

**BIRMINGHAM CITY COUNCIL**

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

**21 November 2018**  
**ALL WARDS**

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

	Magistrates'	Crown
Total	3	
Allowed		
Dismissed	2	
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Withdrawn pre-Court	1	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 September 2018 costs have been requested to the sum of £917.00 so far with reimbursement of £667.00 so far (72.7%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2018 to September 2018, costs associated to appeal hearings have been requested to the sum of £4705.55 so far with reimbursement of £3676.15 so far (78.1%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2018 to September 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	Akram Hussain	21.09.2018	Dismissed	£287.00	£287.00	The appeal was against the decision of the Licensing Sub-Committee on 27.06.2018 to refuse to renew Mr Hussain's private hire driver's licence as he was not deemed fit and proper due to receiving 6 penalty points for driving a vehicle whilst uninsured against 3 <sup>rd</sup> party risks and failing to inform the Licensing Office of the endorsement. Mr Hussain failed to attend court and had not made any contact with either ourselves or the court outlining why he could not attend on the day. In light of his non-attendance an application was made for Mr Hussain's appeal to be dismissed. The court dismissed Mr Hussain's appeal and made an order for him to pay our costs of £287.
2	Abdul Ghafar	26.09.2018	Dismissed	£250.00	£0.00	The appeal was against the decision of the Sub-Committee on 26.02.2018 to revoke Mr Ghafar's private hire driver's licence as he was not deemed fit and proper due to a receiving a conviction for intimidating a Juror. Mr Ghafar appeared unrepresented. The respondent's arguments were presented. Mr Ghafar gave evidence about his history as a taxi driver, and appeared to dispute his conviction. The District Judge said that she cannot go behind the criminal conviction, and on the basis of said conviction felt that Mr Ghafar is not a fit and proper person to hold a private hire driver's licence. Accordingly, the appeal was dismissed. The application for costs was refused, on the basis that Mr Ghafar would now lose his livelihood, and the District judge did not think it fair to impose a costs sanction on him in those circumstances.

3	Mahtab Hussain	26.09.2018	Withdrawn pre-Court	£380.00	£380.00	The appeal was against the decision of the Licensing Sub-Committee 23.04.18 to refuse to grant Mr Hussain a Private Hire Driver's Licence as he was deemed not fit an proper due to receiving convictions. The appeal was withdrawn pre-court. The court ordered £380.00 costs.
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