hold a licence, the criteria for Members to consider include, but are not limited to:

- that the operator is honest
- that the operator is qualified by experience to run the type of sex establishment in question
- that the operator understands the general conditions
- that the operator is proposing a management structure which delivers compliance with the operating conditions e.g. through managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and policies for welfare of performers
- that the operator can be relied upon to act in the best interests of performers e.g. in how they are remunerated, the facilities they enjoy, how they are protected and how and by whom their physical and psychological welfare is monitored
- that the operator can be relied upon to protect the public e.g. transparent charging, freedom from solicitation
- that the operator can show a track record of management of compliant premises, or that he/she will employ individuals who have such a track record.
- Compliance with other regulatory and taxation schemes

**9. Suitability of Premises**

9.1 The Council would expect that when an application for an SEV licence at permanent commercial property is made, that the applicant will be able to demonstrate that the layout, character and/or condition of the premises is appropriate to the relevant entertainment proposed at the premises.

9.2 The Council would expect that when an application for an SEV licence at permanent commercial property is made, that property should have the appropriate planning consent.

**10. Use of Premises in the Vicinity**

10.1 In considering the grant, renewal or variation of the licence would be inappropriate to the use which any premises in the vicinity are put, the Licensing Authority shall consider, among other considerations:

- (a) the fact that the premises are sited in a residential area;
- (b) the premises are sited near shops used by or directed to families or children, or no frontages frequently passed by the same;
- (c) the premises are sited near properties which are sensitive for religious purposes e.g. synagogues, churches, mosques, temples;
- (d) the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities



- such as parks, libraries or swimming pools, markets and covered markets;
- (e) the premises are sited near places and or buildings of historical/cultural interest, tourist attractions.
- (f) the premises are sited near civic buildings

## **11. Character of the Relevant Locality**

11.1 With reference to paragraph 8.4(d) 'relevant locality' for the purposes of paragraph 12 of Schedule 3 of the Act means:

- (i) in relation to the premises, the locality where they are situated, and
- (ii) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a Sexual Entertainment Venue.

11.2 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the Licensing Authority shall consider, among other considerations, whether the grant of the application would be inappropriate, having regard to:

- (a) the fact that the premises are sited in a residential area;
- (b) the premises are sited near shops used by or directed to families or children, or no frontages frequently passed by the same;
- (c) the premises are sited near properties which are sensitive for religious purposes e.g. synagogues, churches, mosques, temples;
- (d) the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets;
- (e) the premises are sited near places and or buildings of historical/cultural interest, tourist attractions.
- (f) the premises are sited near civic buildings

11.3 The Council will consider relevant locality on a case by case basis taking into account the particular circumstances of each case. However, the Council will not seek to define locality as the whole of the Council's administrative area or an entire town.

## **12. Appropriate Number of Sexual Entertainment Venues**

12.1 As set out within paragraph 7.4(c) above, paragraph 12 of Schedule 3 provides that a Local Authority may refuse an application if it is satisfied that the number of sex establishments or sex establishments of a particular kind in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality. The Council is able to determine that the appropriate number for a locality is nil.

- 12.2 The Council may choose to set an upper limit guide on the number of SEVs which it considers appropriate in any area within the Council's administrative control. Each application MUST in any event be considered on its merits at the time the application is determined by the local authority.
- 12.3 The Council considers that the City Centre, being that part of the City which falls within the ring road (A4540) is an area in which it is appropriate to have an upper limit guide on the number of SEVs within it. The Council considers the appropriate upper limit for this area is eight.
13. **Conditions**
- 13.1 When issuing an SEV licence the Licensing Authority is permitted to issue it on such terms and conditions and subject to restrictions as specified at the time the licence is issued either in the form of conditions specific to the individual or standard conditions applicable to all SEVs.
- 13.2 The Council has decided to produce regulations prescribing standard conditions and these shall apply to every licence granted, varied, renewed or transferred by the authority unless they have been expressly excluded or varied. These regulations are attached to this policy at Annex A.
- 13.3 It is an offence to operate an SEV without a licence or contravene a condition of the licence. The maximum penalty upon conviction is £20,000
14. **Renewal Applications**
- 14.1 Provided an application for renewal has been accepted by the Licensing Service prior to the date of expiry, the licence shall be deemed to remain in force until such time as the renewal is determined by the Council, or the application is withdrawn.
- 14.2 The statutory requirements for advertising and giving notice, are the same as those applying to initial grants, which are dealt with at paragraphs 5-13. Renewal applications will be dealt with by way of delegated authority to officers, unless there are any objections or other matters of concern, in which case, the application will be heard by the Committee.
15. **Revocation of a Sexual Entertainment Venue Licence**
- 15.1 A licence can be revoked by the Council at any time on any one of the grounds set out in 7.3(a - e) or any one of the grounds set out in 7.4(a and b) of the policy.
- 15.2 The Council will not revoke a licence without the licence holder being given an opportunity to appear before the Licensing and Public Protection Committee and be heard.
- 15.3 Where a licence is revoked, the Council shall give the licensee a statement in writing of reasons for its decision within seven days of the request being

made. Where a licence is revoked its holder will be disqualified from holding or obtaining a licence in the area of the Local Authority for a period of 12 months from the date of revocation.

- 15.4 When the authority revokes a licence, the decision does not take effect until the time for bringing an appeal has expired and if an appeal is brought until the determination or abandonment of that appeal.

16. **Cancellation of a Sexual Entertainment Venue Licence**

- 16.1 The Council may at the written request of the licence holder cancel the licence.
- 16.2 If a licence holder dies then the licence will be deemed to have been granted to the licence holder's personal representatives and will remain in force for three months from the date of the licence holder's death and will then expire.
- 16.3 The Council can, however, on the application of the licence holder's personal representatives extend the three month period if the Council is satisfied that an extension is necessary for the purpose of winding up the late licence holder's estate. The Council will only do so where there are no circumstances that make such an extension undesirable.

17. **Variation of a Sexual Entertainment Venue Licence**

- 17.1 A licence holder may at any time apply to vary a term, condition or restriction of a licence or apply to change the location of a licensed vessel. The statutory requirements for advertising, giving notice, consideration by the Council, hearings and the giving of the reasons are the same as those applying to initial grants, which are dealt with at paragraphs 5-12. On receiving such an application, the Council can either:
- (a) make the variation as requested;
  - (b) make such variations as it thinks fit;
  - (c) refuse the application.
- 17.2 The applicant will be given an opportunity to attend a Licensing and Public Protection Committee before a decision is made to make a variation other than that being applied for or to refuse the application.
- 17.3 Where the Council imposes some other term, condition or restriction other than one sought in the variation application, the decision does not take effect until the time for bringing an appeal has expired and if an appeal is brought until the determination or abandonment of that appeal.

18. **Right to Appeal a Decision**

- 18.1 The decisions against which a right of appeal lies are refusals for the grants, renewals, variations or transfers, the imposition of conditions and also revocation.
- 18.2 Appeals must be made to the Magistrates Court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision.
- 18.3 It is important to note that appeals only lie against the mandatory refusals on the basis that the mandatory ground does not apply to the applicant/licence holder. Further, no appeal lies against the Licensing Authority's decision made on the discretionary grounds set out at paragraphs 7.4(c and d), namely:
- that it is inappropriate to grant or renew a licence on the grounds of the character of the locality or the number of premises in it; or
  - the use of premises in the vicinity or the layout, character or condition of the premises.
- 18.4 The only discretionary grounds against which an appeal lies are those in paragraph 7.4(a and b) relating to the suitability of the applicant, the manager and/or the beneficiary of the operation.

## **ANNEX A**

### **BIRMINGHAM CITY COUNCIL**

#### **STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES (SEV)**

These regulations are made under paragraph 13(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the "1982 Act") as amended by the Policing and Crime Act 2009 (the "2009 Act") to prescribe conditions. In these Regulations, except when the context otherwise requires, the following expressions shall have the following meanings:

- (i) "The Council" shall mean the Birmingham City Council and all enquiries concerning these Regulations and its conditions shall be directed to Licensing Section, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham, B6 5RQ. 0121 303 9896. [licensing@birmingham.gov.uk](mailto:licensing@birmingham.gov.uk)
- (ii) These conditions apply to all premises licensed as a "sexual entertainment venue" as defined by the said 1982 Act that is to say terms, conditions and restrictions on or subject to which licences under Schedule 3 of the 1982 Act are in general to be granted, renewed, varied or transferred.
- (iii) "Sexual Entertainment Venue" ('SEV') means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser or the entertainer.
- (iv) "Premises" includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted.
- (v) 'Relevant Entertainment' means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of

sexually stimulating any member of the audience (whether by verbal or other means).

- (vi) The Council may at any time waive, modify or vary these conditions or impose additional special conditions in any particular case.
- (vii) If the Licensee wishes any of the terms of the licence to be varied an application must be made to the Council.
- (viii) In the event of a conflict between the prescribed conditions and special conditions contained in a SEV licence the special conditions shall prevail.

#### **OPENING HOURS**

1. The licensed premises shall not be open or used for the purposes for which the licence is granted except between the hours prescribed within the licence or those hours of operation determined by the Licensing and Public Protection Committee.

#### **WINDOW, FASCIA BOARD ADVERTISEMENT AND DISPLAYS**

2. Save for the entrance lobby, the interior of the premises shall not be visible to passers-by and to that intent the licensee shall ensure the area of the premises in which relevant entertainment is offered shall not be capable of being seen from outside the premises.
3. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
  - (a) The address of the premises.
  - (b) The licensed name of the premises.
  - (c) A notice stating the opening hours of the establishment.
  - (d) In the case of a licence granted to a body corporate:

- (i) If the premises name is not the same as the full name of the body corporate then such corporate name and;
  - (ii) If the premises are also the body's registered office for the purposes of the Companies Acts then an indication in a form acceptable to the company that such is the case.
- 4. The lettering used in respect of such permitted items shall be of such colour and style as may be approved by the Council.
- 5. The licensee shall not permit the display outside of the premises of photographs or other images, which indicate or suggest that relevant entertainment takes place in the premises.

#### **LICENSED NAME**

- 6. At the time of granting the licence in respect of the premises the Council will authorise a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licensee shall ensure that the premises are known solely by that name and by no other, save as provided for by the paragraph below.
- 7. To change the licensed name, an application shall be made to the Council not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

#### **EXHIBITION OF LICENCE**

- 8.
  - a) A copy of the licence (two pages) shall be suitably framed and exhibited in a position that can easily be read by all persons entering the premises.
  - b) The conditions of licence and all such documents listed as Appendices to said licence shall be retained in a clean and legible condition and immediately available for inspection by anyone who so requests.

9. The licensee shall retain a copy of a form signed by each employee and performer confirming that they have read and understood the licence and conditions. The copy shall be retained for a period of six months after they cease work at the premises. A copy of the licence and conditions shall be given to each performer.

#### **RESPONSIBILITY OF THE LICENSEE**

10. The licensee or a responsible person over 18 years of age nominated by them in writing for the purpose of managing the SEV in their absence shall be in charge of and upon the premises during the whole time they are open to the public.
11. The written nomination referred to in condition 10 above shall be maintained in a daily register, kept on the premises and made continuously available for inspection by an officer authorised by the Council or police officer.
12. The person in charge shall not be engaged in any duties that will prevent them from exercising general supervision and they shall be assisted as necessary by suitable adult persons to ensure adequate supervision.
13. The licensee must ensure that there is a current insurance policy in force to cover the performers whilst the premises are open and that a copy is displayed in areas where all staff have access.

#### **EMPLOYEES AND MANAGEMENT STAFF**

14. The licensee shall keep and maintain at the licensed premises a written record of the names, addresses, and copies of photographic proof of age documents of all persons employed or performers permitted to operate within the licensed premises whether upon a full or part time basis and shall, upon request by an authorised officer of the Council or police officer, make such



records available for inspection to them. (see Conditions regarding Door Supervisors)

15. Condition 14 does not relate to persons engaged to carry out repairs or provide services from external companies to the premises, however, such persons must be aged 18 years and over if the premises are open for the purpose of providing sexual entertainment.
16. The licensee shall ensure that all persons employed or permitted to work within the licensed premises hold the appropriate rights to work and shall keep copies of any documentation used to verify the details of these rights where necessary.
17. The licensee shall maintain a register of the names, addresses and dates of birth of such person or persons (whether employees or otherwise connected with the business) who have authority to manage the premises in the licensee's absence.
18. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified to the Licensing Authority

#### **CHANGE OF LOCATION AND ALTERATIONS TO PREMISES**

19. Where the licensed premises is a vessel or stall, the licensee shall not move the licensed vessel or stall from the location specified in the licence unless a variation application is submitted for the Council's determination giving not less than 28 days notice. n.b. this requirement shall not apply to a vessel or stall which habitually operates from a fixed location but which is regularly moved (whether under its own propulsion or otherwise) from another place such location as is specified in the licence.
20. Alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises as shown on

the plan, including any change in the permitted signs on display shall not be made except with the prior approval of the Council.

#### **CLUB RULES**

21. Any club rules imposed on the performers shall be displayed in a prominent position within the premises for all employees to have easy access whilst at work.
22. A copy of the club rules shall be provided to performers engaged by the premises by means of a written contract signed by the recipient. Copies of the same must be retained on the premises and produced to an authorised officer of the Council or police officer on request.

#### **FEES**

23. Receipts or records of payments received should be provided to performers where "house fees" are charged or when any fines are issued.

#### **PERFORMANCES**

24. No person under the age of 18 shall be permitted to be on the licensed premises when sexual entertainment is provided. A notice shall be clearly displayed at the entrance to the premises in a prominent position stating that "No person under 18 will be admitted when sexual entertainment is being provided" so that it can be easily read by persons entering the premises.
25. Each area where relevant entertainment is conducted shall be supervised and/or contain a panic alarm for the safety of performers.
26. A customer code of conduct shall be prominently displayed in each area to which the public are admitted.
27. Performers shall be aged not less than 18 years.

28. Full nudity is only permitted in the approved designated areas, as stipulated or shown on the approved plan attached to the licence. In all other public areas within the premises the performers and employees must at all times wear at least a G string (female) and or pouch (male) covering the genitalia
29. During all performances (including performances usually termed 'private dances') there must not be any deliberate contact, by the performer, with any patron or person within the audience except:
  - a). Leading a patron by the hand to and from a chair or private room or designated dance area.
  - b). Simple handshake greeting at the beginning and/or end of the performance.
  - c). A customary ("peck on the cheek") kiss at the end of the performance.
  - d). the placing of monetary notes or dance vouchers into the hand or garter worn by the performer.
30. No performances shall include any sex act involving any other persons or objects (or involve any form of auto-erotic stimulation).
31. A price list shall be displayed in a prominent position giving the price and the duration of any 'private dances'.
32. Any person employed to supervise or attend to the exterior or entrance area of the premises must, at all times be suitably and sensibly dressed so as not to indicate or suggest the nature of the relevant entertainment taking place at the premises.
33. No fastening or lock of any description shall be fitted upon any booth or cubicle or other area within the premises except as shown on the plan; within the toilets, within the performers' dressing rooms and/or staff areas.

34. At all times during a performance, performers shall have unrestricted access to a dressing room.
35. Patrons or members of the audience shall not take photographs or record digital images of performers within the premises via a camera or mobile phones

#### **DOOR SUPERVISORS**

36. The licensee shall ensure all door supervisors employed or contracted to work on the premises are suitably licensed by The Security Industry Authority or appropriate agency.
37. Where door staff are used, the licensee shall maintain profiles for all door staff that are, or have been, working at the premises in the last six months. The profile is to contain proof of identity (copy of passport /photo driving licence) and proof of address dated within the last six months (bank statement /utility bill). Separate proof of address is not necessary when the proof of identity is a photo driving licence. All profiles are to be made immediately available to Authorised Officers upon request.
38. An adequate number of licensed door supervisors, based on a risk assessment undertaken by the licensee, shall be on duty on the premises whilst relevant entertainment takes place.
39. At least one door supervisor shall be on duty at the premises at all times when the relevant entertainment takes place.

#### **CCTV**

40. CCTV shall be installed in each room within the premises where the public has access save for the toilet and staff only areas. All cameras shall continuously record whilst the premises are open to the public and recordings shall be kept available for a minimum of twenty-eight days.

41. A member of staff who is fully trained in the use of the CCTV system shall be on duty at all times when the premises are open until the premises are clear of customers.
42. The premises will provide copies of any recordings upon request by a police officer or an authorised officer of the Council within 24 hours of the request.

#### **TOUTING FOR BUSINESS AWAY FROM THE PREMISES.**

43. The licensee shall not allow the use of vehicles including limousines for the promotion of the relevant entertainment.
44. The collection of patrons and or potential clients is not permitted unless the vehicle is licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.
45. The licensee shall not permit any person whilst on a public thoroughfare to encourage any other person to visit the SEV premises by any means.
46. The licensee shall endeavour to ensure any marketing communications associated with the SEV or relevant entertainment shall comply with the code of practice as issued by the Advertising Standards Authority.

#### **ADMISSION OF AUTHORISED OFFICERS**

47. Officers of the Council, Police, and other authorised agencies who are furnished with authorities (which will be produced on request) shall be admitted immediately to all parts of the premises at all reasonable times and at any time the premises are open for business.

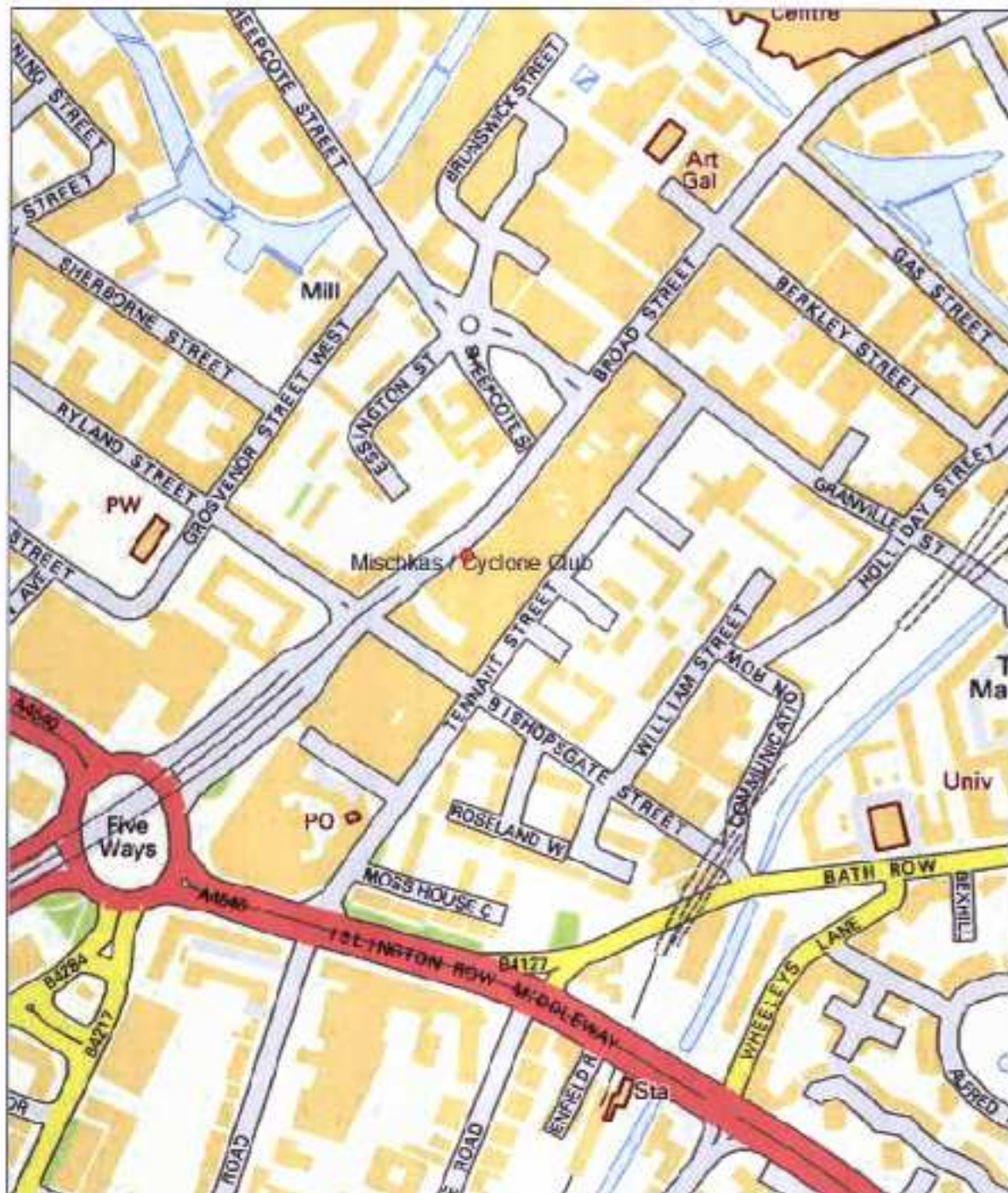
## ANNEX B

### SCHEME OF DELEGATION OF DECISION-MAKING AND FUNCTIONS

The Licensing and Public Protection Committee is responsible for making licensing decisions with Sub-Committees and officers having delegated powers to make some decisions. The table below describes how licensing decisions will be made. This scheme of delegations will be subject to regular review

Nothing within this scheme of delegations shall prevent matters being referred to a higher level where appropriate. E.g. officers may refer matters to a sub committee, or a sub-committee may refer a matter to full committee.

Matter to be dealt with:	Decision to be made by:		
	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Application for grant or transfer	All cases		
Application for renewal or variation	If relevant objection made		If no relevant objection made
Minor variation application	If relevant objection made		If no relevant objection made
Revocation of Licence	All cases		
Cancellation of Licence			All cases
Make/amend regulations prescribing standard conditions, terms and restrictions	All cases		
Setting of fees	All cases		
Waiver	All cases		
To make and amend policy relating to the licensing of sex establishments	All cases		
To enforce the provisions of Part II and Schedule 3 of the Local Government Miscellaneous Provisions Ac 1982			All cases



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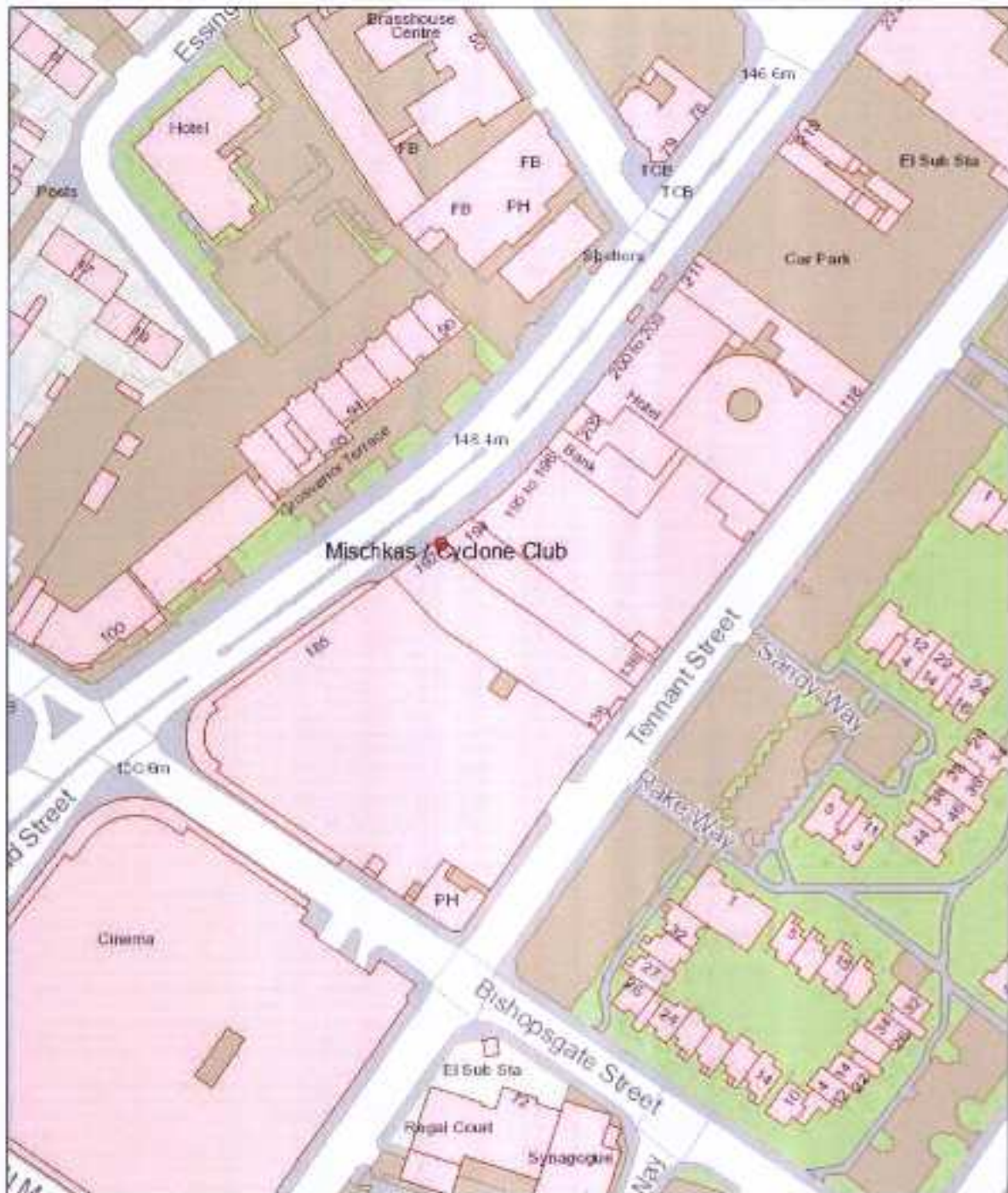
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<b>Report to:</b>	<b>LICENSING AND PUBLIC PROTECTION COMMITTEE</b>	
<b>Report of:</b>	<b>ACTING SERVICE DIRECTOR REGULATION AND ENFORCEMENT AND STRATEGIC DIRECTOR FINANCE AND LEGAL</b>	
<b>Date of Decision:</b>	<b>15 MARCH 2017</b>	
<b>SUBJECT:</b>	<b>LICENSING AND PUBLIC PROTECTION – BUDGET MONITORING PROVISIONAL OUTTURN (MONTH 10) 2016/17</b>	

<b>1. Purpose of Report:</b>
<p>1.1 This report sets out the position on the Licensing and Public Protection Committee's Revenue Budget at the end of January 2017 (Month 10) 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 2016/17.</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>

<b>2. Decision(s) Recommended:</b>
<p>The Licensing and Public Protection Committee is requested to :</p> <p>2.1 Note the latest Revenue budget position at the end of January 2017 (Month 10) and Provisional Outturn as detailed in Appendix 1.</p> <p>2.2 Note the position with regard to the Savings Programme for 2016/17 as detailed in Appendix 2.</p> <p>2.3 Note the expenditure on grant funded programmes in Appendix 3.</p> <p>2.4 Note the position on reserves and balances, as detailed in Appendix 4.</p>

<b>Lead Contact Officer(s):</b>	<b>Sukvinder Kalsi, Assistant Director of Finance</b>
<b>Telephone No:</b>	0121 303 3834
<b>E-mail address:</b>	sukvinder.kalsi@birmingham.gov.uk

<b>3.</b>	<b>Consultation</b>
3.1	<p><u>Internal</u></p> <p>The financial position on the revenue 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>
3.2	<p><u>External</u></p> <p>There are no additional issues beyond consultations carried out as part of the budget setting process for 2016/17.</p>

<b>4.</b>	<b>Compliance Issues:</b>
4.1	<p><u>Are the recommended decisions consistent with the Council's policies, plans and strategies?</u></p> <p>The budget is integrated with the Council Business Plan, and resource allocation is directed towards policy priorities.</p>
4.2	<p><u>Financial Implications (Will decisions be carried out within existing finances and Resources?)</u></p> <p>The Licensing and Public Protection Revenue Budget Monitoring document attached gives details of monitoring of service delivery within available resources.</p>
4.3	<p><u>Legal Implications</u></p> <p>Section 151 of the 1972 Local Government Act requires the Strategic Director of Finance and Legal (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 Leadership 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>
4.4	<p><u>Public Sector Equality Duty</u></p> <p>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**

- 5.1 The City Council approved the overall budget on 1 March 2016. The Licensing and Public Protection Committee noted the original net revenue budget allocation of £5.951m (as detailed in Appendix 1).
- 5.2 As at Month 10, the budget has been reduced by a net £0.629m. The major changes are summarised in the table below.

	£'m
<b>Original Budget 2016/17 Reported to LPPC 16 March 2016</b>	<b>5.951</b>
Planned use of Reserves – Licensing Fees and Charges	(0.311)
Depreciation Adjustments	(0.199)
Cross Cutting Savings (Energy, Printing, etc.)	(0.010)
Additional resources for staff increments	0.124
<b>Net Revenue Budget 2016/17 – Month 2 (LPPC 13 July 2016)</b>	<b>5.555</b>
Cross Cutting Savings (Workforce)	(0.404)
Consolidation of Surveying Services (in Economy Directorate)	(0.062)
Additional Resources (3 posts) for Coroners Service (ongoing)	0.110
<b>Net Revenue Budget 2016/17 - Month 4 (LPPC 14 September 2016)</b>	<b>5.199</b>
No changes August-September	0.000
<b>Net Revenue Budget 2016/17 - Month 6 (LPPC 16 November 2016)</b>	<b>5.199</b>
Resources for Employee Pay Award	0.091
<b>Net Revenue Budget 2016/17 - Month 8 (LPPC 18 January 2017)</b>	<b>5.290</b>
Centralisation of IT Services	(0.064)
Pension Strain Funding	0.096
<b>Current Approved Budget 2016/17 - Month 10</b>	<b>5.322</b>

- 5.3 The City Council has well-established arrangements for monitoring spending against the cash limited budgets allocated to Directorates/Committees.
- 5.4 Reports are presented to Cabinet regularly on the overall city-wide financial position and the Licensing and Public Protection Committee receive periodic financial performance reports during the financial year.

### **Revenue – Financial Review and Year End Projections**

- 5.5 The total expenditure at Month 10 (end of January) is £3.373m, which represents 63% of the annual net budget.
- 5.6 A Provisional Outturn overspend of £0.700m is projected. This remains unchanged from the previous report (Month 8).
- 5.7 The budgets continue to be managed rigorously and any changes will be reported in future reports.
- 5.8 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.

Provisional Outturn Year End Variations – Month 10				
Budget Head	Savings Programme £'m	Base Budget (underspend) / Pressures £'m	Total (underspend) / Pressures Month 10 £'m	Total (underspend) / Pressures Month 8 £'m
Environmental Health	0.005	(0.560)	<b>(0.555)</b>	(0.555)
Pest Control	-	0.040	<b>0.040</b>	0.040
Register Office	-	-	-	-
Mortuary and Coroners	0.095	0.245	<b>0.340</b>	0.340
Trading Standards	0.005	0.005	<b>0.010</b>	0.010
Licensing	0.343	0.522	<b>0.865</b>	0.865
<b>TOTAL</b>	<b>0.448</b>	<b>0.252</b>	<b>0.700</b>	0.700

5.9 The key components of the projection include:

- **Environmental Health (£0.555m)** due to a number of staff vacancies, management of costs and increased fixed penalty notices income.
- **Pest Control +£0.040m** due to the service not being able to achieve its income target.
- **Registration Service (balanced)** improved income generation and recovery from the 2016/17 fee structure. Service previously forecast to overspend, now to break-even.
- **Mortuary & Coroners +£0.340m** – pressures from external costs and increased volumes for autopsies and laboratory fees.
- **Licensing +£0.865m** – historical structural financial pressures on savings applied to services that can only be operated on a cost recovery basis.

### **Savings Programme**

5.10 The Committee's Savings Programme total is £0.671m for 2016/17, as detailed in Appendix 2.

5.11 An assessment this month has concluded that £0.223m (33%) has been fully delivered and the remainder of £0.448m or 67% is not deliverable.

5.12 Following a petition to Full Council in April 2016, the savings target of £0.024m applied to the Animal Welfare (Dog Cruelty) will no longer be pursued.

5.13 The continued rigorous management action and financial control of officers is required to ensure that the programme will be achieved.

### **Mitigations, Issues and Management Actions 2016/17**

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

#### 5.15 Registration Service

- The 2016/17 fee structure for existing and new services was agreed by the LPPC committee on 17 February 2016.
- A streamlined financial administration process has now been implemented that allows more staff resources to be directed at front line services

#### 5.16 Pest Control

- Further contracts were secured in 2016/17 for Pest Control to clear waste land. This included a significant contract for the City's Council Housing land.
- Additional contracts have been agreed to clear council owned sites after groups of Travellers have moved on.

#### 5.17 Licensing

- The increased demand from Private Hire applications for Knowledge Tests has increased. This service is not provided on a cost recovery basis.
- Officers have completed a base budget review and identified structural issues relating to prior year savings and income targets for the service. These will be rectified 2017/18 onwards, with the detail set out in the budget report 2017/18.

#### 5.18 Mortuary and Coroners

- The service continues to see pressure from Deprivation of Liberty Safeguards (DoLS) legislation, for which policy contingency has been made available for 2016/17.
- Costs have been incurred during 2016/17 relating to the future inquest into the 1974 Pub Bombings and these are set to increase significantly. The funding is still to be identified, including requesting funding from the Government for this purpose.

#### **Capital**

5.19 The Capital programme (for Mortuary and Coroners) to undertake essential health and safety works in the mortuary was approved, funded through prudential borrowing of £0.024m per annum.

5.20 As reported to Committee at Month 8 (18 January 2017) the scheme will now commence in April 2017 and the capital budget has been moved into 2017/18.

### **6. Grant Funded Programmes**

6.1 Within Regulatory Services, there are two grant funded programmes: Illegal Money Lending and Scambusters.

6.2 The expenditure and income for each programme is shown in Appendix 3.

### **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 National Trading Standards Board (NTSB) (£3.098m) with additional funding from Financial Conduct Authority (potentially £0.425m).
- 6.5 The total funding for 2016/17 is £3.523m, a decrease of £0.082m from 2015/16.
- 6.6 The expenditure at the end of January was £2.358m and is anticipated that the programme will spend fully to the grant allocated.

### **Scambusters**

- 6.7 The Scambusters team investigates and takes action against fraudsters operating across council boundaries in the central region.
- 6.8 Overall funding was originally agreed at £0.265m for 2016/17.
- 6.9 The available funding has increased to £0.312m following an additional award of £0.047m from National Trading Standards Board (NTSB) to reflect the cost pressure of two significant court cases that the team is leading on.
- 6.10 The expenditure at the end of January was £0.166m and is anticipated to spend fully to the grant allocated.

## **7. Proceeds of Crime Act**

- 7.1 Regulatory Services secures funding through the Proceeds of Crime Act 2002 in response to financial investigations undertaken post sentencing by the courts.
- 7.2 This money is strictly ring-fenced for community and crime prevention projects as follows:
- 7.3 Trading Standards and Illegal Money Lending have spent £0.278m (£0.141m and £0.137m respectively) on specific PoCA projects from April to January 2017.
- 7.4 Proceeds of Crime income (representing a proportion of money recovered through the legal system) received so far this financial year totals £0.198m (Trading Standards £0.134m, IMLT £0.064m). This has been transferred into the two reserve accounts and is reflected in Appendix 4.



<b>8. Balances and Reserves:</b>	
8.1	The balances and reserves at Month 10 are shown in Appendix 4.
8.2	The balances at the start of the year (1 April 2016) totalled £1.368m and these are all specific ring-fenced resources.
8.3	The planned use of reserves of £0.311m for the Licensing service is in relation to licence fees for 2016/17.
8.4	The resources of £0.198m received in relation to Proceeds of Crime have been paid into the appropriate reserve accounts.
8.5	The balances as at the end of January 2017 are £1.255m.

<b>9. Evaluation of Alternative Option(s):</b>	
9.1	During February and March 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

<b>10. Reasons for Decision(s):</b>	
10.1	The Report informs the Licensing and Public Protection Committee of the Revenue Budget for 2016/17 and the forecast outturn at the end of January 2017.
10.2	The latest position in respect of the Licensing and Public Protection Committee's year-end projections, use of reserves, Savings Programme and risks are also identified.

## Signatures

Alison Harwood  
Acting Service Director Regulation and Enforcement .....

Jon Warlow  
Strategic Director of Finance and Legal .....

Date .....

<b>List of Background Documents used to Compile this Report:</b>
Licensing & Public Protection - Revenue and Capital Budget 2016/17 – 16 March 2016
Licensing & Public Protection - Budget Monitoring 2016/17 (Month 02) – 13 July 2016
Licensing & Public Protection - Budget Monitoring 2016/17 (Month 04) – 14 September 2016
Licensing & Public Protection - Budget Monitoring 2016/17 (Month 06) – 16 November 2016
Licensing & Public Protection - Budget Monitoring 2016/17 (Month 08) – 18 January 2017

List of Appendices accompanying this Report (if any):			
<div>1. Appendix 1 - Financial Performance Statement Month 10 and Provisional Outturn</div> <div>2. Appendix 2 - Savings Programme Performance 2016/17 Month 10</div> <div>3. Appendix 3 - Summary of IMLT and Scambusters</div> <div>4. Appendix 4 - Balances and Reserves at Month 10</div>			
Report Version	2.0	Dated	28 February 2017

# Licensing and Public Protection Committee - 2016/17 Month 10 - Revenue Expenditure

## Subjective Headings

Budget 16Mar2016	Subjective Categories	Budget 16Jan2017	Movement (Dec-Jan)	Current Budget	Actuals	Forecast Year End	Savings Programme at Risk	Pressures
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
£'000		£'000	£'000	£'000	£'000	£'000	£'000	£'000
10,086	Employees	10,153	96	10,249	8,846	185	0	185
957	Premises	955	0	955	675	100	0	100
200	Transport and Moveable Plant	200	0	200	165	(80)	0	(80)
2,541	Supplies and Service	3,326	(64)	3,262	1,578	(640)	95	(735)
198	Capital Financing	208	0	208	173	0	0	0
3	Recharge Expenditure	3	0	3	109	0	0	0
13,985	Gross Expenditure	14,845	32	14,877	11,546	(435)	95	(530)
(4,023)	Fees & Charges / Reserves	(4,142)	0	(4,142)	(3,839)	510	0	510
(4)	Rents etc	(4)	0	(4)	(21)	0	0	0
(3,537)	Misc Income / Depreciation	(4,231)	0	(4,231)	(3,239)	625	353	272
(470)	Recharge Income and Interest	(1,178)	0	(1,178)	(1,074)	0	0	0
(8,034)	Income	(9,555)	0	(9,555)	(8,173)	1,135	353	782
5,951	Net Expenditure	5,290	32	5,322	3,373	700	448	252

## Service Areas

Budget 16Mar2016	Service Areas	Budget 16Jan2017	Movement (Dec-Jan)	Current Budget	Actuals	Forecast Year End	Savings Programme at Risk	Pressures
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
£'000		£'000	£'000	£'000	£'000	£'000	£'000	£'000
3,532	Environmental Health	2,883	71	2,954	1,797	(555)	5	(560)
(3)	Pest Control	184	0	184	288	40	0	40
450	Registrars	709	(9)	700	582	0	0	0
1,122	Mortuary and Coroners	1,146	0	1,146	1,050	340	95	245
1,566	Trading Standards	1,424	(13)	1,410	1,142	10	5	5
(764)	Licensing	(1,041)	(17)	(1,058)	(1,272)	865	343	522
5,903	Net Expenditure - Regulatory	5,304	32	5,336	3,587	700	448	252
74	Access and Development	74	0	74	65	0	0	0
(88)	Highways Regulatory	(88)	0	(88)	(279)	0	0	0
62	Surveying Services	0	0	0	0	0	0	0
48	Net Expenditure - Highways	(14)	0	(14)	(214)	0	0	0
5,951	LPPC - Net Expenditure	5,290	32	5,322	3,373	700	448	252

**Note: figures exclude : PoCA, IMLT and Scambusters (see Appendix 3)**

## Licensing and Public Protection Committee

### Savings Programme and Tracker at Month 10 (end January) 2016/17

	Total Programme 2016/17	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)
	£'000	£'000	£'000		£'000	£'000	£'000
Environmental Health	(34)	(5)	(24)	0	0	(5)	(34)
Licensing and Enforcement *	(532)	(189)	0	0	0	(343)	(532)
Mortuary and Coroners	(95)	0	0	0	0	(95)	(95)
Pest Control	0	0	0	0	0	0	0
Registrars	0	0	0	0	0	0	0
Trading Standards	(10)	(5)	0	0	0	(5)	(10)
Regulatory Services	(671)	(199)	(24)	0	0	(448)	(671)
Highways Services	0	0	0	0	0	0	0
<b>Total Savings Programme</b>	<b>(671)</b>	<b>(199)</b>	<b>(24)</b>	<b>0</b>	<b>0</b>	<b>(448)</b>	<b>(671)</b>

Savings 2016/17 = £0.332m, plus £0.339m (Licensing and Enforcement) savings from 2015/16 not achieved

## Licensing and Public Protection Committee

## Grant Funded Programmes at Month 10 (January) 2016/17

Service Areas	Grant Allocation 2016/17	Actuals Year to Date	Forecast Year End Variance
(1)	(2)	(3)	(4)
<b><u>Illegal Money Lending Team (IMLT) England</u></b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Employees	2,543	2,027	0
Premises	62	13	0
Transport and moveab	241	97	0
Supplies and Service	535	212	0
Recharge Expenditure	142	9	0
Gross Expenditure	3,523	2,358	0
Grant Income (NTSB)	(3,098)	(2,150)	0
Fees & Charges (including FCA)	(425)	(208)	0
Income	(3,523)	(2,358)	0
<b>Net Expenditure</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b><u>Scambusters</u></b>			
Employees	141	116	0
Premises	1	0	0
Transport and moveab	5	2	0
Supplies and Service	154	38	0
Recharge Expenditure	11	10	0
Gross Expenditure	312	166	0
Grant Income (NTSB)	(312)	(166)	0
Income	(312)	(166)	0
<b>Net Expenditure</b>	<b>0</b>	<b>0</b>	<b>0</b>

# Licensing and Public Protection Committee - 2016/17 Month 10 - Balances and Reserves

## Balances and Reserves at Month 10 (January) 2016/17

Reserves and Balances (1)	Licensing		Grants		PoCA		Total Ringfenced Reserves (8)	General Balances (9)	Total Reserves and Balances (10)
	Entertain - ment Licensing (2)	Hackney Carriage and Private Hire (3)	Illegal Money Lending Team (4)	Scam - busters Team (5)	PoCA Trading Standards (6)	PoCA Illegal Money Lending (7)			
	£'000	£'000	£'000	£'000	£'000	£'000		£'000	£'000
<b>Reserves and Balances 01 April 2016</b>	<b>215</b>	<b>(366)</b>	<b>(279)</b>	<b>(13)</b>	<b>(338)</b>	<b>(587)</b>	<b>(1,368)</b>	<b>0</b>	<b>(1,368)</b>
<b>Transactions (to)/from Balances in 2016/17</b>									
Planned Use of Reserves in 2016/17	0	311	0	13	0	0	324	0	324
Appropriations to Reserves in year	0	0	0	0	(134)	(64)	(198)	0	(198)
Appropriations from Reserves in year	0	0	0	0	0	0	0	0	0
<b>Net Movements 2016/17</b>	<b>215</b>	<b>(55)</b>	<b>(279)</b>	<b>0</b>	<b>(472)</b>	<b>(651)</b>	<b>(1,242)</b>	<b>0</b>	<b>(1,242)</b>
<b>Estimated Reserves 31 March 2017</b>	<b>215</b>	<b>(55)</b>	<b>(279)</b>	<b>0</b>	<b>(472)</b>	<b>(651)</b>	<b>(1,242)</b>	<b>0</b>	<b>(1,242)</b>

<b>Report to:</b>	<b>LICENSING AND PUBLIC PROTECTION COMMITTEE</b>	
<b>Report of:</b>	<b>ACTING SERVICE DIRECTOR REGULATION AND ENFORCEMENT AND STRATEGIC DIRECTOR FINANCE AND LEGAL</b>	
<b>Date of Decision:</b>	<b>15 MARCH 2017</b>	
<b>SUBJECT:</b>	<b>LICENSING AND PUBLIC PROTECTION – REVENUE BUDGET 2017/18</b>	

<b>1. Purpose of Report:</b>
<p>1.1 This report sets out the Licensing and Public Protection Committee's Revenue Budget for the 2017/18 financial year.</p> <p>1.2 The report also details the approved savings programme for 2017/18.</p> <p>1.3 The report is in line with the current City Council established financial budgetary framework.</p>

<b>2. Decision(s) Recommended:</b>
<p>The Licensing and Public Protection Committee is requested to :</p> <p>2.1 Note the 2017/18 Revenue Budget Changes as detailed in Appendix 1.</p> <p>2.2 Note the 2017/18 Service and Subjective Budget in Appendix 2.</p> <p>2.3 Note the 2017/18 Provisional Budget 2017/18 to 2020/21 in Appendix 3.</p> <p>2.4 Note the 2017/18 budgeted employee establishment as detailed in Appendix 4.</p> <p>2.5 Note the latest 2017/18 Balances and Reserves position as detailed in Appendix 5.</p>

<b>Lead Contact Officer(s):</b>	<b>Sukvinder Kalsi, Assistant Director of Finance</b>
<b>Telephone No:</b>	(0121) 303 3834
<b>E-mail address:</b>	<a href="mailto:sukvinder.kalsi@birmingham.gov.uk">sukvinder.kalsi@birmingham.gov.uk</a>

<b>3. Consultation</b>
<p>3.1 <u>Internal</u></p> <p>The 2017/18 Revenue Budget has been reported to the Management Team and the Acting Service Director of Regulation and Enforcement as required in line with the Council's framework.</p> <p>3.2 <u>External</u></p> <p>There are no additional issues beyond consultations carried out as part of the Public Budget Consultation that was completed for 2017/18.</p>
<b>4. Compliance Issues:</b>
<p>4.1 <u>Are the recommended decisions consistent with the Council's policies, plans and strategies?</u></p> <p>The budget is integrated with the Council Business Plan, and resource allocation is directed towards policy priorities.</p> <p>4.2 <u>Financial Implications (Will decisions be carried out within existing finances and Resources?)</u></p> <p>The Licensing and Public Protection Revenue Budget Monitoring document attached gives details of monitoring of service delivery within available resources.</p> <p>4.3 <u>Legal Implications</u></p> <p>Section 151 of the 1972 Local Government Act requires the Strategic Director of Finance and Legal (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 Leadership 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>4.4 <u>Public Sector Equality Duty</u></p> <p>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 2017/18**

- 5.1 The City Council approved the overall budget on 28<sup>th</sup> February 2017. The Licensing and Public Protection Committee should note the original net revenue budget allocation of £7.553m (as detailed in Financial Plan Appendices 1, 2 and 3).
- 5.2 The City Council's Budget Strategy for 2017/18 is based on the following principles:
- There is no general provision for price inflation on expenditure budgets.
  - There is provision for a pay award from April 2017.
  - Additional resources have been allocated to services to meet the increase in the employer's pension contributions from 24.4% to 30.4%.
  - Inflationary targets have also been applied to some income budgets including the ring-fenced Licensing service.
  - The revenue and financial implications from capital expenditure programmes and equal pay are reflected in the long term budget.
- 5.3 The Savings Programme includes £0.032m agreed as ongoing step-ups in the 2016/17 Budget Process. There are also additional £0.093m savings as part of the Cross-cutting workforce strategy.
- 5.4 The total savings are therefore £0.125m as detailed in Appendix 1
- 5.5 Changes from 2016/17 Month 8 to Original 2017/18 are summarised in the table below:

	£'m
<b>Revenue Budget 2016/17 (as at Month 8)</b>	<b>5.290</b>
<u>New and Existing Pressures</u>	
Reversal of Policy Contingency, offset by additional allocation for Coroners, Register Office and Licensing	1.620
<u>Savings Programme</u>	
Step-ups agreed as part of 2016/17 Budget Plan	(0.032)
Cross-Cutting workforce Savings	(0.093)
<u>Budget Plan 2017+</u>	
Re-implementation of CSC budget within Licensing Ring-Fence	0.440
Pay award and Pension	0.467
Income Inflation	(0.075)
<u>Technical Adjustments</u>	
Centralisation of IT / Service Birmingham	(0.108)
Other including IT Recharge Adjustment	0.044
<b>Approved Budget 2017/18</b>	<b>7.553</b>

- 5.6 The budget consultation identified ongoing service pressures of £1.620m.

- 5.7 The Licensing and Public Protection Committee should note that the net revenue budget allocation for 2017/18 of £7.553m.
- 5.8 The service implications, subjective budget details are analysed in Appendices 1 and 2.
- 5.9 The provisional budget from 2017/18 to 2020/21 is analysed in appendix 3.

### **Employee Budget 2015/16**

- 5.10 The employee numbers for Licensing and Public Protection Committee are shown in the table below and detailed by service in Appendix 4.

	Employee FTEs 2016/17	Existing / New Pressures	Cross Cutting Savings 2017/18	Employee FTEs 2017/18
Licensing and Public Protection	320.7	12.0		332.7

- 5.11 The increase in the employee numbers relates to the additional £0.020m for Coroners and £0.400m for Environmental (in relation to developing the Waste Enforcement service).
- 5.12 The Employee Establishment for 2017/18 is 333 FTE.

### **Savings Programme 2017/18 Onwards**

- 5.13 The City Council has approved a Savings Programme from 2017/18 to 2020/21 (the cumulative implications for the Committee are set out in the table below).

Service Area	2017/18	2018/19	2019/20	2020/21
	£m	£m	£m	£m
Licensing & Enforcement	(0.010)	(0.018)	(0.024)	(0.030)
Trading Standards	(0.011)	(0.067)	(0.074)	(0.081)
Environmental Health	(0.011)	(0.017)	(0.024)	(0.031)
<b>TOTAL</b>	<b>(0.032)</b>	<b>(0.102)</b>	<b>(0.122)</b>	<b>(0.142)</b>

- 5.14 This table includes Step-Ups and New Savings, but excludes the Cross Cutting Workforce savings.
- 5.15 Most savings are for 2017/18 with no further step-ups planned apart from the commercial model for business support where there are incremental step-ups planned until 2019/20. This saving affects Licensing, Trading Standards and Environmental Health.
- 5.16 The City Council Savings Programme is based on the following:
- All planned step-up savings set out in the Business Plan 2016/17+ have been reviewed and amended where necessary.
  - Services have implemented further savings where necessary to compensate for local business issues.

- The impact of grant reductions or fall-out is borne by the services concerned, either through a reduction in the expenditure previously funded through grant or by compensatory savings.
- Further savings targets were set for all Directorates, with the proposals being presented in the context of the council's policy priorities and individual service development plans.
- Revision of the proposals by Members of the Executive in the light of policy priorities, legal requirements, equality impacts and responses to the public budget consultation process.

5.17 Licensing and Public Protection Committee savings for 2017/18 includes a wide range of components and will include:

- Maintaining a freeze on current vacant posts.
- Delivering efficiencies on non-employee expenditure
- Maximising the opportunities to generate additional income from services (including provision to other Local Authorities).
- Temporary use of available reserves and balances from prior years.

### **Balances and Reserves**

5.18 The current balances and reserves for the committee are set out in Appendix 5 (these will need to be reviewed and adjusted as necessary to reflect the outturn for 2016/17).

5.19 PoCA Income of £0.198m had been appropriated to reserves by Month 10, further potential income is also expected before the end of 2016/17 along with expenditure (use of reserves).

## **6. Evaluation of Alternative Option(s):**

6.1 During the course of 2017/18 the financial position will be closely monitored and options identified to resolve budgetary pressures as necessary, and alternative savings proposals developed to meet new and emerging pressures

## **7. Reasons for Decision(s):**

7.1 The report informs the Licensing and Public Protection Committee of the Revenue Budget for 2017/18.

7.2 The position in respect of the Licensing and Public Protection Committee's Savings Programme and the present risks identified in its delivery.

## Signatures

Alison Harwood

Acting Service Director Regulation and Enforcement .....

Jon Warlow

Strategic Director of Finance and Legal .....

Date .....

## List of Background Documents used to Compile this Report:

Licensing & Public Protection - Revenue and Capital Budget 2016/17 – 16 March 2016  
Licensing & Public Protection - Budget Monitoring 2016/17 (Month 2) – 13 July 2016  
Licensing & Public Protection - Budget Monitoring 2016/17 (Month 4) – 14 September 2016  
Licensing & Public Protection - Budget Monitoring 2016/17 (Month 6) – 16 November 2016  
Licensing & Public Protection - Budget Monitoring 2016/17 (Month 8) – 18 January 2017  
Licensing & Public Protection - Budget Monitoring 2016/17 – Month 10 Provisional Outturn

## List of Appendices accompanying this Report (if any):

1. Appendix 1 – Analysis Revenue Budget Changes 2016/17 (Month 8) to 2017/18
2. Appendix 2 – Service and Subjective Analysis of 2017/18 Budgets
3. Appendix 3 – Provisional Budget from 2017/18 to 2020/21
4. Appendix 4 – Indicative Workforce Plan
5. Appendix 5 – Balances and Reserves

<b>Report Version</b>	5.0	<b>Dated</b>	28 February 2017
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# Licensing and Public Protection Committee

## Revenue Budget 2017/18

### Analysis of Budget Changes 2016/17 to 2017/18

Service	Current Budget 2016/17 Month 8	New & Existing Pressures	Existing Savings	Cross Cutting Workforce Savings	Unachiev - able Savings	Internal Re - Alignment	Other (CSC)	Service Birmingham	Pay Award and Pension	Income Inflation	Other Budget Re alignment	Original Budget 2017/18
	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s
Environmental Health	2,883	400	(10)	(41)				(25)	182	(12)	670	4,047
Pest Control	184			(8)					34	(6)	(200)	4
Register Office	709	500		(24)				(9)	104	(3)	(400)	877
Mortuary and Coroners	1,146	20		(9)					48	(9)	0	1,196
Trading Standards	1,423		(10)	(11)				(13)	67	(2)	0	1,454
Illegal Money Lending	0					44		(44)	0			0
Scambusters	0								0		0	0
Licensing and Enforcement	(1,041)	700	(12)				440	(17)	32	(40)	(70)	(8)
Total Regulatory Services	5,304	1,620	(32)	(93)	0	44	440	(108)	467	(72)	0	7,570
Highways Regulatory	(88)									(3)		(91)
Access / Development	74									0		74
Total Highways	(14)	0	0	0	0	0	0	0	0	(3)	0	(17)
TOTAL LPPC	5,290	1,620	(32)	(93)	0	44	440	(108)	467	(75)	0	7,553

# Licensing and Public Protection Committee

## Revenue Budget 2017/18

### Service and Subjective Analysis of 2017/18 Budget

Commitment Item	Environmental Health	Pest Control	Register Office	Mortuary & Coroners	Trading Standards	Illegal Money Lending	Scam busters	Licensing & Enforcmnt	Regulatory LPPC Provisional Budget	Highways Regulatory	Access / Development	Total LPPC Provisional Budget
	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s
Employees Direct	4,220	738	2,208	1,045	1,074	2,398	140	1,453	13,276	0	0	13,276
Employees In-Direct	7	2	1	2	41	145	1	12	211	0	0	211
Premises	229	0	232	171	152	62	1	192	1,039	2	0	1,041
Transport & Moveable Plant	13	120	4	4	42	241	5	17	446	0	0	446
Supplies and Services	1,446	85	27	557	339	535	107	845	3,941	121	74	4,136
Capital Financing	8	0	104	69	27	0	0	0	208	0	0	208
Recharge Expenditure	0	3	0	0	0	142	11	440	596	0	0	596
Total Budgeted Expenditure	5,923	948	2,576	1,848	1,675	3,523	265	2,959	19,717	123	74	19,914
Grants	0	0	0	0	0	(3,098)	(265)	0	(3,363)	0	0	(3,363)
Fees & Charges	(695)	(942)	(1,527)	(14)	(75)	(425)	0	(146)	(3,824)	(214)	0	(4,038)
Rents	0	0	0	(4)	0	0	0	0	(4)	0	0	(4)
Miscellaneous Income	(63)	(2)	(68)	(565)	(51)	0	0	(2,821)	(3,570)	0	0	(3,570)
Recharge Income	(1,110)	0	0	0	(68)	0	0	0	(1,178)	0	0	(1,178)
Total Budgeted Income	(1,868)	(944)	(1,595)	(583)	(194)	(3,523)	(265)	(2,967)	(11,939)	(214)	0	(12,153)
Asset Revenue Management	(8)	0	(104)	(69)	(27)	0	0	0	(208)	0	0	(208)
Total Net Provisional Budget	4,047	4	877	1,196	1,454	0	0	(8)	7,570	(91)	74	7,553

**Licensing and Public Protection Committee  
Revenue Budget 2017/18**

**Provisional Budget 2017/18 to 2020/21**

Ref			2017/18 £'000s	2018/19 £'000s	2019/20 £'000s	2020/21 £'000s
	<b>LPPC Current Budget 2016/17 Month 8</b>		<b>5,290</b>	<b>5,290</b>	<b>5,290</b>	<b>5,290</b>
	<b>New &amp; Existing Pressures</b>					
	Coroner Services	New	200	200	200	200
	Coroners - Fall Out of One off corporate support	Existing	(180)	(180)	(180)	(180)
	Registrar Services	New	500	500	500	500
	Licensing Services	New	700	700	700	700
	Waste Enforcement	New	400	400	400	400
	<b>Total</b>		<b>1,620</b>	<b>1,620</b>	<b>1,620</b>	<b>1,620</b>
	<b>Existing Savings</b>					
EGJ8	Create a West Midlands-wide trading standards service	Existing	0	(50)	(50)	(50)
EGJ7	Create a commercial model for business support	Existing	(32)	(52)	(72)	(92)
	<b>Total</b>		<b>(32)</b>	<b>(102)</b>	<b>(122)</b>	<b>(142)</b>
	<b>Cross Cutting Workforce Savings</b>		<b>(93)</b>	<b>(93)</b>	<b>(93)</b>	<b>(93)</b>
	FOM Savings to be Allocated		0	0	0	0
	Internal Re-alignment		44	44	44	44
	Other (Transfer of CSC to Regulatory)		440	440	440	440
	Service Birmingham		(108)	(108)	(108)	(108)
	Pay Award & Pension		467	467	467	467
	Income Inflation		(75)	(75)	(75)	(75)
	<b>Provisional Budget 2017/18 +</b>		<b>7,553</b>	<b>7,483</b>	<b>7,463</b>	<b>7,443</b>
	<b>Provisional LPPC Budget 2017/18 +</b>		<b>7,553</b>	<b>7,483</b>	<b>7,463</b>	<b>7,443</b>

<b>Current Budget Fte's Month 9 2016/17</b>
Existing & New Pressures
Existing & New Savings
Unachievable Savings
Cross Cutting Savings (WOC1 & WOC2)
FOM
<b>Budgeted FTE's</b>
<b>LPPC Budgeted FTE's</b>

<b>320.7</b>	<b>320.7</b>	<b>320.7</b>	<b>320.7</b>
12.0	12.0	12.0	12.0
0.0	0.0	0.0	0.0
0.0	0.0	0.0	0.0
0.0	0.0	0.0	0.0
<b>332.7</b>	<b>332.7</b>	<b>332.7</b>	<b>332.7</b>
<b>332.7</b>	<b>332.7</b>	<b>332.7</b>	<b>332.7</b>

**Licensing and Public Protection Committee  
Revenue Budget 2017/18**

**Indicative Workforce Plan 2017/18 to 2020/21**

	Environ mental Health	Pest Control	Register Office	Mortuary and Coroners	Trading Standards	Illegal Money Lending	Scam - busters	Licensing	<b>LPPC</b>
	FTE	FTE	FTE	FTE	FTE	FTE	FTE	FTE	FTE
<b>Actual Fte's 2016/17 P08</b>	<b>81.2</b>	<b>19.0</b>	<b>64.7</b>	<b>21.0</b>	<b>26.8</b>	<b>43.1</b>	<b>2.8</b>	<b>40.6</b>	<b>299.2</b>
<b>Current Budgeted Fte's 2016/17</b>	<b>82.2</b>	<b>21.3</b>	<b>72.0</b>	<b>21.0</b>	<b>27.4</b>	<b>50.0</b>	<b>2.5</b>	<b>44.3</b>	<b>320.7</b>
Existing & New Pressures	11.4			0.6					<b>12.0</b>
Existing & New Savings									<b>0.0</b>
Cross Cutting Savings									<b>0.0</b>
FOM									<b>0.0</b>
<b>Fte's 2017/18</b>	<b>93.6</b>	<b>21.3</b>	<b>72.0</b>	<b>21.6</b>	<b>27.4</b>	<b>50.0</b>	<b>2.5</b>	<b>44.3</b>	<b>332.7</b>



# Licensing and Public Protection Committee Revenue Budget 2017/18

## Balances and Reserves 2017/18

Balances & Reserves	Licensing Ring-Fenced Accounts		External Grant Funded Services		Proceeds of Crime Act 2002		Total Ringfenced Reserves
	Entertainment Licensing	Hackney Carriage & Private Hire	Illegal Money Lending Team (IML)	Scambusters	Trading Standards	Illegal Money Lending	
	£'000's	£'000's	£'000's	£'000's	£'000's	£'000's	£'000's
Reserves and Balances Brought Forward at 01 April 2016	215	(366)	(279)	(13)	(338)	(587)	(1,368)
Use of Reserves as at Month10 2016/17	-	311	-	13	-	-	324
Contribution to Reserves as at Month10 2016/17	-	-	-	-	(134)	(64)	(198)
Potential Use of Reserves 2016/17	-	-	-	-	-	-	-
Potential Contribution to Reserves 2016/17	-	-	-	-	-	-	-
Estimated Reserves at 01 April 2017	215	(55)	(279)	-	(472)	(651)	(1,242)
	(1)	(1)	(1)	(1)	(2)	(2)	

### Notes

(1) Balances are strictly ringfenced to the service areas to which they relate.

(2) Proceeds of Crime Act - balances can only be used at a local level to support crime fighting services and community projects.



**BIRMINGHAM CITY COUNCIL**

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

**15 MARCH 2017**  
**ALL WARDS**

**THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014:  
TRANSITIONAL ARRANGEMENTS FOR DESIGNATED PUBLIC PLACES AND  
DOG CONTROL ORDERS**

1. Summary

- 1.1 The Antisocial Behaviour, Crime and Policing Act 2014 (the 2014 Act) revoked a number of existing legal provisions, in many cases replacing these with alternatives.
- 1.2 Two such provisions were the Designated Public Place Orders (DPPOs) also referred to as Alcohol Restricted Areas, and also Dog Control Orders.
- 1.3 The 2014 Act provided for existing Orders to remain until October 2017, but they cannot continue beyond that date.
- 1.4 This report seeks to update the Committee on the transitional arrangements proposed for these Orders.

2. Recommendations

- 2.1 That all existing Designated Public Place Orders be revoked, with effect from 30<sup>th</sup> September 2017.
- 2.2 That all signage relating to the Designated Public Place Orders be removed as soon as is reasonably practicable following the cessation of the Orders.
- 2.3 That Officers commence the process of applying for Public Space Protection Orders, to replicate as closely as possible, the protections and requirements currently provided by the Dog Control Orders

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### 3. Background

- 3.1 The Anti-Social Behaviour, Crime and Policing Act 2014 (most of which came into force in October of that year) introduced Public Space Protection Orders (PSPO's). These powers were introduced to allow Local Authorities to deal with a specific problem in a particular area that was determined to be detrimental to the local community's quality of life.
- 3.2 The implementation of the 2014 Act meant that no new Dog Control Orders or Designated Public Place Orders could be established, with any new application required to be in the form of a PSPO. Furthermore, any existing DPPO's or Dog Control Orders cease to be in force from October 2017.
- 3.3 Public Space Protection Orders are a much more flexible and targeted tool to be used to target a specific problem. Further details of PSPOs can be found at Appendix 1, but the following extract is helpful in explaining the Orders' intention:
- "Public spaces protection order (PSPO):** The PSPO is designed to deal with a particular nuisance or problem in an area. The behaviour must be having a detrimental effect on the quality of life of those in the community, it must be persistent or continuing and it must be unreasonable. The PSPO can impose restrictions on the use of that area which apply to everyone who is carrying out that activity. The orders are designed to ensure that the law-abiding majority can enjoy public spaces, safe from anti-social behaviour. The council can make a PSPO on any public space within its own area but before doing so it must consult with the local police. The council must also consult whatever community representatives it thinks appropriate. This could relate to a specific group, (for instance a residents' association), or an individual or group of individuals, (for instance, regular users of a park or for specific activities such as busking or other types of street entertainment)."*
- 3.4 The power to make and serve Public Space Protection Orders under s59 of the 2014 Act is delegated through the Constitution to the Service Director for Regulation and Enforcement; the Service Director of Housing Transformation and the Head of Service Integration via the Strategic Director of Place.
- 3.5 There are already twelve PSPO's in effect across the City, details of which can be found on the Community Safety Partnership website:  
<http://birminghamcsp.org.uk/our-work/anti-social-behaviour/public-space-protection-orders.php>

### 4. Designated Public Place Orders – Current Position

- 4.1 DPPO's are more commonly referred to as Alcohol Restricted Areas (ARA's).
- 4.2 Designated Public Space Protection Orders (DPPO's) were introduced by way of s.13 of the Criminal Justice and Police Act 2001 and s.26 of the Violent Crime Reduction Act 2006. DPPO powers enabled local authorities to

designate places where restrictions on public drinking apply when those areas have experienced alcohol-related disorder or nuisance.

- 4.3 The power to implement a DPPO was delegated to the Licensing and Public Protection Committee.
- 4.4 The powers did not make it an offence to consume alcohol within a designated area, but an offence was committed if an individual refused to comply with a constable's request to refrain from drinking.
- 4.5 The last review of DPPOs was carried out in 2011, which found that whilst there was support for the existing arrangements to be retained, there was no evidence available to support the position.
- 4.6 There are currently 38 Designated Public Place Orders in effect. The list of these can be found at Appendix 2.
- 4.7 There is a great deal of misunderstanding and confusion surrounding DPPO's, particularly with regard to their effect, the signage, the offences (if any) and their enforcement.

## 5. Designated Public Place Orders – Future Arrangements

- 5.1 Having regard to the intentions behind the PSPO's, and their greater scope, it is not felt appropriate to consider a direct 'like for like' replacement of the current DPPOs.
- 5.2 As the PSPO's are able to be more 'bespoke', each can be targeted to tackle the particular problem being experienced within the defined area. The emphasis is on alleviating or preventing the problem, rather than criminalising people. To replace like for like may miss any opportunities afforded by this new flexibility.
- 5.3 There will be some areas of the City which could benefit from the implementation of a carefully considered, targeted PSPO. In these cases, officers and colleagues within the Anti-Social Behaviour Team will work with the Police to ensure they are apprised of the process to be followed, to enable a transition between the regimes.
- 5.4 Preliminary discussions with West Midlands Police indicate that they would be supportive of this approach.

## 6. Dog Control Orders – Current Situation

- 6.1 On 1 March 2014, Birmingham introduced five Dog Control Orders (DCOs), made under the Clean Neighbourhoods and Environment Act 2005. They relate to:

- Fouling of land by dogs and the requirement for dog faeces to be removed.
- The keeping of dogs on leads.
- Dogs to be put on a lead when directed to do so.
- The exclusion of dogs from specified land.
- The number of dogs which a person may take onto land.

6.2 The DCOs have been enforced across the city and have proved to be invaluable in dealing with irresponsible dog owners who fail to control or clean up after their pets. The issue of dogs being let out to stray on the streets was an area of particular concern and previously there were no legislative provisions to tackle the problem. Offences under DCOs are dealt with by the issue of £80 Fixed Penalty Notices (FPNs).

## 7. Dog Control Orders – Future Arrangements

7.1 Owing to the success of the DCOs and the benefits they have conveyed, it is proposed that these will be replicated by way of PSPO as appropriate.

7.2 Officers have made preliminary enquiries with colleagues within the Anti-Social Behaviour Team to explore how to commence the process.

## 8. Consultation

8.1 Consultation is required before any PSPO can be implemented. This process is detailed within the Home Office Guidance which can be found at <http://bit.ly/HomeOfficeASBGuidance2014>

8.2 The relevant section (p48) detailing the consultation process is reproduced here for ease of reference:

*“Before making a PSPO, the council must consult with the local police. This should be done formally through the chief officer of police and the Police and Crime Commissioner, but details could be agreed by working level leads. This is an opportunity for the police and council to share information about the area and the problems being caused as well as discuss the practicalities of enforcement. In addition, the owner or occupier of the land should be consulted. This should include the County Council (if the PSPO application is not being led by them) where they are the Highway Authority.*

*The council must also consult whatever community representatives they think appropriate. This could relate to a specific group, for instance the residents association, or an individual or group of individuals, for instance, regular users of a park or specific activities such as busking or other types of street entertainment. Before the PSPO is made, the council also has to publish the draft order in accordance with regulations published by the Secretary of State.”*

9. Implications for Resources

- 9.1 Obsolete signage will need to be located and removed, or replaced where appropriate.

10. Implications for Policy Priorities

- 10.1 The issues involved in dealing with stray dogs, uncontrolled dogs and dog fouling in public places are consistent with the City Council's policy priorities associated with helping to create a cleaner, greener, safer city and dealing with anti-social behaviour.

11. Public Sector Equality Duty

- 11.1 This report addresses the implementation of national Legislation. Dog Control Orders provide exemptions for registered blind people and deaf people, and for other people with disabilities who make use of trained assistance dogs, such exemptions will continue under any PSPO.
- 11.2 Before any PSPO is brought into effect, a defined consultation procedure must be adhered to. The Public Sector Equality Duty will be also considered at that time.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: nil



Home Office

## Reform of anti-social behaviour powers

### Public and open spaces

#### What is the issue?

Public and open spaces play a vital role in communities across the country. However, where the actions of a selfish few ruin these spaces, through public drunkenness, aggressive begging, irresponsible dog ownership or general anti-social behaviour, these places can be lost to the communities who use them. It is vital that frontline professionals have fast and effective tools to deal with this.

#### How the new powers can be used?

Powers in the Anti-social Behaviour, Crime and Policing Act 2014 will enable the police, councils and others to deal with people who behave anti-socially. Crucially, they provide maximum flexibility, allowing local agencies to work together to develop reasonable, proportionate and necessary responses to deal with anti-social behaviour.

**Community protection notice:** The community protection notice can provide a quick and effective response to those who persistently act in a way that has a detrimental effect on the quality of life of those in the locality. Available to councils and the police, this out-of-court notice can place restrictions on their behaviour (in the case of an individual, as long as they are aged 16 or over) and, if necessary, force them to take steps to rectify the issue. Depending upon the circumstances, the civil injunction, which is available on the civil burden of proof, could be a more appropriate option for local agencies.

In deciding whether the behaviour is having a detrimental effect on the quality of life of those in the locality, issuing officers should consider speaking to victims and potential victims to understand the wider harm to individuals and the community. Not only will this ensure that victims feel that their problem is being taken seriously, but it will also add to the case against the alleged perpetrator. It will also ensure that officers do not use the notice to stop reasonable activities such as busking or other types of street entertainment or where its use would infringe a person's right to freedom of expression or protest.

**Dispersal power:** The dispersal power can be used by police officers in uniform. Police community support officers can also use this power if designated by their chief constable. Use of the dispersal power must be authorised by an officer of at least the rank of inspector before use. The authorising officer must have regard to Articles 10 and 11 of the European Convention on Human Rights which provide for the right for lawful freedom of expression and freedom of assembly, ensuring that the dispersal power is not used to stop reasonable activities where no anti-social behaviour is being committed. It may be appropriate for an officer of a more senior rank than inspector to authorise the use of the dispersal power where, for example, there is not an inspector on duty who knows the specific circumstances of the area. The authorising officer can sanction use of the power in a specified locality for a period of up to 48 hours making each decision on a case-by-case basis.



**Public spaces protection order (PSPO):** The PSPO is designed to deal with a particular nuisance or problem in an area. The behaviour must be having a detrimental effect on the quality of life of those in the community, it must be persistent or continuing and it must be unreasonable. The PSPO can impose restrictions on the use of that area which apply to everyone who is carrying out that activity. The orders are designed to ensure that the law-abiding majority can enjoy public spaces, safe from anti-social behaviour. The council can make a PSPO on any public space within its own area but before doing so it must consult with the local police. The council must also consult whatever community representatives it thinks appropriate. This could relate to a specific group, (for instance a residents' association), or an individual or group of individuals, (for instance, regular users of a park or for specific activities such as busking or other types of street entertainment).

Before making a PSPO, the council also has to publish the draft order in accordance with regulations made by the Secretary of State. An interested person can challenge the validity of a PSPO in the High Court on two grounds: (1) that the council did not have the powers to make the order or to include prohibitions or requirements, or (2) that one of the requirements (for instance, consultation) had not been complied with. An 'interested person' means an individual who lives in the restricted area or who works or regularly visits that area.

#### **Proportionate and reasonable use of the powers**

Our aim in reforming the anti-social behaviour powers is to give the police, councils and others more effective means of protecting victims, not to penalise particular behaviours. Frontline professionals must use the powers in the Anti-social Behaviour, Crime and Policing Act 2014 responsibly and proportionately, and only where necessary to protect the public.

#### **Ramblers and other groups representing the interests of users of rights of way and open space**

Where a local council is considering making a PSPO which will impose restrictions on the use of specific types of land such as registered common land, a registered town or village green, and open access land, or on public rights of way, it should consider discussing the proposal with relevant interested groups. It may also be appropriate to hold a public meeting when considering whether to make an order on these types of land to ensure that everyone affected has the opportunity to raise their concerns. This will allow the local council to explore using alternative means to stop or prevent the anti-social behaviour.

**Registered common land:** registered common land is subject to a separate consents' process under section 38 of the Commons Act 2006 if works are done which might restrict access. Section 38 requires the consent of the Secretary of State for Environment, Food and Rural Affairs which is normally delegated to the Planning Inspectorate. In addition, section 16 of the Commons Act 2006 provides for exchange of common land (also requiring the consent of the Secretary of State). The PSPO provisions do not override this need for consent. The commons registration authority (county or unitary authority) should be contacted to establish whether the land is registered common land. Further detail on common land and the consent process can be found at: <https://www.gov.uk/common-land-management-protection-and-registering-to-use> and <https://www.planningportal.gov.uk/planning/countryside/commonland>

Where registered commons appear on open access maps, they are part of the open access regime and subject to a right of access on foot. Some commons also have other additional access rights, such as for horse riders. The commons registration authority can provide information on what access rights exist on the land. In such cases, relevant interested groups

and users should be consulted on the proposed PSPO. It would also be good practice to discuss the proposal with the [Local Access Forum](#) (LAF).

Where a PSPO affects a common, those with a legal interest in the land should be consulted. This would include commoners, who have rights on the land, such as to graze animals or collect bracken, and the landowner. The commons registration authority can provide information on what common land rights exist.

**Registered town and village greens:** registered towns and village greens (TVG) have strong protection from development and the public have a right to engage in lawful sports and pastimes on the land. The commons registration authority can advise on whether the land is subject to TVG rights and which locality has these rights. Further information on TVGs can be found at: <https://www.gov.uk/town-and-village-greens-how-to-register> and <http://archive.defra.gov.uk/rural/documents/protected/common-land/tvgprotect-faq.pdf>

**Open access land:** gives people access rights on foot to mapped mountain, moor, heath, down and registered common land. Natural England and Natural Resources Wales run a [restrictions](#) process which may offer a different and perhaps more appropriate solution to the use of a PSPO. If a PSPO is proposed on open access land, it would be good practice to discuss with relevant interested groups and users, the local access authority (generally the county or unitary authority) and the LAF:

(<http://www.naturalengland.org.uk/ourwork/access/openaccess/default.aspx>).

The National Park Authority is the access authority for open access land in National Parks.

**Public rights of way:** along with other measures, the PSPO replaces gating orders established under the Clean Neighbourhoods and Environment Act 2005. Gating orders enabled local councils to prevent crime or anti-social behaviour by restricting public access to a public highway with a gate or a barrier. In general, rights of way do not cause or facilitate crime. To find out if a PSPO might affect a [public right of way](#), contact the local highway authority (county or unitary authority). The local highway authority maintains the definitive map and statement of public rights of way and the list of highways maintainable at public expense. The highway authority may already have put a gating order in place under the previous regime and so will have data on its effectiveness. You should discuss any proposed PSPO which might affect a public right of way with the highway authority in advance. The local highway authority can also advise on user rights on the right of way and on which user groups should therefore be consulted.

PSPOs should only be used where it can be shown that persistent anti-social behaviour is expressly facilitated by the use of a particular right of way. PSPOs will be particularly important in enabling the closure of those back (or side) alleys which are demonstrably the source of anti-social behaviour. Previously, applying a gating order was the only option available to local councils, but it may be possible under a PSPO to restrict specific activities that cause anti-social behaviour, rather than access in its totality.

In deciding whether to restrict access in its entirety through making a PSPO, local councils should consider whether residents and members of the public who use the relevant highway would be inappropriately inconvenienced by its closure and gating, and whether alternative access routes exist. However, this should not prevent the gating of highways on which activities are so dangerous that gating it is in the best interest of all concerned. The health implications of the order should also be considered, as gating could potentially encourage the use of cars if the alternatives are too long, or lack pedestrianised sections. The closure of a route might even deter people from making particular trips on foot completely. This should be balanced against the health impacts facing pedestrians from the ongoing crime or anti-social behaviour in the alleyway. In these situations a Health Impact Assessment could be carried out if there is any



doubt over the availability and suitability of alternate routes and/or the proposed times the gates will be closed.

Before using a PSPO to gate a route local authorities should consider all representations. Interested persons should be informed about how they can view or receive a copy of the proposed restrictions to a public right of way, and be given details of how they can make representations and by when. The local council should consider these representations and should be prepared to provide a full justification to anyone who objects to a proposed PSPO.

Certain groups which may be directly affected are:

- all occupiers of premises adjacent to or adjoining the relevant highway;
- any authority through which the restricted highway will run including;
- any other council, including community, parish and town councils;
- fire authorities;
- NHS Trusts;
- any Local Access Forum through whose area the relevant highway passes;
- other public bodies and companies that do maintain or provide services on or around the locality in which the relevant highway is situated including:
- statutory undertakers;
- gas or electricity services providers;
- water services providers;
- communications providers.

There is no reason why an authority exercising its powers to make PSPOs over rights of way should not establish its own list of consultees. A good starting point can be found in the regulations dealing with the permanent closure of public rights of way under both the Highways Act and the Town and Country Planning Act which already prescribe certain organisations which must be notified of such proposals. These organisations are the Auto Cycle Union, the British Horse Society, the Byways and Bridleways Trust, the Cyclists Touring Club, the Open Spaces Society, the Ramblers, the Chiltern Society, and the Peak and Northern Footpaths Society (see Annex A of Defra Circular 1/09 for details).

<https://www.gov.uk/government/publications/rights-of-way-circular-1-09>. It is also good practice to discuss any proposal to close a public right of way with the LAF.

#### Freedom of expression and lawful protest

Agencies and frontline professionals must have regard to the Articles 10 and 11 of the European Convention on Human Rights which provide for the right for lawful freedom of expression and freedom of assembly, ensuring that the dispersal power, the issuing of a community protection notice or the making of a public spaces protection order is not used to stop reasonable activities where no anti-social behaviour is being committed.

#### Buskers and street entertainers

Busking and other forms of street entertainment can enrich a community's quality of life, play an important role in community life and can generate a positive atmosphere that is enjoyed by all. The police or local councils should not use the anti-social behaviour powers to stop or prevent appropriate busking or other street entertainment where it is not causing anti-social behaviour.

#### Bye-laws

Bye-laws can be used as a longer term solution to ensure the peaceful enjoyment of public spaces, such as parks, and can also address nuisance behaviour such as skateboarding in city

centres. Byelaws are local laws that require something to be done, or not to be done, in a particular location and are enforced through the magistrates' court. Made by local councils, they are subject to local public consultation and require confirmation by the Secretary of State.

**LIST OF CURRENT DESIGNATED PUBLIC PLACE ORDERS**

<b>Area</b>
Aston and Perry Barr Wards (part of)
Bartley Green
Birmingham City Centre
Birmingham East LPU Area
Bournbrook
Bournville Cotteridge Park Area
Bournville Masefield
Bournville Rowheath Park
Bournville Stirchley
Bournville Village Green
Castle Vale
Castle Vale (whole)
Erdington Ward
Handsworth Soho Road
Handsworth Wood Ward
Kings Norton and West Heath Park
Kingstanding
Longbridge ( Ward)
Lozells & East Handsworth
Nechells Bordesley area
Northfield Turves Green
Northfield Victoria Common
Oscott
Perry Barr
Quinton and Harborne
Selly Oak
South Birmingham OCU2
Stockland Green Gravelly Hill
Stockland Green Short Heath Marsh Lane
Sutton Boldmere
Sutton Coldfield
Sutton Falcon Lodge
Sutton Four Oaks
Sutton New Hall
Sutton Town Centre
Washwood Heath
Weoley (Ward)
Winson Green

**BIRMINGHAM CITY COUNCIL**

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

**15 March 2017**

**ALL WARDS**

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:  
January 2017**

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 January 2017

	Magistrates'	Crown
Total	2	
Allowed		
Dismissed		
Appeal lodged at Crown		n/a
Upheld in part		
Withdrawn pre-Court	1	
Mutually agreed 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 January 2017, costs have been requested to the sum of £8150 with reimbursement of £7825 (96%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2016 to January 2017, costs associated to appeal hearings have been requested to the sum of £23987.82 with reimbursement of £23462.82 (97.8%) 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.

**DIRECTOR OF REGULATION AND ENFORCEMENT**

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

**MAGISTRATES' COURT – PRIVATE HIRE OPERATOR REQUEST FOR EXEMPTION**

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Jacqueline Markham t/a Star Cars	04.01.2017	Consent order agreed by both parties	Star Cars agreed to contribute £7500 towards the costs of Birmingham City Council		On 15 June 2016 the Licensing & Public Protection Committee refused an application from Star Cars for an exemption from a condition in our standard private hire operator conditions. Star Cars' appeal to the Magistrates' Court was heard on 4 January 2017. It was resolved by a Consent Order agreed by both parties under which the appellant will be allowed a licence containing the exemption for 12 months, during which time the effects of the exemption can be monitored.

**MAGISTRATES' COURT – LICENSING ACT 2003**

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Sheldon Inns Ltd t/a The Acorn	n/a	Withdrawn	£650	£325	On 17 August 2016, at a review of the premises licence requested by West Midlands Police following an incident at the premises on 6 June 2016, Committee considered the supervisory management arrangements at the premises to be wholly inadequate and incapable of promoting the licensing objectives relating to crime and disorder, public nuisance and public safety, and resolved to revoke the licence. The appeal was withdrawn following a successful application for the grant of a premises licence in respect of another party.





**BIRMINGHAM CITY COUNCIL**

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

**15 MARCH 2017**  
**ALL WARDS**

**PROSECUTIONS AND CAUTIONS – JANUARY 2017**

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

Contact Officer: Alison Harwood, Acting Director Regulation and Enforcement  
Telephone: 0121 303 0201  
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### 3. Results

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

- Two Licensing cases resulted in fines of £340. Prosecution costs of £700 were awarded with 8 penalty points. Ten simple cautions were administered as set out in Appendix 1.
- Sixty-two Environmental Health cases resulted in fines of £115,631 and a 12 month conditional discharge. Prosecution costs of £39,335 were awarded together with compensation in the sum of £160. One simple caution was administered as set out in Appendix 2.
- Two Trading Standards cases were finalised in January 2017 resulting in a 14 month prison sentence, an 11 month suspended sentence, a 12 month community order and a total of 255 hours of unpaid work. No simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in January 2017 and cases finalised by district April-January 2017.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team from April-December 2016.

### 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 2016 to January 2017 the following costs have been requested and awarded:

#### Licensing

£24,010 has been requested with £17,152 being awarded (71%)

#### Environmental Health

£218,006 has been requested with £185,628 being awarded (85%).

#### Trading Standards

£56,840 has been requested with £27,534 being awarded (48%).

- 5.3 For the month of January 2017 the following costs have been requested, awarded and received:

Licensing

£1,655 has been requested with £700 being awarded (42%) and £4,011 received.

Environmental Health

£43,621 has been requested with £39,335 being awarded (90%) and £25,936 received.

Trading Standards

No costs have been requested and £6,342 received.

6. Implications for Policy Priorities

- 6.1 The contents of this report contribute to the priority action of ensuring business compliance with legislation to protect the economic interests of consumers and businesses as contained in the Council Business Plan 2015+.

7. Public Sector Equality Duty

- 7.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Licensing and Public Protection Committee which ensures that equality issues have been addressed.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil

## LICENSING CASES

	Name & Address	Date Case Heard	Legislation	Fine/Penalty	Costs	Offence details
1	Hammed Ullah Ibrahimkhail 47 Hamblett's Road West Bromwich B70 9NY	5/1/17	Town Police Clauses Act 1847 Road Traffic Act 1988	£140 x no insurance + 8 penalty points  No separate penalty x plying for hire	£200  (£452 requested)	Pleaded guilty to two offences: one of plying for hire in Bennetts Hill, Birmingham and one of consequently having invalid insurance.
2	Mohammed Saleem Kimati 15 Westfield Road Smethwick B67 6AW	9/1/17	Criminal Justice and Public Order Act 1964	£200	£500  (£1,203 requested)	Pleaded <u>not guilty</u> to one offence of soliciting persons to hire a vehicle in outside the Hyatt Hotel in Bridge Street, Birmingham.  Found guilty following trial.

## LICENSING SIMPLE CAUTIONS

During the period of January 2017, ten simple cautions have been administered.

**Local Government (Miscellaneous Provisions) Act 1976**

**Section 48(6)** Three cautions were issued for failing to display a private hire vehicle licence plate.

**Section 50(3)** One caution was issued for failing to report an accident to the City Council within 72 hours.

**Section 54(2)** Two cautions were issued for failing to wear a private hire driver's badge in a manner as to be plainly and distinctly visible.

**Local Government (Miscellaneous Provisions) Act 1976 Sections 48(6) and 54(2)**

Two cautions were issued for failing to display a private hire vehicle licence plate and failing to wear a private hire driver's badge.

**Town Police Clauses Act 1847 Section 45** One caution was issued for plying for hire.**Byelaw 26 of the Birmingham City Council Hackney Carriage Byelaws 2008 made under section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1875**

One caution was issued for failing to produce upon request a copy of the Hackney Carriage Byelaws for inspection.

**ENVIRONMENTAL HEALTH CASES****FOOD HYGIENE OFFENCES**

	<b>Name &amp; Address</b>	<b>Date Case Heard</b>	<b>Legislation</b>	<b>Fine/Penalty</b>	<b>Costs</b>	<b>Offence details</b>
1	Tropical Food Experience Ltd Nairn House 1174 Stratford Road Hall Green Birmingham B28 8AQ	5/1/17	Food Safety and Hygiene (England) Regulations 2013	£2,000 x 1 <sup>st</sup> offence  No separate penalty x remaining offences	£1,099  (£1,099 requested)	Pleaded guilty to five offences: four relating to the condition of Karib Gril, 2-4 St Mary's Row, Moseley, Birmingham. There was evidence of mouse activity throughout the premises allowing contamination of food, surfaces and equipment and there were holes and gaps in the structure of the premises allowing the ingress of mice. One offence relating to a Vegetable Pattie being found on display for sale past its use by date.
2	Fazel Haq Essakhil 24 Carlsbrooke Road Wednesbury WS10 0JA	5/1/17	Food Safety and Hygiene (England) Regulations 2013	£800 x 1 <sup>st</sup> offence  No separate penalty x remaining offences	£200  (£1,421 requested)	Pleaded guilty to three offences relating to the condition of Firdous Grocery Halal Meat, 347 Dudley Road, Birmingham. Adequate procedures were not in place to control pests, mouse droppings were found on shelving behind bags of rice and boxes of seasoning and spices and further mouse droppings were found in the butchery area. Shelving and flooring on the shop floor were dirty.

	<b>Name &amp; Address</b>	<b>Date Case Heard</b>	<b>Legislation</b>	<b>Fine/Penalty</b>	<b>Costs</b>	<b>Offence details</b>
3	Charles Aroence Koko 8 Avon Drive Castle Bromwich Birmingham B36 0TR	5/1/17	Food Safety and Hygiene (England) Regulations 2013	£500 x 1 <sup>st</sup> offence  No separate penalty x remaining offences	£500  (£1,092 requested)	Pleaded guilty to three offences relating to the condition of Coasters Café, 248 High Street, Erdington, Birmingham. Adequate procedures were not in place to control pests, mouse droppings were found in the kitchen where food was being prepared and in boxes which held raw ingredients. The gas cooker, bain marie and tables holding food equipment were all found to be greasy. There were gaps within the structure of the building allowing ingress for mice.
4	Cravings4 Ltd 554 Stratford Road Birmingham B11 4AL  Mohammed Zulqarnan 240 Heath Road Small Heath Birmingham B10 9BD	5/1/17	Food Safety and Hygiene (England) Regulations 2013	Total £9,175  (Company £8,000 x 1 <sup>st</sup> offence Director £1,175 x 1 <sup>st</sup> offence)  No separate penalty x remaining offences	£1,000  (£1,007 requested)  Costs to be paid by the Director	Both defendants pleaded guilty to five offences relating to the condition of Cravings, 554 Stratford Road, Birmingham. Adequate procedures were not in place to control pests, mouse droppings were found on floors and shelving and there were holes throughout the premises allowing pest ingress. There was a build-up of waste in the rear yard, including food packaging; building materials and food waste and food containers were in a dirty and damaged condition.

	<b>Name &amp; Address</b>	<b>Date Case Heard</b>	<b>Legislation</b>	<b>Fine/Penalty</b>	<b>Costs</b>	<b>Offence details</b>
5	MSI Assets Ltd Unit 1-5 West Cross Shopping Centre Oldbury Road Smethwick B66 1JG	11/1/17	Food Safety and Hygiene (England) Regulations 2013	Total £5,000  (£1,000 x 5)	£2,170  (£2,170 requested)	Found guilty in absence of five offences: three relating to the condition of Food World, 728 Stratford Road, Birmingham. Adequate procedures were not in place to control pests and mouse droppings were found throughout the premises. There were holes in the structure of the building and the premises were not kept clean. Two offences relating to pots of yoghurt and Lychees being on display for sale past their use by dates.
6	Andalouse Ltd 95 Bordesley Green Birmingham B9 4QP	11/1/17	Food Safety and Hygiene (England) Regulations 2013	Total £4,000  (£2,000 x offences 1 & 2)  No separate penalty on remaining offences	£2,208  (£2,208 requested)	Found guilty in absence of seven offences relating to the condition of Andalouse, 95 Bordesley Green, Birmingham. Adequate procedures were not in place to control pests and cockroaches were found throughout the premises. The premises were not kept clean and there was no supply of hot water to the wash-hand basin in the front kitchen area. Part of the food preparation surface in the front kitchen was damaged and had been repaired with sticky tape and cardboard was laid on the floor in the rear food preparation room. There was no evidence of a documented food safety management system based on the HACCP principles.

	Name & Address	Date Case Heard	Legislation	Fine/Penalty	Costs	Offence details
7	Foodco UK LLP Allways House 102 Castle Street Cambridge CB3 0AJ	19/1/17	Food Safety and Hygiene (England) Regulations 2013	Total £10,000	£3,582  (£3,582 requested)	Pleaded guilty to three offences relating to the condition of Muffin Break, Unit 10 Grand Central, Birmingham. There was a void around wiring under the front server counter and a gap underneath the back doors to the service corridor which could provide entry points for pests. There was evidence of mouse activity throughout the premises and mouse droppings were found on floors, shelves, food packaging and equipment. Shelving storing equipment, work preparation surfaces and equipment were found to be dirty.
8	Poundland Ltd Wellmans Road Willenhall WV13 2QT	20/1/17 at Birmingham Crown Court	Food Safety and Hygiene (England) Regulations 2013	Total £73,500  (£33,500 x Corporation Street offences £40,000 x Martineau Place offences)  No separate penalty on remaining offences	£18,162  (£18,162 requested)	Pleaded guilty to eight offences: four relating to the condition of the Poundland store at 1-4 Corporation Street, Birmingham on 27 <sup>th</sup> February 2015 and four relating to the condition of the Poundland store at 512 Martineau Place, 76-77 Corporation Street, Birmingham on 21 <sup>st</sup> September 2015. Mouse droppings were found throughout the Corporation Street store including the main shop area, lower store room and upstairs storeroom. Mouse droppings were found on shelving storing water bottles and crisps and gnawed Easter egg chocolate was found on shelving. There was a hole in the shop floor and gaps beneath shelving large enough to allow the ingress of mice. Mouse activity, namely droppings, gnawed food, shredded and nibbled food packaging and urine stains,



						were found throughout the shop floor at the Martineau Place shop. A hole was also identified around pipework in the upstairs store room which was large enough to allow ingress by pests.
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### **WASTE OFFENCES**

1	Dinh Thanh Lee 9 Grove Avenue Handsworth Birmingham B21 9EX	5/1/17	Environmental Protection Act 1990	£300	£664  (£664 requested)	Pleaded guilty to one offence of failing to keep written information of the transfer of controlled waste from INails, 27-29 Grove Lane, Birmingham and failing to produce it to an authorized officer within 7 days in response to a written demand for information.
2	Jason James 56 Popes Lane Birmingham B30 1AY	6/1/17	Environmental Protection Act 1990	£400	£400  (£799 requested)	Pleaded <u>not guilty</u> to one offence of failing to keep written information of the transfer of controlled waste from First Stop Welders, Adderley Road, Saltley, Birmingham and failing to produce it to an authorized officer within 7 days in response to a written demand for information.  Found guilty following trial.
3	Leah Roberts 51 Hodgson Tower 109 Guildford Drive Birmingham B19 2LY	12/1/17	Environmental Protection Act 1990	£200 x 1 (failing to comply with notice)  No separate penalty x remaining offence	£150  (£630 requested)	Pleaded guilty to two offences: one of knowingly causing controlled waste (fly tipping), namely bags of garden rubbish and other waste, to be deposited from a vehicle on land at the junction of Kendrick Drive and York Crescent, Birmingham and one offence of failing to comply with a notice requiring written details of the name,

						address and date of birth of the driver and/or person who was in charge of the vehicle on the date of offence.
	Syed Gillani 14 Vibart Road Birmingham B26 2AD	18/1/17	Environmental Protection Act 1990	Total £1,400  (£500 x 1 <sup>st</sup> Sec 34 £400 x failing to produce £500 x obstruction)  No separate penalty x 2 remaining Sec 34 offences	£1,500  (£1,992 requested)	Pleaded guilty to five offences: three of failing to take reasonable measures to ensure that waste from Origa Bridal Boutique and Men's Wear, 158a Ladypool Road, Birmingham was not deposited on land at the rear of Ladypool Road, one of failing to keep written information of the transfer of controlled waste from the business and failing to produce it to an authorized officer within 7 days in response to a written demand for information and one offence of providing false information as to his identity and position within the business.  Originally listed for trial.
5	Rayan Curtis O'Mahony 20 Mulwych Road Tile Cross Birmingham B33 0BN	27/1/17	Environmental Protection Act 1990	£40	£200  (£600 requested)	Pleaded guilty to one offence of depositing controlled waste (fly tipping), namely black bags containing household and building waste, on land at the bottom of Lime Grove, Balsall Heath, Birmingham.
6	Muhammed Yusuf Ojela 38 Frances Road Lozells Birmingham B19 1SA	30/1/17	Environmental Protection Act 1990	Conditional Discharge x 12 months (depositing waste)  £300 (failing to produce)	£500  (£670 requested)  Compensation £160	Pleaded guilty to two offences: one of depositing controlled waste (fly tipping), namely a black bag containing waste relating to One Stop Computers, 359 Birchfield Road, on land adjacent to 359 Birchfield Road, Birmingham and one offence of failing to keep written information of the transfer of controlled

						waste from the business and failing to produce it to an authorized officer within 7 days in response to a written demand for information.
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### **ANIMAL WELFARE OFFENCES**

	<b>Name &amp; Address</b>	<b>Date Case Heard</b>	<b>Legislation</b>	<b>Fine/Penalty</b>	<b>Costs</b>	<b>Offence details</b>
1	Ali Khan 79 Stanmore Road Birmingham B16 9SU	5/1/17	Environmental Protection Act 1990	£60	£175  (£175 requested)	Found guilty in his absence of one offence of dropping litter, namely throwing a business card in the gutter, in Stanmore Road, Birmingham. Mr Khan then kicked the card into the middle of the road. The card had been posted through the door at 79 Stanmore Road by a dog warden.

### **LITTERING OFFENCES**

	<b>Name &amp; Address</b>	<b>Date Case Heard</b>	<b>Legislation</b>	<b>Fine/Penalty</b>	<b>Costs</b>	<b>Offence details</b>
1	David Parrish 14 Near Vallens Hadley Telford TF1 5SH	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Moor Street Queensway, Birmingham.
2	Claire Louise O'Kane 14 Langley Hall Road Solihull B92 7HE	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.

3	Jonathon Moody 91 Hornby Road Blackpool FY1 4QP	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement on the corner of High Street and New Street, Birmingham.
4	Mohammed Manik Miah 12 Shirebrook Close Birmingham B6 6BT	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
5	Jade Johnson 25 Brad Street Northampton NN3 6RQ	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.
6	Kevin Holt 4 Leighton Orton Malborne Peterborough PE2 5QB	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
7	Ian R Dell 336 Fordbridge Road Kingshurst Birmingham B37 6LU	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bull Street, Birmingham.

8	Florin Crisan Flat 1A 270 Rotton Park Road Birmingham B16 0JH	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Corporation Street, Birmingham.
9	Vijay P Colston Apartment 406 Southside St John's Walk Birmingham B5 4TP	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Navigation Street, Birmingham.
10	Sharon Kaur Bal 9 Berrybanks Rugby CV22 7JJ	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.
11	Ardur Wilkoszewske 7 Foxdale Drive Brierley Hill DY5 3GZ	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Navigation Street, Birmingham.
12	Andrew Walton 12 Holliers Grove Birmingham B37 6ET	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.

13	Dilon Walsh 81 Greenley Road Yardley Wood Birmingham B14 4JE	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt down a drain at the junction of Corporation Street and New Street, Birmingham.
14	Alin Ionut Stefanescu 51 Dustan Crescent Worcester WR5 2AF	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
15	Jacinta Radford 1 Lones Road West Bromwich B71 4LN	5/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.
16	Kyle Bradley 72 Weoley Castle Road Birmingham B29 5PT	5/1/17	Environmental Protection Act 1990	£40	£175  (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Needless Alley, Birmingham.
17	Milagros Santos Roesnillo Flat 23 Albrighton House Browns Green Birmingham B20 1BQ	5/1/17	Environmental Protection Act 1990	£83	£100  (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Moor Street Queensway, Birmingham.

18	Karl Vosper 18 Harpurs Tadworth KT20 5UD	13/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Temple Street, Birmingham.
19	Renata Toth 111 Knowle Road Sparkhill Birmingham B11 3AJ	13/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
20	Shane Luckhurst 194 Hamstead Road Birmingham B20 2RE	13/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bull Street, Birmingham.
21	Lisa Eaton 88 Grove Road Coventry CV7 9JE	13/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.
22	Jeffrey Douglas Cutler 11 Woodland Street Smethwick B66 3TF	13/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.

23	Emad Uddin 79 Bentley Road North Walsall WS2 0DF	13/1/17	Environmental Protection Act 1990	£106 x litter offence  No separate penalty x obstruction offence	£100  (£175 requested)	Pleaded guilty to two offences: one of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham and one of refusing to provide name, address and date of birth when requested by an authorised officer to do so.
24	Alex Johnson Ritchie The Anchor Inn Macetter Road Nuneaton CV10 0RT	13/1/17	Environmental Protection Act 1990	£100	£50  (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.
25	Daniel James Martin 16 Sorrel House Erdington Birmingham B24 0TQ	13/1/17	Environmental Protection Act 1990	£106	£50  (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.
26	Jerzy Dziemian 169 Lakes Road Erdington Birmingham B23 7UH	13/1/17	Environmental Protection Act 1990	£56	£50  (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
27	Leon Ali 25 Anglesey Street Birmingham B19 1QS	19/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.



28	Dashamic Alliavic Flat 2 68 Park Road Rugby CV21 2QX	19/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.
29	Lee Ketch 24a Jonesfield Crescent Eastfield Wolverhampton WV1 2LU	19/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.
30	Alina-Georgiana Mittoc 48 Wolseley Street Bordesley Green Birmingham B9 4DH	19/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.
31	Mark Morgan 8 Elmdon Coppice Solihull B92 0PL	19/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Corporation Street, Birmingham.
32	Amy McArthur O'Shaughnessy Flat 4 150 Duddeston Manor Road Birmingham B7 4JP	19/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.

33	Zoe Pomfret 53 Grove Hall Drive Leeds LS11 7EU	19/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.
34	Chuanli Wei Flat 7 Carmelite Court 68-70 Whitefriars Street Coventry CV1 2DS	19/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.
35	Balal Ahmed 380 Station Road Stechford Birmingham B33 8SA	19/1/17	Environmental Protection Act 1990	£60	£175  (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in the Bullring, Birmingham.
36	Claire McGuinness 6 Barnard Close Chelmsley Wood Solihull B37 7SS	19/1/17	Environmental Protection Act 1990	£65	£175  (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in High Street, Birmingham.
37	David Szabolcs Mogyoro 3 Gardens Crescent Dewsbury WF13 3HF	27/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a chocolate bar wrapper on the pavement in New Street, Birmingham.

38	Abdul Tanim Muktadir 30 Westminster Road Handsworth Birmingham B20 3LH	27/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.
39	Adam Murray 53 Ipstones Avenue Birmingham B33 9DZ	27/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Cherry Street, Birmingham.
40	Natalie Nash 23 James Court Redditch Road Birmingham B38 8RN	27/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Lower Temple Street, Birmingham.
41	Kristian Roberts Cottage C Thornelaw Court 2 Barbourne Crescent Worcester WR1 3JF	27/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Temple Row, Birmingham.
42	Stefania Liliana Stafania-Oana 51 Wednesbury Road Walsall WS1 4JL	27/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Navigation Street, Birmingham.

43	Ashraf Ali Flat 30 Saxelby House 7 Kimpton Close Birmingham B14 5TE	27/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
44	Aprelyne Cayabyab 31 Templefield Gardens Birmingham B9 4NY	27/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
45	Mario Mitar Flat 2 87 Edgbaston Road Smethwick B66 4LF	27/1/17	Environmental Protection Act 1990	£220	£175  (£175 requested)	Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
46	Sianne Kelly Flat 55 Avoncroft House Winchester Drive Birmingham B37 5QH	27/1/17	Environmental Protection Act 1990	£140	£175  (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.
47	Wafa Jafri Flat 2 130 Fellows Road London NW3 3JH	27/1/17	Environmental Protection Act 1990	£140	£175  (£175 requested)	Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Lower Temple Street, Birmingham.

#### **ENVIRONMENTAL HEALTH SIMPLE CAUTIONS**

One simple caution was administered during January 2017.

#### **Food Safety and Hygiene (England) Regulations 2013**

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

**TRADING STANDARDS**

	<b>Name &amp; Address</b>	<b>Date Case Heard</b>	<b>Legislation</b>	<b>Fine/Penalty</b>	<b>Costs</b>	<b>Offence details</b>
1	Meet Singh Alwadi 76 West Park Road Smethwick B67 7JH	20/1/17 at Birmingham Crown Court	Trade Marks Act 1994	Community Order x 12 months and ordered to complete 75 hours of unpaid work	POCA timetable set	Pleaded guilty to six offences of having in possession goods, namely watches, sunglasses and purses, at Kings Watches, 49 Great Hampton Street, Birmingham which bore the registered trademarks of Apple, ICE, Chanel, Louis Vuitton and Michael Kors, without the consent of the trade mark holders.
2	Ashton Hajj and Umra Limited 58 Oldham Road Ashton-under-Ly,e Tameside OL6 7AP  Babur Hussain 91 Lees Road Aston-under-Lyme Tameside OL6 8BQ  Sabir Raza 93 lees Road Aston-under-Lyme Tameside OL6 8BQ	31/1/17 at Leicester Crown Court	Fraud Act 2006	Hussain Total of 14 months imprisonment  Raza Total of 11 months imprisonment (suspended for 18 months) + 180 hours unpaid work  Both disqualified from acting as a Director (or being involved in the management of a company) for 5 years  Company to be sentenced at confiscation hearing	POCA timetable set	All defendants pleaded <u>not guilty</u> to four offences: one of making false claims (on the company's website and advertising literature) that customers booking Hajj & Umrah packages and flights with Ashton Hajj & Umra Ltd would be protected under the ATOL scheme, and three of making false representations to consumers about the quality of accommodation they would be provided with when undertaking pilgrimage and their travel arrangements.  All found guilty following trial.

**TRADING STANDARDS SIMPLE CAUTIONS**

No simple cautions were administered during January 2017.

**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – JANUARY 2017**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	2	0	0	0	0	0	0	<b>2</b>
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	47	0	0	0	0	0	0	<b>47</b>
Environmental Health (non FPNs)	1	1	5	2	5	0	1	0	0	0	0	<b>15</b>
Trading Standards	0	0	0	0	1	0	0	0	0	0	1	<b>2</b>

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	0	0	0	0	0	0	2	<b>2</b>
Environmental Health (FPNs) Not paid and prosecuted	0	2	1	0	6	2	4	2	0	2	28	<b>47</b>
Environmental Health (non FPNs)	1	0	2	1	2	0	2	1	0	1	5	<b>15</b>
Trading Standards	0	0	0	0	0	0	0	0	0	0	2	<b>2</b>

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	3	3	4	0	24	0	0	1	0	0	0	<b>35</b>
Environmental Health (FPNs) Not paid and prosecuted	0	3	1	1	459	0	0	0	0	0	0	<b>464</b>
Environmental Health (non FPNs)	3	8	16	11	32	6	12	10	2	4	0	<b>104</b>
Trading Standards	1	2	0	0	6	0	0	0	1	2	1	<b>13</b>

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

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	2	0	9	4	5	0	8	0	0	1	6	<b>35</b>
Environmental Health (FPNs) Not paid and prosecuted	24	34	24	19	53	25	20	9	3	18	235	<b>464</b>
Environmental Health (non FPNs)	1	4	10	10	25	5	10	10	1	7	21	<b>104</b>
Trading Standards	1	3	0	0	2	0	0	0	1	1	5	<b>13</b>

**WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY**  
**APRIL 2016 – DECEMBER 2016**

	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Total 2016/2017
Waste Investigation Outcomes										
Investigations into commercial waste disposal suspected offences and offences	22	44	69	62	66	96	38	63	28	488
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	14	95	64	53	25	71	24	50	25	421
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	7	2	15	34	26	14	4	29	13	144
<u>Section 87 Environmental Protection Act.</u> Fixed Penalty notices issued for commercial and residential litter offences (£80)	4	13	10	11	8	7	10	6	0	69
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)									11	11
Prosecutions										
Number of prosecution files submitted to legal services (number produced quarterly)			11			17			17	45



**BIRMINGHAM CITY COUNCIL**

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

**15 MARCH 2017**  
**ALL WARDS**

**FIXED PENALTY NOTICES ISSUED JANUARY 2017**

1. Summary
  - 1.1 The report sets out a breakdown, on a Constituency/Ward basis, of fixed penalty notices issued in the City during the period January 2017.
2. Recommendation
  - 2.1 That the report be noted.

Contact Officer: Mark Croxford, Head of Environmental Health  
Telephone: 0121 303 6350  
E-mail: [mark.croxford@birmingham.gov.uk](mailto:mark.croxford@birmingham.gov.uk)

### 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 – Mar 2005	382
April 2005 – Mar 2006	209
April 2006 – Mar 2007	650
April 2007 – Mar 2008	682
April 2008 – Mar 2009	1,147
April 2009 – Mar 2010	1,043
April 2010 – Mar 2011	827
April 2011 – Mar 2012	2,053
April 2012 – Mar 2013	1,763
April 2013 – Mar 2014	1,984
April 2014 – Mar 2015	4,985
April 2015 – Mar 2016	5,855

### 4. Enforcement Considerations and Rationale

4.1 The attached appendix shows the wards where FPNs were issued during the month of January 2017.

4.2 By identifying both the area where the FPN is issued and the ward/area that the litterer lives this demonstrates that the anti-litter message is being spread right across the city. 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 Fleet and 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**

Constituency	Ward	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Edgbaston	Bartley Green	0	0	0	0	0	0	0	0	0	0	0	0	0
	Edgbaston	0	0	1	0	0	0	0	0	0	0	0	0	1
	Harborne	0	0	0	0	0	0	0	0	9	1	0	0	10
	Quinton	1	0	0	0	0	0	1	0	0	0	0	0	2
Erdington	Erdington	0	1	2	2	0	0	1	1	13	0	0	0	20
	Kingstanding	0	1	0	0	1	1	0	0	0	0	0	0	3
	Stockland Green	0	1	0	2	0	0	0	0	1	0	0	0	4
	Tyburn	0	1	0	1	0	0	0	0	0	1	0	0	3
Hall Green	Hall Green	0	0	0	2	2	0	0	0	0	0	0	0	4
	Moseley And Kings Heath	4	0	0	0	1	1	0	1	14	2	0	0	23
	Sparkbrook	0	0	5	0	0	1	0	2	2	0	0	0	10
	Springfield	0	1	1	1	13	0	0	0	0	0	0	0	16
Hodge Hill	Bordesley Green	0	1	2	0	1	0	0	0	0	0	0	0	4
	Hodge Hill	0	1	0	3	0	1	2	0	0	0	0	0	7
	Shard End	2	0	2	1	1	1	0	0	0	0	0	0	7
	Washwood Heath	0	1	0	9	1	4	1	8	0	1	0	0	25
Ladywood	Aston	0	2	1	3	0	0	0	2	1	0	0	0	9
	Ladywood	480	438	525	455	427	578	538	551	232	506	0	0	4,730
	Nechells	10	16	16	21	8	2	1	5	3	2	0	0	84
	Soho	1	7	1	1	2	2	1	4	1	5	0	0	25
Northfield	Kings Norton	0	0	0	0	1	0	0	1	1	3	0	0	6
	Longbridge	0	0	0	0	0	0	0	1	0	0	0	0	1
	Northfield	1	1	0	0	0	0	1	1	9	0	0	0	13
	Weoley	0	0	0	0	0	0	0	2	3	1	0	0	6
Perry Barr	Handsworth Wood	0	2	1	0	0	0	0	1	0	0	0	0	4
	Lozells And East Handsworth	0	0	1	5	4	4	0	6	0	1	0	0	21
	Oscott	0	0	0	0	0	0	0	0	1	0	0	0	1
	Perry Barr	1	0	0	0	0	0	1	1	4	0	0	0	7
Selly Oak	Billesley	2	0	1	0	0	0	0	0	0	0	0	0	3
	Bournville	2	0	1	0	0	1	0	0	8	1	0	0	13
	Brandwood	2	1	0	0	0	0	0	1	0	0	0	0	4
	Selly Oak	0	0	0	0	1	0	0	0	0	1	0	0	2
Sutton Coldfield	Sutton Four Oaks	0	0	0	1	0	0	0	0	1	0	0	0	2
	Sutton New Hall	0	0	0	1	1	0	1	0	0	1	0	0	4
	Sutton Trinity	0	2	0	0	0	0	0	0	0	1	0	0	3
	Sutton Vesey	0	0	0	0	0	0	0	9	1	0	0	0	10
Yardley	Acocks Green	1	0	0	0	1	0	1	0	0	1	0	0	4
	Sheldon	0	0	3	0	1	0	2	0	4	1	0	0	11
	South Yardley	0	0	1	1	1	1	2	0	4	2	0	0	12
	Stechford And Yardley North	2	1	1	0	2	0	0	1	0	0	0	0	7
Total		509	478	565	509	469	599	552	601	308	531	0	0	5,121



**BIRMINGHAM CITY COUNCIL**

**LICENSING AND PUBLIC PROTECTION COMMITTEE**

**15 MARCH 2017**

**SCHEDULE OF OUTSTANDING MINUTES**

<b>MINUTE NO./DATE</b>	<b>SUBJECT MATTER</b>	<b>COMMENTS</b>
648 20/04/2016	<b><u>Conditions of Licence for Private Hire Operators, Drivers and Vehicles</u></b> – A comprehensive report on this to be submitted to Committee	Report for April 2017
651 (iii) 20/04/2016	<b><u>Proposals for Vehicle Emission Standards for Hackney Carriage and Private Hire Vehicles</u></b> – That officers engage with the neighbouring West Midlands Licensing Authorities to discuss proposals for a regional emissions standard for hackney carriages and private hire vehicles.	Date to be agreed
720 (iii) 14/09/2016	<b><u>Implications of the Casey Report for Licensing</u></b> – The Acting Service Director of Regulation and Enforcement be requested to report on the outstanding actions in respect of the Casey report.	Report for March 2017
811(ii) 15/02/2017	<b><u>Update Report On Unauthorised Encampments</u></b> – 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 this report.	Report for June 2017

