

BIRMINGHAM CITY COUNCIL

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

19 December 2018
ALL WARDS

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
October 2018

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

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3. Summary of Appeal Hearings for October 2018

	Magistrates'	Crown
Total	6	
Allowed		
Dismissed	5	
Appeal lodged at Crown		
Upheld in part		
Withdrawn pre-Court	1	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 October 2018 costs have been requested to the sum of £2565.15 so far with reimbursement of £2440.15 so far (95.1%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2018 to October 2018, costs associated to appeal hearings have been requested to the sum of £7270.70 so far with reimbursement of £6116.30 so far (84.1%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2018 to October 2018, costs contra Birmingham City Council associated to appeal hearings have been requested and awarded in excess of £10483.

5. Implications for Policy Priorities

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

6. Public Sector Equality Duty

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

7. Consultation

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

DIRECTOR OF REGULATION AND ENFORCEMENT

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

MAGISTRATES' COURT – PRIVATE HIRE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Mark Hayles	01.10.18	Dismissed	£565.00	£565.00	The appeal was against the decision of the Licensing Sub-Committee on 06.03.2018 to refuse to grant Mr Hayles's application for a private hire driver's licence as he was not deemed fit and proper due to a history of convictions. On 30.07.2018 Mr Hayles appeared before the District Judge. The DJ could not accept Mr Hayles's explanation of the s18 assault. The case was adjourned to 1 October to enable Mr Hayles to obtain some case papers to confirm that he only pushed the gent in question. Mr Hayles failed to attend the hearing; the Appeal was dismissed and he was ordered to pay £565 costs.
2	Sajad Mahmood	24.10.18	Dismissed	£690.15	£690.15	The appeal was against the decision of the Licensing Sub-Committee on 13.03.2018 to revoke Mr Mahmood's private hire driver's licence due to information disclosed by West Midlands Police on his Disclosure and Barring Service certificate relating to allegations made against Mr Mahmood over a number of years. Balancing the fact that the allegations were not tested or proved against the fact that the Crown Court judge thought it necessary to make a restraining order to protect Mr Mahmood's ex-wife and daughter, the District Judge found that he was not persuaded on the balance of probabilities that the decision of the licensing sub-committee was wrong. The appeal was dismissed. Costs of £690.15 were applied for, and awarded in full.

MAGISTRATES' COURT – HACKNEY CARRIAGE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Shangara Singh Samra	01.10.18	Dismissed	£250.00	£250.00	The appeal was against the decision of the Licensing Sub-Committee on 16.07.18 to refuse to grant Mr Samra's application for a hackney carriage driver licence due a history a convictions and previous licences being revoked. Though the magistrates were extremely impressed with the support from his family and from external sources, they found that the decision of the licensing sub-committee was not wrong. They did not consider Mr Samra to be a fit and proper person. Accordingly, the appeal was dismissed. Costs in the sum of £250 were awarded against Mr Samra.
2	Mohammed Nawaz	22.10.18	Dismissed	£250.00	£250.00	The appeal was against the decision of the Licensing Sub-Committee on 28.03.18 to revoke the Hackney Carriage Driver's Licence held by Mr Nawaz due to a conviction for refusing to convey a passenger accompanied by an assistance dog. The appeal was dismissed, on the basis that the magistrates did not find Mr Nawaz to be a fit and proper person to hold a licence. Costs of £250 were awarded.

MAGISTRATES' COURT – PRIVATE HIRE OPERATOR'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Mohammed Latif	12.10.18	Dismissed	£250.00	£125.00	The appeal was against the decision of the Licensing Sub Committee on 08.08.18 to refuse to grant a Private Hire Operator's Licence to Mr Latif due to a previous conviction and cautions. After hearing from both parties the Magistrates decided that Mr Latif had failed to show that the decision of the Licensing Sub-Committee was wrong, he had presented no new evidence to suggest the decision was wrong and they were of the view that the decision made on 8 August 2018 by the Licensing Sub Committee was the right decision. Mr Latif's appeal was dismissed. An application for our costs of £250 was made. The Court made an order for Mr Latif to pay £125 of our costs.

MAGISTRATES' COURT – LICENSING ACT 2003

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Petros Liatis In respect of Domus 28-30 Bristol Street Birmingham B5 7AA	31.10.18	Withdrawn pre-Court	£560.00	£560.00	The appeal was against the decision of the Licensing Sub Committee on 14.05.2018 to refuse to grant a Premises Licence to Petros Latis in respect of Domus following a representation received from West Midlands Police. The appeal was withdrawn pre-court.